

Assembly Bill No. 2253

CHAPTER 279

An act to amend Section 1277 of the Health and Safety Code, to amend Section 5068.5 of the Penal Code, and to amend Section 5751.2 of the Welfare and Institutions Code, relating to professional licensure.

[Approved by Governor September 29, 2020. Filed with
Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2253, 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 professions of psychology, marriage and family therapy, clinical social work, or professional clinical counseling who are gaining qualifying experience for licensure in that profession in this state.

Existing law requires that a person employed or under contract to provide diagnostic, treatment, or other mental health services, or to supervise or provide consultation on these services, in the state correctional system be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state. Existing law authorizes the Secretary of the Department of Corrections and Rehabilitation to waive that requirement for persons in the professions of psychology or social work who are gaining qualifying experience for licensure in that profession 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 employed or under contract to provide, pursuant to the act, mental health services as psychologists, marriage and family therapists, clinical social workers, or

professional clinical counselors who are gaining the experience required for licensure.

This bill would clarify that, in those cases, experience that constitutes qualifying experience for licensure, or experience required for licensure, as applicable, is determined by reference to the act regulating the profession.

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

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

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

(b) (1) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7100) of, the Welfare and Institutions Code or any other law to the contrary, the licensure requirements for professional personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, marriage and family therapists, pharmacists, registered nurses, clinical social workers, and professional clinical counselors in the state and other governmental health facilities licensed by the department shall not be less than for those professional personnel in health facilities under private ownership.

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

(3) (A) The requirements of paragraph (1) may be waived by the department solely for persons in the professions of psychology, marriage and family therapy, clinical social work, or professional clinical counseling who are gaining qualifying experience for licensure in that profession in this state. A waiver granted pursuant to this paragraph shall not exceed four years from commencement of the employment in this state in a position that includes qualifying experience, at which time licensure shall have been obtained or the employment shall be terminated, except that an extension of a waiver of licensure may be granted for one additional year, based on extenuating circumstances determined by the department pursuant to subdivision (e). For persons employed as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long

as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years in the case of clinical social workers, marriage and family therapists, or professional clinical counselors, or five years in the case of psychologists.

(B) For the purposes of this paragraph, “qualifying experience” means experience that satisfies the requirements of subdivision (d) of Section 2914 of, or Section 4980.43, 4996.23, or 4999.46 of, the Business and Professions Code.

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

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

(B) Active candidates for a doctoral degree in marriage and family therapy who are enrolled at a school, college, or university, specified in subdivision (b) of Section 4980.36 of, or subdivision (b) of Section 4980.37 of, the Business and Professions Code, but the limitations shall apply following completion of the training.

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

(5) A waiver pursuant to paragraph (3) shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of the employee’s employment. If the employee does not pass the examination at that time, the employee shall have a second opportunity to pass the next possible examination, subject to the one-year limit.

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

(d) The department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership, including standards specifying the level of training and supervision of all unlicensed practitioners. Except for psychologists, the department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon

extenuating circumstances as determined by the department pursuant to subdivision (e).

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

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

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

(3) The person requesting the extension has experienced other personal hardship that the department, in its discretion, determines to warrant the extension.

SEC. 2. Section 5068.5 of the Penal Code is amended to read:

5068.5. (a) Notwithstanding any other law, except as provided in subdivisions (b) and (c), any person employed or under contract to provide diagnostic, treatment, or other mental health services in the state or to supervise or provide consultation on these services in the state correctional system shall be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state.

(b) Notwithstanding Section 5068 or Section 704 of the Welfare and Institutions Code, the following persons are exempt from the requirements of subdivision (a), so long as they continue in employment in the same class and in the same department:

(1) Persons employed on January 1, 1985, as psychologists to provide diagnostic or treatment services, including those persons on authorized leave, but not including intermittent personnel.

(2) Persons employed on January 1, 1989, to supervise or provide consultation on the diagnostic or treatment services, including persons on authorized leave, but not including intermittent personnel.

(c) (1) (A) The requirements of subdivision (a) may be waived by the secretary solely for persons in the professions of psychology or clinical social work who are gaining qualifying experience for licensure in those professions in this state. Providers working in a licensed health care facility operated by the department shall receive a waiver in accordance with Section 1277 of the Health and Safety Code.

(B) For the purposes of this paragraph, "qualifying experience" means experience that satisfies the requirements of subdivision (d) of Section 2914 of, or Section 4996.23 of, the Business and Professions Code.

(2) A waiver granted pursuant to this subdivision shall not exceed four years from commencement of the employment in this state in a position that includes qualifying experience, at which time licensure shall have been

obtained or the employment shall be terminated, except that an extension of a waiver of licensure may be granted for one additional year, based on extenuating circumstances determined by the department pursuant to subdivision (d). For persons employed as psychologists or clinical social workers less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years in the case of clinical social workers or five years in the case of psychologists. However, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of that training.

(3) A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensure examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of the employee's employment, and if the employee does not pass the examination at that time, the employee shall have a second opportunity to pass the next possible examination, subject to the one-year limit.

(d) The department shall grant a request for an extension of a waiver of licensure pursuant to subdivision (c) based on extenuating circumstances if any of the following circumstances exist:

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

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

(3) The person requesting the extension has experienced other personal hardship that the department, in its discretion, determines to warrant the extension.

SEC. 3. Section 5751.2 of the Welfare and Institutions Code is amended to read:

5751.2. (a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, shall be subject to all applicable requirements of law regarding professional

licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which a license is required, unless the person possesses a valid license.

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

(c) (1) While registered with the licensing board of jurisdiction for the purpose of acquiring the experience required for licensure, persons employed or under contract to provide mental health services pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (Commencing with Section 14700) of, Part 3 of Division 9, as clinical social workers, marriage and family therapists, or professional clinical counselors shall be exempt from subdivision (a). Registration shall be subject to regulations adopted by the appropriate licensing board.

(2) For the purposes of this paragraph, “experience required for licensure” means experience that satisfies the requirements of Section 4996.23, 4980.43, or 4999.46 of the Business and Professions Code.

(d) (1) The requirements of subdivision (a) shall be waived by the State Department of Health Care Services for persons employed or under contract to provide mental health services as psychologists pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, who are gaining the experience required for licensure. A waiver granted under this subdivision shall not exceed five years from the date of employment by, or contract with, a local mental health program for persons in the profession of psychology.

(2) For the purposes of this subdivision, “experience required for licensure” means experience that satisfies the requirements of subdivision (d) of Section 2914 of the Business and Professions Code.

(e) The requirements of subdivision (a) shall be waived by the State Department of Health Care Services for persons employed or under contract to provide mental health services as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, who have been recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination. A waiver granted under this subdivision shall not exceed five years from the date of employment by, or contract with, a local mental health program for persons in these four professions who are recruited from outside this state.

(f) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or

make specific this section by means of information notices, plan or provider bulletins, or similar instructions until the time that regulations are adopted.

(2) The department shall adopt regulations on or before December 31, 2020, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.