



Board of Behavioral Sciences



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[www.bbs.ca.gov](http://www.bbs.ca.gov)

Governor Edmund G. Brown Jr.  
State of California  
Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

## **BOARD MEETING Notice and Agenda May 9-11, 2018**

**Hilton Los Angeles/Universal City  
Fourth Floor, Salon 6 A/B  
555 Universal Hollywood Drive  
Universal City, CA 91608**

*While the Board intends to webcast this meeting, it may not be possible to webcast the entire meeting due to technical difficulties or limitations on resources. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location.*

### **Agenda Wednesday, May 9, 2018 8:30 a.m.**

- I. Call to Order and Establishment of Quorum
- II. Petition for Modification of Probation for Matthew D. Woodbury, LCSW 19901
- III. Petition for Early Termination of Probation for Jessica Kay Plancich, LMFT 39667
- IV. Petition for Modification of Probation for Emily Mann, AMFT 97110
- V. Petition for Early Termination of Probation for Celena R. Horton, ASW 60478
- VI. Petition for Early Termination of Probation for Robert Thomas Nelson, AMFT 91915
- VII. Public Comment for Items Not on the Agenda

*Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 1125.7(a)]*

- VIII. Suggestions for Future Agenda Items

**CLOSED SESSION**

- IX. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions.
- X. Pursuant to Section 11126(a)(1) of the Government Code, the Board Will Meet in Closed Session to Evaluate the Performance of the Executive Officer.

**RECONVENE IN OPEN SESSION**

- XI. Recess Until 8:30 a.m. on Thursday, May 10, 2018

**Agenda**  
**Thursday, May 10, 2018**  
**8:30 a.m.**

XII. Call to Order and Establishment of Quorum

XIII. Public Comment for Items Not on the Agenda

*Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting.  
[Government Code Sections 11125, 1125.7(a)]*

XIV. Suggestions for Future Agenda Items

XV. Petition for Early Termination of Probation for Shannon Marie Kelly, LCSW 75222

XVI. Petition for Early Termination of Probation for Rami Sami Merhi, AMFT 76810

XVII. Petition for Reinstatement of License for P.J. (Philip Jay) Babcock, LMFT 30773

XVIII. Petition for Reinstatement of License for Sylvia Mendoza, LCSW 20653

**CLOSED SESSION**

XIX. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions.

**RECONVENE IN OPEN SESSION**

XX. Recess Until 8:30 a.m., Friday, May 11, 2018

**Agenda**  
**Friday, May 11, 2018**  
**8:30 a.m.**

- XXI. Call to Order, Establish a Quorum, Introductions\*
- XXII. Consent Calendar
  - a. Approval of the February 21-22, 2018 Board Meeting Minutes
  - b. Approval of the April 12, 2018 Board Meeting Minutes
- XXIII. Board Chair Report
  - a. Board Member Activities
  - b. Recognition of Departing Board Members
- XXIV. Election of Board Chair and Vice Chair
- XXV. Executive Officer's Report
  - a. Budget Report
  - b. Operations Report
  - c. Personnel Report
  - d. Strategic Plan Update
- XXVI. Discussion Regarding Reconvening the Substance Abuse Coordination Committee: Uniform Standard #4
- XXVII. Exempt Committee Update
- XXVIII. License Portability Committee Update
- XXIX. Discussion and Possible Action on the Policy and Advocacy Committee Recommendations
  - a. Recommendation #1 Support Assembly Bill 456 (Thurmond) Healing Arts: Associate Clinical Social Workers, 90 Day Rule
  - b. Recommendation #2 Support, If Amended Assembly Bill 767 (Quirk-Silva) Master Business License Act
  - c. Recommendation #3 Support Assembly Bill 1779 (Nazarian) Sexual Orientation Change Efforts
  - d. Recommendation #4 Support Assembly Bill 2088 (Santiago) Patient Records: Addenda
  - e. Recommendation #5 Support Assembly Bill 2143 (Cabalero) Licensed Mental Health Service Provide Education Program: Providers
  - f. Recommendation #6 Support Assembly Bill 2296 (Waldron) Licensed Professional Clinical Counselors: Licensed Clinical Social Workers
  - g. Recommendation #7 Support Assembly Bill 2943 (Low) Unlawful Business Practices: Sexual Orientation Change Efforts



- h. Recommendation #9 Support Assembly Bill 2968 (Levine) Psychotherapist-Client Relationship; Victims of Sexual Behavior and Sexual Contact: Informational Brochure
  - i. Recommendation #10 Support if Amended Senate Bill 906 (Beall) Medi-Cal: Mental Health Service: Peer, Parent, Transition-Age and Family Support Specialist Certification
  - j. Recommendation #11 Support Senate Bill 968 (Pan) Postsecondary Education: Mental Health Counselors
- XXX. Discussion and Possible Action Regarding Assembly Bill 1116 (Grayson) Peer Support and Crisis Referral Act
- XXXI. Discussion and Possible Action Regarding Assembly Bill 1436 (Levine) Board of Behavioral Sciences: Licensees: Suicide Prevention Training
- XXXII. Discussion and Possible Action Regarding Assembly Bill 2138 (Chiu and Low) Licensing Boards: Denial of Application: Criminal Conviction
- XXXIII. Discussion and Possible Action Regarding Assembly Bill 2608 (Stone) Licensed Mental Health Service Provider Education Program: Foster Youth
- XXXIV. Discussion and Possible Action Regarding Assembly Bill 2302 (Baker) Child Abuse: Sexual Assault: Mandated Reporters
- XXXV. Discussion and Possible Action Regarding Assembly Bill 3120 (Gonzalez Fletcher) Damages: Childhood Sexual Assault: Statute of Limitations
- XXXVI. Discussion and Possible Action Regarding Senate Bill 399 (Portantino) Health Care Coverage: PDD or Autism
- XXXVII. Discussion and Possible Action Regarding Senate Bill 1298 (Skinner) The Increasing Access to Employment Act
- XXXVIII. Discussion and Possible Action Regarding Senate Bill 1480 (Hill) Professions and Vocations
- XXXIX. Status on Board-Sponsored Legislation
- a. Assembly Bill 93 (Medina): Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision
  - b. Assembly Bill 2117 (Arambula) Licensing Process Bill: Proposed Revisions to Business and Professions Code sections 4980.72, 4984.01, 4996.17, 4996.28, 4999.60, 4999.100
  - c. Senate Bill 1491 (Senate Business, Professions, and Economic Development Committee) Omnibus Bill – Proposed Technical and Non-Substantive Amendments to Business and Professions Code sections 27, 650.4, 865, 2290.5, 4980.37, 4980.39, 4980.41, 4980.72, 4980.78, 4980.79, 4990.30, 4992, 4996.17, 4999.14, 4999.22, 4999.32, 4999.48, 4999.60, 4999.62, 4999.63, 4999.100, and Family Code section 6924

- XL. Status of Board Rulemaking Proposals
- a. Application Processing Times and Registrant Advertising: Amend Title 16, California Code of Regulations, sections 1805.1 and 1811
  - b. Enforcement Process: Amend Title 16, California Code of Regulations sections 1823, 1845, 1858, 1881, 1886.40, 1888 and Uniform Standards Related to Substance Abuse and Disciplinary Guidelines
  - c. Contact Information; Application Requirements; Incapacitated Supervisors: Amend Title 16, California Code of Regulations, sections 1804, 1805 and 1820.7; Add section 1815.8
  - d. Examination Rescoring: Application Abandonment: APCC Subsequent Registration Fees: Amend Title 16, California Code of Regulations section 1816.1 – Add Fee for Subsequent Professional Clinical Counselor Intern Registrations
- XLI. Suggestions for Future Agenda Items
- XLII. Public Comment for Items Not on the Agenda
- Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 1125.7(a)]*
- XLIII. Adjournment

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*\*Introductions are voluntary for members of the public.*

*Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Times and order of items are approximate and subject to change. Action may be taken on any item listed on the Agenda.*

*This agenda as well as Board meeting minutes can be found on the Board of Behavioral Sciences website at [www.bbs.ca.gov](http://www.bbs.ca.gov).*

*NOTICE: The meeting is accessible to persons with disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Christina Kitamura at (916) 574-7835 or send a written request to Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.*



**BOARD MEETING  
Draft Minutes  
April 12, 2018**

*The Board met via teleconference from the following locations:*

Department of Consumer Affairs  
El Dorado Room  
1625 North Market Blvd., #N-220  
Sacramento, CA 95834

1250 Tamarack Avenue  
Brea, CA 92821

58 Morton Way  
Palo Alto, CA 94303

5506 Ranchito Avenue  
Sherman Oaks, CA 91401

2400 Moorpark Avenue #300  
San Jose, CA 95128

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**Members Present**

Deborah Brown, Chair, Public Member  
Betty Connolly, Vice Chair, LEP Member  
Samara Ashley, Public Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Renee Lonner, LCSW Member  
Sarita Kohli, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent**

Massimiliano "Max" Disposti, Public Member  
Jonathan Maddox, LMFT Member

**Staff Present**

Kim Madsen, Executive Officer  
Christina Kitamura, Administrative Analyst  
Sabina Knight, Legal Counsel

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1 **FULL BOARD OPEN SESSION**  
2  
3

4 **I. Call to Order and Establishment of Quorum**

5 Deborah Brown called the meeting to order at 8:45 a.m. Christina Kitamura called roll.  
6 A quorum was established.  
7

8 There were no public participants in attendance at the five teleconference sites.  
9

10 **II. Public Comment for Items Not on the Agenda**

11 There were no public comments.  
12

13 **III. Suggestions for Future Agenda Items**

14 Ms. Brown suggested a discussion regarding "pay for supervision."  
15

16 The Board moved to closed session at 8:47 a.m.  
17

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18 **CLOSED SESSION**  
19

20  
21  
22  
23 **IV. Pursuant to Section 11126(a)(1) of the Government Code, the Board Will Meet in**  
24 **Closed Session to Evaluate the Performance of the Executive Officer**

25  
26 **V. Adjournment**

27 The Board adjourned at 10:14 a.m.



**Board Meeting  
Draft Minutes  
February 21-22, 2018**

Department of Consumer Affairs  
Hearing Room  
1625 North Market Blvd., #S-102  
Sacramento, CA 95834

**Wednesday, February 21, 2018**

**Members Present**

Deborah Brown, Chair, Public Member  
Betty Connolly, Vice Chair, LEP Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Massimiliano "Max" Disposti, Public Member  
Renee Lonner, LCSW Member  
Jonathan Maddox, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent**

Samara Ashley, Public Member  
Sarita Kohli, LMFT Member

**Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Pearl Yu, Enforcement Manager  
Christina Kitamura, Administrative Analyst  
Anthony Pane, Legal Counsel  
Kurt Heppler, Legal Counsel

1 **I. Call to Order and Establishment of Quorum**

2  
3 Deborah Brown, Chair of the Board of the Behavioral Sciences (Board), called the  
4 meeting to order at 8:40 a.m. Christina Kitamura called roll, and a quorum was  
5 established.  
6

7 **II. Petition for Early Termination of Probation for Alejandro Barela, ASW 67503**

8 Administrative Law Judge Karl Engeman opened the hearing at 8:42 a.m. Deputy  
9 Attorney General Summer Haro presented the facts of the case on behalf of the People  
10 of California. Alejandro Barela represented himself.  
11

12 Ms. Haro presented the background of Mr. Barela’s probation. Mr. Barela was sworn in.  
13 Mr. Barela presented his request for early termination of probation and information to  
14 support the request. He answered questions posed by Ms. Haro and Board Members.  
15

16 Judge Engeman closed the record at 9:11 a.m.  
17

18 **III. Petition for Early Termination of Probation for Eric F. Ontiveros, LCSW 73802**

19  
20 Administrative Law Judge Karl Engeman opened the hearing at 9:14 a.m. Deputy  
21 Attorney General Summer Haro presented the facts of the case on behalf of the People  
22 of California. Eric Ontiveros represented himself.  
23

24 *The Board took an administrative break at 9:25 a.m. and resumed with the hearing at*  
25 *9:33 a.m.*  
26

27 Ms. Haro presented the background of Mr. Ontiveros’ probation. Mr. Ontiveros was  
28 sworn in. Mr. Ontiveros presented his request for early termination of probation and  
29 information to support the request. He answered questions posed by Ms. Haro and  
30 Board Members.  
31

32 Judge Engeman closed the record at 10:09 a.m.  
33

34 **IV. Petition for Modification of Probation for Judy V. Brevaire, LMFT 32458**

35  
36 Administrative Law Judge Karl Engeman opened the hearing at 10:10 a.m. Deputy  
37 Attorney General Summer Haro presented the facts of the case on behalf of the People  
38 of California. Judy Brevaire represented herself.  
39

40 Ms. Haro presented the background of Ms. Brevaire’s probation. Ms. Brevaire was  
41 sworn in. Ms. Brevaire presented her request for modification of probation and  
42 information to support the request. She answered questions posed by Ms. Haro and  
43 Board Members.  
44

45 Judge Engeman closed the record at 10:43 a.m.  
46  
47

48 *The Board took a break at 10:44 a.m. and reconvened at 10:50 a.m. Ms. Brown took the*  
49 *next two agenda items out of order. Item VI was heard before item V.*  
50

1 **V. Petition for Reinstatement of Registration for Keith M. Lederhaus, ASW 34492**

2  
3 Administrative Law Judge Karl Engeman opened the hearing at 11:56 a.m. Deputy  
4 Attorney General Summer Haro presented the facts of the case on behalf of the People  
5 of California. Keith Lederhaus represented himself.  
6

7 Ms. Haro presented the background of Mr. Lederhaus' registration revocation. Mr.  
8 Lederhaus was sworn in. Mr. Lederhaus presented his request to reinstate his  
9 registration and information to support the request. He answered questions posed by  
10 Ms. Haro and Board Members.  
11

12 Judge Engeman closed the record at 12:35 p.m.  
13

14 **VI. Petition for Reinstatement of Registration for Corey G. Nash, ASW 3480**

15  
16 Administrative Law Judge Karl Engeman opened the hearing at 10:58 a.m. Deputy  
17 Attorney General Summer Haro presented the facts of the case on behalf of the People  
18 of California. Corey Nash represented himself.  
19

20 Ms. Haro presented the background of Mr. Nash's registration revocation. Mr. Nash was  
21 sworn in. Mr. Nash presented his request to reinstate his registration and information to  
22 support the request. He answered questions posed by Ms. Haro and Board Members.  
23

24 Judge Engeman closed the record at 11:55 a.m.  
25

26  
27 *The Board took a break at 12:46 p.m. and reconvened in closed session at 2:02 p.m.*  
28 *Agenda items VII and VIII were taken out of order, and heard after closed session.*  
29

30 **VII. Public Comment for Items Not on the Agenda**

31 No public comments were presented.  
32

33 **VIII. Suggestions for Future Agenda Items**

34  
35 No suggestions for future agenda items were presented.  
36  
37

38 **CLOSED SESSION**

39  
40 **IX. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in**  
41 **Closed Session for Discussion and to Take Action on Disciplinary Matters,**  
42 **Including the Above Petitions**  
43

44 **X. Pursuant to Section 11126(a)(1) of the Government Code, the Board Will Meet in**  
45 **Closed Session to Evaluate the Performance of the Executive Officer**  
46  
47

48 **RECONVENE IN OPEN SESSION**

49  
50 *The Board reconvened in open session at 5:53 p.m. and heard agenda items VII and*  
51 *VIII.*  
52

- 1 **XI. Recess Until 8:30 a.m. on Thursday, February 22, 2018**
- 2 The Board recessed at 5:56 p.m.



**Thursday, February 22, 2018**

**Members Present**

Deborah Brown, Chair, Public Member  
Betty Connolly, Vice Chair, LEP Member  
Samara Ashley, Public Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Massimiliano "Max" Disposti, Public Member  
Renee Lonner, LCSW Member  
Jonathan Maddox, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent**

Sarita Kohli, LMFT Member

**Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Rosanne Helms, Legislative Analyst  
Christina Kitamura, Administrative Analyst  
Anthony Pane, Legal Counsel

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**XII. Call to Order, Establishment of Quorum, and Introductions\***

Deborah Brown called the meeting to order at 8:35 a.m. Christina Kitamura called roll. A quorum was established. Board members introduced themselves.

The Board moved into closed session at 8:40 a.m.

**CLOSED SESSION**

**XIII. Pursuant to Section 11126 (c)(1) of the Government Code, the Board Will Meet in Closed Session for Discussion Regarding the Clinical Examination for Marriage and Family Therapists**

**RECONVENE IN OPEN SESSION**

*The Board reconvened in open session at 10:13 a.m.*

Deborah Brown provided a statement regarding the closed session discussion:

“The Board of Behavioral Sciences has heard the concerns expressed by stakeholders and have had an opportunity to follow-up with staff from the Office of Professional Examination Services (OPES). After asking specific examination-related questions in closed session, the Board finds that OPES follows accepted professional guidelines and technical standards;

1 demonstrates a commitment to fair, valid, and legally defensible examinations;  
2 continues to monitor the Board's examinations, upholding the interests and the  
3 protections of the Board; and will keep the Board and staff apprised of ongoing  
4 developments. We, the Board, are confident that concerns about the passing  
5 rates have been addressed by OPES."  
6

7 *Agenda item XXIV was taken out-of-order, and heard before Item XIV.*  
8

9 **XIV. Consent Calendar**

- 10 **a. Approval of the August 18-19, 2016 Board Meeting Minutes**  
11 **b. Approval of the October 19, 2017 Board Meeting Minutes**  
12

13 ***Christina Wong moved to accept the Board meeting minutes on consent calendar.***  
14 ***Max Disposti seconded. The Board voted unanimously to pass the motion.***  
15

16 Roll call vote:

17 Samara Ashely – yes  
18 Dr. Christine Wietlisbach – yes  
19 Renee Lonner – yes  
20 Max Disposti – yes  
21 Deborah Brown – yes  
22 Betty Connolly – yes  
23 Dr. Leah Brew – yes  
24 Christina Wong – yes  
25 Dr. Peter Chiu – yes  
26 Jonathan Maddox – yes  
27

28 **XV. Board Chair Report**

29 **a. Board Member Activities**

30 No activities were reported.  
31

32 **b. Recognition of Board of Behavioral Sciences' Staff Members' Years of Service**

33 Board staff were recognized for their service to BBS: Trish Winkler (5 years),  
34 Cassandra Kearny (10 years) and Dawn Herrera (10 years).  
35

36 **XVI. Executive Officer's Report**  
37

38 **a. Budget Report**

39 2017/2018 Budget

- 40 • Over \$11 million  
41 • 48% spent as of December 2017  
42 • Due to new fiscal management system (FI\$CAL), some data is not available.  
43

44 General Fund Loans

- 45 • \$3 million loan repayment this fiscal year (FY)  
46 • Remaining \$3.3 million loan is scheduled for repayment in FY 2018/2019.  
47

48 Fund Condition

49 Reflects a 5.4 month reserve.  
50

1 Board Budget

2 The fund condition indicates a negative balance in FY 2020/2021. The budget is  
3 structurally imbalanced. Absent any corrective action, the Board will be operating at  
4 a deficit.

5  
6 The Board will initiate the process to obtain an independent fee audit of the Board's  
7 fee structure to determine the costs to deliver services. The results of the audit will  
8 be reported at a future meeting.

9  
10 **b. Operations Report**

11 Licensing Program: 2<sup>nd</sup> Quarter

- 12
- 13 • Application volumes decreased 38%, which is common during this time of the  
14 year.
  - 15 • Processing times increased slightly.
  - 16 • Issued over 1,600 new licenses
  - 17 • 111,270 total licensees and registrants as of January 30<sup>th</sup>

18 Examination Program: 2<sup>nd</sup> Quarter

- 19
- 20 • Administered over 5,000 examinations
  - 21 • Conducted 8 examination development workshops
  - 22 • LPCC occupational analysis is underway.
  - 23 • LMFT occupational analysis is scheduled to begin in November 2018.

24 A lodging contract has been secured for the Subject Matter Experts attending  
25 examination development workshops. The contract becomes effective July 1, 2018.

26  
27 Ms. Madsen and the Board's Examination Manager met with PSI representatives  
28 and OPES staff to discuss concerns related to the administration of the Board's  
29 examinations. As a result, the Examination Manager and PSI representatives will  
30 communicate directly with each other. This affords the Board the opportunity to  
31 partner with PSI to develop consistency in the information provided to our  
32 examination candidates as well as resolve candidates concerns quickly.

33  
34 PSI just entered a two-year extension in the contract. Meanwhile, Board staff is  
35 exploring other options to deliver the Board's examinations.

36  
37 Administration Program: 2<sup>nd</sup> Quarter

- 38
- 39 • Over 7,600 applications received (27% decrease)
  - 40 • Online renewals are 50%, with 2% renewals processed in-office
  - 41 • New website launched in January 2018
  - 42 • New telephone system deployed in February 2018

43 Enforcement Program: 2<sup>nd</sup> Quarter

- 44
- 45 • Received 281 consumer complaints
  - 46 • Received 305 criminal convictions
  - 47 • Closed 492 cases
  - 48 • Referred 67 cases to the Attorney General's (AG) office
  - 49 • Filed 28 Accusations and 9 Statement of Issues
  - 50 • Final number for citations is 34
  - 51 • Average time to complete formal discipline was 694 days
  - Year-to-date average to complete formal discipline is 692 days

- Average time a case is with the AG's office was 456 days
- Average time to complete all Board investigations was 107 days
- Year-to-date average to complete all Board investigations is 137 days

#### Continuing Education (CE) Audits

- 1,013 licensees audited from July-December 2017
- 28% fail rate
- Top reasons for failing audit:
  1. Failure to complete the required coursework within the renewal period (e.g. law and ethics)
  2. First time renewals did not complete the HIV/AIDS course
  3. Completing CE courses from unapproved providers

#### Outreach Activity

Board staff participated in various events including MFT Consortium meetings and professional association meetings and conferences. Christina Wong and Kim Madsen attended the Association of Social Work Boards (ASWB) Delegate Meeting.

#### Board Office Move Update

The process to submit a bid proposal to remodel the Board's new office space is complete, and a contractor has been selected. Ms. Madsen and Steve Sodergren met with the contractor, Department of Consumer Affairs (DCA) and Department of General Services representatives to review the work order. A final work order with the identified changes will be received in the next two weeks. The Board has monies set aside specifically for this project. Staff is also looking at the current year budget to determine where more monies can be diverted into the project. Based on the time line to obtain the necessary permits and approvals, it appears that the move into the new suite will occur in the Fall.

### **c. Personnel Report**

Positions filled:

- Associate Governmental Program Analyst (AGPA): Craig Zimmerman was promoted to a Probation Analyst in the Probation Unit.
- Management Services Technician: Robert Esquivel was hired as a Licensing Evaluator.
- Management Services Technician: Tanya Bordei was hired as a Licensing Evaluator.

Departures:

- Julie McAuliffe retired from State Service effective July 18, 2017.
- Amanda Ayala promoted to a Staff Services Analyst with the Bureau of Cannabis Control, and left the Board in December 2017.
- Guadalupe Baltazar promoted to an AGPA with the Board of Pharmacy and left the Board on January 31, 2018.

The Board currently has 6 vacancies. Recruitment for these vacancies is ongoing.

1           **d. Strategic Plan Update**

2           The Strategic Plan was developed in October 2017, and the final document was  
3           published. A progress report will be provided in future meetings. Ms. Madsen  
4           thanked stakeholders who responded to the surveys. Their responses helped drive  
5           the new Strategic Plan.  
6

7           **XVII. Exempt Committee Update**

8  
9           The fourth meeting of the Exempt Setting Committee (Committee) was held on  
10          November 30, 2017. Staff presented the results of the practicum coordinator survey,  
11          which was sent to all Licensed Marriage and Family Therapists (LMFT), Licensed  
12          Clinical Social Workers (LCSW), and Licensed Professional Clinical Counselors (LPCC)  
13          school programs in California. The survey's goal was to determine whether current laws  
14          related to students in practicum or fieldwork performing services at a work site need to  
15          be changed. The Committee discussed the survey results and determined that there  
16          were several areas that warranted staff research and further discussion at its next  
17          meeting.  
18

19          The Committee was also provided with the preliminary results of a second survey, which  
20          was directed to Board licensees, Board registrants, and exempt setting agency directors.  
21          This survey's goal was to obtain information that will help determine whether consumers  
22          may be harmed by unlicensed staff performing clinical services in exempt settings, and,  
23          to assist the Board in defining different types of settings, including private practice.  
24

25          Staff had become aware that the second survey had not reached many nonprofit  
26          agencies - agencies that would most likely be affected by any law changes. Staff was  
27          able to obtain contact information for nearly all nonprofit agencies that provide mental  
28          health counseling in California and provide the survey to those agencies. Therefore, the  
29          exempt setting survey results were not presented. The results will be presented to the  
30          Committee at its next meeting.  
31

32          The next Committee meeting is scheduled for February 23, 2018.  
33

34           **XVIII. License Portability Committee Update**

35  
36          The License Portability Committee (Committee) held its first meeting on November 3,  
37          2017. The purpose of the Committee is to review licensure requirements in California  
38          and other state agencies to identify barriers to licensure, and to develop  
39          recommendations to improve license portability.  
40

41          The Committee and stakeholders reviewed current California licensure requirements for  
42          LMFT, LCSW, and LPCC.  
43

44          The Committee and stakeholders also reviewed curriculum requirements set forth by the  
45          following accrediting entities: Commission on Accreditation for Marriage and Family  
46          Therapists (COAMFTE), Council on Social Work Education Commission on  
47          Accreditation (CSWE) and the Council for Accreditation of Counseling and Related  
48          Education Programs (CACREP).  
49

50          The Committee and stakeholders reviewed and compared current proposals to improve  
51          license portability from the following national associations: Association of Marriage and  
52          Family Regulatory Boards (AMFTRB), ASWB, the National Board of Certified

1 Counselors (NBCC), American Association of State Counseling Boards (AASCB), and  
2 Association for Counselor Education and Supervision (ACES).

