

Date of Hearing: June 28, 2016

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Rudy Salas, Chair

SB 1194(Hill) – As Amended May 31, 2016

**SENATE VOTE:** 39-0

**SUBJECT:** Psychology: Board of Psychology: personnel

**SUMMARY:** Extends the sunset date for the Board of Psychology (BOP) by four years, until January 1, 2021; amends statutes pertaining to psychological assistants (PA); revises continuing education (CE) requirements; establishes policies for posting licensee information on the BOP's website; authorizes the BOP to issue a retired license; revises the requirements related to approved schools; and, makes other technical, clarifying and conforming changes to the BOP and the psychology practice act (act).

**EXISTING LAW:**

- 1) Establishes the BOP to enforce and administer the Psychology Licensing Law. (Business and Professions Code (BPC) Section 2900, *et seq.*)
- 2) Requires a PA to be employed by a clinic, as specified; a psychological corporation; a licensed psychology clinic, as specified; or by a medical corporation. (BPC Section 2913)
- 3) Prohibits a licensed psychologist from supervising more than three PAs at a time unless otherwise authorized by the BOP. (BPC Section 2913)
- 4) Prohibits a board certified psychiatrist from registering, employing, or supervising more than one PA at a time. (BPC Section 2913)
- 5) Requires a licensed psychologist, board certified psychiatrist, contract clinic, psychological corporation, or medical corporation, to register the PA with the BOP. (BPC Section 2913)
- 6) Prohibits a contract clinic, psychological corporation, or medical corporation from employing more than ten PAs at any time, and limits the number of PAs a contract clinic may register, employ, or supervise to one PA for each designated full-time staff psychiatrist. (BPC Section 2913)
- 7) States that an applicant holding a doctoral degree in psychology from an approved institution is deemed to meet certain licensing requirements if both of the following are true:
  - a) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the former Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999; and,
  - b) The approved institution has not, since July 1, 1999, had a new location, as described in Section 94823.5 of the Education Code. (BPC Section 2914)

- 8) Establishes requirements for CE. (BPC Section 2915)
- 9) Sunsets the BOP on January 1, 2017. (BPC Sections 2920, 2933)

**THIS BILL:**

- 1) Revises employment restrictions for PAs, as specified.
- 2) Clarifies that PAs are required to register themselves with the BOP, and the registration must be renewed annually in accordance with BOP regulations, as specified.
- 3) Deletes the provision allowing a licensed psychologist to register, employ or supervise more than three psychological assistants at a time with specific authorization from the BOP.
- 4) Requires on or after January 1, 2020 that an applicant for licensure as a psychologist possess an earned doctorate degree in psychology, in educational psychology or in education with the field of specialization in counseling psychology or educational psychology from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education (USDE) and authorizes the BOP to accept only until January 1, 2020, an applicant who possesses a doctorate degree in psychology, educational psychology, or in education with the field of specialization in counseling psychology or educational psychology from an institution that is not accredited by an accrediting agency recognized by the USDE but is approved to operate by the BPPE.
- 5) Changes references to CE to continuing professional development (CPD).
- 6) Requires applicants for licensure renewal to submit under penalty of perjury that he or she is in compliance with specified CPD requirements.
- 7) Specifies that CPD means certain continuing education learning activities approved in the following four categories: 1) professional; 2) academic; 3) sponsored continuing education coursework; and, 4) Board certification from the American Board of Professional Psychology.
- 8) Authorizes the BOP to develop regulations further defining CPD activities.
- 9) Deletes the exemption from CE requirements for a licensed psychologist whose practice does not include the direct provision of mental health services.
- 10) Deletes the requirement that CE instruction be completed in California or be approved for credit by the American Psychological Association or its equivalent and instead specifies that courses must be approved for credit by organizations approved by the BOP, and those organizations previously approved by the BOP to provide CE is deemed approved, as specified.
- 11) Revises the BOPs authority to accept CE courses from certain nonprofit organizations.
- 12) Deletes the requirement that a licensed psychologist must choose CE instruction that is related to the assessment, diagnosis, and intervention for the client population that is being

served or to the fields of psychology in which the psychologist intends to provide services, as specified.

