

Senate Bill No. 227

CHAPTER 712

An act to amend Sections 5604, 5667, 5710, 5751.2, 5771, 5771.3, 5771.5, 5772, and 7276 of, and to add Section 7275.1 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor October 9, 1995. Filed
with Secretary of State October 10, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 227, Watson. Mental health services.

Existing law requires every community mental health service to have a mental health board.

Under existing law, boards are required to be composed of not less than 10 and not more than 15 members, except that in counties with a population of under 80,000 the board may have a minimum of 5 members.

Existing law requires that 50% of the board membership be consumers or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services, that at least 20% of the total membership be consumers and that at least 20% be families of consumers. In counties with a population of under 80,000, however, only one member is required to be a consumer and one member is required to be a parent, spouse, sibling, or adult child of a consumer.

This bill would, instead, require that a board in a county under 80,000 in population that elects to have the board exceed the 5-member minimum is required to comply with the 50% and 20% compositional requirements provided for in existing law.

Existing law establishes the Bronzan-McCorquodale Act, which contains provisions governing community mental health programs. Existing law provides that a community mental health center shall be considered a licensed facility for all purposes.

Existing law defines a community mental health center as, among other things, a nonprofit agency that has been certified to provide services under the Bronzan-McCorquodale Act and that provides specified services.

This bill would, instead, change this definition of a community mental health center to a nonprofit agency that has a contract with a county mental health program to provide those services.

Existing law provides that charges for the care and treatment of each patient receiving service from a county mental health program shall not exceed the actual or negotiated cost thereof, as determined or approved by the Director of Mental Health. The director is

required, in carrying out this function, to adopt a uniform sliding scale patient fee schedule to be used in all mental health agencies for all services rendered to each patient.

Existing law permits the director to delegate to each county all or part of the responsibility for determining the liability for the cost of care provided under the county mental health program, other than in a state hospital, in accordance with the policies and procedures adopted by the director.

This bill would limit that delegation to determining financial liability.

This bill would authorize the Director of Mental Health to delegate responsibility for collecting charges for those services provided to minor children referred for treatment in a state hospital. This bill would authorize the county to decline the delegation of the responsibility to collect charges for services provided to minor children in a state hospital.

This bill would also authorize the Director of Mental Health to delegate to any county that accepts that delegation the responsibility for determining the ability of certain persons to pay for services provided in a state hospital to mentally disordered children.

Existing law requires psychologists, clinical social workers, and marriage, child, and family counselors to be licensed, except that licensure requirements are waived under specified circumstances.

Existing law contains maximum time periods from commencement of employment for which the State Department of Mental Health is authorized to grant a waiver of the requirement for licensure for persons gaining qualifying experience in these professions.

The bill would, instead, provide that persons employed or under contract to provide mental health services as clinical social workers or marriage, family, and child counselors, and who are registered with the licensing board of jurisdiction for the purpose of acquiring the experience required for licensure in these professions, shall be exempt from licensure, except that registration would be subject to all terms, conditions, and durational limits established by the appropriate licensing board.

Existing law provides that, in the case of persons employed as psychologists, a waiver granted by the State Department of Mental Health shall not exceed 2 years from commencement of employment, except that, based upon extenuating circumstances, a one-year extension can be granted in the case of a full-time employee, and a proportionately greater extension can be granted in the case of a part-time employee, but not to exceed 5 years.

This bill would, instead, provide that, in the case of those employed by, or under contract with, a local mental health program to provide mental health services as psychologists, and who are gaining the experience required for licensure, the departmental waiver of



licensure shall not exceed 5 years from the date of employment by, or contract with, the program.

The bill would also provide that the department shall grant a waiver of not to exceed 3 years from the date of employment by, or contract with, a local mental health program, for persons recruited from outside this state as psychologists, clinical social workers, or marriage, child, and family counselors.

Existing law establishes, until January 1, 1996, the California Mental Health Planning Council, whose duties include advocating for effective, quality mental health programs, and reviewing, assessing, and making recommendations regarding all components of California's mental health system.

This bill would extend the existence of this council until January 1, 1999.

Existing law provides that one of the council's duties was to assess the effect of realignment of mental health services from the state to the counties on the delivery of those services, and to report its findings to specified entities by January 1, 1995.