3  
4 The Committee and stakeholders identified the barriers and discussed possible solutions  
5 to improve license portability without compromising consumer protection.  
6

7 The Committee directed staff to draft proposed language for review at the next meeting,  
8 which is scheduled for February 23, 2018.  
9

10 *The Board took a break at 11:19 a.m. and reconvened at 11:34 a.m.*

11  
12 **XIX. Presentation, Discussion, and Possible Action Regarding an Alternative Option to**  
13 **License Surrender in Disciplinary Cases Involving Neuro-Cognitive Degenerative**  
14 **Disorders – Dr. Steven Frankel**

15  
16 Dr. Steven Frankel was not present for this item; however, a letter was provided by Dr.  
17 Frankel and was included in the meeting materials. He also presented this during the  
18 earlier agenda item for Public Comments. The Board discussed the information  
19 provided in the letter.  
20

21 Dr. Brew referred to two points in the letter:

- 22 1. Option for the licensee to retire his or her license,
- 23 2. Consider not posting accusations on the website and in the newsletter.  
24

25 Ms. Madsen responded that the challenge is that once the Board files the action, the  
26 only option for the licensee is to surrender the license or go through the hearing process.  
27 One criteria to obtain a retired license is to not have any disciplinary actions pending  
28 against the license. The Board would be neglecting its consumer protection mandate by  
29 allowing a licensee to retire his or her license in lieu of disciplinary action.  
30

31 Ms. Wong expressed that if the investigator was educated to look at the licensee's  
32 behavior and detect that the licensee may have a medical issue which explains certain  
33 erratic behavior, then perhaps that could be taken into consideration when determining  
34 the course of action to take.  
35

36 Ms. Madsen responded that it is not the role of the investigator to evaluate a licensee's  
37 psyche. The Board's role is an independent fact-finder.  
38

39 Mr. Maddox would like to know how other boards are addressing this.  
40

41 Ms. Lonner stated that there are other medical conditions that drive inappropriate  
42 behavior, which opens the door to people looking for medical explanations as a reason  
43 for inappropriate behavior. Consumer protection needs to be the priority.  
44

45 Mr. Disposti suggested that staff research the Board's legal options regarding this  
46 matter.  
47

48 Ms. Madsen agreed to discuss this with the Deputy Attorney General, the Board's legal  
49 counsel, and other DCA boards.  
50

1 **XX. Policy and Advocacy Committee Recommendations**

2  
3 **a. Discussion and Possible Action Regarding Revisions to Assembly Bill 93**  
4 **(Medina) Healing Arts: Marriage and Family Therapists: Clinical Social**  
5 **Workers: Professional Clinical Counselors: Required Experience and**  
6 **Supervision**

7 Ms. Helms noted that a letter of public comment was received on February 20<sup>th</sup> from  
8 California Council of Community Behavioral Health Agency. The letter was provided  
9 to the Board and made available to meeting attendees.

10  
11 AB 93 is Board-sponsored and was introduced as proposed legislation in January  
12 2017. The bill seeks to strengthen the quality of supervision by focusing on  
13 supervisor responsibilities, types of supervision that may be provided, and  
14 acceptable work settings for supervisees. The bill also strives to make the Board's  
15 supervision requirements more consistent across its licensed professions.

16  
17 AB 93 passed through the Assembly last year and then moved to the Senate.  
18 However, it became a two-year bill in the Business & Professions (B&P) Committee.  
19 The B&P Committee expressed consumer protection concerns about the 90-day rule  
20 and requested other substantive changes.

21  
22 Staff has worked extensively with the B&P Committee to develop amendments that  
23 strike a balance of preserving the original intent of the bill, while making changes that  
24 address the Committee's concerns.

25  
26 Proposed Changes

27  
28 ➤ 90-Day Rule

29  
30 Originally, the B&P Committee requested that the 90-day rule be removed from  
31 the law for AB 93 to move forward. However, just prior to the February Policy &  
32 Advocacy Committee (Committee) meeting, stakeholders, led by the California  
33 Association of Marriage and Family Therapists (CAMFT), were able to develop  
34 an alternative to deleting the 90-day rule that satisfied the B&P Committee's  
35 concerns. Due to this new development, two possibilities were discussed. The  
36 Senate B&P Committee indicated it would support either option:

- 37  
38 a. Allow 90-day rule if fingerprinted  
39 b. Phase-out of the 90-day rule for LMFT and LPCC Applicants

40  
41 The Committee recommended that the Board consider adopting CAMFT's  
42 proposal allowing the 90-day rule if the applicant's worksite required Live Scan  
43 fingerprinting. The Committee requested additional language to require the  
44 applicant to submit the proof of Live Scan with their clinical licensure examination  
45 application, in order to count the hours earned under the 90-day rule. This  
46 proposal would also need to be extended to LPCC and LCSW applicants.

47  
48 ➤ Other Substantive Amendments

49  
50 The B&P Committee requested several additional amendments to AB 93.  
51 Although most of these amendments are technical in nature, they are  
52 substantive.

1 One noteworthy change is that the B&P Committee requested changes to the  
2 sections of law discussing corporations and private practice, citing concerns  
3 about clarity because an entity that is a corporation may also be a private  
4 practice.

5  
6 The Board is currently working on a concise definition of the term “private  
7 practice” in its Exempt Setting Committee. However, the work of this committee  
8 is not complete, and its recommendations will be introduced in future legislation.  
9 In the meantime, the amendments in the draft of AB 93 seek to better delineate  
10 the requirements for private practices versus entities that are incorporated. One  
11 major change is the elimination of the cap on the number of supervisees a  
12 corporation may retain, which is currently set at 15 supervisees. The ratio of  
13 three supervisees allowed per supervisor remains for both private practices and  
14 corporations.

15  
16 Status of AB 456 (90-Day Rule for LCSW Applicants)

17  
18 AB 456 was a bill proposed in 2017 to extend the 90-day rule for LCSW applicants.  
19 It became a two-year bill along with AB 93, due to the B&P Committee’s concerns. At  
20 its meeting last May, the Board took a support position on AB 456 to promote parity  
21 across its license types.

22  
23 The sponsors of AB 456 have indicated a desire for this bill to contain the provision  
24 extending the 90-day rule to LCSW applicants. Upon Board approval of CAMFT’s  
25 compromise language preserving the 90-day rule, it will be amended into AB 93 for  
26 LMFT and LPCC applicants. For LCSW applicants, it will be amended into AB 456.  
27 The Board would have the opportunity to provide feedback and take a position on  
28 the language in AB 456 at its April Policy and Advocacy Committee meeting and at  
29 the May Board meeting.

30  
31 Sarah Huchel, Senate B&P Committee, stated that the Senator supports both  
32 versions of the 90-day rule as was presented.

33  
34 Dr. Caldwell stated that AAMFT California supports the amended language.

35  
36 Rachel Morris, Seneca Family of Agencies, expressed support for CAMFT’s  
37 alternative proposal to the 90-day rule.

38  
39 The Board engaged in discussion clarifying the proposed language.

40  
41 ***Leah moved to approve AB 93 and the proposed language allowing the 90-day***  
42 ***rule with required fingerprinting, extend the 90-day rule to LCSWs in AB 456,***  
43 ***and make any non-substantive changes provided. Samara Ashley seconded.***  
44 ***The Board voted unanimously to pass the motion.***

- 45  
46 Roll call vote:  
47 Samara Ashely – yes  
48 Dr. Christine Wietlisbach – yes  
49 Renee Lonner – yes  
50 Max Disposti – yes  
51 Deborah Brown – yes  
52 Betty Connolly – yes



1 Dr. Leah Brew – yes  
2 Christina Wong – yes  
3 Dr. Peter Chiu – yes  
4 Jonathan Maddox – yes

5  
6 *The Board took a break at 12:37 p.m. and reconvened at 2:03 p.m.*  
7

8 **b. Discussion and Possible Action Regarding Proposed Revisions to Business**  
9 **and Professions Code sections 337 and 728**

10  
11 This proposal makes changes to the general sections of the Business and  
12 Professions Code (BPC) relating to the requirement and criteria that Department of  
13 Consumer Affairs (Department) create a brochure to educate the public about the  
14 prohibition of sexual behaviors in therapy.  
15

16 This effort is being led by the Board of Psychology (BOP). In an effort to modernize  
17 the statutory language and corresponding informational materials, the BOP invited  
18 representatives from BBS and the Medical Board to participate in stakeholder  
19 meetings to gain input. The BOP originally planned to sponsor the language in this  
20 year’s omnibus bill. However, BOP has now decided to sponsor the language in a  
21 separate bill proposal.  
22

23 Sections of the BPC have outdated language and are missing currently recognized  
24 forms of sexual exploitation.  
25

26 Specific areas of concern include:

- 27
- 28 • Outdated terminology that does not include sexual behaviors that have arisen  
29 with advances in technology;
  - 30 • A requirement to consult with the Sexual Assault Program of the Office of  
31 Criminal Justice Planning (which no longer exists) and the office of the Attorney  
32 General;
  - 33 • A requirement to define civil and professional associations complaint procedures;
  - 34 • Outdated license classifications under the Board of Behavioral Sciences;
  - 35 • Other minor technical changes.

36 One major change to the proposed amendments is to include a definition of “sexual  
37 behavior.” The BPC currently defines “sexual contact” but does not define “sexual  
38 behavior.” Without this definition, the law fails to address modern modes of  
39 communication that lend themselves to various inappropriate sexualized behavior.  
40

41 Proposed Amendments  
42

43 BPC section 337 is amended as follows:

- 44
- 45 • Add “sexual behavior” as a descriptor for inappropriate sexual activities that do  
46 not fit the definition of sexual contact;
  - 47 • Remove mandated consultation with third party entities;
  - 48 • Remove reference to victims’ family histories;
  - 49 • Change “options” to “instructions” to clarify necessary action steps;
  - 50 • Remove language referring to civil authority and professional associations;
  - 51 • Add the Board of Psychology to the list of boards required to disseminate the  
brochure.

1 BPC section 728 is amended as follows:

- 2 • Add a definition of “sexual behavior” for inappropriate sexual activities that do not  
3 fit the definition of sexual contact. Sexual behavior means inappropriate contact  
4 or communication of a sexual nature.
- 5 • Update the license categories under the Board of Behavioral Sciences to reflect  
6 current law; including adding licensed educational psychologists to the definition  
7 of a “psychotherapist” for purposes of recognizing sexual behavior between a  
8 Board licensee and a patient.

9  
10 Additional Amendment Requested

11  
12 Upon review of the proposed amendments, staff identified a reference error in BPC  
13 §728(c)(1). “Licensed Educational Psychologist” is being added to the definition of a  
14 psychotherapist in this subsection, for purposes of recognizing sexual contact and  
15 sexual behavior between a Board licensee and a patient. However, the placement of  
16 the term “Licensed Educational Psychologist” implies that it is located within the  
17 LPCC licensing law, which is incorrect.

18  
19 Board members provided feedback and suggested amendments. The suggestions  
20 will be taken back to the work group.

21  
22 **c. Discussion and Possible Action Regarding Required Degree Program Content**  
23 **for Licensed Professional Clinical Counselors – Assessment and Diagnosis**

24 In late 2015, the Board discussed the need to tighten licensing requirements for  
25 LPCCs to ensure applicants possess degrees designed to lead to licensure in clinical  
26 counseling. At that time, the law already required a degree to be “counseling or  
27 psychotherapy” in content and contain practicum and certain core content areas, a  
28 specified number of which could be remediated. However, there were concerns that  
29 Board was receiving applications, particularly from out-of-state candidates, with  
30 degrees that were not specifically designed to prepare the individual to be a clinical  
31 counselor.

32  
33 The Board first considered designating specific degree titles as acceptable or not  
34 acceptable for licensure. However, after receiving stakeholder feedback and  
35 discussing the matter further, the Board concluded that a degree should be  
36 evaluated based on its content, and not by its title. Therefore, discussion shifted to  
37 two required LPCC core content areas that the Board agreed are fundamental to a  
38 clinical counseling degree: Assessment and Diagnosis.

39  
40 The Board recommended that these two core content areas be designated as not  
41 eligible for remediation, for both in-state and out-of-state degrees. The provision that  
42 the assessment and diagnosis core content areas could not be remediated was  
43 included in AB 1917, and the provision became law for anyone applying for a license  
44 or a registration after January 1, 2017.

45  
46 AB 1917 has been in effect for approximately one year. During this time, the Board’s  
47 licensing unit has encountered situations where in-state applicants were denied  
48 licensure, due to the degree not containing the full number of units for the  
49 assessment and/or diagnosis core content areas. In some cases, the applicants  
50 have argued they were not aware of the new requirement, and that more notice  
51 should have been given so that they had time to remediate. In other cases, schools

1 have argued that their degree should qualify, because it falls under the provisions of  
2 BPC §4999.32 (which outlines degree requirements for degrees begun before  
3 August 1, 2012 and completed before December 31, 2018) and therefore, they  
4 believed that any requirements could be finished by the end of 2018.

5  
6 Three courses of action were presented to the Policy & Advocacy Committee  
7 (Committee). The Committee recommended that the Board consider the following  
8 option:

9 To amend the law to allow in-state applicants more time to remediate the  
10 assessment and diagnosis coursework, until January 1, 2020. Under this  
11 proposal, the Board would offer a one-time grace period for in-state  
12 applicants who are missing the coursework, but who were intending to  
13 apply for licensure, to qualify. This grace period would also allow in-state  
14 applicants who were previously denied due to missing the coursework, to  
15 reapply.

16  
17 The Board engaged in discussion clarifying the proposed options.

18  
19 Ms. Helms presented a few legislative options:

- 20 a. Seek legislation and run a bill next year,
- 21 b. Attempt to include the amendment in AB 2117. or
- 22 c. Include amendment in CALPCC's clean-up bill.

23  
24 G.V. Ayers, California Association for Licensed Professional Clinical Counselors  
25 (CALPCC), indicated that they are willing to include it in their bill, AB 2296.

26  
27 Ms. Madsen stated that staff will work with CALPCC and provide technical  
28 assistance.

## 29 30 **XXI. Status on Board-Sponsored Legislation**

### 31 32 **a. Licensing Process Bill: Proposed Revisions to Business and Professions** 33 **Code sections 4980.72, 4984.01, 4996.17, 4996.28, 4999.60, 4999.100**

34 The Licensing Process Bill is now AB 2117. AB 2117 was introduced and will move  
35 forward this year.

### 36 37 **b. Omnibus Bill – Proposed Technical and Non-Substantive Amendments to** 38 **Business and Professions Code sections 27, 650.4, 865, 2290.5, 4980.37,** 39 **4980.39, 4980.41, 4980.72, 4980.78, 4980.79, 4990.30, 4992, 4996.17, 4999.14,** 40 **4999.22, 4999.32, 4999.48, 4999.60, 4999.62, 4999.63, 4999.100, and Family** 41 **Code section 6924**

42 The Omnibus Bill is now SB 1491. Most of the Board's proposals have been  
43 approved. Board staff will follow up on the remaining proposals that have not yet  
44 been approved and included in the bill.

### 45 46 **c. AB 93 (Medina): Healing Arts: Marriage and Family Therapists: Clinical Social** 47 **Workers: Professional Clinical Counselors: Required Experience and** 48 **Supervision**

49 After discussion earlier in the agenda, AB 93 should be moving forward soon.  
50

1 **XXII. Status of Board Rulemaking Proposals**

2 **a. Enforcement Process: Amend Title 16, California Code of Regulations sections**  
3 **1823, 1845, 1858, 1881, 1886.40, 1888 and Uniform Standards Related to**  
4 **Substance Abuse and Disciplinary Guidelines**

5 This proposal is still at DCA for initial review.  
6

7 **b. Application Processing Times and Registrant Advertising: Amend Title 16,**  
8 **California Code of Regulations, sections 1805.1 and 1811**

9 This package was submitted to the Office of Administrative Law (OAL) in February  
10 for final consideration. OAL has 30 days to make a decision. Board staff has  
11 requested that this become effective immediately upon approval.  
12

13 **c. Contact Information; Application Requirements; Incapacitated Supervisors:**  
14 **Amend Title 16, California Code of Regulations, sections 1804, 1805 and**  
15 **1820.7; Add section 1815.8**

16 This proposal is at DCA for initial review.  
17

18 Ms. Madsen reported that a regulation timeline chart will be provided at each Board  
19 meeting. She explained that the new regulation review process requires many “pre-  
20 approvals” before the Board can notice the rulemaking package for public hearing.  
21

22 The previous process was much quicker and did not require pre-approvals before  
23 submitting the package to OAL.  
24

25 The Board approved a package in November 2016. Currently, that package is still  
26 waiting for final approval. However, the statutory law went into effect January 1, 2018.  
27 Staff is fielding questions from registrants and licensees, asking how to advertise.  
28 Without the regulation to clarify it, staff can only provide suggestions.  
29

30 There are several regulation packages that were approved nearly a year ago that are  
31 still awaiting approval. What used to take a year, will now take an additional 6 months or  
32 more.  
33

34 DCA is aware of the concerns expressed by BBS and other boards.  
35

36 **XXIII. Suggestions for Future Agenda Items**  
37

38 Gordon Doughty, American Foundation for Suicide Prevention, requested an agenda  
39 item to discuss a bill proposal that would require additional coursework in suicide  
40 prevention.  
41

42 Christina Wong would like an update on the ESL applicants, such as the number of  
43 applicants and approvals. She requested this information in the next Executive Officer’s  
44 Report.  
45

46 Deborah Brown requested update on OSHPD program and the fees collected from  
47 license renewals. Ms. Brown requested an update specifically addressing whether the  
48 program’s goals are being met.  
49

1 **XXIV. Public Comment for Items Not on the Agenda**

2  
3 Catherine Campbell, California Protective Parents Association:

- 4 • Complaints are not analyzed in a timely manner;
- 5 • Valid complaints are dismissed;
- 6 • Children are living in abusive homes based on therapists' recommendations;
- 7 • Requests that licenses be "put on hold" when there are a "series of allegations."

8  
9 Gordon Doughty, American Foundation for Suicide Prevention:

- 10 • Suicide rates have increased every year over the last decade;
- 11 • California represents nearly 10% of the nation's suicides (4,294);
- 12 • Requests to work with the Board to reduce the numbers;
- 13 • Requests the Board look into its licensure examination and determine how suicide
- 14 prevention fits in.

15  
16 Victor Ojakian:

- 17 • Agendize an item to approve legislation requiring all BBS licensees to have at least 6
- 18 hours of training in suicide assessment, treatment and management;
- 19 • AB 89 requires all California psychologists to have 6 hours of training;
- 20 • A bill has been written and is sponsored, but is being held up due to the Board's
- 21 survey and awaiting those results;
- 22 • 10 states have adopted this type of training.

23  
24 Angelique Barboa:

- 25 • Her son was taken from her based on a custody evaluator's recommendation to the
- 26 court;
- 27 • Alleges that the same evaluator has a pattern of recommending children be placed in
- 28 abuser's custody;
- 29 • Requests "stringent rules" for parent custody evaluators.

30  
31 Steve Frankel:

- 32 • Professional mental health providers with dementia, which resulted in disciplinary
- 33 actions by licensing boards;
- 34 • Requests that the Board, upon investigation of a complaint and determination that
- 35 the licensee has dementia, revoke the license and not post the accusation on the
- 36 Board's website.

37  
38 Kathleen Russel, Center for Judicial Excellence:

- 39 • Committed to creating judicial accountability in California courts, and to protecting
- 40 the rights and safety of children and other vulnerable populations in the family court
- 41 system;
- 42 • Wants to educate the Board, and will continue to attend the Board meetings;
- 43 • Requests that the Board "eliminate the requirement for written consent forms from all
- 44 parties in order to investigate a licensee" and agendize this discussion at the next
- 45 meeting.
- 46 • Accuses the Board of "failing to protect the public."

47  
48 **XXV. Adjournment**

49 The Board adjourned at 3:06 p.m.

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 Sacramento, CA 95834  
 (916) 574-7830  
 www.bbs.ca.gov

**To:** Board Members **Date:** May 1, 2018

**From:** Kim Madson **Telephone:** (916) 574-7841  
 Executive Officer

**Subject:** Election of Officers

Business and Professions Code section 4990 requires the Board to elect a Chair and Vice-Chair prior to June 1 of each year. Currently, Deborah Brown serves as the Board Chair, and Betty Connolly is the Vice-Chair. In order to comply with existing law, the Board members should elect both a chair and a vice-chair at this meeting for 2017-2018.

Below is a list of board members and the date on which their term will expire.

Board Member	Type	Authority	Appointed	Reappointed	Term Expiration	Grace Expiration
Samara Ashley	Public	Governor	1/21/2010	7/24/2017	6/1/2021	8/1/2021
Dr. Leah Brew*	LPC	Governor	8/28/2012	6/6/2016	6/1/2020	8/1/2020
Deborah Brown	Public	Governor	8/23/2012	7/24/2017	6/1/2021	8/1/2021
Dr. Peter Chiu	Public	Governor	10/30/2013	6/3/2015	6/1/2019	8/1/2019
Betty Connolly	LEP	Governor	8/22/2012	6/9/2016	6/1/2020	8/1/2020
Massimiliano Disposti	Public	Assembly	3/8/2016		6/1/2019	6/1/2020
Sarita Kohli	LMFT	Governor	6/7/2011	6/13/2014	6/1/2018	8/1/2018
Renee Lonner	LCSW	Governor	1/17/2007	7/25/2014	6/1/2018	8/1/2018
Jonathan Maddox	LMFT	Governor	9/15/2017		6/1/2021	8/1/2021
Dr. Christine Wietlisbach	Public	Senate	2/4/2010	7/16/2015	6/1/2019	6/1/2020
Christina Wong	LCSW	Governor	5/18/2011	7/24/2017	6/1/2021	8/1/2021
VACANT	Public	Governor			6/1/2018	8/1/2018
VACANT	Public	Governor			6/1/2021	8/1/2021

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**2017/2018 Budget**

The Board's budget for Fiscal Year (FY) 2017/2018 was recently updated from \$11,657,00 to \$12,047,00. The updated figure reflects approval of the Board's request to augment its Attorney General, Office of Administrative Hearings, and Court Reporters budget line. Early figures indicated that the Board would exceed its current budget authority in these areas. Therefore, a request to increase these budget line items was submitted and approved.

As previously reported, on July 1, 2017, the Department of Consumer Affairs (DCA) transitioned to a new accounting system, Fi\$Cal. Fi\$Cal is a single financial management system that will allow the state to combine accounting, budgeting, cash management, and procurement operations. Unfortunately, due to this transition, there is a delay in receiving our expenditure and revenue reports. The attached expense log reflects the information we have received to date.

The chart below provides a breakdown of expense categories and percentages based upon the information available to the Board. The figures below reflect a combination of the Board's internal tracking and information available from Fi\$Cal.

<b>Expense Category</b>	<b>Amount</b>	<b>Percentage</b>
Personnel	\$2,492,267	21%
OE&E	\$2,288,521	19%
Enforcement	\$1,317,909	11%
Minor Equipment	\$31,132	0%
<b>Total Expenses</b>	<b>\$6,129,829</b>	<b>51%</b>

Recently, the Board's Budget Analyst and Board management met with DCA Budget Office to review the Board's current budget to determine if our expenditures would exceed our budget. The DCA Budget Office is currently projecting the Board expenditures will not exceed its budget amount. Rather, the DCA Budget Office is estimating that the Board will revert \$170,000. With two months remaining in the fiscal year, Board staff will continue to work closely with the DCA Budget Office to ensure the Board does not exceed its expenditure authority and Board operations are sufficiently funded.

**General Fund Loans**

The Board's Fund Condition report also reflects a \$3 million loan repayment in fiscal year 2017/2018. The remaining \$3.3 million is scheduled for repayment in FY 2018/2019.

**Board Fund Condition**

The Board's Fund Condition for FY 2017/2018 reflects a 5.4 month reserve.

### **Impact of Departure of the Bureau of Real Estate to the Board Budget**

Senate Bill 173 (Dodd), Chapter 828, Statutes of 2017 removes the Bureau of Real Estate (BRE) from DCA and establishes BRE as its own Department effective July 1, 2018. The departure of BRE creates a budgetary challenge for DCA. BRE's share of DCA's distributed costs (pro rata) was approximately \$5.8 million dollars. Absent any significant changes to DCA's budget, the remaining boards and bureaus' pro rata will be impacted.

DCA created a workgroup of Executive Officers (Pro Rata Work Group) to identify areas of centralized services that may be eliminated, consolidated, or revised to improve efficiencies. The meetings have identified areas that meet these categories. Through the Budget Change Proposal process, DCA proposes the elimination of some positions to reduce the fiscal impact to the remaining boards and bureaus. This proposal must be approved by the Legislature.

Further, the exit of BRE will be a phased-out approached. For a specified period of time, BRE will continue to utilize some DCA centralized services. These two proposals attempt to minimize the impact of the BRE departure to the remaining boards and bureaus.

Pro Rata includes a variety of services – legal, personnel, budget, training, communications, and policy review. Each board/bureau share of cost is calculated based on position count and/or usage depending on the service. Pro Rata naturally increases due to increases/changes to employee compensation. Currently, the Board pays approximately \$2.5 million dollars in pro rata. Based on estimates for employee compensation for fiscal year 2018/2019, the DCA Budget Office estimates the Board's pro rata will increase approximately \$70,000.

### **Board Fee Audit**

Board staff has begun the process securing services for the fee audit. Possible contractors have been surveyed, and staff is projecting that work will begin on the actual audit within the first quarter of FY 2018/19.

Updates will be provided at the next Board meeting.