- 13) Authorizes the BOP to grant an exemption or an extension of the time for compliance with, from CPD, as specified.
- 14) Deletes the authorization for CE credit to be approved for licensees who serve as commissioners on any examination.
- 15) Extends the sunset date for the BOP by four years, until January 1, 2021.
- 16) Authorizes the BOP to post on its Internet website the following information on the current status of the license for all current and former licensees:
  - a) Whether or not the license has a record of disciplinary action; and,
  - b) Any of the following enforcement actions or proceedings:
    - i) Temporary restraining orders;
    - ii) Interim suspension orders;
    - iii) Revocations, suspensions, probations, or limitations on practice ordered by the BOP or by a court with jurisdiction in the state, including those made part of a probationary order, cease practice order or stipulated agreement;
    - iv) Accusations filed by the BOP including those accusations that are on appeal, excluding ones that have been dismissed or withdrawn where the action is no longer pending; and,
    - v) Citations issued by the BOP, unless withdrawn, posted for five years from the date of issuance.
- 17) Authorizes the BOP to post on its Internet website all of the following historical information in its possession, custody, or control regarding all current and former licensees:
  - a) Institutions that awarded the qualifying educational degree and type of degree awarded; and,
  - b) A link to the licensee's professional website.
- 18) Permits the BOP to post other information as determined through regulation.
- 19) Deletes the section on appointment of commissioners on examinations, as specified.
- 20) Permits the BOP to issue a retired license, as specified.
- 21) Authorizes the holder of a retired license to return to active status if specified conditions are met including, the retired license not being issued more than three years for the date of return to active status; not committed acts or crimes constituting grounds for denial; paying the renewal fee; completing CPD, and complying with fingerprint submission requirements.

22) Authorizes the holder of a retired license to return to active status if the retired license was issued three or more years from the application date if specified conditions are met including, completing an application packet, taking and passing the California Psychology Law and Ethics Examination; paying all fees; complying with fingerprint submission requirements, having met educational and experience requirements, as specified, and establishing that he or she has not been subject to denial or discipline of a license.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, this bill will result in,

- Ongoing costs of about \$5 million per year for the continued operation of the Board of Psychology (Psychology Fund). The Board is entirely funded with licensing fees.
- Ongoing revenue loss of about \$57,000 per year offset initially by one-time revenue of \$86,000, due to current licensees shifting from an inactive psychology license to a retired psychology license (Psychology Fund). Over time, there will be minor annual revenue from new retired license applications, which will partially offset the ongoing revenue loss. The reduction in annual renewal fees will generally be offset by a reduction in administrative workload for the Board to process renewal applications.

Under current law, a licenses psychologist who is no longer practicing can apply for and be granted an inactive license. An inactive license must be renewed every two years and requires a \$50 renewal fee. This bill creates a retired psychologist license that would require a one-time \$75 fee. Most of the applicants for the new license are likely to currently have an inactive license or would apply for one upon retirement. Therefore, the Board will experience a revenue loss from the shift from licensees shifting from a renewable license to one with a one-time fee.

- No other significant costs are anticipated to the Board from the other changes in the bill.

#### **COMMENTS:**

**Purpose.** This bill is a sunset bill which seeks to extend the sunset date of the BOP by four years, until January 1, 2021, makes other regulatory and programmatic changes as raised during the 2016 sunset review hearing, and makes other technical, clarifying, and conforming amendments pertaining to the BOP. This bill is sponsored by the author. "According to the author's office, "This bill is necessary to update provisions of the Psychology Licensing Law to reflect current practices and improve information available to consumers."

**Background.** *Board of Psychology.* The BOP regulates licensed psychologists, registered PAs, and registered psychologists. Only licensed psychologists can practice psychology independently in the private sector in California. In order to be a licensed psychologist, an individual must obtain a doctorate degree in psychology, educational psychology, or education within the field of specialization in counseling psychology or educational psychology from an accredited or approved institution, and have completed two years (3,000) hours of supervised professional experience, where at least 1,500 of those hours be completed post-doctoral. PAs are registered to a licensed psychologist or to a board-certified psychiatrist as employees who provide limited psychological services. Those registered psychologists are registered with the BOP and work and train under supervision in non-profit agencies that receive government funding. PAs are employed and supervised by a qualified licensed psychologist as employees

who may provide limited services. PAs are required to have a master's degree, but no specified experience requirements. The BOP's current licensing population includes approximately 20,000 psychologists, approximately 280 registered psychologist and approximately 1,600 PAs.