This bill would, instead, provide that the council would assess periodically the effects of realignment of mental health services and any other important changes in the state's mental health system, and to report its findings to these entities, as appropriate. This provision would remain in effect only until January 1, 1999.

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

SECTION 1. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. (a) (1) Each community mental health service shall have a mental health board consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing body, except that boards in counties with a population of less than 80,000 may have a minimum of five members. One member of the board shall be a member of the local governing body. There shall be an equal number of appointees appointed by each member of the board of supervisors. Any county with more than five supervisors shall have at least the same number of members as the size of its board of supervisors. Nothing in this section shall be construed to limit the ability of the governing body to increase the number of members above 15. Local mental health boards may recommend appointees to the county supervisors. Counties are encouraged to appoint individuals who have experience and knowledge of the mental health system. The board membership should reflect the ethnic diversity of the client population in the county.

(2) Fifty percent of the board membership shall be consumers or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent



of the total membership shall be consumers, and at least 20 percent shall be families of consumers.

(3) (A) In counties under 80,000 population, at least one member shall be a consumer, and at least one member shall be a parent, spouse, sibling, or adult child of a consumer, who is receiving, or has received, mental health services.

(B) Notwithstanding subparagraph (A), a board in a county with a population under 80,000 that elects to have the board exceed the five-member minimum permitted under paragraph (1) shall be required to comply with paragraph (2).

(b) The term of each member of the board shall be for three years. The governing body shall equitably stagger the appointments so that approximately one-third of the appointments expire in each year.

(c) If two or more local agencies jointly establish a community mental health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the mental health board for the community mental health service shall consist of an additional two members for each additional agency, one of whom shall be a consumer or a parent, spouse, sibling, or adult child of a consumer who has received mental health services.

(d) No member of the board or his or her spouse shall be a full-time or part-time county employee of a county mental health service, an employee of the State Department of Mental Health, or an employee of, or a paid member of the governing body of, a Bronzan-McCorquodale contract agency.

(e) Members of the board shall abstain from voting on any issue in which the member has a financial interest as defined in Section 87103 of the Government Code.

(f) If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Mental Health, or on the staff of, or a paid member of the governing body of, a Bronzan-McCorquodale contract agency.

(g) The mental health board may be established as an advisory board or a commission, depending on the preference of the county.

SEC. 2. Section 5667 of the Welfare and Institutions Code is amended to read:

5667. (a) A community mental health center shall be considered to be a licensed facility for all purposes, including all provisions of the Health and Safety Code and the Insurance Code.

(b) For purposes of this section, "community mental health center" means any entity that is one of the following:

(1) A city or county mental health program.



(2) A facility funded under the federal Community Mental Health Centers Act, contained in Subchapter 3 (commencing with Section 2681) of Chapter 33 of Title 42 of the United States Code.

(3) A nonprofit agency that has a contract with a county mental health program to provide both of the following:

(A) A comprehensive program of mental health services in an outpatient setting designed to improve the function of persons with diagnosed mental health problems pursuant to procedures governing all aspects of the program formulated with the aid of multidisciplinary staff, including physicians and surgeons, all of whom serve on quality assurance and utilization review committees.

(B) Diagnostic and therapeutic services for individuals with diagnosed mental health problems, together with related counseling.

SEC. 3. Section 5710 of the Welfare and Institutions Code is amended to read:

5710. (a) Charges for the care and treatment of each patient receiving service from a county mental health program shall not exceed the actual or negotiated cost thereof as determined or approved by the Director of Mental Health in accordance with standard accounting practices. The director may include the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a patient, his or her estate, or his or her responsible relatives to pay the charges and the powers of the director with respect thereto shall be determined in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

(b) The Director of Mental Health may delegate to each county all or part of the responsibility for determining the financial liability of patients to whom services are rendered by a county mental health program and all or part of the responsibility for determining the ability of the responsible parties to pay for services to minor children who are referred by a county for treatment in a state hospital. Liability shall extend to the estates of patients and to responsible relatives, including the spouse of an adult patient and the parents of minor children. The Director of Mental Health may also delegate all or part of the responsibility for collecting the charges for patient fees. Counties may decline this responsibility as it pertains to state hospitals, at their discretion. If this responsibility is delegated by the director, the director shall establish and maintain the policies and procedures for making the determinations and collections. Each county to which the responsibility is delegated shall comply with the policy and procedures.