**BBS EXPENDITURE REPORT FY 2017/2018**

OBJECT DESCRIPTION	FY 2016/17	FY 2017/2018		
	ACTUAL EXPENDITURES	BUDGET ALLOCATION	CURRENT AS OF 4/20/2018*	UNENCUMBERED BALANCE
<b>PERSONAL SERVICES</b>				
Salary & Wages (Civ Svc Perm)	2,864,112	3,059,000	1,452,662	1,606,338
Salary & Wages (Stat Exempt)	103,365	91,000	54,144	36,856
Temp Help (907)(Seasonals)	69,498	0	103,072	(103,072)
Temp Help (915)(Proctors)	0	0	0	0
Board Memb (Per Diem)	15,700	13,000	4,800	8,200
Overtime	3,708	2,000	1,055	945
Totals Staff Benefits	1,678,785	1,848,000	876,534	971,466
<b>TOTALS, PERSONAL SERVICES</b>	<b>4,735,168</b>	<b>5,013,000</b>	<b>2,492,267</b>	<b>2,520,733</b>
<b>OPERATING EXP &amp; EQUIP</b>				
Fingerprint Reports	13,240	15,000	1,299	13,701
General Expense	72,279	63,000	46,354	16,646
<b>Printing</b>	<b>84,553</b>	<b>25,000</b>	<b>1,166</b>	23,834
Communication	11,512	16,000	256	15,744
Insurance	58	0	0	0
<b>Postage</b>	<b>42,101</b>	<b>69,000</b>	<b>1,135</b>	67,865
<b>Travel, In State</b>	<b>113,196</b>	<b>59,000</b>	<b>27,873</b>	31,127
Travel, Out-of-State	0	72,000	526	71,474
<b>Training</b>	<b>3,144</b>	<b>27,000</b>	<b>2,380</b>	24,620
Facilities Operations	240,626	228,000	144,199	83,801
Utilities	0	4,000	0	4,000
C&P Services - Interdept.	0	15,000	0	15,000
<b>C&amp;P Services-External Contracts</b>	<b>23,498</b>	<b>272,000</b>	<b>26,497</b>	245,503
<b>DEPARTMENTAL PRORATA</b>				
DP Billing (424.03)	1,428,381	1,670,000	835,000	835,000
Indirect Distribution Costs (427)	750,084	828,000	414,000	414,000
Public Affairs (427.34)	92,454	50,000	25,000	25,000
D of I Prorata (427.30)	20,238	22,000	11,000	11,000
Consumer Relations Division (427.35)	3,923	49,000	24,500	24,500
OPP Support Services (427.01)	0	1,000	500	500
Interagency Services (OPES IACs)	231,140	325,000	253,900	71,100
Consolidated Data Services (428)	10	28,000	0	28,000
Information Technology (431)	4,095	14,000	1,028	12,972
Statewide Pro Rata (438)	0	0	0	0
<b>EXAM EXPENSES</b>				
Exam Site Rental (Fairfield Inn)(343.20)	0	100,000	43,846	56,154
Exam Contract (PSI) (404.00)	651,208	359,000	402,683	(43,683)
C/P Svs - Expert Examiners (404.01)	0	45,000	0	45,000
C/P Svs - External Subj Matter (404.03)	257,200	365,000	15,379	349,621
<b>ENFORCEMENT</b>				
Attorney General	1,274,123	939,000	896,483	42,517
Office of Admin. Hearing	216,656	240,000	84,180	155,820
Court Reporters	10,745	95,000	13,153	81,847
Evidence/Witness Fees	28,075	15,000	29,593	(14,593)
Division of Investigation	371,795	589,000	294,500	294,500
<b>Minor Equipment (226)</b>	<b>64,746</b>	<b>7,000</b>	<b>4,596</b>	2,404
<b>Equipment, Replacement (452)</b>	<b>0</b>	<b>19,000</b>	<b>18,803</b>	197
<b>Equipment, Additional (472)</b>	<b>0</b>	<b>0</b>	<b>7,733</b>	(7,733)
<b>Vehicle Operations</b>	<b>0</b>	<b>19,000</b>	<b>0</b>	19,000
<b>TOTAL, OE&amp;E</b>	<b>6,009,080</b>	<b>6,644,000</b>	<b>3,627,562</b>	<b>3,016,438</b>
<b>TOTAL EXPENDITURES</b>	<b>\$10,744,248</b>	<b>\$11,657,000</b>	<b>\$6,119,829</b>	<b>\$5,537,171</b>

\*Personal Services, Travel, Facilities Operations, Departmental Prorata, and Division of Investigation expenses as of 12/30/2017.

**Blue Print** indicates the items that are somewhat discretionary.

**0773 - Behavioral Science  
Analysis of Fund Condition**

(Dollars in Thousands)

Prepared 1/29/18

**2018-19 Governor's Budget**

	ACTUAL 2016-17	CY 2017-18	Governor's Budget BY 2018-19	BY+1 2019-20	BY+2 2020-21
<b>BEGINNING BALANCE</b>	\$ 7,691	\$ 5,647	\$ 5,605	\$ 4,804	\$ 1,529
Prior Year Adjustment	\$ 61	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 7,752	\$ 5,647	\$ 5,605	\$ 4,804	\$ 1,529
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
4129200 Other regulatory fees	\$ 181	\$ 176	\$ 182	\$ 182	\$ 182
4129400 Other regulatory licenses and permits	\$ 4,345	\$ 3,770	\$ 2,900	\$ 2,900	\$ 2,900
4127400 Renewal fees	\$ 5,161	\$ 5,213	\$ 5,265	\$ 5,265	\$ 5,265
4121200 Delinquent fees	\$ 99	\$ 100	\$ 100	\$ 100	\$ 100
4163000 Income from surplus money investments	\$ 53	\$ 9	\$ 6	\$ 5	\$ -
4171500 Escheat of unclaimed property	\$ 1	\$ -	\$ -	\$ -	\$ -
4171400 Escheat of unclaimed checks and warrants	\$ 3	\$ -	\$ -	\$ -	\$ -
4172500 Miscellaneous revenues	\$ 5	\$ 4	\$ 4	\$ 4	\$ 4
Totals, Revenues	\$ 9,848	\$ 9,272	\$ 8,457	\$ 8,456	\$ 8,451
Transfers from Other Funds					
F00001 GF loan repayment per item 1110-011-0773 BA of 2008	\$ -	\$ 3,000	\$ -	\$ -	\$ -
F00001 GF loan repayment per item 1110-011-0773 BA of 2011	\$ -	\$ -	\$ 3,300	\$ -	\$ -
Totals, Revenues and Transfers	\$ 9,848	\$ 12,272	\$ 11,757	\$ 8,456	\$ 8,451
Totals, Resources	\$ 17,600	\$ 17,919	\$ 17,362	\$ 13,260	\$ 9,980
<b>EXPENDITURES</b>					
Disbursements:					
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 11,452	\$ 11,607	\$ 11,500	\$ 11,730	\$ 11,965
8880 Financial Information System for California (State Operations)	\$ 13	\$ 15	\$ 1	\$ 1	\$ 1
9892 Supplemental Pension Payment (State Operations)	\$ -	\$ -	\$ 100	\$ 100	\$ 100
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 488	\$ 692	\$ 957	\$ 957	\$ 957
Total Disbursements	\$ 11,953	\$ 12,314	\$ 12,558	\$ 11,731	\$ 13,023
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 5,647	\$ 5,605	\$ 4,804	\$ 1,529	\$ -3,043
<b>Months in Reserve</b>	5.5	5.4	4.9	1.4	-2.8

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR IN BY+1 AND ON-GOING.
- C. ASSUMES INTEREST RATE AT 0.3%.

**Board Statistics**

Attached for your review are the quarterly performance statistics for the third quarter of FY 2017/2018.

**Licensing Program**

Overall, application volumes decreased 12% in the third quarter of FY 2017/2018.

**Application Volumes**

<b>Application Type</b>	<b>3<sup>rd</sup> Quarter 1/1/18 – 3/31/18</b>	<b>2<sup>nd</sup> Quarter 10/1/17-12/31/17</b>	<b>Difference</b>
AMFT Registration	601	610	-1%
LMFT Examination	858	665	29%
ASW Registration	401	426	-5%
LCSW Examination	598	537	11%
LEP Examination	32	28	14%
APCC Registration	244	175	39%
LPCC Examination	66	49	34%
<b>Total Applications</b>	<b>2800</b>	<b>2490</b>	<b>12%</b>

During the third quarter the Board's processing times decreased slightly.

**Days to Process Application**

<b>License Type</b>	<b>3<sup>rd</sup> Quarter 1/1/18 – 3/31/18</b>	<b>2<sup>nd</sup> Quarter 10/1/17-12/31/17</b>	<b>Difference</b>
AMFT Registration	17 days	18 days	-1 day
LMFT Examination	47 days	53 days	-6 days
ASW Registration	14 days	15 days	-1 day
LCSW Examination	47 days	47 days	0
LEP Examination	12 days	12 days	0
LPCC Registration	17 days	21 days	-4 days
LPCC Examination	17 days	17 days	0

A total of 1,375 initial licenses were issued in the third quarter. As of April 24, 2018, the Board has 111,641 licensees and registrants. This figure includes all licenses that have been issued that are current and/or eligible to renew.

LICENSE POPULATION (As of 4/24/2018)				
License Type	Active	Current In-Active	Delinquent	Total Population
<b>Registrants</b>				
AMFT	13,150	N/A	4,784	17,934
ASW	11,305	N/A	4,242	15,547
APCC	2,248	N/A	1,093	3,341
<b>Total Registrant</b>	26,748	N/A	10,119	36,822
<b>Licensees</b>				
LMFT	36,707	4,624	2,444	43,775
LCSW	23,288	2,661	1,368	27,317
LEP	1,320	442	277	2,039
LPCC	1,515	119	54	1,688
<b>Total Licensee</b>	62,830	7,846	4,143	74,819
<b>Total Population</b>	89,533	7,846	14,262	<b>111,641</b>

### Examination Program

Attached for your review are the examination statistics by school. A total 4,573<sup>^</sup> examinations were administered in the second quarter.

	3 <sup>rd</sup> Qtr				2 <sup>nd</sup> Qtr			
	01/01/2018-03/31/2018				10/1/2017-12/31/2017			
	Total Exams	Pass %	First time	Pass %	Total Exams	Pass %	First time	Pass %
<b>LMFT L/E*</b>	1341	76%	793	80%	1350	69%	765	73%
<b>LMFT Clinical*</b>	1295	69%	842	75%	1223	59%	763	65%
<b>LCSW L/E*</b>	962	74%	610	77%	1207	69%	724	72%
<b>LCSW ASWB</b>	648	65%	499	76%	901	66%	702	76%
<b>LPCC L/E*</b>	235	60%	174	61%	257	66%	189	66%
<b>LPCC NCMHCE</b>	58	69%	48	71%	55	75%	46	74%
<b>LEP*</b>	34	24%	20	25%	29	52%	21	57%

<sup>^</sup>Total includes paper/pencil exams      \*Board developed examination

Eleven examination development workshops were conducted from January 1, 2018 to March 31, 2018.

On January 2, 2018, ASWB introduced a new social work licensing examination based on the most recent analysis of social work practice. The survey of practice on which the examination blueprints are built was the most extensive in ASWB's history, involving more than 25,000 social workers from diverse geographic regions, practice settings, and ethnicities.

The LPCC occupational analysis is in the report writing stage and should be completed in June.

The Examination Manager and Executive Officer are continuing to work with OPES and PSI to resolve candidate concerns and improve the overall testing experience for candidates.

**Administration Program**

The Board received 8,597 applications in the second quarter, a 12% increase since last quarter. This figure does not include renewal applications. The chart below reflects the total renewal activity for the first quarter.

<b>RENEWAL ACTIVITY</b>		
	<b>Number of Renewals</b>	<b>Percentage</b>
DCA Processed	6101	48%
BBS Processed	344	3%
Online Renewal	6115	49%
Total	12,560	

**Enforcement Program**

During the third quarter, the Enforcement staff received 358 consumer complaints and 250 criminal convictions. A total of 595 cases were closed and 51 cases were referred to the Attorney General's office for formal discipline. 60 Accusations and 20 Statement of Issues were filed this quarter. The number of final citations for the thrid quarter is 66.

The average number of days to complete Formal Discipline in the third quarter was 748 days. The year to date average is 704 days. This statistic is measured from the date the Board receives the complaint to the date the discipline becomes effective. The average number of days the case is with the Attorney General's Office in the third quarter was 478. The year to date average is 460 days. This statistic is measured from the date the Board refers the matter to the Attorney General's to the date the case is complete. The average number of days to complete all Board investigations in the third quarter was 125 days. The year to date average is 133 days.

### **Continuing Education Audits**

Below are the results for the January - March 2018 audit. The Board has audited a total of 136 licensees.

#### **January – March 2018 Audit Results**

License	Pass	Fail	No Response (FAIL)	Pending	% Pass	% Fail	% No Response / Pending
LMFT							4%
LCSW	50	18	4	0	69%	25%	6%
LEP	3	4	0	0	43%	57%	0
LPCC	3	1**	0	0	75%	25%	0
TOTAL	136	53	7	1	69%	27%	4%

The top reasons a licensee failed the Continuing Education Audit during this period are as follows.

- Failure to complete the required coursework within the renewal period (e.g. law and ethics)
- First time renewals did not complete the HIV/AIDS course
- Completing continuing education courses from unapproved providers.

All licensees who fail the Continuing Education Audit are referred to the Board's Enforcement Unit for issuance of a citation and fine.

### **Outreach Activity**

Board staff either physically attended the following events or participated via a phone conference.

#### **January**

January 12, 2018 Sacramento MFT Consortium  
January 17, 2018 Orange County MFT Consortium

#### **February 2018**

February 9, 2018 Central Valley MFT Consortium  
February 10, 2018 Orange County MFT Consortium  
February 15, 2018 Inland Empire MFT Consortium



**March 2018**

March 10, 2018 Central Coast MFT Consortium  
March 11, 2018 NASW Lobby Days

**April 2018**

April 5, 2018 California Society for Clinical Social Work (CSCSW)  
April 6, 2018 SVC-CAMFT 3000 Club  
April 8, 2018 CSCSW and USC School of School of Social Work Presentation  
April 13, 2018 Sacramento MFT Consortitum  
April 15, 2018 CSUS Fresno State (Board Chair and Executive Officer)  
April 20-21, 2018 CALPPC Annual Conference  
April 26-28, 2018 CAMFT Annual Conference

**Board Move Update**

The suite plans have been submitted to the appropriate entities for permit approvals. Once the approvals are received, construction will begin.

Below are the estimated costs associated with the suite improvements and reconfiguration of the system furniture (staff work areas) and the move into the new suite.

Construction/Tenat Improvements \$331,000  
System Furniture \$ 33,000

The remaining purchase is the electric sit/stand desk piece for each staff member’s work area. We are currently seeking bids for this purchase. We estimate (high) that this purchase may add another \$80,000 to the above total.

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## QUARTERLY STATISTICAL REPORT FY 2017-2018

This report provides statistical information relating to various aspects of the Board's business processes. Statistics are grouped by unit.

### CASHIERING

Renewals Processed In-House	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	YTD
Received	150	108	118	108	112	67	167	97	127				1054
Closed	183	129	97	162	163	147	118	96	130				1225

Renewals Processed By DCA Central Cashiering	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	YTD
Received	2065	2417	2157	2296	1874	1662	2269	1764	1901				18405
Closed	2679	2336	2338	2187	2109	1866	2366	1690	2045				19616

Online Transactions	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	YTD
Online Renewals	2487	2529	2312	2360	2104	1768	2211	1850	2054				19675
Online Cert Reorder	137	177	136	173	121	116	171	149	177				1357
Address Changes	713	881	715	711	610	602	916	760	895				6803
<b>TOTAL</b>	3337	3587	3163	3244	2835	2486	3298	2759	3126				27835

Application Payments Processed In-House**	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	YTD
Received	3761	2832	3102	2902	2663	2080	3180	2763	2654				25937
Closed	3649	2755	2854	3513	2794	2665	3549	2299	3469				27547

\*\*These totals represent all other applications and do not include renewal applications

## LICENSING

The Board's Licensing Unit evaluates applications for registration and examination eligibility. This involves verifying educational and experience qualifications to ensure they meet requirements defined in statute and regulation.

<b>LMFT Law &amp; Ethics Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	358	281	275	253	235	225	308	252	312				<b>2499</b>
<b>Approved</b>	309	366	225	365	178	287	226	180	455				<b>2591</b>
<b>LCSW Law &amp; Ethics Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	317	266	206	222	186	176	278	277	313				<b>2241</b>
<b>Approved</b>	276	302	245	261	160	206	199	179	434				<b>2262</b>
<b>LPCC Law &amp; Ethics Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	77	35	83	79	46	48	79	66	65				<b>578</b>
<b>Approved</b>	79	80	59	105	55	52	40	49	97				<b>616</b>

<b>TOTAL Law &amp; Ethics Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	752	582	564	554	467	449	665	595	690				<b>5318</b>
<b>Approved</b>	664	748	529	731	393	545	465	408	986				<b>5469</b>

<b>LMFT Licensure &amp; Exam Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	300	206	246	225	222	218	261	287	310				<b>2275</b>
<b>Approved</b>	207	303	222	237	290	302	285	261	287				<b>2394</b>
<b>Process Time</b>	43	49	57	59	56	45	41	38	34				<b>47</b>
<b>LCSW Licensure &amp; Exam Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	165	152	187	184	191	162	202	216	180				<b>1639</b>
<b>Approved</b>	172	205	184	181	155	153	162	178	236				<b>1626</b>
<b>Process Time</b>	42	42	41	42	47	51	51	56	52				<b>47</b>
<b>LPCC Licensure &amp; Exam Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	18	12	13	18	20	11	22	26	18				<b>158</b>
<b>Approved</b>	15	32	12	19	11	22	18	10	33				<b>172</b>
<b>Process Time</b>	22	19	22	22	16	14	9	18	11				<b>17</b>
<b>LEP Examination Eligibility Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	14	9	10	12	11	5	13	10	9				<b>93</b>
<b>Approved</b>	15	15	9	13	6	6	6	7	8				<b>85</b>
<b>Process Time</b>	10	10	16	13	11	11	10	11	13				<b>12</b>

<b>TOTAL Licensure &amp; Exam Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	497	379	456	439	444	396	498	539	517				<b>4165</b>
<b>Approved</b>	409	555	427	450	462	483	471	456	564				<b>4277</b>
<b>Avg. Process Time</b>	29	30	34	34	33	30	28	31	28				<b>31</b>

<b>AMFT Registration Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	450	377	318	277	190	143	239	217	145				<b>2356</b>
<b>Approved</b>	333	404	320	287	315	176	181	206	245				<b>2467</b>
<b>Process Time</b>	14	17	20	20	20	15	14	15	18				<b>17</b>
<b>ASW Registration Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	534	374	273	192	128	106	179	138	114				<b>2038</b>
<b>Approved</b>	689	557	243	252	156	181	117	142	186				<b>2523</b>
<b>Process Time</b>	15	15	11	19	15	12	8	14	14				<b>14</b>
<b>APCC Registration Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	164	119	92	78	57	40	85	88	71				<b>794</b>
<b>Approved</b>	71	162	143	83	99	46	55	62	79				<b>800</b>
<b>Process Time</b>	24	34	29	24	25	14	17	15	17				<b>22</b>

<b>TOTAL Registration Applications</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
<b>Received</b>	1148	870	683	547	375	289	503	443	330				<b>5188</b>
<b>Approved</b>	1093	1123	706	622	570	403	353	410	510				<b>5790</b>
<b>Avg. Process Time</b>	18	22	20	21	20	14	13	15	16				<b>18</b>

## EXAMINATION

The Board's Examination Unit processes complaints and performs other administrative functions relating to the Board's examination processes.

Examinations Administered	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	YTD
LCSW L&E	659	606	506	460	381	386	291	303	368				3960
LMFT L&E	676	660	538	495	442	412	445	413	491				4572
LPCC L&E	96	94	88	93	85	79	77	76	82				770
<b>TOTAL L &amp; E</b>	<b>1431</b>	<b>1360</b>	<b>1132</b>	<b>1048</b>	<b>908</b>	<b>877</b>	<b>813</b>	<b>792</b>	<b>941</b>				<b>9302</b>
ASWB Clinical	236	292	305	278	292	349	169	195	284				2400
LMFT Clinical	503	385	385	384	446	394	298	424	579				3798
LPCC NCMHCE	15	13	21	15	24	16	15	19	24				162
LEP	20	12	13	12	13	4	10	7	17				108
<b>Total Exams Administered</b>	<b>2205</b>	<b>2062</b>	<b>1856</b>	<b>1737</b>	<b>1683</b>	<b>1640</b>	<b>1305</b>	<b>1437</b>	<b>1845</b>				<b>15770</b>
<b>Examination Workshops</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>3</b>				<b>31</b>

Initial Licenses Issued	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	YTD
LMFT	229	219	214	353	200	272	22	379	414				2302
LCSW	157	162	243	247	213	285	154	139	213				1813
LEP	5	6	6	10	2	7	2	6	1				45
LPCC	10	16	19	15	25	20	12	14	19				150
<b>TOTAL</b>	<b>401</b>	<b>403</b>	<b>482</b>	<b>625</b>	<b>440</b>	<b>584</b>	<b>190</b>	<b>538</b>	<b>647</b>				<b>4310</b>

## ENFORCEMENT

The Board's Enforcement Unit investigates consumer complaints and reviews prior and subsequent arrest reports for registrants and licensees. The pending total is a snapshot of all pending items at the close of a quarter.

<b>Complaints (Complaint Intake*)</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
Received	80	112	111	124	81	76	136	106	116				942
Closed without Assignment for Investigation	25	34	36	21	29	33	20	48	42				288
Assigned for Investigation	68	70	90	91	67	60	88	76	97				707
Average Days to Close or Assigned for Investigation	11	5	6	5	12	8	9	10	5				8
Intake Pending	19	27	14	34	22	13	46	27	7				209

<b>Convictions/Arrest Reports</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
Received	120	107	78	121	101	83	72	69	109				860
Closed / Assigned for Investigation	0	0	0	0	0	0	0	0	0				0
Assigned for Investigation	123	104	87	121	96	88	77	74	113				883
Average Days to Close	1	2	4	2	2	2	2	2	2				2
Intake Pending	1	4	2	4	1	1	3	2	7				25

**Complaint Intake \***      Complaints Received by the Program



**INVESTIGATION\*\***

<b>Desk Investigation</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
Assigned	225	192	189	219	182	158	177	158	217				1717
Closed	214	201	242	174	183	123	229	139	208				1713
Average Days to Close	72	85	64	57	80	78	74	77	69				73
Pending	359	369	321	355	350	389	334	353	371				
<b>Field Investigation (Non-Sworn)</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
Assigned	9	6	2	7	5	7	6	6	10				58
Closed	3	2	6	9	3	0	5	2	12				42
Average Days to Close	78	124	82	126	104	0	84	239	84				102
Pending	21	24	21	19	20	28	29	33	31				
<b>Field Investigation (Sworn)</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
Assigned	1	1	2	0	1	0	0	0	0				5
Closed	2	2	0	0	0	1	5	1	0				11
Average Days to Close	566	352	0	0	0	194	259	164	0				171
Pending	8	7	9	9	10	9	4	3	3				
<b>All Investigations</b>	<b>17-Jul</b>	<b>17-Aug</b>	<b>17-Sep</b>	<b>17-Oct</b>	<b>17-Nov</b>	<b>17-Dec</b>	<b>18-Jan</b>	<b>18-Feb</b>	<b>18-Mar</b>	<b>18-Apr</b>	<b>18-May</b>	<b>18-Jun</b>	<b>YTD</b>
First Assignments	234	198	191	226	187	165	183	164	227				1775
Closed	217	203	248	183	186	123	234	141	220				1755
Average Days to Close	239	187	73	92	92	136	139	160	77				133
Pending	380	393	342	374	370	417	363	386	402				

**Investigations \*\***

Complaints investigated by the program whether by desk investigation or by field investigation.

Measured by date the complaint is received to the date the complaint is closed or referred for enforcement action.

If a complaint is never referred for Field Investigation, it will be counted as 'Closed' under Desk Investigation.

If a complaint is referred for Field Investigation, it will be counted as 'Closed' under Non-Sworn or Sworn.

<b>Enforcement Actions</b>	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	YTD
AG Cases Initiated	12	17	28	28	19	20	19	19	13				175
AG Cases Pending	176	184	192	197	212	213	220	224	236				
SOIs Filed	1	2	5	5	3	1	8	2	10				37
Accusations Filed	2	8	7	14	8	6	23	13	24				105
Proposed/Default Decisions Adopted	6	3	3	3	2	3	4	3	2				29
Stipulations Adopted	10	17	4	7	6	3	3	8	2				60
<b>Disciplinary Orders</b>	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	
Final Orders (Proposed Decisions Adopted, Default Decisions, Stipulations)	18	26	12	19	17	8	10	18	8				136
<b>AG Cycle Time</b>	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	Average
AG Transmittal	827	632	549	665	591	825	845	595	805				704
Post AG Transmittal	534	414	393	476	364	528	594	364	476				460

<b>Citations</b>	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	
Final Citations	20	23	35	31	1	2	43	2	21				178
Average Days to Complete****	48	63	27	27	276	294	30	152	51				107

**Disciplinary Orders Average Days to Complete \*\*\***

Measured by the date the complaint is received to the date the order became effective.

**Citations \*\*\*\***

Measured by the date the complaint is received to the date the citation was issued.

**AG Transmittal**

Average number of days to complete the Enforcement Process for cases investigated and transmitted to the AG for formal discipline within the referenced period.

**Post AG Transmittal**

The average number of days from the date the case is transmitted to the AG to the date of the case outcome or formal discipline effective date.

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**To:** Board Members **Date:** May 2, 2018  
**From:** Laurie Williams **Telephone:** (916) 574-7850  
Human Resources Liaison  
**Subject: Personnel Update – May 2018**

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### **New Employees**

Seasonal Clerk / Administration – Effective February 12, 2018, John Hicks joined the Board as our new Seasonal Clerk and his position is responsible for the File Maintenance of the Board’s file room. Mr. Hicks completed similar duties as a Seasonal Clerk at the California Department of Corrections.

