

AMENDED IN ASSEMBLY APRIL 12, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 774

Introduced by Assembly Member Campos

February 17, 2011

An act to amend Section 1277 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 774, as amended, Campos. Health facilities: licensure.

Existing law provides for the licensure of health facilities by the State Department of Public Health. Existing law requires that the licensure requirements for professional personnel, including psychologists, clinical social workers, and marriage and family therapists, among others, in state and other governmental health facilities, be not less than for those in privately owned health facilities. The department may grant a waiver from licensure requirements for persons *in the professions of psychology, marriage and family therapy, or clinical social work who are employed in publicly operated health facilities who are gaining qualifying experience for licensure*. The waiver cannot exceed 3 years from the commencement of employment in the state in the case of psychologists or 4 years for marriage and family therapists or clinical social workers, with one additional year to be granted to marriage and family therapists or clinical social workers under extenuating circumstances. Existing law requires the department to grant the extension of a waiver for extenuating circumstances if specified conditions are met.

Existing law provides for the licensure of psychiatric health facilities by the State Department of Mental Health.

~~This bill would require any other department that employs a marriage and family therapist or a clinical social worker, including a marriage and family therapist or clinical social worker recruited from outside this state, to grant the extension of a waiver for extenuating circumstances if the above-described conditions are met~~ *authorize the State Department of Mental Health to grant the above-described waiver and an extension of the waiver for persons employed in facilities licensed by the State Department of Mental Health.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
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) Notwithstanding any provision of Part 2 (commencing with
11 Section 5600) of Division 5 of, or Division 7 (commencing with
12 Section 7100) of, the Welfare and Institutions Code or any other
13 law to the contrary, except Sections 2072 and 2073 of the Business
14 and Professions Code, the licensure requirements for professional
15 personnel, including, but not limited to, physicians and surgeons,
16 dentists, podiatrists, psychologists, marriage and family therapists,
17 pharmacists, registered nurses, and clinical social workers in the
18 state and other governmental health facilities licensed by the ~~state~~
19 department *or by the State Department of Mental Health, as*
20 *appropriate*, shall not be less than for those professional personnel
21 in health facilities under private ownership. Persons employed as
22 psychologists and clinical social workers, while continuing in their
23 employment in the same class as of January 1, 1979, in the same
24 state or other governmental health facility licensed by the ~~state~~
25 department *or by the State Department of Mental Health, as*
26 *appropriate*, , including those persons on authorized leave, but not
27 including intermittent personnel, shall be exempt from the

1 requirements of this subdivision. Additionally, the requirements
2 of this subdivision may be waived by the ~~state department~~
3 *department or by the State Department of Mental Health, as*
4 *appropriate*, solely for persons in the professions of psychology,
5 marriage and family therapy, or clinical social work who are
6 gaining qualifying experience for licensure in such profession in
7 this state. A waiver granted pursuant to this subdivision shall not
8 exceed three years from the date the employment commences in
9 this state in the case of psychologists, or four years from
10 commencement of the employment in this state in the case of
11 marriage and family therapists and clinical social workers, at which
12 time licensure shall have been obtained or the employment shall
13 be terminated except that an extension of a waiver of licensure for
14 marriage and family therapists and clinical social workers may be
15 granted for one additional year, based on extenuating circumstances
16 determined by the *licensing* department pursuant to subdivision
17 (e). For persons employed as psychologists, clinical social workers,
18 or marriage and family therapists less than full time, an extension
19 of a waiver of licensure may be granted for additional years
20 proportional to the extent of part-time employment, as long as the
21 person is employed without interruption in service, but in no case
22 shall the waiver of licensure exceed six years in the case of clinical
23 social workers and marriage and family therapists or five years in
24 the case of psychologists. However, this durational limitation upon
25 waivers shall not apply to active candidates for a doctoral degree
26 in social work, social welfare, or social science, who are enrolled
27 at an accredited university, college, or professional school, but
28 these limitations shall apply following completion of this training.
29 Additionally, this durational limitation upon waivers shall not
30 apply to active candidates for a doctoral degree in marriage and
31 family therapy who are enrolled at a school, college, or university,
32 specified in subdivision (b) of Section 4980.36 of, or subdivision
33 (b) of Section 4980.37 of, the Business and Professions Code, but
34 the limitations shall apply following completion of the training.
35 A waiver pursuant to this subdivision shall be granted only to the
36 extent necessary to qualify for licensure, except that personnel
37 recruited for employment from outside this state and whose
38 experience is sufficient to gain admission to a licensing
39 examination shall nevertheless have one year from the date of their
40 employment in California to become licensed, at which time

1 licensure shall have been obtained or the employment shall be
2 terminated, provided that the employee shall take the licensure
3 examination at the earliest possible date after the date of his or her
4 employment, and if the employee does not pass the examination
5 at that time, he or she shall have a second opportunity to pass the
6 next possible examination, subject to the one-year limit for
7 marriage and family therapists and clinical social workers, and
8 subject to a two-year limit for psychologists.

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

14 (d) The ~~state~~ *licensing* department shall apply the same standards
15 to state and other governmental health facilities that it licenses as
16 it applies to health facilities in private ownership, including
17 standards specifying the level of training and supervision of all
18 unlicensed practitioners. Except for psychologists, the *licensing*
19 department may grant an extension of a waiver of licensure for
20 personnel recruited from outside this state for one additional year,
21 based upon extenuating circumstances as determined by the
22 department pursuant to subdivision (e).

23 ~~(e) The department, or any other state department that employs~~
24 ~~a marriage and family therapist or a clinical social worker,~~
25 ~~including a marriage and family therapist or clinical social worker~~
26 ~~recruited from outside this state, shall grant a request for an~~

27 (e) *The licensing department shall grant a request for an*
28 extension of a waiver based on extenuating circumstances, pursuant
29 to subdivisions (b) and (d), if any of the following circumstances
30 exist:

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

38 (2) The person requesting the extension has difficulty speaking
39 or writing the English language, or other cultural and ethnic factors

- 1 exist which substantially impair the person's ability to qualify for
- 2 and pass the license examination.
- 3 (3) The person requesting the extension has experienced other
- 4 personal hardship which the department, in its discretion,
- 5 determines to warrant the extension.

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