(c) The director shall prepare and adopt a uniform sliding scale patient fee schedule to be used in all mental health agencies for services rendered to each patient. In preparing the uniform patient fee schedule, the director shall take into account the existing charges for state hospital services and those for community mental health



program services. If the director determines that it is not practicable to devise a single uniform patient fee schedule applicable to both state hospital services and services of other mental health agencies, the director may adopt a separate fee schedule for the state hospital services which differs from the uniform patient fee schedule applicable to other mental health agencies.

SEC. 4. 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 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 such 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) 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 as clinical social workers or marriage, family, and child counselors shall be exempt from subdivision (a). Registration shall be subject to regulations adopted by the appropriate licensing board.

(d) The requirements of subdivision (a) shall be waived by the department for persons employed or under contract to provide mental health services pursuant to this part as psychologists who are gaining the experience required for licensure. A waiver granted under this subdivision 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.

(e) The requirements of subdivision (a) shall be waived by the department for persons who have been recruited for employment from outside this state as psychologists, clinical social workers, or marriage, family, and child counselors and whose experience is sufficient to gain admission to a licensing examination. A waiver granted under this subdivision may not exceed three years from the date of employment by, or contract with, a local mental health program for persons in these three professions who are recruited from outside this state.

SEC. 5. Section 5771 of the Welfare and Institutions Code is amended to read:

5771. (a) Pursuant to Public Law 102-321, there is the California Mental Health Planning Council. The purpose of the planning



council shall be to fulfill those mental health planning requirements mandated by federal law.

(b) (1) The planning council shall have 40 members, to be comprised of members appointed from both the local and state levels in order to ensure a balance of state and local concerns relative to planning.

(2) As required by federal law, eight members of the planning council shall represent various state departments.

(3) Members of the planning council shall be appointed in such a manner as to ensure that at least one-half are persons with mental disabilities, family members of persons with mental disabilities, and representatives of organizations advocating on behalf of persons with mental disabilities. Persons with mental disabilities and family members shall be represented in equal numbers.

(4) The Director of Mental Health shall make appointments from nominees from mental health constituency organizations, which shall include representatives of consumer-related advocacy organizations, representatives of mental health professional and provider organizations, and one representative of the California Coalition on Mental Health.

(c) Members should be balanced according to demography, geography, gender, and ethnicity. Members should include representatives with interest in all target populations, including, but not limited to, children and youth, adults, and older adults.

(d) The planning council shall annually elect a chairperson and a vice chairperson.

(e) The term of each member shall be three years, to be staggered so that approximately one-third of the appointments expire in each year.

(f) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 6. Section 5771.3 of the Welfare and Institutions Code is amended to read:

5771.3. (a) The California Mental Health Planning Council may utilize staff of the State Department of Mental Health, to the extent they are available, and the staff of any other public or private agencies that have an interest in the mental health of the public and that are able and willing to provide those services.

(b) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 7. Section 5771.5 of the Welfare and Institutions Code is amended to read:

5771.5. (a) (1) The chairperson of the California Mental Health Planning Council, with the concurrence of a majority of the members of the California Mental Health Planning Council, shall appoint an



executive officer who shall have those powers delegated to him or her by the council in accordance with this chapter.

(2) The executive officer shall be exempt from civil service.

(b) Within the limit of funds allotted for these purposes, the California Mental Health Planning Council may appoint other staff it may require according to the rules and procedures of the civil service system.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 8. Section 5772 of the Welfare and Institutions Code is amended to read:

5772. The California Mental Health Planning Council shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To advocate for effective, quality mental health programs.

(b) To review, assess, and make recommendations regarding all components of California's mental health system, and to report as necessary to the Legislature, the State Department of Mental Health, local boards, and local programs.

(c) To review program performance in delivering mental health services by annually reviewing performance outcome data as follows:

(1) To review and approve the performance outcome measures.