Staff Services Analyst (SSA) / Criminal Conviction Unit / Enforcement – Effective March 1, 2018, Yee Lee promoted to a Staff Services Analyst in the Criminal Conviction Unit to perform the duties of an Initial Applicant Convictions Analyst. This position completes the Initial Applicant Background Investigations for the unit. Ms. Lee was a Licensing Evaluator and processed Licensed Educational Psychologists applications and Initial Licenses.

Office Technician (OT) / Criminal Conviction Unit / Enforcement – Sabra D’Ambrosio joined the Board effective March 19, 2018. Ms. D’Ambrosio performs the duties related to the completion of the initial review of subsequent arrest notifications and provides clerical support to the unit. Prior to joining the Board, Ms. D’Ambrosio provided clerical support at the California Correctional Health Care Services.

Staff Services Analyst (SSA) / Criminal Conviction Unit / Enforcement – Mary Nunez joined the Board effective March 21, 2018. Ms. Nunez will perform the duties of an Initial Applicant Convictions Analyst. This position completes the Initial Applicant Background Investigations for the unit. Prior to joining the Board, Ms. Nunez was employed by the Placer County Sheriff’s Office as an Administrative Legal Clerk.

Management Services Technician (MST) / Licensing – Leontyne Lyles returned to the Board effective April 2, 2018 to perform the duties related to the Licensed Marriage & Family Therapist as a Licensing Evaluator. Ms. Lyles performed these duties for the Board prior to her transfer to the Dental Board of California.

### **Departures**

There are no departures to report.

### **Vacancies**

The Board currently has two vacancies. Recruitment efforts to fill these vacancies are as follows:

Staff Services Manager I / Discipline & Probation Unit / Enforcement –This position is responsible for the supervision of the Discipline and Probation Unit within the Enforcement Program. The Executive Officer is currently reviewing the applications received and will be coordinating the interviews in the coming weeks.

Office Technician (Typing) / Licensing - This position provides clerical support to the Licensing Unit and is responsible as the Licensing File Coordinator. The Board has received hiring approval, and the final filing date for this vacancy was April 27, 2018. The hiring manager will schedule interviews in the early part of May 2018.



Board of Behavioral Sciences

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# *Memo*

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**To:** Board Members

**Date:** May 2, 2018

**From:** Kim Madsen  
Executive Officer

**Telephone:** (916) 574-7841

**Subject:** Board of Behavioral Sciences Strategic Plan 2018-2021

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Board staff will be developing action items relating to the strategic plan goals as well as a reporting tool that will be presented quarterly to the Board. Attached is a draft version of the strategic plan quarterly report.

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<b>GOAL 1: LICENSING</b>	
<b>Establish licensing standards to protect consumers and allow reasonable and timely access to the professions.</b>	
<b>OBJECTIVE 1.1</b>	<b>Identify and implement enhanced communication during the application process to respond to stakeholder concerns regarding communication between applicant and the Board.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 1.2</b>	<b>Improve and expand the Board’s virtual online Breeze functionality to provide applicants with the precise status of their applications and licenses.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 1.3</b>	<b>Research and explore a comprehensive online application process to improve efficiency.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 1.4</b>	<b>Evaluate and revise current laws and regulations relating to licensure portability to increase consumer access to mental health.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	

<b>GOAL 2: EXAMINATION</b>	
<b>Administer fair, valid, comprehensive, and relevant licensing examinations.</b>	
<b>OBJECTIVE 2.1</b>	<b>Improve the efficiency and reduce processing times to streamline the online exam application.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 2.2</b>	<b>Explore methods to improve the candidate’s exam experience to address concerns relating to quality and customer service.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 2.3</b>	<b>Improve the Board’s examination study materials to increase access to exam preparation.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 2.4</b>	<b>Evaluate the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) national examination to determine if appropriate for use in California.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	



<b>GOAL 3: ENFORCEMENT</b>	
<b>Protect the health and safety of consumers through enforcement of laws.</b>	
<b>OBJECTIVE 3.1</b>	<b>Explore the feasibility of additional resources to address the increase in number of licensees placed on probation.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 3.2</b>	<b>Educate registrants and licensees about general legal requirements and consequences to practitioners who fail to adhere to these legal requirements.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 3.3</b>	<b>Educate the Deputy Attorneys General and Administrative Law Judges regarding the disease of addiction and substance abuse to increase their awareness during the discipline process.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 3.4</b>	<b>Establish uniform standards and templates for reports and evaluations submitted by the subject matter experts to the Board related to disciplinary matters.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	

<b>GOAL 4: LEGISLATION &amp; REGULATION</b>	
<b>Ensure the statutes, regulations, policies, and procedures strengthen the Board’s mandate and mission.</b>	
<b>OBJECTIVE 4.1</b>	<b>Pursue legislation to implement the recommendations of the License Portability Committee to improve license portability.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 4.2</b>	<b>Reorganize the statutes and regulations specific to each Board license type to improve understanding of applicable statutes and regulations.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 4.3</b>	<b>Continue to review statutory parameters for exempt settings and modify, if necessary, to ensure adequate public protection.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 4.4</b>	<b>Explore the feasibility of improving the law and ethics renewal requirements to inform licensees about updates in relevant laws.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 4.5</b>	<b>Review and update existing telehealth regulations to improve consumer protection and access to services.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	

<b>GOAL 5: ORGANIZATIONAL EFFECTIVENESS</b>	
<b>Build an excellent organization through proper Board governance, effective leadership, and responsible management.</b>	
<b>OBJECTIVE 5.1</b>	<b>Implement a strategic succession plan of Board staff to ensure the continued success of the Board's operation.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 5.2</b>	<b>Support DCA efforts to contract with independent organizations to perform occupational analyses and salary surveys of management-level positions equivalent to the Executive Officer and Bureau Chief classifications to enhance the Board's ability to attract and retain competitive applicants.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 5.3</b>	<b>Explore the feasibility of hiring in-house counsel to ensure consistency in the application of law.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 5.4</b>	<b>Explore the feasibility of hiring a media and internet technology specialist to increase consistency in messaging to stakeholders.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 5.5</b>	<b>Improve customer service with stakeholders to expand (or support) effective communication and accessibility to the Board.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	

<b>GOAL 6: OUTREACH AND EDUCATION</b>	
<b>Engage stakeholders through continuous communication about the practice and regulation of the professions, and mental health care.</b>	
<b>OBJECTIVE 6.1</b>	<b>Explore modalities of communication to expand and increase outreach.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 6.2</b>	<b>Advocate to increase Board presence at national professional association meetings to enhance awareness of national trends and best practices.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 6.3</b>	<b>Develop an outreach program to educate the public about the benefit of mental health care to reduce barriers and destigmatize mental health care.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 6.4</b>	<b>Explore the opportunities to coordinate with stakeholders to increase the diversity of mental health practitioners to better serve California's diverse population.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	
<b>OBJECTIVE 6.5</b>	<b>Improve outreach activities to educational institutions, students, and applicants to educate incoming registrants of application requirements for licensure.</b>
FIRST QUARTER	
SECOND QUARTER	
THIRD QUARTER	
FOURTH QUARTER	



Board of Behavioral Sciences

# Memo

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**To:** Board Members

**Date:** May 2, 2018

**From:** Kim Madsen  
Executive Officer

**Telephone:** (916) 574-7841

**Subject: Substance Abuse Coordination Committee: Uniform Standards**

---

Senate Bill 1441 (Ridley-Thomas), Chapter 548, Statutes of 2008, established the Department of Consumer Affairs (DCA) Substance Abuse Coordination Committee (SACC). The SACC was tasked to develop uniform and specific standards for dealing with substance-abusing licensees, that each healing art board must use. Through a series of meetings, the SACC developed the criteria for required testing, assessment, attendance at support meetings and programs, and specified outcomes for minor and major violations. Each healing art board was directed to incorporate these standards into its disciplinary guidelines. In October 2015, the Uniform Standards were incorporated into the Board's Disciplinary Guidelines.

Senate Bill 796 (Hill), Chapter 311, Statutes of 2015, requires the SACC, by January 1, 2019, to review the existing criteria for those standards governing all aspects of required testing to determine whether the existing criteria should be updated to reflect recent developments in testing research and technology. Specifically, the SACC will review Uniform Standard #4 – biological fluid testing requirements.

The SACC met on April 23, 2018. The SACC and stakeholders reviewed the existing criteria for Uniform Standard #4 and current Board/Bureau efforts to address substance abusing licensees. The SACC also listened to testimony from entities that provide treatment to professionals seeking assistance with an addiction issue and suggestions to revise Uniform Standard #4. Further, new testing technologies were discussed.

The SACC expressed an interest in revising Uniform Standard #4 and requested a subsequent meeting. The next meeting date is to be determined.

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## IV. Development of the Uniform Standards and Overview of Current Uniform Standard #4

Stephanie Nunez, Executive Officer  
Respiratory Care Board of California  
[www.rcb.ca.gov](http://www.rcb.ca.gov)  
April 23, 2018

### SB 1441 (*Statutes of 2008*)

2008

- The impetus for this bill were failures of one of our diversion programs and the "immediate and grave risks to the public posed by licensees who continued to practice despite their chemical dependency."
- Several boards with diversion programs, contracted with the same provider to operate their diversion programs.
- While the summary and intent of the bill clearly targets "diversion programs," the actual language enacted did not make this same distinction.
- As a result, all healing arts boards were included in establishing uniform standards in dealing with "substance-abusing licensees."

## DCA Substance Abuse Coordination Committee

2009

- By the authority in SB 1441 the DCA Substance Abuse Coordination Committee was established in 2009 and was comprised of:
  - Executive Officers of all DCA healing arts boards
  - Executive Officer of the State Board of Chiropractic Examiners
  - Executive Officer of the Osteopathic Medical Board of California
  - A designee of the State Department of Alcohol and Drug Programs
  - Chaired by the Director of Consumer Affairs
- The charge of the Committee was to establish Uniform Standards for 16 specific areas related to monitoring substance-abusing diversion participants and probationers.

## Development of Uniform Standards

2009

- While the standards were being established in 2009, there was no clear understanding of how they would be applied. Many believed these would merely be "guidelines" but not necessarily subject every probationer or diversion participant to every standard.
- As it was becoming apparent toward the latter part of 2009, that the standards may actually be strictly enforced, several boards expressed concern for Uniform Standard #4 which required biological drug testing be performed 104 times a year for every probationer or diversion participant, regardless of extenuating circumstances.



## Uniform Standard #4 Subcommittee

2010

- As required by SB 1441, 16 uniform standards were established in January 2010 and formally adopted in April 2010, though there was an understanding that Uniform Standard #4 would likely be revisited.
- In or about August 2010, the DCA formed the Uniform Standard #4 Subcommittee to re-examine this standard which was comprised of
  - executive officers from the Respiratory Care Board, the Board of Behavioral Sciences, the Dental Board of California, the Board of Pharmacy, the Physical Therapy Board and the Board of Registered nursing, as well as a doctor from the Department of Alcohol and Drug Programs.

## Application of Standards-Guidance Sought

2011

- In April 2011, Uniform Standard #4 had been revised to take into consideration extenuating circumstances.
- Even after the Uniform Standards were adopted, boards continued to search for guidance on the applicability of the Standards and legal opinions were sought.
- In 2011, the Legislative Counsel Bureau provided a legal opinion that the Uniform Standards were:
  - not "discretionary"
  - must be established in regulation
  - should be established by each board

Legislative Counsel Bureau

2012

Since 2012, the Legislature has specifically inquired as part of each board's sunset review process:

What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?

Indicating that some formal process to recognize the standards is expected.

Legislative Sunset Review

2015

However, in 2015, the Office of the Attorney General provided a legal opinion that contradicted the Legislative Counsel Bureau's legal opinion providing that uniform standards:

- did not need to be placed in regulation
- provided for some discretion in application

Office of the Attorney General

## DCA Legal Affairs Implementation Guide

2016

- On February 11, 2016, DCA's Legal Affairs Division provided a guide for all affected boards, to reconcile the two differing legal opinions by:
  - Recommending each healing arts board to “formally implement the Standards through regulations adopted pursuant to the Administrative Procedure Act.”
  - Clarifying that Boards may have limited discretion in applying the Standards to some cases, but that boards are not authorized to “ignore, discard or disregard” a mandatory Standard.
  - Providing for each Standard, whether it is discretionary or mandatory
  - Standard #4 was identified as mandatory

## Overview of Current Uniform Standard #4

- In August 2010, the Uniform Standard #4 Subcommittee convened to reexamine the “Drug and Alcohol Testing” standard
- SB 1441 requires Standard #4 to address the following:
  - frequency of testing,
  - randomicity,
  - method of notice to the licensee,
  - number of hours between the provision of notice and the test,
  - standards for specimen collectors,
  - procedures used by specimen collectors,
  - the permissible locations of testing,
  - whether the collection process must be observed by the collector,
  - backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing,
  - requirements for the laboratory that analyzes the specimens, and
  - the required maximum timeframe from the test to the receipt of the result of the test

## Comments/Concerns Raised by Interested Parties

- Testing diversion participants more frequently upon return to work is appropriate
- A distinction should be made in frequency of testing for those licensees actually practicing and those that are not
- Significant financial burden to probationers and diversion participants associated with increasing biological fluid testing
- DCA boards' missions are to protect consumers and public protection should be its highest priority
- Testing 104 times per year diminishes a key component in testing: "Random"
- Data related to increased testing costs and effectiveness of testing more frequently was reviewed

## UNIFORM STANDARD #4 REVISED

- This standard shall govern all aspects of testing required to determine abstinence from alcohol and drugs for any person whose license is placed on probation or in a diversion program due to substance use:

## TESTING FREQUENCY SCHEDULE

- A board may order a licensee to drug test at any time. Additionally, each licensee shall be tested RANDOMLY in accordance with the schedule below:

Level	Segments of Probation/Diversion	Minimum Range of Number of Random Tests
I	Year 1	52-104 per year
II*	Year 2+	36-104 per year

Level	Segments of Probation/Diversion	Minimum Range of Number of Random Tests
I	Year 1	52-104 per year
II*	Year 2+	36-104 per year

\*The minimum range of 36-104 tests identified in level II, is for the second year of probation or diversion, and each year thereafter, up to five (5) years. Thereafter, administration of one (1) time per month if there have been no positive drug tests in the previous five (5) consecutive years of probation or diversion.

Nothing precludes a board from increasing the number of random tests for any reason. Any board who finds or has suspicion that a licensee has committed a violation of a board's testing program or who has committed a Major Violation, as identified in Uniform Standard 10, may reestablish the testing cycle by placing that licensee at the beginning of level I, in addition to any other disciplinary action that may be pursued.

## EXCEPTIONS TO TESTING FREQUENCY SCHEDULE

### I. PREVIOUS TESTING/SOBRIETY

In cases where a board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing, prior to being subject to testing by the board, the board may give consideration to that testing in altering the testing frequency schedule so that it is equivalent to this standard.

### II. VIOLATION(S) OUTSIDE OF EMPLOYMENT

An individual whose license is placed on probation for a single conviction or incident or two convictions or incidents, spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass level I and participate in level II of the testing frequency schedule.

### III. NOT EMPLOYED IN HEALTH CARE FIELD

A board may reduce testing frequency to a minimum of 12 times per year for any person who is not practicing OR working in any health care field. If a reduced testing frequency schedule is established for this reason, and if a licensee wants to return to practice or work in a health care field, the licensee shall notify and secure the approval of the licensee's board. Prior to returning to any health care employment, the licensee shall be subject to level I testing frequency for at least 60 days. At such time the person returns to employment (in a health care field), if the licensee has not previously met the level I frequency standard, the licensee shall be subject to completing a full year at level I of the testing frequency schedule, otherwise level II testing shall be in effect.

#### IV. TOLLING

A board may postpone all testing for any person whose probation or diversion is placed in a tolling status if the overall length of the probationary or diversion period is also tolled. A licensee shall notify the board upon the licensee's return to California and shall be subject to testing as provided in this standard. If the licensee returns to employment in a health care field, and has not previously met the level I frequency standard, the licensee shall be subject to completing a full year at level I of the testing frequency schedule, otherwise level II testing shall be in effect.

#### V. SUBSTANCE USE DISORDER NOT DIAGNOSED

In cases where no current substance use disorder diagnosis is made, a lesser period of monitoring and toxicology screening may be adopted by the board, but not to be less than 24 times per year.

## OTHER DRUG STANDARDS

- Drug testing may be required on any day, including weekends and holidays.
- The scheduling of drug tests shall be done on a random basis, preferably by a computer program, so that a licensee can make no reasonable assumption of when he/she will be tested again. Boards should be prepared to report data to support back-to-back testing as well as, numerous different intervals of testing.
- Licensees shall be required to make daily contact to determine if drug testing is required.



- Licensees shall be drug tested on the date of notification as directed by the board.
- Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
- Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
- Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
- Collection of specimens shall be observed

- Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.
- Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.
- A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.
- A board may use other testing methods in place of, or to supplement biological fluid testing, if the alternate testing method is appropriate.



## OUTCOMES AND AMENDMENTS

- For purposes of measuring outcomes and effectiveness, each board shall collect and report historical and post implementation data as follows:
  - Historical Data - Two Years Prior to Implementation of Standard
    - Each board should collect the following historical data (as available), for a period of two years, prior to implementation of this standard, for each person subject to testing for banned substances, who has 1) tested positive for a banned substance, 2) failed to appear or call in, for testing on more than three occasions, 3) failed to pay testing costs, or 4) a person who has given a dilute or invalid specimen.

- Post Implementation Data- Three Years
  - Each board should collect the following data annually, for a period of three years, for every probationer and diversion participant subject to testing for banned substances, following the implementation of this standard.
- Data Collection
  - The data to be collected shall be reported to the Department of Consumer Affairs and the Legislature, upon request, and shall include, but may not be limited to:
    - Probationer/Diversion Participant Unique Identifier
    - License Type
    - Probation/Diversion Effective Date
    - General Range of Testing Frequency by/for Each Probationer/Diversion Participant
    - Dates Testing Requested
    - Dates Tested
    - Identify the Entity that Performed Each Test
    - Dates Tested Positive
    - Dates Contractor (if applicable) was informed of Positive Test
    - Dates Board was informed of Positive Test
    - Dates of Questionable Tests (e.g. dilute, high levels)
    - Date Contractor Notified Board of Questionable Test
    - Identify Substances Detected or Questionably Detected
    - Dates Failed to Appear
    - Date Contractor Notified Board of Failed to Appear
    - Dates Failed to Call In for Testing
    - Date Contractor Notified Board of Failed to Call In for Testing
    - Dates Failed to Pay for Testing
    - Date(s) Removed/Suspended from Practice (identify which)
    - Final Outcome and Effective Date (if applicable)

## Uniform Standard #16

- Each board shall report the following information on a yearly basis to the Department of Consumer Affairs and the Legislature as it relates to licensees with substance abuse problems who are either in a board probation and/or diversion program.
  - Number of intakes into a diversion program
  - Number of probationers whose conduct was related to a substance abuse problem
  - Number of referrals for treatment programs
  - Number of relapses (break in sobriety)
  - Number of cease practice orders/license in-activations
  - Number of suspensions
  - Number terminated from program for noncompliance
  - Number of successful completions based on uniform standards
  - Number of major violations; nature of violation and action taken
  - Number of licensees who successfully returned to practice
  - Number of patients harmed while in diversion

## Respiratory Care Board Outcomes

- Number of Probationers subject to Drug Testing each year since FY 09/10: 60-115
- Number of Probationers Testing Positive for banned substances each year: 3-13
- From FY 09-10 through FY 15-16, the Board saw an increase from 4% to 15% in the number of probationers testing positive for banned substances- nearly a 300% increase.
- 32% of these probationers tested positive w/in the first three months of probation; and a total of 61% within the first year; 25% in the second year, and 14% in the third year.

## Uniform Standards: Mandatory or Discretionary

- Standard 1. Clinical Diagnostic Evaluation
  - IF ordered, however, a cease practice order and diagnostic report is mandatory
- Standard 2. Practice Restrictions
  - Mandatory IF a clinical diagnostic evaluation is ordered
- Standard 3. Names and Addresses and Consent to Communicate with Employer

Discretionary

Mandatory

## Uniform Standards: Mandatory or Discretionary

- Standard 4. Drug and Alcohol Testing
- Standard 5. Group Support Meetings
- Standard 6. Inpatient or Outpatient Treatment
- Standard 7. Worksite Monitors

MANDATORY

Discretionary

Discretionary

Discretionary

## Uniform Standards: Mandatory or Discretionary

- Standard 8. Cease Practice Order for Positive Test Mandatory
- Standard 9. Consequences for Major Violation for Positive Test Mandatory
- Standard 10. Definitions of and Consequences for major and minor violations Discretionary

## Uniform Standards: Mandatory or Discretionary

- Standard 11. Criteria for Petitioning for Modification Mandatory
- Standard 12. Criteria for Petitioning for Reinstatement Mandatory
- Standard 13. Criteria for Specimen Collection and Other Providers; Vendor Requirement Discretionary

## Uniform Standards: Mandatory or Discretionary

- Standard 14. Board Disclosure of Information to the Public Discretionary
- Standard 15. Criteria for Audits of Vendors Discretionary
- Standard 16. Criteria for Board Reports to the Department and Legislature Mandatory

## PETITIONS FOR REINSTATEMENT

- Nothing herein shall limit a board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code section 11522 or statutes applicable to the board that contains different provisions for reinstatement or reduction of penalty.

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**To:** Board Members

**Date:** May 1, 2018

**From:** Christy Berger  
Regulatory Analyst

**Telephone:** (916) 574-7817

**Subject: Exempt Setting Committee Update**

The fifth meeting of the Exempt Setting Committee was held on February 23, 2018. During this meeting, the following topics were discussed:

#### Practice Settings for LCSW, LMFT and LPCC Students

Based upon the practicum coordinator survey results, the Committee considered ways to address concerns regarding practicum placements for students pursuing licensure. The Committee directed staff to create and revise definitions of different types of settings in order to help clarify which settings are acceptable for students. In addition, the Committee considered methods to help students be better informed about issues pertaining to practicum settings.

#### Exempt and Private Practice Setting Survey Results

Staff presented the results of the exempt and private practice settings survey. This survey's goal was to help determine whether consumers are being harmed by unlicensed staff performing clinical services in exempt settings, and to understand the different types of settings in which mental health services are provided. The Committee discussed the survey results and felt that there were no indications that warranted major changes regarding exempt settings. However, it was suggested that staff look at incorporating some protections for consumers within the revised setting definitions mentioned above, as well as better informing consumers about important qualities to look for when seeking mental health services.

#### Registrant Employment by Temporary Staffing Agencies

The Committee discussed registrants being employed by a temporary employment/staffing agency. This type of arrangement has often been seen at the Veteran's Administration (VA). Current law for all three professions does not address a temporary agency as an employer, and certain provisions of existing law are a poor fit for this situation. Staff proposed conceptual draft language and will bring a revised version to the next meeting.

#### Unlicensed Masters of Social Work Employees Billing as Psychotherapists

The Committee discussed concerns expressed about the billing practices of some exempt setting agencies that employ social work students. Agencies sometimes bill for the student as a "psychotherapist." The concern is whether this implies to the client and/or the third-party payor that the person is a licensed psychotherapist. Current law requires that the student's title contain the term "intern," "trainee" or other title appropriate to their level of training. The Committee recommended that those aware of such billing practices need to inform the setting about the required titles in law.

The next Exempt Setting Committee is scheduled for June 8, 2018 in Sacramento.

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Board of Behavioral Sciences

# Memo

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**To:** Board Members

**Date:** May 2, 2018

**From:** Kim Madsen  
Executive Officer

**Telephone:** (916) 574-7841

**Subject: License Portability Committee Update**

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The second meeting of the License Portability Committee was held on February 23, 2018. During this meeting the discussion concerned the possible revisions to out-of-state licensee requirements for Licensed Professional Clinical Counselors (LPCC), and the consideration of corresponding revisions for the Licensed Marriage and Family Therapists (LMFT) and Licensed Clinical Social Workers.

Staff presented possible framework language for revision to the LPCC statute. Under the suggested proposal, the Board may issue a license to a person who holds a license as a professional clinical counselor, or equivalent counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction of the United States, if they meet the following criteria:

- The license has been current, active, and unrestricted for at least 2 of the past 5 years.
- The qualifying degree is a master's or doctoral degree that was obtained from an accredited or approved school.
- The applicant submits fingerprints.
- The applicant passes the Board's California law and ethics exam.
- The applicant completes a 12-hour California law and ethics course.
- The applicant completes 15 hours of coursework in California Cultures.

The Committee directed staff to make minor modifications to the language presented and prepare similar proposed language for the LMFT and LCSW statutes. This language will be presented to the Committee at its next meeting on June 8, 2018.

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## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 456

**VERSION:** AMENDED APRIL 2, 2018

**AUTHOR:** THURMOND

**SPONSOR:**

- **SENECA FAMILY OF AGENCIES**
- **LINCOLN FAMILIES**

**PREVIOUS POSITION:** SUPPORT

**SUBJECT:** HEALING ARTS: ASSOCIATE CLINICAL SOCIAL WORKERS

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**Summary:** This bill would extend the Board's "90-day rule" to applicants for registration as an associate clinical social worker (ASW). Currently, the 90-day rule allows applicants for registration as an associate marriage and family therapist or an associate professional clinical counselor to count post-degree hours of supervised experience before receiving a registration number, if they apply for their associate registration within 90 days of the granting of their qualifying degree and submit proof that the applicable work site required live scan fingerprinting.

