


MEMORANDUM

DATE	April 10, 2017
TO	Board of Psychology
FROM	 Konnor Leitzell Central Services Student Assistant
SUBJECT	Agenda Item #4(b)(1)(B)(30) – AB 1456 (Low) Professional licensure

Background:

Existing law prohibits the licensure requirements for professional personnel, including psychologists, marriage and family therapists, clinical social workers, and professional clinical counselors, in the state and other governmental health facilities licensed by the California Department of Public Health (CDPH) and Department of Health Care Services (DHCS) from being less than for those professional personnel in health facilities under private ownership. These departments can waive that requirement for persons in the profession of psychology who are gaining qualifying experience for licensure in that profession, but prohibits the waiver from exceeding three (3) years from the date the employment commences with CDPH or DHCS licensed facility.

This bill would extend the applicable time for those waivers to five (5) years at CDPH licensed facilities, and conforms the subsection relating to professionals recruited from outside the state to match the five (5)-year limit for in-state recruited professionals at DHCS licensed facilities.

Location: Assembly Committee on Health

Status: 03/13/17 Referred to Assembly Committee on Health.

Action Requested:

No action is required at this time. Staff will continue to watch AB 1456 (Low) to monitor changes to the waiver process for exempt settings and determine the bill sponsor's intent in not changing similar restrictions in the Penal Code. The sponsor of the bill is AFSCME Local 2620, which represents psychologists employed by the Department of State Hospitals.

Attachment A: AB 1456 (Low) Text

ASSEMBLY BILL

No. 1456

Introduced by Assembly Member Low

February 17, 2017

An act to amend Section 1277 of the Health and Safety Code, and to amend Section 5751.2 of the Welfare and Institutions Code, relating to professional licensure.

LEGISLATIVE COUNSEL'S DIGEST

AB 1456, as introduced, Low. Professional licensure.

Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. Existing law prohibits the licensure requirements for professional personnel, including psychologists, marriage and family therapists, clinical social workers, and professional clinical counselors, in the state and other governmental health facilities licensed by the department from being less than for those professional personnel in health facilities under private ownership. Existing law authorizes the department to waive that requirement for persons in the profession of psychology who is gaining qualifying experience for licensure in that profession in this state, and prohibits the waiver from exceeding 3 years from the date the employment commences in this state.

Existing law, the Bronzan-McCorquodale Act, contains provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. The act requires persons employed or under contract to provide mental health services pursuant to these provisions to be subject to all applicable requirements of law regarding professional licensure, and prohibits a

person from being employed to provide services for which a license is required unless the person possesses a valid license. The act requires the State Department of Health Care Services to waive these requirements for persons who have been recruited for employment from outside the state as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors and whose experience is sufficient to gain admission to a licensing examination, and prohibits the waiver from exceeding 3 years from the date of employment by, or contract with, a local mental health program.

This bill would extend the applicable time for those waivers to 5 years from the date the employment commences in a health facility in this state, or from the date of employment by, or contract with, a local mental health program under the act.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1277 of the Health and Safety Code is
2 amended to read:

3 1277. (a) No license shall be issued by the state department
4 unless it finds that the premises, the management, the bylaws, rules
5 and regulations, the equipment, the staffing, both professional and
6 nonprofessional, and the standards of care and services are adequate
7 and appropriate, and that the health facility is operated in the
8 manner required by this chapter and by the rules and regulations
9 adopted hereunder.

10 (b) (1) Notwithstanding any provision of Part 2 (commencing
11 with Section 5600) of Division 5 of, or Division 7 (commencing
12 with Section 7100) of, the Welfare and Institutions Code or any
13 other law to the contrary, except Sections 2072 and 2073 of the
14 Business and Professions Code, the licensure requirements for
15 professional personnel, including, but not limited to, physicians
16 and surgeons, dentists, podiatrists, psychologists, marriage and
17 family therapists, pharmacists, registered nurses, clinical social
18 workers, and professional clinical counselors in the state and other
19 governmental health facilities licensed by the state department
20 shall not be less than for those professional personnel in health
21 facilities under private ownership.

1 (2) Persons employed as psychologists and clinical social
2 workers, while continuing in their employment in the same class
3 as of January 1, 1979, in the same state or other governmental
4 health facility licensed by the state department, including those
5 persons on authorized leave, but not including intermittent
6 personnel, shall be exempt from the requirements of paragraph
7 (1).

8 (3) The requirements of paragraph (1) may be waived by the
9 state department solely for persons in the professions of
10 psychology, marriage and family therapy, clinical social work, or
11 professional clinical counseling who are gaining qualifying
12 experience for licensure in such profession in this state. A waiver
13 granted pursuant to this paragraph shall not exceed ~~three~~ five years
14 from the date the employment commences in this state in the case
15 of psychologists, or four years from commencement of the
16 employment in this state in the case of marriage and family
17 therapists, clinical social workers, and professional clinical
18 counselors, at which time licensure shall have been obtained or
19 the employment shall be terminated, except that an extension of
20 a waiver of licensure for marriage and family therapists, clinical
21 social workers, and professional clinical counselors may be granted
22 for one additional year, based on extenuating circumstances
23 determined by the state department pursuant to subdivision (e).
24 For persons employed as psychologists, clinical social workers,
25 marriage and family therapists, or professional clinical counselors
26 less than full time, an extension of a waiver of licensure may be
27 granted for additional years proportional to the extent of part-time
28 employment, as long as the person is employed without interruption
29 in service, but in no case shall the waiver of licensure exceed six
30 years in the case of clinical social workers, marriage and family
31 therapists, or professional clinical counselors, or five years in the
32 case of psychologists.