(2) To review the performance of mental health programs based on performance outcome data and other reports from the State Department of Mental Health and other sources.

(3) To report findings and recommendations on programs' performance annually to the Legislature, the State Department of Mental Health, and the local boards.

(4) To identify successful programs for recommendation and for consideration of replication in other areas. As data and technology are available, identify programs experiencing difficulties.

(d) When appropriate, make a finding pursuant to Section 5655 that a county's performance is failing in a substantive manner. The State Department of Mental Health shall investigate and review the finding, and report the action taken to the Legislature.

(e) To advise the Legislature, the State Department of Mental Health, and county boards on mental health issues and the policies and priorities that this state should be pursuing in developing its mental health system.

(f) To periodically review the state's data systems and paperwork requirements to ensure that they are reasonable and in compliance with state and federal law.

(g) To make recommendations to the State Department of Mental Health on the award of grants to county programs to reward and stimulate innovation in providing mental health services.



(h) To conduct public hearings on the state mental health plan, the Substance Abuse and Mental Health Services Administration block grant, and other topics, as needed.

(i) To participate in the recruitment of candidates for the position of Director of Mental Health and provide advice on the final selection.

(j) In conjunction with other statewide and local mental health organizations, assist in the coordination of training and information to local mental health boards as needed to ensure that they can effectively carry out their duties.

(k) To advise the Director of Mental Health on the development of the state mental health plan and the system of priorities contained in that plan.

(l) To assess periodically the effect of realignment of mental health services and any other important changes in the state's mental health system, and to report its findings to the Legislature, the State Department of Mental Health, local programs, and local boards, as appropriate.

(m) To suggest rules, regulations, and standards for the administration of this division.

(n) When requested, to mediate disputes between counties and the state arising under this part.

(o) To employ administrative, technical, and other personnel necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(p) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the California Mental Health Planning Council, subject to the approval of the Department of Finance.

(q) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the California Mental Health Planning Council, subject to the approval of the Department of Finance.

(r) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 9. Section 7275.1 is added to the Welfare and Institutions Code, to read:

7275.1. (a) Notwithstanding any other provision of law, the Director of Mental Health may delegate to each county all or part of the responsibility for determining the ability to pay, as delineated in subdivisions (b) and (c) of Section 5710, for the cost of care provided to mentally disordered minor children in a state hospital, and all or part of the responsibility for collecting the charges.

(b) If the director delegates responsibility pursuant to subdivision (a) and that responsibility is accepted by a county, the director shall establish and maintain the policies and procedures for making the



determinations and collections. Each county to which responsibility is delegated pursuant to subdivision (a) shall comply with policies and procedures adopted pursuant to this subdivision.

SEC. 10. Section 7276 of the Welfare and Institutions Code is amended to read:

7276. (a) The charge for the care and treatment of all mentally disordered persons and alcoholics at state hospitals for the mentally disordered for whom there is liability to pay therefor shall be determined pursuant to Section 4025. The Director of Mental Health may reduce, cancel or remit the amount to be paid by the estate or the relatives, as the case may be, liable for the care and treatment of any mentally disordered person or alcoholic who is a patient at a state hospital for the mentally disordered, on satisfactory proof that the estate or relatives, as the case may be, are unable to pay the cost of that care and treatment or that the amount is uncollectible. In any case where there has been a payment under this section, and the payment or any part thereof is refunded because of the death, leave of absence, or discharge of any patient of the hospital, that amount shall be paid by the hospital or the State Department of Mental Health to the person who made the payment upon demand, and in the statement to the Controller the amounts refunded shall be itemized and the aggregate deducted from the amount to be paid into the State Treasury, as provided by law. If any person dies at any time while his or her estate is liable for his or her care and treatment at a state hospital, the claim for the amount due may be presented to the executor or administrator of his or her estate, and paid as a preferred claim, with the same rank in order of preference, as claims for expenses of last illness.

(b) If the Director of Mental Health delegates to the county the responsibility for determining the ability of a minor child and his or her parents to pay for state hospital services, the requirements of Sections 5710 and 7275.1 and the policies and procedures established and maintained by the director, including those relating to the collection and accounting of revenue, shall be followed by each county to which that responsibility is delegated.