**Existing Law:**

- 1) Requires all persons seeking licensure as a marriage and family therapist to register with the Board as an associate to be credited with postdegree supervised experience toward licensure. (Business and Professions Code (BPC) §4980.43(g))
- 2) Allows an exception to the requirement to register as an associate MFT to be credited with postdegree supervised experience, if the applicant applies for the associate registration within 90 days of the granting of the qualifying degree, and is thereafter granted the registration by the Board. (BPC §4980.43(g), (h))
- 3) Prohibits an LMFT applicant from being employed or volunteering in a private practice until registered as an associate. (BPC §4980.43(h))
- 4) Requires an applicant seeking licensure as a professional clinical counselor to register with the Board as an associate to be credited with postdegree supervised experience toward licensure. (BPC §4999.46(d))
- 5) Allows an exception to the requirement to register as an associate PCC to be credited with postdegree supervised experience, if the applicant applies for the associate registration within 90 days of the granting of the qualifying degree, and is thereafter granted the associate registration by the Board. (BPC §4999.46(d))
- 6) Prohibits an LPCC applicant from being employed or volunteering in a private practice until registered as an associate. (BPC §4999.46(d))

### This Bill:

- 1) Allows an applicant seeking registration as an associate clinical social worker to be credited with preregistered post-degree hours of supervised experience if he or she complies with all the following (BPC §4996.23(b)):
  - a) The applicant applies for the associate registration and the Board receives the application within 90 days of the granting of the qualifying master's or doctoral degree;
  - b) For applicants completing graduate study on or after January 1, 2020, the experience is obtained at a workplace that requires live scan fingerprinting prior to the applicant gaining supervised experience;
  - c) The applicant provides the Board with a copy of the completed fingerprinting that the workplace required when applying for licensure; and
  - d) The Board subsequently grants the associate registration.
- 2) Prohibits an applicant for registration from being employed or volunteering in a private practice until issued the associate registration (BPC §4996.23(c))
- 3) Reduces the amount of supervised experience required for LCSW licensure from 3,200 hours to 3,000 hours. (BPC §4996.23(a)) *(Note: This change is also being proposed in the Board's sponsored bill, AB 93, and the change has already been approved by the Board.)*
- 4) Allows the 90-day rule to also apply to an applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. (BPC §4996.18(c))

### Comments:

- 1) **Background.** The 90-day rule has been included in LMFT licensing law for many years. When the LPCC licensure act was created, it was modeled after LMFT law and included the 90-day rule. LCSW law does not contain the 90-day rule.

Historically, the purpose of the rule has been to assist recent graduates in obtaining some of their supervised experience hours during the time they are waiting for their registration number. Currently, the Board strives to keep its registration processing times to under 30 days. However, in the past due to high seasonal application volumes, budget constraints, or furloughs, processing times were higher.

- 2) **Author's Intent.** The author's office states that the delay between graduation and receipt of a registration number creates a hiring barrier for ASW applicants, and creates an unnecessary inequity between ASW applicants, who cannot utilize the 90-day rule, and associate MFT and PCC applicants, who can. They note that removal of barriers for the public mental health workforce has been recognized as a major priority of both the California Office of Statewide Health Planning and Development (OSHPD) and the Mental Health Services Act (MHSA).
- 3) **Related Legislation: AB 93 and the 90-Day Rule.** AB 93 (Medina) is a Board-sponsored bill running this year to strengthen the Board's requirements related to supervision.

AB 93 affects code sections that contain the 90-day rule. This bill and AB 93 both became two-year bills last year, due to consumer-protection related concerns in the Senate. The Senate had concerns that the 90-day rule allowed unregistered individuals to provide mental health services without a fingerprint clearance.

After extensive discussion and collaboration between the Board, stakeholders, the sponsors of AB 456, and the Senate Business and Professions Committee, a compromise was reached that satisfied the Senate's concerns. The 90-day rule could remain in LMFT and LPCC law, if the applicant's workplace requires live scan fingerprints prior to the gaining of supervised experience, and the applicant can provide the Board with proof of such fingerprinting.

At the time it approved the amended AB 93 language, the Board also expressed that it was supportive of allowing the 90-day rule for LCSW applicants, with the same provisions.

AB 93 has been amended to contain the agreed-upon 90-day rule language for LMFT and LPCC applicants. AB 456 adds the 90-day rule for LCSW applicants, with the same agreed-upon language.

- 4) Double Jointing Language: AB 93 and AB 456.** AB 93 makes significant amendments to several of the Board's statutes related to supervised experience. This includes both sections contained in this bill: BPC sections 4996.18 and 4996.23.

If AB 93 passes, the two code sections in this bill will be significantly structurally different than current law. To account for this, double-jointing language is needed. Double-jointing language is used by the legislature, typically at the end of session (August or September) to make sure that if two bills affecting the same code sections pass, one does not overwrite the other.

Because AB 93 will cause the language in AB 456 to be significantly different from its current format, staff requested that the legislature draft double jointing language early, in time for the Board's May meeting. This way, the Board can consider two versions of AB 456's language: one if AB 93 were to pass, and one if it were to fail.

- **Attachment A** shows the proposed double-jointing language proposed to be amended into AB 456. This version shows what the language would look like if AB 456 and AB 93 are both signed by the Governor.
- **Attachment B** shows the current version of AB 456 that is in print (April 2, 2018 version; in this version, double-jointing language has not been added yet.)

- 5) Previous Board Position.** At its May 2017 meeting, the Board took a "support" position on the March 27, 2017 version of this bill.
- 6) Policy and Advocacy Committee Recommendation.** At its April 12, 2018 meeting, the Policy and Advocacy Committee recommended that the Board consider taking a "support" position on this bill.

**7) Support and Opposition.**

**Support:**

- Seneca Family of Agencies (Sponsor)

- Lincoln Families (Sponsor)
- California Alliance of Child and Family Services
- California Association of Marriage and Family Therapists
- CaliforniaHealth+ Advocates
- National Association of Social Workers

**Opposition:**

- None at this time.

**8) History.**

**2018**

04/02/18 From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (April 2). Re-referred to Com. on APPR.

04/02/18 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on B., P. & E.D.

**2017**

06/13/17 In committee: Set, first hearing. Hearing canceled at the request of author.

05/31/17 In committee: Hearing postponed by committee.

05/18/17 Referred to Com. on B., P. & E.D.

05/04/17 In Senate. Read first time. To Com. on RLS. for assignment.

05/04/17 Read third time. Passed. Ordered to the Senate. (Ayes 76. Noes 0. Page 1389.)

04/27/17 Read second time. Ordered to Consent Calendar.

04/26/17 From committee: Do pass. To Consent Calendar. (Ayes 16. Noes 0.) (April 26).

04/04/17 From committee: Do pass and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (April 4). Re-referred to Com. on APPR.

03/28/17 Re-referred to Com. on B. & P.

03/27/17 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

02/27/17 Referred to Com. on B. & P.

02/14/17 From printer. May be heard in committee March 16.

02/13/17 Read first time. To print.

**9) Attachments.**

- **Attachment A:** Proposed Amendments to AB 456 – Double-Jointing Language with AB 93
- **Attachment B:** Current Version of AB 456 in Print (April 2, 2018; Double Jointing Language Not Added Yet)

**PROPOSED AMENDMENTS**

**Attachment A**

**Proposed AB 456 Amemndments**

**Double-Jointing Language with AB 93**

PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 456

AMENDED IN SENATE APRIL 2, 2018

AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 456**

**Introduced by Assembly Member Thurmond**

February 13, 2017

An act to amend Sections 4996.18 and 4996.23 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 456, as amended, Thurmond. Healing arts: associate clinical social workers.

Existing law provides for the licensure and regulation of clinical social workers by the Board of Behavioral Sciences, which is within the Department of Consumer Affairs. Existing law requires an applicant for licensure to comply with specified educational and experience requirements. Existing law requires a person who wishes to be credited with experience toward licensure to register with the board as an associate clinical social worker prior to obtaining that experience.

This bill would revise and recast these provisions. The bill would instead require each applicant to have an active registration with the board as an associate clinical social worker in order to gain hours of supervised experience, except that the bill would authorize pre-registered postdegree hours of experience to be credited toward licensure in certain circumstances. The bill would allow for this crediting of hours toward licensure if the applicant applies for the associate registration, the board receives the application within 90 days of the granting of the qualifying

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SUBSTANTIVE**



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**PROPOSED AMENDMENTS**

AB 456

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master’s or doctoral degree, and the board subsequently grants the associate registration. The bill would also require, for applicants completing graduate study on or after January 1, 2020, that their experience be obtained at a workplace that requires completed live scan fingerprinting, and that the applicant provide the board with a copy of a completed live scan form, as specified.

Existing law requires each applicant seeking to qualify for licensure as a clinical social worker to complete 3,200 hours of post-master’s degree supervised experience related to the practice of clinical social ~~work~~: *work and provides that a maximum of 1,200 hours can be in client centered advocacy, consultation, evaluation, research, direct supervisor contact, and workshops, seminars, and training sessions, or conferences.*

This bill would reduce the number of hours of post-master’s degree supervised experience for licensure as a clinical social worker to 3,000 ~~hours~~: *hours and reduce the maximum hours described above to 1,000 hours.*

*This bill would incorporate additional changes to Sections 4996.18 and 4996.23 of the Business and Professions Code proposed by AB 93 to be operative only if this bill and AB 93 are enacted and this bill is enacted last.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

Page 2    1    SECTION 1. Section 4996.18 of the Business and Professions  
           2    Code is amended to read:  
           3    4996.18. (a) Except as provided in subdivision (b) of Section  
           7    4996.23, each applicant shall have an active registration with the  
           8    board as an associate clinical social worker in order to gain hours  
           9    of supervised experience.  
          12    (b) An applicant for registration shall satisfy the following  
          13    requirements:  
          14    (1) Possess a master’s degree from an accredited school or  
          15    department of social work.

Page 3    1    (2) Have committed no crimes or acts constituting grounds for  
           2    denial of licensure under Section 480.  
           3    (3) Commencing January 1, 2014, have completed training or  
           4    coursework, which may be embedded within more than one course,



Page 3 5 in California law and professional ethics for clinical social workers,  
6 including instruction in all of the following areas of study:  
7 (A) Contemporary professional ethics and statutes, regulations,  
8 and court decisions that delineate the scope of practice of clinical  
9 social work.  
10 (B) The therapeutic, clinical, and practical considerations  
11 involved in the legal and ethical practice of clinical social work,  
12 including, but not limited to, family law.  
13 (C) The current legal patterns and trends in the mental health  
14 professions.  
15 (D) The psychotherapist-patient privilege, confidentiality,  
16 dangerous patients, and the treatment of minors with and without  
17 parental consent.  
18 (E) A recognition and exploration of the relationship between  
19 a practitioner’s sense of self and human values, and his or her  
20 professional behavior and ethics.  
21 (F) Differences in legal and ethical standards for different types  
22 of work settings.  
23 (G) Licensing law and process.  
24 (c) An applicant who possesses a master’s degree from a school  
25 or department of social work that is a candidate for accreditation  
26 by the Commission on Accreditation of the Council on Social  
27 Work Education shall be eligible, and shall be required, except as  
28 provided in subdivision (b) of Section 4996.23, to register as an  
29 associate clinical social worker in order to gain experience toward  
30 licensure if the applicant has not committed any crimes or acts that  
31 constitute grounds for denial of licensure under Section 480. That  
32 applicant shall not, however, be eligible to take the clinical  
33 examination until the school or department of social work has  
34 received accreditation by the Commission on Accreditation of the  
35 Council on Social Work Education.  
36 (d) All applicants and registrants shall be at all times under the  
37 supervision of a supervisor who shall be responsible for ensuring  
38 that the extent, kind, and quality of counseling performed is  
39 consistent with the training and experience of the person being  
40 supervised, and who shall be responsible to the board for  
Page 4 1 compliance with all laws, rules, and regulations governing the  
2 practice of clinical social work.  
3 (e) Any experience obtained under the supervision of a spouse  
4 or relative by blood or marriage shall not be credited toward the

PROPOSED AMENDMENTS

AB 456

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Page 4 5 required hours of supervised experience. Any experience obtained  
6 under the supervision of a supervisor with whom the applicant has  
7 a personal relationship that undermines the authority or  
8 effectiveness of the supervision shall not be credited toward the  
9 required hours of supervised experience.

10 (f) An applicant who possesses a master’s degree from an  
11 accredited school or department of social work shall be able to  
12 apply experience the applicant obtained during the time the  
13 accredited school or department was in candidacy status by the  
14 Commission on Accreditation of the Council on Social Work  
15 Education toward the licensure requirements, if the experience  
16 meets the requirements of Section 4996.23. This subdivision shall  
17 apply retroactively to persons who possess a master’s degree from  
18 an accredited school or department of social work and who  
19 obtained experience during the time the accredited school or  
20 department was in candidacy status by the Commission on  
21 Accreditation of the Council on Social Work Education.

22 (g) An applicant for registration or licensure trained in an  
23 educational institution outside the United States shall demonstrate  
24 to the satisfaction of the board that he or she possesses a master’s  
25 of social work degree that is equivalent to a master’s degree issued  
26 from a school or department of social work that is accredited by  
27 the Commission on Accreditation of the Council on Social Work  
28 Education. These applicants shall provide the board with a  
29 comprehensive evaluation of the degree and shall provide any  
30 other documentation the board deems necessary. The board has  
31 the authority to make the final determination as to whether a degree  
32 meets all requirements, including, but not limited to, course  
33 requirements regardless of evaluation or accreditation.

34 (h) A registrant shall not provide clinical social work services  
35 to the public for a fee, monetary or otherwise, except as an  
36 employee.

37 (i) A registrant shall inform each client or patient prior to  
38 performing any professional services that he or she is unlicensed  
39 and is under the supervision of a licensed professional.

+ SEC. 1.5. Section 4996.18 of the Business and Professions  
+ Code is amended to read:

+ 4996.18. (a) ~~A person who wishes to be credited with~~  
+ ~~experience toward licensure requirements~~ All applicants, except  
+ as provided in subdivision (b) of Section 4996.23, shall register

Amendment 1

- + ~~have an active registration~~ with the board as an associate clinical
- + ~~social worker prior to obtaining that experience. The application~~
- + ~~shall be made on a form prescribed by the board. in order to gain~~
- + ~~hours of supervised experience.~~
- + (b) An applicant for registration shall satisfy the following
- + requirements:
- + (1) Possess a master’s degree from an accredited school or
- + department of social work.
- + (2) Have committed no crimes or acts constituting grounds for
- + denial of licensure under Section 480.
- + (3) ~~Commencing January 1, 2014, have~~ Have completed training
- + or coursework, which may be embedded within more than one
- + course, in California law and professional ethics for clinical social
- + workers, including instruction in all of the following areas of study:
- + (A) Contemporary professional ethics and statutes, regulations,
- + and court decisions that delineate the scope of practice of clinical
- + social work.
- + (B) The therapeutic, clinical, and practical considerations
- + involved in the legal and ethical practice of clinical social work,
- + including, but not limited to, family law.
- + (C) The current legal patterns and trends in the mental health
- + professions.
- + (D) The psychotherapist-patient privilege, confidentiality,
- + dangerous patients, and the treatment of minors with and without
- + parental consent.
- + (E) A recognition and exploration of the relationship between
- + a practitioner’s sense of self and human values, and his or her
- + professional behavior and ethics.
- + (F) Differences in legal and ethical standards for different types
- + of work settings.
- + (G) Licensing law and process.
- + (c) An applicant who possesses a master’s degree from a school
- + or department of social work that is a candidate for accreditation
- + by the Commission on Accreditation of the Council on Social
- + Work Education shall be eligible, and shall be required, *except as*
- + *provided in subdivision (b) of Section 4996.23*, to register as an
- + associate clinical social worker in order to gain experience toward
- + licensure if the applicant has not committed any crimes or acts that
- + constitute grounds for denial of licensure under Section 480. That
- + applicant shall not, however, be eligible to take the clinical

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+ examination until the school or department of social work has  
+ received accreditation by the Commission on Accreditation of the  
+ Council on Social Work Education.

+ ~~(d) All applicants and registrants shall be at all times under the  
+ supervision of a supervisor who shall be responsible for ensuring  
+ that the extent, kind, and quality of counseling performed is  
+ consistent with the training and experience of the person being  
+ supervised, and who shall be responsible to the board for  
+ compliance with all laws, rules, and regulations governing the  
+ practice of clinical social work.~~

+ ~~(e) Any experience obtained under the supervision of a spouse  
+ or relative by blood or marriage shall not be credited toward the  
+ required hours of supervised experience. Any experience obtained  
+ under the supervision of a supervisor with whom the applicant has  
+ a personal relationship that undermines the authority or  
+ effectiveness of the supervision shall not be credited toward the  
+ required hours of supervised experience.~~

+ ~~(f)~~  
+ (d) An applicant who possesses a master’s degree from an  
+ accredited school or department of social work shall be able to  
+ apply experience the applicant obtained during the time the  
+ accredited school or department was in candidacy status by the  
+ Commission on Accreditation of the Council on Social Work  
+ Education toward the licensure requirements, if the experience  
+ meets the requirements of Section 4996.23. This subdivision shall  
+ apply retroactively to persons who possess a master’s degree from  
+ an accredited school or department of social work and who  
+ obtained experience during the time the accredited school or  
+ department was in candidacy status by the Commission on  
+ Accreditation of the Council on Social Work Education.

+ ~~(g)~~  
+ (e) An applicant for registration or licensure trained in an  
+ educational institution outside the United States shall demonstrate  
+ to the satisfaction of the board that he or she possesses a master’s  
+ of social work degree that is equivalent to a master’s degree issued  
+ from a school or department of social work that is accredited by  
+ the Commission on Accreditation of the Council on Social Work  
+ Education. These applicants shall provide the board with a  
+ comprehensive evaluation of the degree and shall provide any  
+ other documentation the board deems necessary. The board has

+ the authority to make the final determination as to whether a degree  
+ meets all requirements, including, but not limited to, course  
+ requirements regardless of evaluation or accreditation.

+ ~~(h) A registrant shall not provide clinical social work services  
+ to the public for a fee, monetary or otherwise, except as an  
+ employee.~~

+ *(f) All applicants for licensure and registrants shall be at all  
+ times under the supervision of a supervisor who shall be  
+ responsible for ensuring that the extent, kind, and quality of  
+ counseling performed is consistent with the training and experience  
+ of the person being supervised, and who shall be responsible to  
+ the board for compliance with all laws governing the practice of  
+ clinical social work.*

+ ~~(i) A registrant~~

+ *(g) All applicants and registrants shall inform each client or  
+ patient prior to performing any professional services that he or she  
+ is unlicensed and is under the supervision of a licensed  
+ professional.*

Page 5 9 SEC. 2. Section 4996.23 of the Business and Professions Code  
10 is amended to read:

11 4996.23. (a) To qualify for licensure, each applicant shall  
12 complete 3,000 hours of post-master's degree supervised  
13 experience related to the practice of clinical social work. Except  
14 as provided in subdivision (b), experience shall not be gained until  
15 the applicant is registered as an associate clinical social worker.

17 (b) Preregistered postdegree hours of experience shall be  
18 credited toward licensure if all of the following apply:

19 (1) The registration applicant applies for the associate  
20 registration and the board receives the application within 90 days  
21 of the granting of the qualifying master's or doctoral degree.

22 (2) For applicants completing graduate study on or after January  
23 1, 2020, the experience is obtained at a workplace that, prior to  
24 the registration applicant gaining supervised experience hours,  
25 requires completed live scan fingerprinting. The applicant shall  
26 provide the board with a copy of that completed "State of  
27 California Request for Live Scan Service" form with his or her  
28 applicant application for licensure.

29 (3) The board subsequently grants the associate registration.

Amendment 2

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Page 5 30 (c) The applicant shall not be employed or volunteer in a private  
31 practice until he or she has been issued an associate registration  
32 by the board.

33 (d) The experience shall be as follows:

35 (1) At least 1,700 hours shall be gained under the supervision  
36 of a licensed clinical social worker. The remaining required  
37 supervised experience may be gained under the supervision of a  
38 licensed mental health professional acceptable to the board as  
39 defined by a regulation adopted by the board.

Page 6 1 (2) A minimum of 2,000 hours in clinical psychosocial  
2 diagnosis, assessment, and treatment, including psychotherapy or  
3 counseling.

4 (3) A maximum of ~~1,200~~ 1,000 hours in client centered  
5 advocacy, consultation, evaluation, research, direct supervisor  
6 contact, and workshops, seminars, training sessions, or conferences  
7 directly related to clinical social work that have been approved by  
8 the applicant's supervisor.

9 (4) Of the 2,000 clinical hours required in paragraph (2), no less  
10 than 750 hours shall be face-to-face individual or group  
11 psychotherapy provided to clients in the context of clinical social  
12 work services.

13 (5) A minimum of two years of supervised experience is required  
14 to be obtained over a period of not less than 104 weeks and shall  
15 have been gained within the six years immediately preceding the  
16 date on which the application for licensure was filed.

17 (6) Experience shall not be credited for more than 40 hours in  
18 any week.

19 (b)

+ (e) An individual who submits an application for examination  
20 eligibility between January 1, 2016, and December 31, 2020, may  
21 alternatively qualify under the experience requirements that were  
22 in place on January 1, 2015.

23 (e)

+ (f) "Supervision" means responsibility for, and control of, the  
24 quality of clinical social work services being provided.  
25 Consultation or peer discussion shall not be considered to be  
26 supervision.

27 (d)

+ (g) (1) Prior to the commencement of supervision, a supervisor  
28 shall comply with all requirements enumerated in Section 1870 of

**Amendment 3**

**Amendment 4**

**Amendment 5**

**Amendment 6**

**PROPOSED AMENDMENTS**

Page 6 29 Title 16 of the California Code of Regulations and shall sign under  
30 penalty of perjury the “Responsibility Statement for Supervisors  
31 of an Associate Clinical Social Worker” form.

32 (2) Supervised experience shall include at least one hour of  
33 direct supervisor contact for a minimum of 104 weeks. For  
34 purposes of this subdivision, “one hour of direct supervisor contact”  
35 means one hour per week of face-to-face contact on an individual  
36 basis or two hours of face-to-face contact in a group conducted  
37 within the same week as the hours claimed.

Page 7 38 (3) An associate shall receive at least one additional hour of  
39 direct supervisor contact for every week in which more than 10  
40 hours of face-to-face psychotherapy is performed in each setting  
1 in which experience is gained. No more than six hours of  
2 supervision, whether individual or group, shall be credited during  
3 any single week.

4 (4) Supervision shall include at least one hour of direct  
5 supervisor contact during each week for which experience is gained  
6 in each work setting. Supervision is not required for experience  
7 gained attending workshops, seminars, training sessions, or  
8 conferences as described in paragraph (3) of subdivision (a).

9 (5) The six hours of supervision that may be credited during  
10 any single week pursuant to paragraph (3) shall apply only to  
11 supervision hours gained on or after January 1, 2010.

12 (6) Group supervision shall be provided in a group of not more  
13 than eight supervisees and shall be provided in segments lasting  
14 no less than one continuous hour.

15 (7) Of the 104 weeks of required supervision, 52 weeks shall  
16 be individual supervision, and of the 52 weeks of required  
17 individual supervision, not less than 13 weeks shall be supervised  
18 by a licensed clinical social worker.

19 (8) Notwithstanding paragraph (2), an associate clinical social  
20 worker working for a governmental entity, school, college, or  
21 university, or an institution that is both a nonprofit and charitable  
22 institution, may obtain the required weekly direct supervisor  
23 contact via live two-way videoconferencing. The supervisor shall  
24 be responsible for ensuring that client confidentiality is preserved.

25 (e)

+ (h) The supervisor and the associate shall develop a supervisory  
26 plan that describes the goals and objectives of supervision. These  
27 goals shall include the ongoing assessment of strengths and

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Page 7 28 limitations and the assurance of practice in accordance with the  
29 laws and regulations. The associate shall submit to the board the  
30 initial original supervisory plan upon application for licensure.

31 ~~(f)~~  
+ (i) Experience shall only be gained in a setting that meets both  
32 of the following:

33 (1) Lawfully and regularly provides clinical social work, mental  
34 health counseling, or psychotherapy.

35 (2) Provides oversight to ensure that the associate’s work at the  
36 setting meets the experience and supervision requirements set forth  
37 in this chapter and is within the scope of practice for the profession  
38 as defined in Section 4996.9.

Page 8 1 ~~(g) Except as provided in subdivision (j) of Section 4996.18,  
2 experience shall not be gained until the applicant has been  
3 registered as an associate clinical social worker.~~

4 ~~(h)~~  
+ (j) Employment in a private practice as defined in subdivision  
5 (i) shall not commence until the applicant has been registered as  
6 an associate clinical social worker.

7 ~~(i)~~  
+ (k) A private practice setting is a setting that is owned by a  
8 licensed clinical social worker, a licensed marriage and family  
9 therapist, a licensed psychologist, a licensed professional clinical  
10 counselor, a licensed physician and surgeon, or a professional  
11 corporation of any of those licensed professions.

12 ~~(j)~~  
+ (l) Associates shall not be employed as independent contractors,  
13 and shall not gain experience for work performed as an independent  
14 contractor, reported on an IRS Form 1099, or both.

15 ~~(k)~~  
+ (m) If volunteering, the associate shall provide the board with  
16 a letter from his or her employer verifying his or her voluntary  
17 status upon application for licensure.

18 ~~(l)~~  
+ (n) If employed, the associate shall provide the board with copies  
19 of his or her W-2 tax forms for each year of experience claimed  
20 upon application for licensure.

21 ~~(m)~~

**Amendment 8**

**Amendment 9**

**Amendment 10**

**Amendment 11**

**Amendment 12**

**Amendment 13**

**Amendment 14**



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+ (o) While an associate may be either a paid employee or  
22 volunteer, employers are encouraged to provide fair remuneration  
23 to associates.

24 (n)

+ (p) An associate shall not do any of the following:

25 (1) Receive any remuneration from patients or clients and shall  
26 only be paid by his or her employer.

27 (2) Have any proprietary interest in the employer’s business.

28 (3) Lease or rent space, pay for furnishings, equipment, or  
29 supplies, or in any other way pay for the obligations of his or her  
30 employer.

31 (o)

+ (q) An associate, whether employed or volunteering, may obtain  
32 supervision from a person not employed by the associate’s  
33 employer if that person has signed a written agreement with the  
34 employer to take supervisory responsibility for the associate’s  
35 social work services.

36 (p)

+ (r) Notwithstanding any other law, associates and applicants  
37 for examination shall receive a minimum of one hour of supervision  
38 per week for each setting in which he or she is working.

