

Date of Hearing: April 7, 2015

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Susan Bonilla, Chair

AB 705 Eggman – As Introduced February 25, 2015

SUBJECT: Psychologists: licensure exemption.

SUMMARY: Requires individuals performing psychological activities, within specified exempt settings, to work under the supervision of a licensed psychologist; accumulate the supervised hours required for licensure; and, become licensed within five years. This bill also makes other technical and clarifying amendments.

EXISTING LAW

- 1) Prohibits a person from engaging in the practice of psychology or representing himself or herself to be a psychologist without a license unless specifically exempt. (Business and Professions Code (BPC) Section 2903)
- 2) Defines "the practice of psychology" to mean "rendering or offering to render for a fee to individuals, groups, organizations, or the public any psychological service involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships as specified. (BPC Section 2903)
- 3) Permits the following persons to perform activities of a psychological nature and use of the official title for which they are employed, provided they are performing those activities as part of the duties for which they are employed, solely within the confines of or under the jurisdiction of the organization in which they are employed and do not offer or render psychological services to the public for a fee, over and above the salary they receive for the performance of their professional duties with the organization which they are employed:
 - a) Persons who hold a valid and current credential as a school psychologist issued by the California Department of Education;
 - b) Persons who hold a valid and current credential as a psychometrist issued by the California Department of Education;
 - c) Persons employed in positions as psychologists or psychological assistants, or in a student counseling service, by accredited or approved colleges, junior colleges or universities; federal, state, county or municipal governmental organizations which are not primarily involved in the provision of direct health or mental health services. Those persons may, without obtaining a license, consult or disseminate their research findings and scientific information to other such accredited or approved academic institutions or governmental agencies, and may also offer lectures to the public for a fee, monetary or otherwise, without being licensed as specified; and,
 - d) Persons who meet specified educational requirements and have one year or more of the supervised professional experience if they are employed by nonprofit community

agencies that receive a minimum of 25 percent of their financial support from any federal, state, county, or municipal governmental organizations for the purpose of training and providing services; and are registered by the agency with the Board of Psychology at the time of employment and identified in the setting as a "registered psychologist." Those persons may be exempt from licensure requirements for a maximum period of 30 months from the date of registration. (BPC Section 2909)

- 4) Permits persons who are salaried employees of accredited or approved academic institutions, public schools or governmental agencies to perform activities of a psychological nature, provided:
 - a) Such employees are performing such psychological activities as part of the duties for which they were hired;
 - b) Such employees are performing those activities solely within the jurisdiction or confines of such organizations;
 - c) Such persons do not hold themselves out to the public by any title or description of activities incorporating the words "psychology," "psychological," "psychologist," "psychometry," "psychometrics," or "psychometrist;"
 - d) Such persons do not offer their services to the public for a fee, monetary or otherwise; and,
 - e) Such persons do not provide direct health or mental health services. (BPC Section 2910)
- 5) Specifies that persons employed or under contract to provide county mental health services, as specified, are subject to all applicable requirements of law regarding professional licensure, and no person shall be employed in local mental health programs, as specified, to provide services for which a license is required, unless the person possesses a valid license. (Welfare and Institutions Code (WIC) Section 5751.2(a))
- 6) Permits the State Department of Health Care Services to exempt individuals from the provisions above if the persons are employed or under contract to provide mental health services as psychologists, as specified, who are gaining the experience required for licensure, and provides that the exemption may 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. (WIC Section 5751.2(d)).
- 7) Permits the State Department of Public Health to waive specified licensure requirements in health facilities 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, and prohibits the waiver from exceeding three years from the date of employment for psychologists, or four years from the date of employment for marriage and family therapists, clinical social workers, and professional clinical counselors, unless an extension of a waiver is granted as specified. (Health and Safety Code (HSC) Section 1277(b)(3))

THIS BILL

- 1) Deletes a limitation on the compensation, monetary or otherwise, an exempt individual may receive who is providing psychological services, as specified.
- 2) Permits exempt persons who are employed in a private setting that is not primarily involved in providing direct health or mental services to conduct research and disseminate their research findings and scientific information.
- 3) Requires individuals who are salaried employees of accredited or approved academic institutions, public schools, or government agencies, who are practicing psychology, as specified, to be employees who are primarily gaining the supervised professional experience required for licensure that is being accrued consistent with the Board of Psychology (BOP) regulations and the employee's primary supervisor is a psychologist licensed in the state.
- 4) Requires individuals who are salaried employees of accredited or approved academic institutions, public schools, or government agencies, who are practicing psychology, as specified above, to obtain licensure within five years from the date of employment.
- 5) Makes other technical and clarifying amendments.

