

Date of Hearing: May 21, 2020

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 2253 (Low) – As Introduced February 13, 2020

SUBJECT: Professional licensure.

SUMMARY: Defines “qualifying experience” and “experience required for licensure,” for purposes of licensing exemptions for government workers, as experience towards a license in psychology and behavioral health.

EXISTING LAW:

- 1) Licenses and regulates the practice of psychology, and prohibits the practice of psychology unless licensed or otherwise authorized under the Psychology Licensing Law. (Business and Professions Code (BPC) §§ 2900-2999)
- 2) Licenses and regulates the practice of behavioral science, and prohibits the practice unless licensed or otherwise authorized under the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, or the Licensed Professional Clinical Counselor Act, among others. (Business and Professions Code (BPC) §§ 4980-4989, 4989.10-4989.70, 4999.10-4999.129)
- 3) Requires applicants for licensure as a psychologist, licensed marriage and family therapist (LMFT), licensed clinical social worker (LCSW), or licensed professional clinical counselor (LPCC) to obtain specified amounts of qualifying experience in their respective fields and authorizes them to practice under supervision. (BPC § 2914, 4980.43, 4996.23, 4999.46)
- 4) Requires health care professionals in governmental health facilities licensed by the Department of Public Health to meet or exceed the licensing requirements of those working in health facilities under private ownership. (Health and Safety Code (HSC) § 1277(b)(1))
- 5) Authorizes the Department of Public Health to waive licensing requirements in state health facilities 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, up to a maximum of four years from commencement of their employment in this state. (HSC § 1277(b)(3))
- 6) Requires 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 to be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state. (Penal Code (PEN) § 5068.5(a))
- 7) Authorizes the Secretary of the Department of Corrections and Rehabilitation to waive licensing requirements in the state correctional system 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, up to a maximum of four years from commencement of their employment in this state. (PEN § 5068.5)

- 8) Establishes the Bronzan-McCorquodale Act, which governs the operation and financing of community mental health services for those with mental health needs in every county through locally administered and locally controlled community mental health programs. (Welfare and Institutions Code (WIC) §§ 5600-5772)
- 9) Prohibits persons employed to provide mental health services under the Bronzan-McCorquodale Act in local mental health programs to provide services for which a license is required unless the person possesses a valid license. (WIC § 5751.2(a))
- 10) Exempts clinical social workers, marriage and family therapists, or professional clinical counselors employed or under contract from the licensing requirements under the Bronzan-McCorquodale Act if registered with the licensing board of jurisdiction for the purpose of acquiring the experience required for licensure. (WIC § 5751.2(c))
- 11) Requires the Department of Healthcare Services to waive the licensing requirements under the Bronzan-McCorquodale Act for persons employed or under contract to provide mental health services as psychologists who are gaining the experience required for licensure for up to five years, as specified. (WIC § 5751.2(d))

THIS BILL:

- 1) Clarifies that the experience counted towards the four year limit on the waiver of licensing requirements in governmental health facilities and the state correctional system is limited to “qualifying experience” that satisfies the requirements of the Psychology Licensing Law, the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, or the Licensed Professional Clinical Counselor Act.
- 2) Clarifies that “experience required for licensure,” for purposes of the licensing exemptions for clinical social workers, marriage and family therapists, or professional clinical counselors working in local mental health programs under the Bronzan-McCorquodale Act, means the experience that satisfies the requirements under the respective licensing acts for the professions.
- 3) Clarifies that “experience required for licensure,” for purposes of the five year licensing exemption for psychologists working in local mental health programs under the Bronzan-McCorquodale Act, means the experience that satisfies the requirements under the Psychology Licensing Law.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *American Federation of State, County and Municipal Employees (AFSCME)*, *AFL-CIO*. According to the author, “[this bill] clarifies what constitutes as qualifying experience within applicable Sections of the Health and Safety Code, the Penal Code, and the Welfare and Institutions Code for psychologists, marriage and family therapists, clinical social workers, and professional clinical counselors. This bill will provide consistency not only for professionals providing mental health services, but also for the state agencies regarding qualifying experience and the exemptions these employees would be granted under these Codes. Mental health services are critical to the success of correctional and rehabilitative

programs. Under [this bill], employees striving toward licensure while gaining qualified experience would be able to both work and gain qualifying experience in order to obtain professional licensure that can benefit the department.”

Background. Current law requires healthcare practitioners to be licensed when working in specified governmental settings, including governmental health facilities licensed by the Department of Public Health, the state correctional system, and local mental health programs governed under the Bronzan-McCorquodale Act.

Current law also exempts workers in those settings from the licensing requirements if they are earning experience towards their license for a limited period of time. This allows applicants to earn supervised experience necessary to obtain a license while also providing mental and behavioral health services on behalf of the state. However, the type of experience earned during the employment period is not defined. It simply states “from commencement of their employment in this state.”

As a result, employment experience that does not count as qualifying experience for licensure that has been interpreted as counting towards the licensing exemption timelines. According to the sponsors, “a growing number of psychologists and clinical social workers hired into the California Department of Corrections and Rehabilitation have been issued ‘non-punitive termination notices’ due to a change in how the department calculated time for the purposes of the licensure waiver since the Fall of 2019.” Specifically, sponsors note that the department has begun counting experience that does not involve psychology or behavioral therapy towards the licensing exemption limit.

This bill seeks to clarify that only experience that qualifies for purposes of licensure are counted towards the licensing exemption limitations by adding a cross reference to the relevant practice acts.

Prior Related Legislation. AB 1456 (Low), Chapter 151, Statutes of 2017, created parity between the licensing requirement exemptions described above for the professions of psychology, marriage and family therapy, clinical work, and professional clinical counseling.

ARGUMENTS IN SUPPORT:

The *American Federation of State, County and Municipal Employees (AFSCME)*, *AFL-CIO* “AFSCME believes that [this bill] allows employees striving towards professional licensure to work and gain requisite qualifying experience. In addition, this bill provides psychology, marriage and family therapy, clinical social work, and clinical counseling professionals with the job security necessary to carry out the critical work they have invested in, increased certainty about applicable licensure timelines, and a more stable workforce without clusters of layoffs in classifications that historically experience vacancies. The pending terminations during this COVID-19 crisis are particularly concerning since these health professionals are ‘essential employees’ who are providing necessary services during this time.”

The *California Psychological Association* writes in support, “This bill is necessary to correct state actions that we believe erroneously determined many pre-licensed psychologists were outside their waiver period and would need to be licensed or could no longer work within the California Department of Corrections and Rehabilitation (CDCR). We know the important roles

psychologists perform with CDCR and believe this bill is critical to maintaining a proper workforce within CDCR.”

ARGUMENTS IN OPPOSITION:

None on file

REGISTERED SUPPORT:

American Federation of State, County and Municipal Employees, AFL-CIO
California Psychological Association

REGISTERED OPPOSITION:

None on file

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