+ SEC. 2.5. Section 4996.23 of the Business and Professions  
+ Code is amended to read:

+ 4996.23. (a) To qualify for licensure as specified in Section  
+ ~~4996.2~~, licensure, each applicant shall complete ~~3,200~~ 3,000 hours  
+ of post-master’s degree supervised experience related to the  
+ practice of clinical social work. ~~The~~ Except as provided in  
+ subdivision (b), experience shall not be gained until the applicant  
+ is registered as an associate clinical social worker.

+ (b) Preregistered postdegree hours of experience shall be  
+ credited toward licensure if all of the following apply:

+ (1) The registration applicant applies for the associate  
+ registration and the board receives the application within 90 days  
+ of the granting of the qualifying master’s or doctoral degree.

+ (2) For applicants completing graduate study on or after  
+ January 1, 2020, the experience is obtained at a workplace that,  
+ prior to the registration applicant gaining supervised experience  
+ hours, requires completed live scan fingerprinting. The applicant  
+ shall provide the board with a copy of that completed “State of

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Amendment 16

Amendment 17

Amendment 18

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- + *California Request for Live Scan Service” form with his or her*
- + *application for licensure.*
- + *(3) The board subsequently grants the associate registration.*
- + *(c) The applicant shall not be employed or volunteer in a private*
- + *practice until he or she has been issued an associate registration*
- + *by the board.*
- + *(d) The experience shall ~~comply with the following:~~ be as*
- + *follows:*
- + *(1) At least 1,700 hours shall be gained under the supervision*
- + *of a licensed clinical social worker. The remaining required*
- + *supervised experience may be gained under the supervision of a*
- + *~~licensed mental health professional acceptable to the board as~~*
- + *~~defined by a regulation adopted by the board:~~ *physician and**
- + **surgeon who is certified in psychiatry by the American Board of**
- + **Psychiatry and Neurology, licensed professional clinical counselor,**
- + **licensed marriage and family therapist, psychologist licensed**
- + **pursuant to Chapter 6.6 (commencing with Section 2900), or**
- + **licensed clinical social worker.**
- + *(2) A minimum of 2,000 hours in clinical psychosocial*
- + *diagnosis, assessment, and treatment, including psychotherapy or*
- + *~~counseling:~~ *counseling; however, at least 750 hours shall be**
- + **face-to-face individual or group psychotherapy provided in the**
- + **context of clinical social work services.**
- + *(3) A maximum of ~~1,200~~ 1,000 hours in client centered*
- + *advocacy, consultation, evaluation, research, direct supervisor*
- + *contact, and workshops, seminars, training sessions, or conferences*
- + *directly related to clinical social work that have been approved by*
- + *the applicant’s supervisor.*
- + *(4) ~~Of the 2,000 clinical hours required in paragraph (2), no less~~*
- + *~~than 750 hours shall be face-to-face individual or group~~*
- + *~~psychotherapy provided to clients in the context of clinical social~~*
- + *~~work services.~~*
- + *(5)*
- + *(4) A minimum of two years of supervised experience is required*
- + *to be obtained over a period of not less than 104 weeks and shall*
- + *have been gained within the six years immediately preceding the*
- + *date on which the application for licensure was ~~filed:~~ received by*
- + *the board.*
- + *(6) Experience shall not be credited for more*

- + ~~(5) No more than 40 hours in any week; of experience may be~~
- + ~~credited in any seven consecutive days.~~
- + ~~(6) For hours gained on or after January 1, 2010, no more than~~
- + ~~six hours of supervision, whether individual, triadic, or group~~
- + ~~supervision, shall be credited during any single week.~~
- + ~~(b)~~
- + ~~(e) An individual who submits an application for examination~~
- + ~~eligibility licensure between January 1, 2016, and December 31,~~
- + ~~2020, may alternatively qualify under the experience requirements~~
- + ~~of this section that were in place on January 1, 2015.~~
- + ~~(e) "Supervision" means responsibility for, and control of, the~~
- + ~~quality of clinical social work services being provided.~~
- + ~~Consultation or peer discussion shall not be considered to be~~
- + ~~supervision.~~
- + ~~(d) (1) Prior to the commencement of supervision, a supervisor~~
- + ~~shall comply with all requirements enumerated in Section 1870 of~~
- + ~~Title 16 of the California Code of Regulations and shall sign under~~
- + ~~penalty of perjury the "Responsibility Statement for Supervisors~~
- + ~~of an Associate Clinical Social Worker" form.~~
- + ~~(2) Supervised experience shall include at least one hour of~~
- + ~~direct supervisor contact for a minimum of 104 weeks. For~~
- + ~~purposes of this subdivision, "one hour of direct supervisor contact"~~
- + ~~means one hour per week of face-to-face contact on an individual~~
- + ~~basis or two hours of face-to-face contact in a group conducted~~
- + ~~within the same week as the hours claimed.~~
- + ~~(3) An associate shall receive at least one additional hour of~~
- + ~~direct supervisor contact for every week in which more than 10~~
- + ~~hours of face-to-face psychotherapy is performed in each setting~~
- + ~~in which experience is gained. No more than six hours of~~
- + ~~supervision, whether individual or group, shall be credited during~~
- + ~~any single week.~~
- + ~~(4) Supervision shall include at least one hour of direct~~
- + ~~supervisor contact during each week for which experience is gained~~
- + ~~in each work setting. Supervision is not required for experience~~
- + ~~gained attending workshops, seminars, training sessions, or~~
- + ~~conferences as described in paragraph (3) of subdivision (a).~~
- + ~~(5) The six hours of supervision that may be credited during~~
- + ~~any single week pursuant to paragraph (3) shall apply only to~~
- + ~~supervision hours gained on or after January 1, 2010.~~

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- + ~~(6) Group supervision shall be provided in a group of not more than eight supervisees and shall be provided in segments lasting no less than one continuous hour.~~
- + ~~(7) Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker.~~
- + ~~(8) Notwithstanding paragraph (2), an associate clinical social worker working for a governmental entity, school, college, or university, or an institution that is both a nonprofit and charitable institution, may obtain the required weekly direct supervisor contact via live two-way videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is preserved.~~
- + ~~(e) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.~~
- + ~~(f) Experience shall only be gained in a setting that meets both of the following:~~
  - + ~~(1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.~~
  - + ~~(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.~~
- + ~~(g) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.~~
- + ~~(h) Employment in a private practice as defined in subdivision (i) shall not commence until the applicant has been registered as an associate clinical social worker.~~
- + ~~(i) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed professional clinical counselor, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.~~
- + ~~(j) Associates shall not be employed as independent contractors, and shall not gain experience for work performed as an independent contractor, reported on an IRS Form 1099, or both.~~

+ ~~(k) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.~~

+ ~~(f) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.~~

+ ~~(m) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.~~

+ ~~(n) An associate shall not do the following:~~

+ ~~(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.~~

+ ~~(2) Have any proprietary interest in the employer's business.~~

+ ~~(3) Lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.~~

+ ~~(o) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.~~

+ ~~(p) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working.~~

+ *SEC. 3. Section 1.5 of this bill incorporates amendments to Section 4996.18 of the Business and Professions Code proposed by both this bill and Assembly Bill 93. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 4996.18 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 93, in which case Section 1 of this bill shall not become operative.*

+ *SEC. 4. Section 2.5 of this bill incorporates amendments to Section 4996.23 of the Business and Professions Code proposed by both this bill and Assembly Bill 93. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 4996.23 of the Business and Professions Code, and (3) this bill is enacted*

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- + *after Assembly Bill 93, in which case Section 2 of this bill shall*
- + *not become operative.*

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**ATTACHMENT B  
CURRENT BILL LANGUAGE**

AMENDED IN SENATE APRIL 2, 2018

AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 456**

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**Introduced by Assembly Member Thurmond**

February 13, 2017

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An act to amend Sections 4996.18 and 4996.23 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 456, as amended, Thurmond. Healing arts: associate clinical social workers.

Existing law provides for the licensure and regulation of clinical social workers by the Board of Behavioral Sciences, which is within the Department of Consumer Affairs. Existing law requires an applicant for licensure to comply with specified educational and experience requirements and requirements. Existing law requires a person who wishes to be credited with experience toward licensure to register with the board as an associate clinical social worker prior to obtaining that experience.

This bill would *revise and recast these provisions. The bill would instead require each applicant to have an active registration with the board as an associate clinical social worker in order to gain hours of supervised experience, except that the bill would authorize postgraduate pre-registered postdegree* hours of experience to be credited toward licensure ~~so long as the person applies for registration as an associate clinical social worker the board receives the application within 90 days of the granting of the qualifying master's degree or doctoral degree and~~

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~~the applicant is granted registration by the board. The bill would prohibit an applicant from being employed or volunteering in a private practice until the applicant is granted registration by the board.~~ *in certain circumstances. The bill would allow for this crediting of hours toward licensure if the applicant applies for the associate registration, the board receives the application within 90 days of the granting of the qualifying master’s or doctoral degree, and the board subsequently grants the associate registration. The bill would also require, for applicants completing graduate study on or after January 1, 2020, that their experience be obtained at a workplace that requires completed live scan fingerprinting, and that the applicant provide the board with a copy of a completed live scan form, as specified.*

*Existing law requires each applicant seeking to qualify for licensure as a clinical social worker to complete 3,200 hours of post-master’s degree supervised experience related to the practice of clinical social work.*

*This bill would reduce the number of hours of post-master’s degree supervised experience for licensure as a clinical social worker to 3,000 hours.*

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 4996.18 of the Business and Professions
- 2 Code is amended to read:
- 3 4996.18. (a) ~~A person who wishes to be credited with~~
- 4 ~~experience toward licensure requirements shall register with the~~
- 5 ~~board as an associate clinical social worker prior to obtaining that~~
- 6 ~~experience, except as provided in subdivision (j). The application~~
- 7 ~~shall be made on a form prescribed by the board. Except as~~
- 8 ~~provided in subdivision (b) of Section 4996.23, each applicant~~
- 9 ~~shall have an active registration with the board as an associate~~
- 10 ~~clinical social worker in order to gain hours of supervised~~
- 11 ~~experience.~~
- 12 (b) An applicant for registration shall satisfy the following
- 13 requirements:
- 14 (1) Possess a master’s degree from an accredited school or
- 15 department of social work.



- 1 (2) Have committed no crimes or acts constituting grounds for  
2 denial of licensure under Section 480.
- 3 (3) Commencing January 1, 2014, have completed training or  
4 coursework, which may be embedded within more than one course,  
5 in California law and professional ethics for clinical social workers,  
6 including instruction in all of the following areas of study:
- 7 (A) Contemporary professional ethics and statutes, regulations,  
8 and court decisions that delineate the scope of practice of clinical  
9 social work.
- 10 (B) The therapeutic, clinical, and practical considerations  
11 involved in the legal and ethical practice of clinical social work,  
12 including, but not limited to, family law.
- 13 (C) The current legal patterns and trends in the mental health  
14 professions.
- 15 (D) The psychotherapist-patient privilege, confidentiality,  
16 dangerous patients, and the treatment of minors with and without  
17 parental consent.
- 18 (E) A recognition and exploration of the relationship between  
19 a practitioner's sense of self and human values, and his or her  
20 professional behavior and ethics.
- 21 (F) Differences in legal and ethical standards for different types  
22 of work settings.
- 23 (G) Licensing law and process.
- 24 (c) An applicant who possesses a master's degree from a school  
25 or department of social work that is a candidate for accreditation  
26 by the Commission on Accreditation of the Council on Social  
27 Work Education shall be eligible, and shall be required, except as  
28 provided in subdivision ~~(j)~~, (b) of Section 4996.23, to register as  
29 an associate clinical social worker in order to gain experience  
30 toward licensure if the applicant has not committed any crimes or  
31 acts that constitute grounds for denial of licensure under Section  
32 480. That applicant shall not, however, be eligible to take the  
33 clinical examination until the school or department of social work  
34 has received accreditation by the Commission on Accreditation  
35 of the Council on Social Work Education.
- 36 (d) All applicants and registrants shall be at all times under the  
37 supervision of a supervisor who shall be responsible for ensuring  
38 that the extent, kind, and quality of counseling performed is  
39 consistent with the training and experience of the person being  
40 supervised, and who shall be responsible to the board for

1 compliance with all laws, rules, and regulations governing the  
2 practice of clinical social work.

3 (e) Any experience obtained under the supervision of a spouse  
4 or relative by blood or marriage shall not be credited toward the  
5 required hours of supervised experience. Any experience obtained  
6 under the supervision of a supervisor with whom the applicant has  
7 a personal relationship that undermines the authority or  
8 effectiveness of the supervision shall not be credited toward the  
9 required hours of supervised experience.

10 (f) An applicant who possesses a master's degree from an  
11 accredited school or department of social work shall be able to  
12 apply experience the applicant obtained during the time the  
13 accredited school or department was in candidacy status by the  
14 Commission on Accreditation of the Council on Social Work  
15 Education toward the licensure requirements, if the experience  
16 meets the requirements of Section 4996.23. This subdivision shall  
17 apply retroactively to persons who possess a master's degree from  
18 an accredited school or department of social work and who  
19 obtained experience during the time the accredited school or  
20 department was in candidacy status by the Commission on  
21 Accreditation of the Council on Social Work Education.

22 (g) An applicant for registration or licensure trained in an  
23 educational institution outside the United States shall demonstrate  
24 to the satisfaction of the board that he or she possesses a master's  
25 of social work degree that is equivalent to a master's degree issued  
26 from a school or department of social work that is accredited by  
27 the Commission on Accreditation of the Council on Social Work  
28 Education. These applicants shall provide the board with a  
29 comprehensive evaluation of the degree and shall provide any  
30 other documentation the board deems necessary. The board has  
31 the authority to make the final determination as to whether a degree  
32 meets all requirements, including, but not limited to, course  
33 requirements regardless of evaluation or accreditation.

34 (h) A registrant shall not provide clinical social work services  
35 to the public for a fee, monetary or otherwise, except as an  
36 employee.

37 (i) A registrant shall inform each client or patient prior to  
38 performing any professional services that he or she is unlicensed  
39 and is under the supervision of a licensed professional.

1 ~~(j) Postdegree hours of experience shall be credited toward~~  
2 ~~licensure so long as the applicant applies for the associate clinical~~  
3 ~~social worker registration the board receives the application within~~  
4 ~~90 days of the granting of the qualifying master's or doctoral~~  
5 ~~degree and the applicant is thereafter granted the associate clinical~~  
6 ~~social worker registration by the board. An applicant shall not be~~  
7 ~~employed or volunteer in a private practice until registered as an~~  
8 ~~associate clinical social worker by the board.~~

9 SEC. 2. Section 4996.23 of the Business and Professions Code  
10 is amended to read:

11 4996.23. (a) ~~To qualify for licensure as specified in Section~~  
12 ~~4996.2, licensure, each applicant shall complete 3,200 3,000 hours~~  
13 ~~of post-master's degree supervised experience related to the~~  
14 ~~practice of clinical social work. The Except as provided in~~  
15 ~~subdivision (b), experience shall not be gained until the applicant~~  
16 ~~is registered as an associate clinical social worker.~~

17 (b) *Preregistered postdegree hours of experience shall be*  
18 *credited toward licensure if all of the following apply:*

19 (1) *The registration applicant applies for the associate*  
20 *registration and the board receives the application within 90 days*  
21 *of the granting of the qualifying master's or doctoral degree.*

22 (2) *For applicants completing graduate study on or after*  
23 *January 1, 2020, the experience is obtained at a workplace that,*  
24 *prior to the registration applicant gaining supervised experience*  
25 *hours, requires completed live scan fingerprinting. The applicant*  
26 *shall provide the board with a copy of that completed "State of*  
27 *California Request for Live Scan Service" form with his or her*  
28 *applicant for licensure.*

29 (3) *The board subsequently grants the associate registration.*

30 (c) *The applicant shall not be employed or volunteer in a private*  
31 *practice until he or she has been issued an associate registration*  
32 *by the board.*

33 (d) ~~The experience shall comply with the following:~~ *be as*  
34 *follows:*

35 (1) *At least 1,700 hours shall be gained under the supervision*  
36 *of a licensed clinical social worker. The remaining required*  
37 *supervised experience may be gained under the supervision of a*  
38 *licensed mental health professional acceptable to the board as*  
39 *defined by a regulation adopted by the board.*

1 (2) A minimum of 2,000 hours in clinical psychosocial  
2 diagnosis, assessment, and treatment, including psychotherapy or  
3 counseling.

4 (3) A maximum of 1,200 hours in client centered advocacy,  
5 consultation, evaluation, research, direct supervisor contact, and  
6 workshops, seminars, training sessions, or conferences directly  
7 related to clinical social work that have been approved by the  
8 applicant’s supervisor.

9 (4) Of the 2,000 clinical hours required in paragraph (2), no less  
10 than 750 hours shall be face-to-face individual or group  
11 psychotherapy provided to clients in the context of clinical social  
12 work services.

13 (5) A minimum of two years of supervised experience is required  
14 to be obtained over a period of not less than 104 weeks and shall  
15 have been gained within the six years immediately preceding the  
16 date on which the application for licensure was filed.

17 (6) Experience shall not be credited for more than 40 hours in  
18 any week.

19 (b) An individual who submits an application for examination  
20 eligibility between January 1, 2016, and December 31, 2020, may  
21 alternatively qualify under the experience requirements that were  
22 in place on January 1, 2015.

23 (c) “Supervision” means responsibility for, and control of, the  
24 quality of clinical social work services being provided.  
25 Consultation or peer discussion shall not be considered to be  
26 supervision.

27 (d) (1) Prior to the commencement of supervision, a supervisor  
28 shall comply with all requirements enumerated in Section 1870 of  
29 Title 16 of the California Code of Regulations and shall sign under  
30 penalty of perjury the “Responsibility Statement for Supervisors  
31 of an Associate Clinical Social Worker” form.

32 (2) Supervised experience shall include at least one hour of  
33 direct supervisor contact for a minimum of 104 weeks. For  
34 purposes of this subdivision, “one hour of direct supervisor contact”  
35 means one hour per week of face-to-face contact on an individual  
36 basis or two hours of face-to-face contact in a group conducted  
37 within the same week as the hours claimed.

38 (3) An associate shall receive at least one additional hour of  
39 direct supervisor contact for every week in which more than 10  
40 hours of face-to-face psychotherapy is performed in each setting

1 in which experience is gained. No more than six hours of  
2 supervision, whether individual or group, shall be credited during  
3 any single week.

4 (4) Supervision shall include at least one hour of direct  
5 supervisor contact during each week for which experience is gained  
6 in each work setting. Supervision is not required for experience  
7 gained attending workshops, seminars, training sessions, or  
8 conferences as described in paragraph (3) of subdivision (a).

9 (5) The six hours of supervision that may be credited during  
10 any single week pursuant to paragraph (3) shall apply only to  
11 supervision hours gained on or after January 1, 2010.

12 (6) Group supervision shall be provided in a group of not more  
13 than eight supervisees and shall be provided in segments lasting  
14 no less than one continuous hour.

15 (7) Of the 104 weeks of required supervision, 52 weeks shall  
16 be individual supervision, and of the 52 weeks of required  
17 individual supervision, not less than 13 weeks shall be supervised  
18 by a licensed clinical social worker.

19 (8) Notwithstanding paragraph (2), an associate clinical social  
20 worker working for a governmental entity, school, college, or  
21 university, or an institution that is both a nonprofit and charitable  
22 institution, may obtain the required weekly direct supervisor  
23 contact via live two-way videoconferencing. The supervisor shall  
24 be responsible for ensuring that client confidentiality is preserved.

25 (e) The supervisor and the associate shall develop a supervisory  
26 plan that describes the goals and objectives of supervision. These  
27 goals shall include the ongoing assessment of strengths and  
28 limitations and the assurance of practice in accordance with the  
29 laws and regulations. The associate shall submit to the board the  
30 initial original supervisory plan upon application for licensure.

31 (f) Experience shall only be gained in a setting that meets both  
32 of the following:

33 (1) Lawfully and regularly provides clinical social work, mental  
34 health counseling, or psychotherapy.

35 (2) Provides oversight to ensure that the associate's work at the  
36 setting meets the experience and supervision requirements set forth  
37 in this chapter and is within the scope of practice for the profession  
38 as defined in Section 4996.9.

1 (g) Except as provided in subdivision (j) of Section 4996.18,  
2 experience shall not be gained until the applicant has been  
3 registered as an associate clinical social worker.

4 (h) Employment in a private practice as defined in subdivision  
5 (i) shall not commence until the applicant has been registered as  
6 an associate clinical social worker.

7 (i) A private practice setting is a setting that is owned by a  
8 licensed clinical social worker, a licensed marriage and family  
9 therapist, a licensed psychologist, a licensed professional clinical  
10 counselor, a licensed physician and surgeon, or a professional  
11 corporation of any of those licensed professions.

12 (j) Associates shall not be employed as independent contractors,  
13 and shall not gain experience for work performed as an independent  
14 contractor, reported on an IRS Form 1099, or both.

15 (k) If volunteering, the associate shall provide the board with a  
16 letter from his or her employer verifying his or her voluntary status  
17 upon application for licensure.

18 (l) If employed, the associate shall provide the board with copies  
19 of his or her W-2 tax forms for each year of experience claimed  
20 upon application for licensure.

21 (m) While an associate may be either a paid employee or  
22 volunteer, employers are encouraged to provide fair remuneration  
23 to associates.

24 (n) An associate shall not do any of the following:

25 (1) Receive any remuneration from patients or clients and shall  
26 only be paid by his or her employer.

27 (2) Have any proprietary interest in the employer’s business.

28 (3) Lease or rent space, pay for furnishings, equipment, or  
29 supplies, or in any other way pay for the obligations of his or her  
30 employer.

31 (o) An associate, whether employed or volunteering, may obtain  
32 supervision from a person not employed by the associate’s  
33 employer if that person has signed a written agreement with the  
34 employer to take supervisory responsibility for the associate’s  
35 social work services.

36 (p) Notwithstanding any other law, associates and applicants  
37 for examination shall receive a minimum of one hour of supervision  
38 per week for each setting in which he or she is working.

O

## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 767                      **VERSION:** AMENDED APRIL 5, 2018  
**AUTHOR:** QUIRK-SILVA                      **SPONSOR:** COMMITTEE ON JOBS, ECONOMIC  
DEVELOPMENT, AND THE ECONOMY  
**RECOMMENDED POSITION:** SUPPORT IF AMENDED  
**SUBJECT:** MASTER BUSINESS LICENSE ACT

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**Summary:** This bill creates a master business license system under the Governor’s Office of Business and Economic Development (GO-Biz). It would allow a person who needs to apply for more than one business license to submit a single master application through GO-Biz, which would then distribute the application information to the various relevant licensing entities.

**Existing Law:**

- 1) Establishes the Governor’s Office of Business and Economic Development (GO-Biz). (Government Code (GC) §12096.2)
- 2) States that the purpose of GO-Biz is to serve the Governor as the lead entity for economic strategy and marketing of California on issues related to business development, private sector investment, and economic growth. (GC §12096.3)
- 3) Outlines the duties of GO-Biz as including, among other tasks, marketing the business and investment opportunities available in California by partnering with other government and private entities to encourage business development and investment in the state. This may include assisting with obtaining state and local permits. (GC §12096.3(c))
- 4) Establishes the Permit Assistance Program within GO-Biz to provide permit and regulatory compliance assistance to businesses, and requires the agency to post licensing, permitting, and registration requirements of state agencies on its web site to assist individuals with identifying the types of applications or forms they may need to apply for various licenses and permits. (GC §§12097, 12097.1)

**This Bill:**

- 1) Establishes the Master Business License Act, and creates a business license center under GO-Biz that is tasked with the following (GC §§15930, 15932):
  - a) Developing and administering an online master business license system capable of storing, retrieving, and exchanging license information.
  - b) Providing a license information service detailing requirements to engage in business in the state.

- c) Identifying types of licenses appropriate for inclusion in the master business license system.
  - d) Incorporating licenses into the master business license system.
- 2) States the director of GO-Biz shall **encourage** state regulatory agencies to participate in the system. (GC §15933(b))
  - 3) Requires the office to adopt and update a schedule for the buildout of the system to allow for integration of additional licenses. The office shall only integrate additional licenses after the director determines that funding is available, and the project meets the requirements for the development of state IT projects.
  - 4) Requires each state regulatory agency to cooperate and provide reasonable assistance to GO-Biz in implementing the Master Business License Act. However, the state agency may deny or limit the ability of GO-Biz to establish an application to obtain multiple licenses from that agency. (GC §15934)
  - 5) Allows any person that applies for two or more business licenses that are in GO-Biz's master business license system to submit a master application to GO-Biz to request the issuance of the licenses. (GC §15935(a))
  - 6) Requires GO-Biz to develop an internet-based platform that allows businesses to electronically submit their master application, along with the payment of every fee required to obtain each requested license and a master application fee. (GC §15935(a))
  - 7) Allows GO-Biz and included state agencies to borrow money from the State General Fund to support reasonable costs of integrating into the system. Before requesting a loan, the director of GO-Biz must determine that the project to add a license to the system is ready to move forward, and that there is sufficient funding to implement the project. Loans would be repaid from fees collected from the program. (GC §15936)
  - 8) Requires the fees collected under the master business license system to be allocated to the relevant respective licensing agencies. (GC §15937)
  - 9) Defines a "license" to mean any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including by regulation, to engage in any activity. (GC §15931(d))

**Comments:**

- 1) **Author's Intent.** The author's office states that the most common form of business in California are sole proprietorships, citing that 3.1 million of the 4 million firms in California have no employees. They note that these small businesses face regulatory hurdles when starting or expanding.

GO-Biz has already built a California Business Portal website, through which businesses can identify which permits and licenses are required. If a business uses this website, it can follow the individual links to apply for each required license. The goal of this bill is to take the existing website to the next level, by creating a single online interface to use for numerous application processes.