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

COMMENTS

- 1) **Purpose.** This bill is sponsored by the BOP. According to the author, "[This bill] will clarify the original intent of the Psychology Practice Act (Act), which is to have qualified, licensed individuals performing psychological functions in both private and public settings. Currently, a loop hole allows employees in government settings serving vulnerable populations to continue practicing indefinitely without supervision by a licensed psychologist. Persons serving in non-exempt (private) settings are required to be supervised by a licensed psychologist and accumulate hours towards licensure from the onset. This bill will provide consumer protection to the vulnerable individuals being served in exempt settings by making employees subject to oversight and competency standards set forth by the [BOP]."
- 2) **Background.** This bill revises supervised experience requirements for individuals who are performing psychological services in exempt settings by requiring an employee of an accredited or approved academic institution, public school, or governmental agency, who is not licensed to practice psychology to be supervised by a psychologist for purposes of gaining experience hours, and become licensed within five years from the date of employment and makes other technical and clarifying amendments.

Psychologists. Licensed psychologists may practice independently in any private or public setting using psychological methods to diagnose, treat, prevent, and ameliorate emotional and mental disorders of individuals and groups. There are currently 20,000 licensed psychologists in California. Licensed psychologists practicing in private practice must hold a license from the BOP.

Licensure requirements. Licensed psychologists are required to obtain a doctoral degree from an accredited institution in psychology, educational psychology, or in a field specializing in counseling psychology or educational psychology. Psychologists are required to complete 3000 hours (minimum two-years) of supervised experience, of which 1500 must be completed after obtaining a doctoral degree. Registered psychologists are required to register with the BOP and are authorized to engage in psychological activities at nonprofit community agencies that receive a minimum of 25 percent of their funding from some government source. Registered psychologists may not engage in psychology practice outside of the nonprofit community agency where they are registered and may nor may not be fully licensed. There are approximately 321 registered psychologists.

Many post-doctoral psychologists gain supervision experience requirements while employed at schools, colleges or universities and government entities, which provide opportunities to gain the required supervisory hours needed for licensure. However, these employment settings are considered "exempt" by the BOP.

Exempt settings. Under current law there are certain types of organizations which are referred to as "exempt settings," where employees are not required to have a license or a registration in order to perform activities of a psychological nature as long as those individuals are providing the services within the scope of their employment. Exempt settings include places such as an educational institution (approved or accredited), a school district, or a governmental entity.

Most individuals working in an exempt setting have completed their doctoral program and are in the process of acquiring the required 1500 hours of supervised experience necessary for licensure. However, the Act does not restrict the number of years that an individual may work in an exempt setting without becoming licensed nor does it specify that a person working in an exempt setting is required to work under a licensed supervisor, unless they are obtaining their 1500 hours of supervised experience. These individuals are also not required to register with the BOP prior to or during their employment, unless they are working for a non-profit community agency which received 25 percent or more of its funding from government sources. Many exempt settings do not meet this threshold, meaning individuals employed in these positions are not registered with the BOP and the BOP has no enforcement authority.

According to the author, the BOP has no way of determining how many unlicensed individuals are practicing in exempt settings as these individuals are not required to register with the BOP. In addition, the BOP does not know how many individuals are employed in exempt settings who have attempted to take and failed the licensure examination or the number of individuals who are employed in these settings and have not applied for licensure. Effectively, this means that individuals employed in exempt settings may be providing services of a psychological nature without a license issued by the BOP. It is not clear under the Act that individuals employed in these exempt settings are required to work under the supervision of a licensed psychologist nor does it restrict their length of employment.

WIC Section 5751.2 and HSC Section 1277 regulate community mental health and health facilities and include provisions which allow for the employment of individuals to perform psychological services for the purpose of gaining supervised hours and experience, but require individuals employed in all exempt settings to become licensed within five years.

This bill seeks to make licensing requirements consistent for individuals employed in exempt settings by requiring individuals employed in all exempt settings to obtain licensure within five years of the start of their employment.

According to the BOP, gaining 1500 hours of required supervision can take as little as one year. The BOP contends that five years is more than enough time to complete the required supervised hours. The BOP states that it takes approximately six months to complete the application and licensing process.

Court Case. According to the author, there was a recent court case, *Brown v. County of Los Angeles* (2012) 203 Cal. App. 4th 1529, in which the California Second Appellate Court found that the Los Angeles County Department of Mental Health wrongfully terminated a Mental Health Clinician II for failing to obtain her psychology license. The woman argued that she was exempt, but the County argued that she had to obtain a license within five years and failed to do so. However, the Court ruled that current law as specified in the BPC was not clear in stating that there was a time requirement.

- 3) **Related Legislation.** AB 1374 (Levine) of 2015, requires a supervisor to submit verification of supervised hours directly to the BOP and authorizes an individual to submit the hours to the BOP, as determined by the BOP, if the supervisor fails to do so. (Note: This bill is currently pending in the Assembly Committee on Business and Professions)

ARGUMENTS IN SUPPORT. The BOP writes in support, "This bill will enhance consumer protection of particularly vulnerable populations by ensuring that employees in exempt settings are properly supervised and working towards licensure. This will be done by requiring employees to be supervised by licensed psychologists, to be earning supervised professional experience hours, and to be working towards licensure within a given timeframe of five years."

SUGGESTED AUTHOR'S AMENDMENTS

On page 3, strike line 14.

On page 3, in line 15, strike "of direct health or mental health services. Those persons"

ARGUMENTS IN OPPOSITION

None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Board of Psychology (sponsor)
California Psychological Association

Opposition

None on file.

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