*Joint Oversight Hearings and Sunset Review of DCA Licensing Boards.* In March of 2016, the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee (Committees) conducted multiple joint oversight hearings to review 11 regulatory boards within the DCA and one regulatory entity outside of the DCA. The sunset bills are intended to implement legislative changes recommended in the respective background reports drafted by the Committee staff for the agencies reviewed this year.

*The Sunset Review Process.* The sunset review process provides a formal mechanism for the DCA, the Legislature, the regulatory boards, bureaus and committees, interested parties, and stakeholders to make recommendations for improvements to the authority of consumer protection boards and bureaus. This is performed on a standard four-year cycle and was mandated by SB 2036 (McCorquodale), Chapter 908, Statutes of 1994. Each eligible agency is required to submit to the Committees a report covering the entire period since last reviewed that includes, among other things, the purpose and necessity of the agency and any recommendations of the agency for changes or reorganization in order to better fulfill its purpose. During the sunset review hearings, the Committees take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency is allowed to sunset unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency.

The BOP was last reviewed in 2011 and received a four-year sunset extension at that time. The legislation pertaining to this bill is based on specific issues raised and addressed in the report released by the Senate Committee on Business and Professions along with the sunset review hearing on March 14, 2016.

*Approved Schools and National Accreditation.* California is the only state that allows students from unaccredited schools to sit for psychology licensing examinations. Current law requires the BOP to accept doctoral degrees in psychology from either accredited or approved institutions. An institution is deemed approved if it is not a franchise, was approved by the former Bureau of Private Postsecondary Vocational Education on or before 1999, and has not moved to a new location since 1999. There are six schools meeting these criteria, with approvals and oversight conducted solely by the BPPE. This issue was raised during the previous review of the BOP. At that time, the BOP noted that it was concerned that there is little quality control over the schools' operations or curriculum and students have a low pass rate on the national exam, among other issues. At that time, the BOP stated that the students from these schools should not be eligible for licensure and expressed their preference for a change in law to prohibit applicants from approved schools. The law was not changed during the previous sunset review.

In an effort to increase the quality of educational programs in California, the California Private Postsecondary Education Act of 2009 was amended in 2014. SB 1247 (Lieu), Chapter 840, Statutes of 2014, required degree granting institutions to be accredited by an agency recognized by the USDE by July 1, 2020 in order to receive BPPE approval. Further, AB 2099 (Frazier), Chapter 676, Statutes of 2014 also established requirements for unaccredited degree granting programs participating in Title 38, the program that provides educational awards for eligible active duty military members and veterans. While the BOP recognizes recent Legislative actions as significant progress, there remains a concern that these changes may be insufficient to raise

California's psychologists to the national standard. As a result, in the *2016 Committee Staff Background Paper*, it was recommended that current language authorizing graduates with degrees from unaccredited institutions to sit for licensure by the BOP be removed, and ensure that timeframes for this change accommodate current students. Additionally, it was requested for the BOP to provide information to the Committees as to whether regional accreditation may be preferable to other types of accreditation, and the Committees should specify the type of accreditation that should be required of institutions offering degrees intended to lead to licensure.

As a result of that recommendation, this bill will delete the current requirements pertaining to school approval and instead require that an applicant for a psychologists' license graduate from an institution that is accredited by a regional accrediting agency recognized by the USDE. This bill will allow the BOP to continue to accept applicant who possesses a doctorate degree from an institution that is not accredited by an agency accredited by an accrediting agency recognized by the USDE, but is approved to operate in this state by the BPPE until January 1, 2020; thereby giving persons who may be in a current program time to complete a program.

*Continuing Professional Development.* Traditional models of CE entail formal learning activities conducted in classroom or workshop settings. As referenced earlier in the report, the BOP seeks changes to their CE program to accommodate a broader competency model called CPD. The CPD model provides additional avenues for maintaining competence. These options are meant to expand the ways licensees can increase their learning and to include performance-based assessments of licensees' competence.

In the *2016 Committee Staff Background Paper*, it was recommended that the BOP provide recommendations to the Committee with respect to establishing changes in CE requirements. To address the issues raised by the BOP, this bill will change current references to CE and replace it with CPD. This bill will define CPD to include activities in four different categories including professional, academic, sponsoring CE coursework, and board certification from the American Board of Professional Psychology. This bill will allow the BOP to grant an extension in addition to an exemption from CPD requirements. This bill requires licensees to certify under penalty of perjury that he or she has completed the required CPD instead of submitting all documentation. This bill will require CPD courses to be approved by organizations that are approved by the BOP.