- 2) **Cal-Gold.** Go-Biz's current business portal for permitting and licensing assistance is called Cal-Gold. The portal allows an individual to enter the city or county that they are in, and their type of business. The database will return a list of required permits or licenses needed for their business.

Permitting and licensing information for licensees of this Board is not currently included in the database. To get an idea of the type of information provided, staff did a search for requirements for an optometry business located in the city and county of Sacramento.

**Attachment A** shows the results. It includes information such as business license information (city jurisdiction), fire inspection information (city jurisdiction), air tank permit information (state jurisdiction), corporation filing information (state jurisdiction), facility licensing information (state jurisdiction), and licensing information (state (DCA) jurisdiction), among others. The site includes links to each of these entity's websites where an applicant can go for further information.

- 3) **Effect on Board Applicants.** There can be many permits that a business owner needs to obtain to operate in a city or county, depending on the profession. Having a database that can compile this information into a master list in one place may be very helpful for a potential business owner.

However, applicants for this Board's license types go to college specifically to obtain a Master's degree toward licensure with the Board. The educational institution helps prepare these students to apply for licensure, and by the end of their respective graduate programs, they are aware that the Board of Behavioral Sciences is their licensing entity.

Obtaining a license with the Board is typically a process, with an applicant first becoming a registrant and gaining experience hours, applying to the Board for exam eligibility, and finally obtaining a license once the required examinations are passed. Having an entity that is not familiar with the details of the process for each license type accepting applications could add an unnecessary level of complexity to the licensure process.

It also may be unreasonable to assume that an outlying agency can take on the task of tracking the licensing requirements for each of the Department of Consumer Affairs' (DCAs') many boards and bureaus, and keeping that information up-to-date. For example, for our optometry business search shown in **Attachment A**, Cal-Gold directs registered dispensing opticians to the Medical Board of California for licensing. However, according to the Medical Board's website, the Optometry Board assumed responsibility for registering and regulating dispensing opticians effective January 1, 2016.

- 4) **Board Acceptance of Online Applications.** Aside from renewal applications, the Board does not currently accept online applications. The Board hopes to be able to build this capability into the Breeze system over the next several years.
- 5) **Fiscal Impact.** The fiscal impact for each DCA board or bureau has not been calculated at this time. However, the Assembly Committee on Appropriations' committee analysis dated January 18, 2018 reported that DCA has estimated a one-time IT cost of \$18.7 million for administrative and system modifications, as well as \$240,000 annually in ongoing costs. There are approximately 113 license types under DCA.
- 6) **Recent Amendment.** A recent amendment implies that an agency may opt out of the master license application system, stating that "... a state regulatory agency may deny or

limit the ability of the office to establish an application to obtain multiple licenses from that state regulatory agency through the system.” (GC §15934)

- 7) Board Position (May 2017).** At its May 12, 2017 meeting, the Board took a “support if amended” position on this bill. While the Board recognized and appreciated the effort to make the licensing and permitting processes more business-friendly, the consensus was that the process of licensure is best handled directly with the Board. Therefore, the Board requested that its license types not be included in the proposed master application system.
- 8) Policy and Advocacy Committee Position (April 2018).** At its April 12, 2018 meeting, the Policy and Advocacy recommended that the Board take a “support if amended” position on the bill, asking the Board’s license types not be included in the proposal.

Staff contacted the author’s office after the Committee met to discuss the most recent amendments. They reiterated that the recent amendment allowing an agency to opt out of the system makes participation optional. Their intent is to have the database developed on an annual schedule over time, and individual entities can participate when they are ready. The highest priority for inclusion in the system are professions where an individual needs 7 or 8 licenses or certifications to operate their business. For example, they noted many independent contractors, especially those that handle toxic materials, often need several licenses or permits. They also used cosmetologists as an example of individuals who might need additional licenses or certifications to dispose of certain chemicals.

**9) Support and Opposition.**

Support:

- Assembly Committee on Jobs, Economic Development, and the Economy (Sponsor)
- California Association for Health Services at Home

Oppose: Unknown

**History**

**2018**

- 04/05/18 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on B., P. & E.D.
- 03/15/18 Referred to Com. on B., P. & E.D.
- 01/29/18 In Senate. Read first time. To Com. on RLS. for assignment.
- 01/29/18 Read third time. Passed. Ordered to the Senate. (Ayes 75. Noes 0.)
- 01/22/18 Read second time. Ordered to third reading.
- 01/18/18 From committee: Do pass. (Ayes 17. Noes 0.) (January 18).
- 01/18/18 In committee: Set, second hearing. Referred to APPR. suspense file.

**2017**

- 05/17/17 In committee: Set, first hearing. Hearing canceled at the request of author.
- 05/04/17 Re-referred to Com. on APPR.
- 05/03/17 Read second time and amended.
- 05/02/17 From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 25).
- 03/02/17 Referred to Com. on J., E.D., & E.

02/16/17 From printer. May be heard in committee March 18.  
02/15/17 Read first time. To print.

**Attachment**

**Attachment A:** GO-Biz Cal Gold Database Search Result: Business Permits and Other Requirements for Optometry in the City of Sacramento

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AMENDED IN SENATE APRIL 5, 2018

AMENDED IN ASSEMBLY MAY 3, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 767**

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**Introduced by Assembly Member Quirk-Silva**

February 15, 2017

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An act to add Part 12.5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as amended, Quirk-Silva. Master Business License Act.

Existing law authorizes various state agencies to issue permits and licenses in accordance with specified requirements to conduct business within this state. Existing law establishes the Governor's Office of Business and Economic Development to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law creates within the Governor's Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small businesses and to provide small businesses with the information they need to survive in the marketplace.

This bill would create within the Governor's Office of Business and Economic Development, or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state. The bill would set forth the duties and responsibilities of the business license center. The bill would require each state regulatory agency to cooperate and

provide reasonable assistance to the office to implement these ~~provisions~~. *provisions, except as specified.*

This bill would authorize a person that applies for 2 or more business licenses that have been incorporated into the master business license system to submit a master application to the office requesting the issuance of the licenses. The bill would require the office to develop and adopt an Internet-based platform that allows the businesses to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee, which would be deposited into the Master License Fund, which would be created by the bill. The bill would authorize the office to borrow up to \$140,000 from the ~~General Fund~~. *Fund, as specified.* The bill would authorize a state agency that the office has determined to have a license and fee that is appropriate for inclusion in the master business license system to borrow money as needed from the General Fund to support the reasonable costs of integrating into the ~~system~~. *system, as specified.* The bill would require these General Fund moneys to be deposited into the Master License Fund. The bill would authorize moneys in the fund, upon appropriation, to be expended only to administer this bill or be transferred to the appropriate licensing agencies. The bill would also require, upon issuance of the license or licenses, the office to transfer the fees, except for the master license fee, to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.

~~The bill would require the office to establish a reasonable fee for each master license application and to collect those fees for deposit into the Master License Fund established by this bill. Funds derived from the master license application fees would be expended to administer the master business license program upon appropriation by the Legislature. The bill would require the license fees of the regulatory agencies deposited into the fund to be transferred to the appropriate accounts of the regulatory agencies, as provided.~~

The bill would require the office, in consultation with other regulatory agencies, to establish a uniform business identification number for each business that would be recognized by all affected state agencies and used to facilitate the information sharing between state agencies and to improve customer service to businesses.

The bill would also require the office, including the Director of Small Business Advocate, to work with small business owners and all

regulatory agencies to ensure the state’s implementation of a consolidated business license and permit system.

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. Part 12.5 (commencing with Section 15930) is  
2 added to Division 3 of Title 2 of the Government Code, to read:

3

4 PART 12.5. MASTER BUSINESS LICENSE ACT

5

6 CHAPTER 1. GENERAL PROVISIONS

7

8 15930. This part may be known, and may be cited as, the  
9 Master Business License Act.

10 15931. As used in this part, the following words shall have the  
11 following meanings:

12 (a) “Business license center” means the business registration  
13 and licensing center established by this part and located in and  
14 under the administrative control of the office.

15 (b) “Director” means the Director of the Governor’s Office of  
16 Business and Economic Development.

17 (c) “License information packet” means a collection of  
18 information about licensing requirements and application  
19 procedures custom assembled for each request.

20 (d) “License” means the whole or part of any state agency  
21 permit, license, certificate, approval, registration, charter, or any  
22 form or permission required by law, including agency regulation,  
23 to engage in any activity.

24 (e) “Master application” means a document incorporating  
25 pertinent data from existing applications for licenses covered under  
26 this part.

27 (f) “Master business license system” or “system” means the  
28 mechanism by which licenses are issued, license and regulatory  
29 information is disseminated, and account data is exchanged by  
30 state agencies.

31 (g) “Office” means the Governor’s Office of Business and  
32 Economic Development or its successor.

1 (h) "Person" means any individual, sole proprietorship,  
2 partnership, association, cooperative, corporation, nonprofit  
3 organization, state or local government agency, and any other  
4 organization required to register with the state to do business in  
5 the state and to obtain one or more licenses from the state or any  
6 of its agencies.

7 (i) "Regulatory" means all licensing and other governmental or  
8 statutory requirements pertaining to business activities.

9 (j) "Regulatory agency" means any state agency, board,  
10 commission, or division that regulates one or more industries,  
11 businesses, or activities.

12  
13 CHAPTER 2. BUSINESS LICENSE CENTER

14  
15 15932. (a) There is created within the office a business license  
16 center.

17 (b) The duties of the center shall include, but not be limited to,  
18 all of the following:

19 (1) Developing and administering an online master business  
20 license system capable of storing, retrieving, and exchanging  
21 license information with due regard to privacy statutes.

22 (2) Providing a license information service detailing  
23 requirements to establish or engage in business in this state.

24 (3) Identifying types of licenses appropriate for inclusion in the  
25 master business license system.

26 ~~(4) Recommending in reports to the Governor and the~~  
27 ~~Legislature the elimination, consolidation, or other modification~~  
28 ~~of duplicative, ineffective, or inefficient licensing.~~

29 ~~(5)~~  
30 (4) Incorporating licenses into the master business license  
31 system.

32 15933. (a) The office shall adopt regulations as may be  
33 necessary to effectuate the purposes of this part.

34 (b) The director shall encourage state regulatory ~~entities~~ *agencies*  
35 to participate in the online master business license system.

36 *(c) The office shall adopt and periodically update a schedule*  
37 *for the buildout and upgrading of the master business license*  
38 *system to allow for the integration of additional licenses into the*  
39 *Internet-based platform of the system. The office shall integrate*  
40 *additional licenses to the Internet-based platform after the director*



1 *determines that funding for this project is available and the project*  
2 *is in alignment with required elements of the state planning*  
3 *practices for the development of state information technology*  
4 *projects.*

5 15934. Each state regulatory agency shall cooperate and provide  
6 reasonable assistance to the office in the implementation of this  
7 ~~part.~~ *part, except that a state regulatory agency may deny or limit*  
8 *the ability of the office to establish an application to obtain multiple*  
9 *licenses from that state regulatory agency through the system.*

10  
11 CHAPTER 3. MASTER LICENSE  
12

13 15935. (a) Any person that applies for two or more business  
14 licenses that have been incorporated into the master business  
15 license system may submit a master application to the office  
16 requesting the issuance of the licenses. The office shall develop  
17 and adopt an Internet-based platform that allows the business to  
18 electronically submit the master application to the office, as well  
19 as the payment of every fee required to obtain each requested  
20 license and a master application fee established pursuant to Section  
21 15936.

22 (b) Irrespective of any authority delegated to the office to  
23 implement this part, the authority for approving the issuance and  
24 renewal of any requested license that requires a preclicensing or  
25 renewal investigation, inspection, testing, or other judgmental  
26 review by the regulatory agency otherwise legally authorized to  
27 issue the license shall remain with that agency.

28 (c) Upon receipt of the application and proper fee payment for  
29 any license for which issuance is subject to regulatory agency  
30 action under subdivision (a), the office shall immediately notify  
31 the business of receipt of the application and fees.

32 15936. (a) The office shall establish a fee for each master  
33 application that does not exceed the reasonable costs of  
34 administering this part and collect that fee.

35 (b) ~~The~~ *Subject to subdivision (d), the office may borrow up to*  
36 *one hundred forty thousand dollars (\$140,000) from the General*  
37 *Fund in the State Treasury.*

38 (c) ~~A~~ *Subject to subdivision (d), a state agency that the office*  
39 *has determined to have a license and fee that is appropriate for*  
40 *inclusion in the master business license system may borrow money*

1 from the General Fund in the State Treasury in an amount  
 2 necessary to support the reasonable cost of integrating into the  
 3 system.

4 (d) *Before the office or a state agency may request a loan*  
 5 *pursuant to this section, the director shall make a determination*  
 6 *that both the project to integrate a license into the system is ready*  
 7 *to be moved forward and that with the addition of the loan funds*  
 8 *there is sufficient funding to implement the project.* The loans made  
 9 pursuant to subdivisions (b) and (c) shall be repaid with interest,  
 10 calculated at the rate earned by the Pooled Money Investment  
 11 Account at the time of the transfer from the General Fund, from  
 12 the fees collected pursuant to this section.

13 15937. All fees collected under the master business license  
 14 system, including the master license application fee and the fees  
 15 of the regulatory agencies, and all moneys borrowed under Section  
 16 15936 shall be deposited into the Master License Fund, which is  
 17 hereby created in the State Treasury. Moneys in the fund from  
 18 master application fees may, upon appropriation by the Legislature,  
 19 be expended only to administer this part or be transferred to the  
 20 appropriate licensing agencies. Moneys in the fund from other fees  
 21 shall be transferred to the appropriate accounts under the applicable  
 22 statutes for those regulatory agencies' licenses.

23

24 CHAPTER 4. UNIFORM BUSINESS IDENTIFICATION NUMBER

25

26 15940. (a) The office, in consultation with other regulatory  
 27 agencies, shall establish a uniform business identification number  
 28 for each business. The uniform business identification number  
 29 shall be recognized by all affected state agencies and shall be used  
 30 by state agencies to facilitate information sharing between state  
 31 agencies and to improve customer service to businesses.

32 (b) It is the intent of the Legislature that the uniform business  
 33 number would permit the office to do both of the following:

34 (1) Register a business with multiple state agencies electronically  
 35 as licenses and permits are processed.

36 (2) Input and update information regarding a business once,  
 37 thereby reducing the number of duplicate or conflicting records  
 38 from one state agency to another.

CHAPTER 5. OVERSIGHT

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15945. The office, including the Director of Small Business Advocate from the Governor’s Office of Business and Economic Development shall work with small business owners and all regulatory agencies to ensure the state’s implementation of a consolidated business license and permit system under this part.

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## ATTACHMENT A

## Search Results

Business permits and other requirements in the City of Sacramento  
(Sacramento County) for business types:

- Optometry

Permits & Licenses	Resources Available to Help You	<a href="#">Print List</a>
<p><b>Business License - Business Tax Certificate</b> city</p> <p>Required for all entities doing business within city limits. See "County Unincorporated" for businesses located outside of city limits.</p> <p><b>applies to:</b> Optometry</p>	<p><b>City of Sacramento</b> City Finance, Revenue Department Business License 915 I Street, 5th Floor Sacramento, CA, 95814 Phone: 916-808-5845 <a href="#">website</a> (<a href="http://portal.cityofsacramento.org/Finance/Revenue/Business-Operation-Tax/Apply-for-a-Business-Operation-Tax-Account">http://portal.cityofsacramento.org/Finance/Revenue/Business-Operation-Tax/Apply-for-a-Business-Operation-Tax-Account</a>)</p>	
<p><b>Fire Prevention Information/Inspection</b> city</p> <p>Businesses may be subject to a yearly inspection of facility - annual fee may be charged.</p> <p><b>applies to:</b> Optometry</p>	<p><b>City of Sacramento</b> City Fire Department 5770 Freeport Blvd, Suite 200 Sacramento, CA, 95822 Phone: 916-808-1300 <a href="#">website</a> (<a href="http://www.sacfire.org/prevention-safety/fire-prevention/">http://www.sacfire.org/prevention-safety/fire-prevention/</a>)</p>	
<p><b>Land Use Permit/Zoning Clearance</b> city</p> <p>Example: zone change, variance, conditional use permit. Required if business located within incorporated city limits.</p> <p><b>applies to:</b> Optometry</p>	<p><b>City of Sacramento</b> City Planning Services Planning Services 300 Richards Boulevard, 3rd Floor Sacramento, CA, 95814 Phone: 916-264-5011 <a href="#">website</a> (<a href="http://portal.cityofsacramento.org/Economic-Development/Business-Resources/Permitting-Zoning/">http://portal.cityofsacramento.org/Economic-Development/Business-Resources/Permitting-Zoning/</a>)</p>	
<p><b>Police Regulations/Public Safety Issues</b> city</p> <p>Some city police departments offer business crime prevention programs and may also issue permits for certain activities i.e. burglar alarm, solicitors etc. - requirements vary from city to city.</p> <p><b>applies to:</b> Optometry</p>	<p><b>City of Sacramento</b> Police Department 5770 Freeport Blvd, Suite 100 Sacramento, CA, 95822 Phone: 916-808-1300 Fax: 916-808-1629 <a href="#">website</a> (<a href="http://www.sacpd.org/fag/permits/">http://www.sacpd.org/fag/permits/</a>)</p>	
<p><b>Business Property Statement</b> county</p> <p>Businesses are required to report all equipment, fixtures, supplies, and leasehold improvements held for business use at each location.</p> <p><b>agency note:</b> Property Statements are due January 1 of each year</p> <p><b>applies to:</b> Optometry</p>	<p><b>County of Sacramento</b> Assessor's Office 3701 Power Inn Road, Suite 3000 Sacramento, CA, 95826 Phone: 916-875-0730 <a href="#">website</a> (<a href="http://www.assessor.sacounty.net/Pages/Forms-BusinessPersonalProperty.aspx">http://www.assessor.sacounty.net/Pages/Forms-BusinessPersonalProperty.aspx</a>)</p>	
<p><b>Fictitious Business Name - Doing Business As Statement</b> county</p> <p>A Fictitious Business Name (FBN) or Doing Business As (DBA) statement is required when the business name does not include the surname of the individual owner(s) and each of the partners; or the business name suggests the existence of additional owners; or the nature of the business is not clearly evident by the name of the business. For example Bill Smith and Sons Plumbing would require a FBN because the name implies additional owners, Bill Smith Plumbing does not require a FBN. Bill Smith Industries would require a FBN because it does not identify the nature of the business.</p> <p><b>applies to:</b> Optometry</p>	<p><b>County of Sacramento</b> Treasurer Tax Collector's Office Fictitious Business Name 700 H Street, Room 1710 PO Box 508 Sacramento, CA, 95814 Phone: 916-874-6644 Fax: 916-874-8909 <a href="#">website</a> (<a href="http://www.finance.sacounty.net/Tax/Pages/BusLicForms.aspx">http://www.finance.sacounty.net/Tax/Pages/BusLicForms.aspx</a>)</p>	
<p><b>Air Tanks Permit</b> state</p> <p>Required of all businesses using (1) pressurized tanks with a volume greater than 1.5 cubic feet and containing greater than 150 PSI (pounds per square inch) of air; (2) Steam boilers over 15 PSI; or (3) retail stationary propane tanks.</p> <p><b>agency note:</b> "To apply for a "Permit to Operate" for an air tank, liquefied petroleum tank or a boiler, click on the link Pressure Vessel Inspection Request Form."</p> <p><b>applies to:</b> Optometry</p>	<p><b>Department of Industrial Relations</b> Pressure Vessel Unit-North 1515 Clay Street, Suite 1302 Oakland, CA, 94612 Phone: 510-622-3066 Fax: 510-622-3063 <a href="#">website</a> (<a href="http://www.dir.ca.gov/dosh/pressure.html">http://www.dir.ca.gov/dosh/pressure.html</a>)</p>	

## Corporation, Company or Partnership Filings

state

If you are considering becoming a corporation, (either stock or nonprofit), a limited liability company or a partnership (limited, or limited liability), you must file with the Secretary of State's Office.

**agency note:**

Also, if you are conducting business as one of the following, you must file a bond with the Secretary of State's Office: immigration consultant, credit services organization, dance studio, discount buying organization, employment agency, employment counseling service, invention developer, job listing service, nurses registry, or auctioneer or auction company.

**applies to:**

Optometry

**Secretary of State**

1500 11th Street  
Sacramento, CA, 95814  
Phone: 916-657-5448  
website (<http://www.sos.ca.gov/business/be/forms.htm>)

## Discrimination Law

state

Harassment or discrimination in employment is prohibited if it is based on a person's race, ancestry, national origin, color, sex (including pregnancy), sexual orientation, religion, physical disability (including AIDS), mental disability, marital status, medical condition (cured cancer), and refusal of family care leave. Discrimination in housing, public services and accommodations is also prohibited.

**agency note:**

Employers must post the Harassment or Discrimination in Employment notice (DFEH 162) and provide their employees with a copy of the DFEH's information sheet on sexual harassment (DFEH 185) or a statement that contains equivalent information. Employers must also provide notice of an employee's right to request pregnancy disability leave or transfer, as well as notice to request a family or medical care leave (CFRA). Employers with 5 or more employees must maintain all personnel records for a minimum of 2 years.

**applies to:**

Optometry

**Department of Fair Employment and Housing**

2218 Kausen Drive, Suite 100  
Elk Grove, CA, 95758  
Phone: 800-884-1684  
website (<http://www.dfeh.ca.gov/files/2016/09/DFEH-162-2015.pdf>)

## Facility Licensing and Certification

state

Licensing and certification of health care facilities and providers such as General Acute Care Hospitals, Skilled Nursing Facilities, Home Health Agencies, and Clinics.

**agency note:**

Licenses different types of health care facilities and providers so they can legally do business in California. Certifies to the federal government health care facilities and providers that are eligible for payments under the Medicare and Medicaid (Medi-Cal) programs

**applies to:**

Optometry

**Department of Public Health**

Licensing and Certification Program  
12440 E. Imperial Highway, Room 522  
Norwalk, CA, 90650  
Phone: 562-345-6884  
Fax: 562-409-5096  
website (<https://www.cdph.ca.gov/Programs/CEH/Pages/CLPR.aspx>)

## Medical Waste Generator Registration and Treatment/Transfer Station Permitting

state

Medical wastes include sharps and biohazardous waste from the diagnosis, treatment, immunization, or research of human beings or animals, the production or testing of biologicals, or regulated waste from a trauma scene waste management practitioner

**agency note:**

Large quantity generators (LQGs) (>200 lbs./mo) and small quantity generators (SQGs) (<200 lbs./mo) of medical wastes are registered with the Department. Facilities treating medical waste or serving as medical waste or transfer station are registered and permitted by the Department. Medical waste haulers are DTSC-registered hazardous waste transporters which must also register with the Department. Click on Medical Waste Management Program's web site to locate the enforcing agency for medical waste management program in your area.

**applies to:**

Optometry

**Department of Public Health**

Medical Waste Management Program  
PO Box 997377, MS 0500  
Sacramento, CA, 95899  
Phone: 916-558-1784  
website ([http://www.dhs.ca.gov/ps/ddwem/environmental/Med\\_Waste/default.htm](http://www.dhs.ca.gov/ps/ddwem/environmental/Med_Waste/default.htm))

## Occupational Safety and Health Information

state

Businesses with employees must prepare an Injury and Illness Prevention Plan. The state provides a no-fee consultation service to assist employers with preventing unsafe working conditions and workplace hazards.

**agency note:**

Certain permits/licenses/certifications may be required for compliance with Health & Safety Standards, General Industry Safety Order, Carcinogen regulations and Construction Safety orders i.e. excavation/trenching, asbestos related work, crane/derrick operation, air/liquid petroleum gas tanks, etc.

**applies to:**

Optometry

**Department of Industrial Relations**

Cal/OSHA Consultation Services  
2424 Arden Way, Ste. 300  
Sacramento, CA, 95825  
Phone: 916-263-2803  
Fax: 916-263-2824  
website ([http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html))

## Radiation Source Registration

state

Those possessing radiation-emitting machines or devices containing radioactive material. Examples include physicians, dentists, hospitals, and industrial plants.