33 (4) The durational limitation upon waivers pursuant to paragraph
34 (3) shall not apply to any of the following:

35 (A) Active candidates for a doctoral degree in social work, social
36 welfare, or social science, who are enrolled at an accredited
37 university, college, or professional school, but these limitations
38 shall apply following completion of this training.

39 (B) Active candidates for a doctoral degree in marriage and
40 family therapy who are enrolled at a school, college, or university,

1 specified in subdivision (b) of Section 4980.36 of, or subdivision
2 (b) of Section 4980.37 of, the Business and Professions Code, but
3 the limitations shall apply following completion of the training.

4 (C) Active candidates for a doctoral degree in professional
5 clinical counseling who are enrolled at a school, college, or
6 university, specified in subdivision (b) of Section 4999.32 of, or
7 subdivision (b) of Section 4999.33 of, the Business and Professions
8 Code, but the limitations shall apply following the completion of
9 the training.

10 (5) A waiver pursuant to paragraph (3) shall be granted only to
11 the extent necessary to qualify for licensure, except that personnel
12 recruited for employment from outside this state and whose
13 experience is sufficient to gain admission to a licensing
14 examination shall nevertheless have one year from the date of their
15 employment in California to become licensed, at which time
16 licensure shall have been obtained or the employment shall be
17 terminated, provided that the employee shall take the licensure
18 examination at the earliest possible date after the date of his or her
19 employment, and if *employment*. If the employee does not pass
20 the examination at that time, he or she shall have a second
21 opportunity to pass the next possible examination, subject to the
22 one-year limit for marriage and family therapists, clinical social
23 workers, and professional clinical counselors, and subject to a
24 two-year limit for psychologists.

25 (c) A special permit shall be issued by the state department
26 when it finds that the staff, both professional and nonprofessional,
27 and the standards of care and services are adequate and appropriate,
28 and that the special services unit is operated in the manner required
29 in this chapter and by the rules and regulations adopted hereunder.

30 (d) The state department shall apply the same standards to state
31 and other governmental health facilities that it licenses as it applies
32 to health facilities in private ownership, including standards
33 specifying the level of training and supervision of all unlicensed
34 practitioners. Except for psychologists, the department may grant
35 an extension of a waiver of licensure for personnel recruited from
36 outside this state for one additional year, based upon extenuating
37 circumstances as determined by the department pursuant to
38 subdivision (e).

1 (e) The department shall grant a request for an extension of a
2 waiver based on extenuating circumstances, pursuant to subdivision
3 (b) or (d), if any of the following circumstances exist:

4 (1) The person requesting the extension has experienced a recent
5 catastrophic event ~~which~~ *that* may impair the person's ability to
6 qualify for and pass the license examination. Those events may
7 include, but are not limited to, significant hardship caused by a
8 natural disaster, serious and prolonged illness of the person, serious
9 and prolonged illness or death of a child, spouse, or parent, or other
10 stressful circumstances.

11 (2) The person requesting the extension has difficulty speaking
12 or writing the English language, or other cultural and ethnic factors
13 exist ~~which~~ *that* substantially impair the person's ability to qualify
14 for and pass the license examination.

15 (3) The person requesting the extension has experienced other
16 personal hardship ~~which~~ *that* the department, in its discretion,
17 determines to warrant the extension.

18 SEC. 2. Section 5751.2 of the Welfare and Institutions Code
19 is amended to read:

20 5751.2. (a) Except as provided in this section, persons
21 employed or under contract to provide mental health services
22 pursuant to this part shall be subject to all applicable requirements
23 of law regarding professional licensure, and no person shall be
24 employed in local mental health programs pursuant to this part to
25 provide services for which a license is required, unless the person
26 possesses a valid license.

27 (b) Persons employed as psychologists and clinical social
28 workers, while continuing in their employment in the same class
29 as of January 1, 1979, in the same program or facility, including
30 those persons on authorized leave, but not including intermittent
31 personnel, shall be exempt from the requirements of subdivision
32 (a).

33 (c) While registered with the licensing board of jurisdiction for
34 the purpose of acquiring the experience required for licensure,
35 persons employed or under contract to provide mental health
36 services pursuant to this part as clinical social workers, marriage
37 and family therapists, or professional clinical counselors shall be
38 exempt from subdivision (a). Registration shall be subject to
39 regulations adopted by the appropriate licensing board.

1 (d) The requirements of subdivision (a) shall be waived by the
2 State Department of Health Care Services for persons employed
3 or under contract to provide mental health services pursuant to this
4 part as psychologists who are gaining the experience required for
5 licensure. A waiver granted under this subdivision ~~may~~ *shall* not
6 exceed five years from the date of employment by, or contract
7 with, a local mental health program for persons in the profession
8 of psychology.

9 (e) The requirements of subdivision (a) shall be waived by the
10 State Department of Health Care Services for persons who have
11 been recruited for employment from outside this state as
12 psychologists, clinical social workers, marriage and family
13 therapists, or professional clinical counselors and whose experience
14 is sufficient to gain admission to a licensing examination. A waiver
15 granted under this subdivision ~~may~~ *shall* not exceed ~~three~~ *five*
16 years from the date of employment by, or contract with, a local
17 mental health program for persons in these four professions who
18 are recruited from outside this state.