*Psychological Assistants.* In order to become a licensed psychologist, applicants must accrue 3,000 hours of supervised professional experience. Individuals who have a Master's degree and are admitted into a doctoral program may obtain these hours by registering with the BOP as a PA. A PA provides psychological services to individuals or groups while under the supervision of a licensed psychologist or a board certified psychiatrist. Current law requires that a PA be employed only by a psychological or medical corporation, a California licensed psychology clinic, a Bronzan-McCorquodale contract clinic, a licensed psychologist, or a board certified psychiatrist. The BOP recognizes that these statutes are outdated and do not reflect the employment, contract, or volunteer opportunities available in settings beyond current limitations, such as hospitals, nursing homes, and rehabilitation centers. In the *2016 Committee Staff Background Paper*, it was recommended that the BOP should provide recommendations to the Committees for updating PA statutes to focus on appropriate supervision, rather than the physical setting. This bill makes changes related to PAs by deleting outdated employment restrictions and deletes the option for a licensed psychologist to supervise, register, or employ more than

three PAs. In addition, this bill makes it clear that a PA registers with the BOP and not the PAs supervisor.

*Retired License.* The Psychology Act does not authorize a retired license. Under existing law, a retired licensee may choose only between “inactive” status, which costs \$25 per year, or “delinquent” status. These have negative connotations and may not respect a long and honorable career. The BOP is seeking to establish a “retired” licensure category, similar to many other healing arts programs such as the Medical Board, Professional Fiduciaries Bureau, Board of Behavioral Sciences, and Board of Optometry. Adding this license designation is a consistent request from licensees and is included in the BOP’s 2014-2018 Strategic Plan.

This bill authorizes the BOP to establish a retired license and sets up the criteria for such a license. This bill provides two pathways to return a retired license to active status; 1) for those retired licensees whose retired license is less than three years old, and 2) for those retired licensees who retired license is more than three years old.

*Website Information for Consumers.* The BOP’s website contains information for the benefit of consumers. As such, the BOP has requested additional legislative authority to post historical information on existing and past licensees’ approved graduate and post-graduate education on its website. This bill will authorize the BOP to post specified information about licensees on its website including information about disciplinary licenses, enforcement actions or proceedings, information about revocations, probations, or limitations on practice ordered by the BOP, accusations filed by the BOP, citations issued by the BOP, and specified information about licensee education, professional information or other information as established by the BOP through regulations.

**Prior Related Legislation.** AB 773 (Baker), Chapter 336, Statutes of 2015, recast the expiration dates for certain licenses, certificates, and registrations issued by the BOP based on the date of issuance instead of a licensee’s birthdate.

AB 1374 (Levine), Chapter 529, Statutes of 2015, eliminated the requirement for a fee in the practice of psychology so that psychological services may be provided for free, revised terms related to the practice of psychology, amended the process by which an applicant submits a verification of experience to the BOP, and made technical and clarifying changes.

AB 705 (Eggman), Chapter 218, Statutes of 2015, updated the Psychology Licensing Law to require employees in exempt settings be supervised by a licensed psychologist and become licensed within five years of practice, and made technical and clarifying changes.

SB 1236 (Price) Chapter 322, Statutes of 2012, extended the sunset date for the BOP, until 2017, among other provisions.

### **ARGUMENTS IN SUPPORT:**

The California Psychological Association writes in support, "On behalf of the California Psychological Association, I’m pleased to inform you of our SUPPORT position on [this bill], legislation related to the [BOP] sunset extension... Without the sunset extension, the licensure, regulation and discipline of psychologists and pre-licensed psychologists would cease to exist in the state, cutting off access to services for millions of Californians. We are fully supportive of

the four year extension in the bill, as well as language that ensures all eligible licensees will have graduated from an accredited institution and the establishment of a 'retired licensee' status."

**REGISTERED SUPPORT:**

California Psychological Association

**REGISTERED OPPOSITION:**

None on file.

Analysis Prepared by: Elissa Silva / B. & P. / (916) 319-3301