**agency note:**

Mailing address: P.O. Box 997414, MS 7610 Sacramento, CA 95899

**applies to:**

Optometry

**Department of Public Health**

Radiologic Health Branch  
PO Box 997377, MS 0500  
Sacramento, CA, 95899  
Phone: 916-558-1784  
website (<http://www.cdph.ca.gov/subsforms/forms/Pages/RHBLicensingForms.aspx>)

## Registered Contact Lens Dispenser

state

Persons who fit, adjust and dispense contact lenses with prescription are required to be registered

**applies to:**

Optometry

**Department of Consumer Affairs**

Medical Board of California  
2005 Evergreen Street, Suite 1200  
Sacramento, CA, 95815  
Phone: 916-263-2380  
Fax: 916-263-2944  
website (<http://www.dca.ca.gov/proflic/medicalabd.shtml>)

<p><b>Registered Dispensing Optician</b></p> <p>Optician stores that fit, adjust, and dispense eyeglass and contact lens prescriptions must obtain this certificate</p> <p><b>applies to:</b> Optometry</p>	<p>state</p> <p><b>Department of Consumer Affairs</b> Medical Board of California 2005 Evergreen Street, Suite 1200 Sacramento, CA, 95815 Phone: 916-263-2380 Fax: 916-263-2944 <a href="http://www.dca.ca.gov/profile/medicalbd.shtml">website (http://www.dca.ca.gov/profile/medicalbd.shtml)</a></p>
<p><b>Registered Spectacle Lens Dispenser</b></p> <p>Persons who fill, adjust, and dispense eyeglass lenses with prescription must be registered.</p> <p><b>applies to:</b> Optometry</p>	<p>state</p> <p><b>Department of Consumer Affairs</b> Medical Board of California 2005 Evergreen Street, Suite 1200 Sacramento, CA, 95815 Phone: 916-263-2380 Fax: 916-263-2944 <a href="http://www.dca.ca.gov/profile/medicalbd.shtml">website (http://www.dca.ca.gov/profile/medicalbd.shtml)</a></p>
<p><b>Registration Form for Employers</b></p> <p>Required to file a registration form within 15 days after paying more than \$100.00 in wages to one or more employees. No distinction is made between full-time and part-time or permanent and temporary employees in meeting this requirement.</p> <p><b>applies to:</b> Optometry</p>	<p>state</p> <p><b>Employment Development Department</b> Employment Tax Customer Service Office P.O. Box 2068 Rancho Cordova, CA, 95741 Phone: 888-745-3886 <a href="http://www.edd.ca.gov/payroll_taxes/am_i_required_to_register_as_an_emplo">website (http://www.edd.ca.gov/payroll_taxes/am_i_required_to_register_as_an_emplo</a> <a href="http://www.edd.ca.gov/office_locator/">For more information... (http://www.edd.ca.gov/office_locator/)</a></p>
<p><b>Sales &amp; Use Permit (Seller's Permit)</b></p> <p>All businesses selling or leasing tangible property must obtain a Seller's Permit.</p> <p><b>agency note:</b> For Additional information about RESALE CERTIFICATE go to this website: <a href="http://www.boe.ca.gov/sutax/faqresale.htm">www.boe.ca.gov/sutax/faqresale.htm</a></p> <p><b>applies to:</b> Optometry</p>	<p>state</p> <p><b>Department of Tax and Fee Administration</b> Sales/Use Tax Division PO Box 942879 Sacramento, CA, 94279 Phone: 800-400-7115 <a href="http://www.boe.ca.gov/info/reg.htm">website (http://www.boe.ca.gov/info/reg.htm)</a> <a href="http://www.boe.ca.gov/info/phone.htm">For more information... (http://www.boe.ca.gov/info/phone.htm)</a></p>
<p><b>State EPA Identification Number</b></p> <p>Required of businesses that generate, surrender to be transported, transport, treat, or dispose of hazardous waste.</p> <p><b>agency note:</b> DTSC issues State Generator EPA ID Numbers. You may be referred to Federal EPA if you generate over 100 kg per month of RCRA waste (1-415-495-8895) or 1 *800) 6186942 or outside California (916) 255=1136</p> <p><b>applies to:</b> Optometry</p>	<p>state</p> <p><b>Department of Toxic Substances Control</b> Generator Information Services 1001 I Street Sacramento, CA, 95814 Phone: 800-728-6942 <a href="http://www.dtsc.ca.gov/contactDTSC/regulatory-assistance-officers.cfm">website (http://www.dtsc.ca.gov/contactDTSC/regulatory-assistance-officers.cfm)</a></p>
<p><b>State Income Tax Information</b></p> <p>Businesses should obtain the appropriate State income tax forms from the Franchise Tax Board.</p> <p><b>agency note:</b> All businesses are required to submit a Business Income Tax statement annually.</p> <p><b>applies to:</b> Optometry</p>	<p>state</p> <p><b>Franchise Tax Board</b> Business Entities Division PO Box 1468 Sacramento, CA, 95812 Phone: 800-338-0505 <a href="https://www.ftb.ca.gov/businesses/index.shtml?WT.mc_id=Global_Business">website (https://www.ftb.ca.gov/businesses/index.shtml?WT.mc_id=Global_Business)</a></p>
<p><b>Wage/Hour Laws</b></p> <p>Businesses with employees must comply with laws establishing minimum standards for wages, hours and working conditions.</p> <p><b>applies to:</b> Optometry</p>	<p>state</p> <p><b>Department of Industrial Relations</b> Labor Commissioner's Office 1515 Clay Street, STE 401, Oakland, CA, 94612 Oakland, CA, 94612 Phone: 510-285-3502 Fax: 510-286-1366 <a href="http://www.dir.ca.gov/DLSE/dlse.html">website (http://www.dir.ca.gov/DLSE/dlse.html)</a></p>
<p><b>Workers' Compensation Information</b></p> <p>Businesses with employees must maintain Workers' Compensation Insurance coverage on either a self-insured basis, or provided through a commercial carrier, or the State Workers' Compensation Insurance Fund.</p> <p><b>applies to:</b> Optometry</p>	<p>state</p> <p><b>Department of Industrial Relations</b> Division of Workers' Compensation 160 Promenade Circle, Suite 300 Sacramento, CA, 95834 Phone: 916-928-3101 <a href="http://www.dir.ca.gov/DWC/dwc_home_page.htm">website (http://www.dir.ca.gov/DWC/dwc_home_page.htm)</a></p>
<p><b>Employer Identification Number (EIN or SSN)</b></p> <p>Employers with employees, business partnerships, and corporations, must obtain an Employer Identification Number from the I.R.S. Businesses can obtain appropriate Federal income tax forms from this location.</p> <p><b>agency note:</b> Additional office locations: <a href="http://www.irs.gov/uac/Contact-My-Local-Office-in-California">http://www.irs.gov/uac/Contact-My-Local-Office-in-California</a></p> <p><b>applies to:</b> Optometry</p>	<p>federal</p> <p><b>U.S. Department of Treasury</b> Internal Revenue Service 4330 Watt Avenue Sacramento, CA, 95821 Phone: 800-829-4933 <a href="http://www.irs.gov/Businesses/Small-Businesses-&amp;Self-Employed/Apply-for-an-Employer-Identification-Number-(EIN)-Online">website (http://www.irs.gov/Businesses/Small-Businesses-&amp;Self-Employed/Apply-for-an-Employer-Identification-Number-(EIN)-Online)</a></p>





## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 2088                      **VERSION:** INTRODUCED FEBRUARY 7, 2018

**AUTHOR:** SANTIAGO                      **SPONSOR:** CALIFORNIA ASSOCIATION OF  
MARRIAGE AND FAMILY THERAPISTS  
(CAMFT)

**RECOMMENDED POSITION:** SUPPORT

**SUBJECT:** PATIENT RECORDS: ADDENDA

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### Summary:

This bill would include minors in the allowance that any patient that inspects his or her patient records may provide a written addendum to the record for any item or statement that he or she believes is incomplete or incorrect. Currently, this provision is only allowed for adult patients.

### Existing Law:

- 1) Permits a minor age 12 or older to consent to mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the services. (Health and Safety Code (HSC) §124260(b), Family Code (FC) §6924(b))
- 2) Allows, except under certain specified circumstances, an adult patient, or a minor patient authorized by law to consent to medical treatment to inspect his or her patient records upon request to the health care provider. ((HSC) §123110)
- 3) Makes violation of item #2 above unprofessional conduct subject to disciplinary action by the applicable licensing board. (HSC §123110(i))
- 4) Allows any adult patient who inspects his or her patient records to provide the health care provider with a written addendum, of up to 250 words, to any item or statement in the records that the patient believes is incomplete or incorrect. (HSC §123111(a))
- 5) Requires the health care provider to attach the addendum to the patient's records and to include it when the provider discloses that portion of the records to any third party. (HSC §123111(b))
- 6) Allows for certain circumstances under which a health care provider may decline to permit inspection or provide copies of mental health records, if the provider determines there is a substantial risk of significant adverse or detrimental consequences to the patient in seeing or receiving the records. In such a case, the health care provider must do the following (HSC §123115(b)):

- Provide a written explanation of the reason for the decision; and
- Permit the records to be inspected by a licensed physician or other specified licensed mental health professional designated by the patient.

**This Bill:**

- 1) Allows any patient (adult or minor) who inspects his or her patient records to provide the health care provider with a written addendum, of up to 250 words, to any item or statement in the records that the patient believes is incomplete or incorrect. (HSC §123111(a))

**Comment:**

- 1) **Author’s Intent.** According to the bill’s fact sheet from the author’s office, the right to addend a treatment record “is critical given that these records may be subject to disclosure and have the potential to impact the patients’ lives and their ability to pursue various endeavors. Since minors 12 years of age and older can consent to their own treatment, are generally the holders of the psychotherapist-patient privilege, and are entitled to inspect or copy their records, minors should have the right to addend their treatment records in situations where the patient believes the records are inaccurate and/or incomplete.”
- 2) **Recommended Position.** At its April 12, 2018 meeting, the Board’s Policy and Advocacy Committee recommended a “support” position on this bill.
- 3) **Support and Opposition.**

Support:

- California Association of Marriage and Family Therapists (CAMFT) (Sponsor)
- California Association for Licensed Professional Clinical Counselors (CALPCC)

Opposition:

None at this time.

**4) History**  
**2018**

- 04/12/18 In Senate. Read first time. To Com. on RLS. for assignment.
- 04/12/18 Read third time. Passed. Ordered to the Senate.
- 04/05/18 Read second time. Ordered to Consent Calendar.
- 04/04/18 From committee: Do pass. To Consent Calendar. (Ayes 15. Noes 0.) (April 4).
- 03/21/18 From committee: Do pass and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (March 20). Re-referred to Com. on APPR.
- 02/16/18 Referred to Com. on HEALTH.
- 02/08/18 From printer. May be heard in committee March 10.
- 02/07/18 Read first time. To print.

**ASSEMBLY BILL**

**No. 2088**

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**Introduced by Assembly Member Santiago**

February 7, 2018

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An act to amend Section 123111 of the Health and Safety Code, relating to patient records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2088, as introduced, Santiago. Patient records: addenda.

Existing law requires a health care provider to allow an adult patient who inspects his or her patient records to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. Existing law authorizes any minor patient authorized by law to consent to a medical treatment to inspect his or her patient records, as specified. A violation of these provisions is punishable as a crime.

This bill would require a health care provider to allow a patient, regardless of his or her ages, who inspects his or her patient records to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. By increasing the scope of a crime, this bill would create a state-mandated local program. The bill would additionally correct an erroneous cross reference.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 123111 of the Health and Safety Code  
2 is amended to read:  
3 123111. (a) ~~Any adult~~A patient who inspects his or her patient  
4 records pursuant to Section 123110 ~~shall have~~ *has* the right to  
5 provide to the health care provider a written addendum with respect  
6 to any item or statement in his or her records that the patient  
7 believes to be incomplete or incorrect. The addendum shall be  
8 limited to 250 words per alleged incomplete or incorrect item in  
9 the patient’s record and shall clearly indicate in writing that the  
10 patient ~~wishes~~ *requests* the addendum to be made a part of his or  
11 her record.  
12 (b) The health care provider shall attach the addendum to the  
13 patient’s records and shall include that addendum ~~whenever~~ *if* the  
14 health care provider makes a disclosure of the allegedly incomplete  
15 or incorrect portion of the patient’s records to any third party.  
16 (c) The receipt of information in a patient’s addendum which  
17 contains defamatory or otherwise unlawful language, and the  
18 inclusion of this information in the patient’s records, in accordance  
19 with subdivision (b), shall not, in and of itself, subject the health  
20 care provider to liability in any civil, criminal, administrative, or  
21 other proceeding.  
22 (d) Subdivision ~~(f)~~ *(i)* of Section 123110 and Section 123120  
23 ~~shall be~~ *are* applicable with respect to any violation of this section  
24 by a health care provider.  
25 SEC. 2. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.

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**CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS**

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**BILL NUMBER:** AB 2143                      **VERSION:** AMENDED APRIL 26, 2018

**AUTHOR:** CABALLERO                      **SPONSOR:** CALIFORNIA PSYCHIATRIC ASSOCIATION

**RECOMMENDED POSITION:** NONE

**SUBJECT:** MENTAL HEALTH: LICENSED MENTAL HEALTH SERVICE PROVIDER EDUCATION PROGRAM

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**Summary:** This bill would allow psychiatric mental health nurse practitioners and physician assistants who work in a psychiatric mental health setting to be eligible for the Mental Health Practitioner Education Fund loan repayment grant program.

**Existing Law:**

- 1) Establishes a maximum biennial renewal fee that LMFT, LEP, LCSW, and LPCC licensees must pay to renew a license. (Business and Professions Code (BPC) §§4984, 4984.7, 4989.32, 4989.68, 4996.3, 4996.6, 4999.102, 4999.120)
- 2) Sets the amount for the LMFT renewal fee at \$130 (California Code of Regulations (CCR) Title 16, Section 1816(d)).
- 3) Sets the amount for the LEP renewal fee at \$80 (16 CCR §1816(e)).
- 4) Sets the amount for the LCSW renewal fee at \$100 (16 CCR §1816(f)).
- 5) Sets the amount for the LPCC renewal fee at \$175 (16 CCR §1816(g))
- 6) Effective July 1, 2018, requires that in addition to the regular biennial license renewal fee, LMFTs, LCSWs, and LPCCs must pay an additional \$20 biennial fee at renewal, which shall be deposited in the Mental Health Practitioner Education Fund. (BPC §§4984.75, 4996.65, 4999.121)
- 7) Creates the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation. Funds from this program are administered by the Office of Statewide Health Planning and Development (OSHPD). (Health and Safety Code (HSC) §§128454(a), 128458)
- 8) Allows any licensed mental health service provider who provides direct patient care in a publicly funded facility or a mental health professional shortage area to apply for grants under this program to reimburse educational loans related to a career as a licensed mental health service provider. (HSC §128454(c))
- 9) Defines a “licensed mental health service provider” to include several types of licensed mental health professionals, including marriage and family therapists, associate MFTs,

licensed clinical social workers, associate clinical social workers, licensed professional clinical counselors, and associate professional clinical counselors. (HSC §128454(b))

- 10) Defines a “mental health professional shortage area” as an area given this designation by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. (HSC §128454(b))
- 11) Requires the Health Professions Education Foundation to develop the grant program, and allows it to make recommendations to the director of OSHPD regarding the following (HSC §128454(d) and (e)):
  - The length of the contract that a grant recipient must sign obligating him or her to work in a publicly funded facility or a mental health professional shortage area (the law requires it to be at least one year);
  - The maximum allowable total grant per person and the maximum annual grant per person;
- 12) Requires the Health Professions Education Foundation to keep the fees from different licensed providers separate to ensure that all grants are funded by those fees provided by the corresponding license types. (HSC §128454(d)(2))
- 13) When selecting loan repayment recipients, requires the Foundation to take into consideration the mental health workforce needs, including cultural and linguistic needs, of the state in general and of the qualifying facilities and mental health professional shortage areas. (22 California Code of Regulation (CCR) §§ 97930.6, 97930.7, shown in **Attachments A** and **B**, respectively)
- 14) Requires a recipient of a loan repayment grant to provide service for 24 months for no less than 32 hours per week. (22 CCR §97930.8(a))

**This Bill:**

- 1) Extends award eligibility for the Licensed Mental Health Service Provider Education Program loan repayment grant program to psychiatric mental health nurse practitioners and physician assistants who work in a psychiatric mental health setting. Those license types would not have to pay the \$20 license renewal fee to fund the program that BBS and Board of Psychology licensees pay. (HSC §128454)
- 2) Becomes effective July 1, **2018** and is an urgency statute, effective immediately upon signing.

**Comment:**

- 1) **Author’s Intent.** The author’s intent is to provide incentives for physician assistants working in a psychiatric mental health setting, and psychiatric mental health nurse practitioners, to practice in community mental health or in underserved settings, by extending eligibility for the Licensed Mental Health Service Provider Education loan repayment program to them. They hope that doing so will attract these professionals to underserved communities, and will also decrease wait times for services in these communities.

- 2) **Renewal Fee Requirement.** LMFT, LCSW, LPCC, and licensed psychologists pay a \$20 fee upon license renewal (effective July 1, 2018) into this fund in exchange for being eligible to apply for this program if they work in a qualifying setting.

HSC §128454(d)(2) requires the Health Professions Education Foundation to keep the fees from different licensed providers separate to ensure that all grants are funded by those fees provided by the corresponding license types. This means, for example, that fees collected from LPCCs can only be used to fund grants to LPCCs or APCCs.

Under this bill, qualifying nurse practitioners and physician assistants would be eligible to apply for the grant program, but would not have to pay into the fund.

The Board may wish to discuss parity issues and the precedent set by allowing mental health providers to participate in the grant program without paying into it. For example, when the LPCC license was added in 2009, they were originally not included in this program. Since LPCCs were not paying into the program, they were not eligible for grants. Last year, a bill was signed that includes LPCCs in the program, which includes both paying the fees, and eligibility to apply.

In a conversation with the author's office, they indicated that requiring the fee for nurse practitioners and physician assistants was problematic for a couple of reasons:

- Only a very small number of physician assistants work in mental health, and there is no tracking of which physician assistants are working in such a setting.
- Nurse practitioners recently had a significant fee increase.

According to the Assembly Health Committee's analysis dated April 24, 2018, increasing licensing fees only for physician assistants and nurse practitioners who are working in a mental health setting will not generate enough revenue to provide for a meaningful increase in grant funds. They estimate that there are approximately 637 psychiatric nurse practitioners in California, and that approximately one percent of physician assistants work in a mental health setting.

- 3) **Delayed Implementation.** This bill is an urgency statute, meaning its provisions are added to law immediately upon the bill's signing. The section being amended becomes effective July 1, 2018.

- 4) **Previous Version of the Bill.** At its April 12, 2018 meeting, the Policy and Advocacy Committee considered a previous version of this bill and recommended a "support" position. However, in that version, nurse practitioners and physician assistants would have been required to pay a \$20 fee into the program.

The previous version of the bill also would have included the Board's Licensed Educational Psychologists (LEPs) in the program (paying the \$20 renewal fee and allowing them to apply for the loan repayment grants, if eligible.) However, the author's office indicated that the Assembly Health Committee requested LEPs be removed from the bill, citing that they generally practice in school settings.

- 5) **Previous Legislation.** AB 1188 (Chapter 557, Statutes of 2018), increased the Mental Health Practitioner fee that LMFTs and LCSWs pay upon license renewal from \$10 to \$20. It also requires LPCCs to pay a \$20 fee into the fund upon license renewal (they

previously were not included in the program), and allows LPCCs and associate PCCs to apply for the loan repayment grant if they work in a mental health professional shortage area.

The Board had a “support” position on AB 1188, and negotiated a 6-month delayed implementation date for the bill so that it could implement the change properly.

- 6) **Related Legislation.** AB 2608 (Stone) is a bill proposal running this year. It creates a new fund under the Mental Health Practitioner Education Fund loan repayment grant program specifically for loan repayment grants for LMFT and LCSW licensees and registrants who were formerly in California’s foster youth care system. The program would be funded by levying an additional \$10 fee on LMFT and LCSWs each renewal cycle.

7) **Support and Opposition.**

Support:

- California Psychiatric Association (sponsor)
- Association of California Healthcare Districts
- California Academy of Child & Adolescent Psychiatry
- California Access Coalition
- California Council of Community Behavioral Health Agencies
- Community Clinic Association of Los Angeles
- Depression and Bipolar Support Alliance
- Rural County Representatives of California
- Steinberg Institute

Opposition:

None at this time.

8) **History.**

**2018**

04/30/18	Re-referred to Com. on APPR.
04/26/18	Read second time and amended.
04/25/18	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (April 24).
04/17/18	In committee: Set, first hearing. Hearing canceled at the request of author.
04/03/18	Re-referred to Com. on HEALTH.
04/02/18	Read second time and amended.
03/22/18	From committee: Amend, and do pass as amended and re-refer to Com. on HEALTH. (Ayes 13. Noes 0.) (March 20).
03/01/18	Referred to Coms. on B. & P. and HEALTH.
02/13/18	From printer. May be heard in committee March 15.
02/12/18	Read first time. To print.

9) **Attachments.**

- **Attachment A:** California Code of Regulation (CCR) Title 22 §97930.6: Loan Application Process
- **Attachment B:** CCR Title 22 §97930.7 Selection Process



AMENDED IN ASSEMBLY APRIL 26, 2018

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2143**

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**Introduced by Assembly Member Caballero**

February 12, 2018

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An act to add Sections 2815.2, 3521.4, and 4989.69 to the Business and Professions Code, and to amend, repeal, and add Sections 128454 and 128456 of, amend Section 128454 of the Health and Safety Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2143, as amended, Caballero. Mental health: Licensed Mental Health Service Provider Education Program.

Existing law establishes the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation. Existing law authorizes a licensed mental health service provider, as defined, including, among others, a psychologist and a marriage and family therapist, who provides direct patient care in a publicly funded facility or a mental health professional shortage area to apply for grants under the program to reimburse his or her educational loans related to a career as a licensed mental health service provider, as specified. Existing law establishes the Mental Health Practitioner Education Fund in the State Treasury and provides that moneys in that fund are available, upon appropriation, for expenditure by the Office of Statewide Health Planning and Development for purposes of the program.

~~This bill would, on and after July 1, 2019, add nurse practitioners listed as psychiatric-mental health nurses, physician assistants who specialize in mental health services, and licensed educational psychologists, as specified, to those licensed mental health service providers eligible for grants to reimburse educational loans, and would make other conforming changes. Commencing July 1, 2019, the bill would also add the Physician Assistant Board and the Board of Registered Nursing to the list of entities from which the Health Professions Education Foundation must solicit advice in developing the program. *would expand the program to apply to psychiatric-mental health nurse practitioners and physician assistants who work in psychiatric mental health settings, thereby allowing those practitioners to apply for grants under the program for reimbursement of educational loans.*~~

~~The Nursing Practice Act makes the Board of Registered Nursing responsible for the licensure and regulation of registered nurses. That act requires the board to assess a license renewal fee, as specified. Existing law requires the board to charge an additional \$10 fee to be deposited in the Registered Nurse Education Fund for purposes of the California Registered Nurse Education Program.~~

~~This bill would, on and after July 1, 2019, require the board to collect an additional \$20 fee at the time of license renewal from a nurse practitioner who is listed by the board as a psychiatric-mental health nurse and would require that those funds be deposited in the Mental Health Practitioner Education Fund.~~

~~The Physician Assistant Practice Act makes the Physician Assistant Board responsible for the licensure and regulation of physician assistants. That act requires the board to establish and assess a license renewal fee, as specified.~~

~~This bill would, on and after July 1, 2019, require the board to collect an additional \$20 fee at the time of renewal of the license of a physician assistant participating in the Licensed Mental Health Service Provider Education Program. The bill would require that the fee be deposited in the Mental Health Practitioner Education Fund.~~

~~The Educational Psychologist Practice Act makes the Board of Behavioral Sciences responsible for the licensure and regulation of educational psychologists. That act requires the board to assess a license renewal fee, as specified.~~

~~This bill would, on and after July 1, 2019, require the board to collect an additional \$20 fee at the time of renewal of a license for a licensed~~

educational psychologist for deposit in the Mental Health Practitioner Education Fund.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. 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 2815.2 is added to the Business and~~  
2     ~~Professions Code, to read:~~

3     ~~2815.2. (a) Notwithstanding subdivision (d) of Section 2815,~~  
4     ~~the board shall do both of the following:~~

5         ~~(1) In addition to the fees charged pursuant to subdivision (d)~~  
6         ~~of Section 2815 for the biennial renewal of a license, collect from~~  
7         ~~a nurse practitioner who is listed by the board as a “psychiatric~~  
8         ~~mental health nurse” under Section 2732.05 an additional fee of~~  
9         ~~twenty dollars (\$20) at the time of renewal.~~

10        ~~(2) Transfer the additional fee described in paragraph (1) to the~~  
11        ~~Controller, who shall deposit the funds into the Mental Health~~  
12        ~~Practitioner Education Fund.~~

13        ~~(b) This section shall become operative on July 1, 2019.~~

14     ~~SEC. 2. Section 3521.4 is added to the Business and Professions~~  
15     ~~Code, to read:~~

16     ~~3521.4. (a) Notwithstanding subdivision (c) of Section 3521.1,~~  
17     ~~after receiving a notice from the Health Professions Education~~  
18     ~~Foundation described in paragraph (2) of subdivision (c) of Section~~  
19     ~~128454 of the Health and Safety Code, the board shall do both of~~  
20     ~~the following:~~

21         ~~(1) In addition to the fees charged pursuant to Section 3521.1~~  
22         ~~for the biennial renewal of a license, collect an additional fee of~~  
23         ~~twenty dollars (\$20) from the licensee identified in the notice at~~  
24         ~~the time of renewal of his or her license.~~

25         ~~(2) Transfer the additional fee described in paragraph (1) to the~~  
26         ~~Controller, who shall deposit the funds into the Mental Health~~  
27         ~~Practitioner Education Fund.~~

28         ~~(b) This section shall become operative on July 1, 2019.~~

29     ~~SEC. 3. Section 4989.69 is added to the Business and~~  
30     ~~Professions Code, to read:~~

1 4989.69. (a) Notwithstanding paragraph (3) of subdivision (a)  
2 of Section 4989.68 the board shall do both of the following:

3 (1) In addition to the fees charged pursuant to Section 4989.68  
4 for the biennial renewal of a license, collect an additional fee of  
5 twenty dollars (\$20) at the time of renewal.

6 (2) Transfer the additional fee described in paragraph (1) to the  
7 Controller who shall deposit the funds into the Mental Health  
8 Practitioner Education Fund.

9 (b) This section shall become operative on July 1, 2019.

10 SEC. 4.

11 SECTION 1. Section 128454 of the Health and Safety Code,  
12 as added by Section 9 of Chapter 557 of the Statutes of 2017, is  
13 amended to read:

14 128454. (a) There is hereby created the Licensed Mental Health  
15 Service Provider Education Program within the Health Professions  
16 Education Foundation.

17 (b) For purposes of this article, the following definitions shall  
18 apply:

19 (1) "Licensed mental health service provider" means a  
20 psychologist licensed by the Board of Psychology, registered  
21 psychologist, postdoctoral psychological assistant, postdoctoral  
22 psychology trainee employed in an exempt setting pursuant to  
23 Section 2910 of the Business and Professions Code or employed  
24 pursuant to a State Department of Health Care Services waiver  
25 pursuant to Section 5751.2 of the Welfare and Institutions Code,  
26 marriage and family therapist, associate marriage and family  
27 therapist, licensed clinical social worker, associate clinical social  
28 worker, licensed professional clinical counselor, ~~and~~ associate  
29 professional clinical ~~counselor~~. *counselor, psychiatric-mental*  
30 *health nurse practitioner, and physician assistant who works in a*  
31 *psychiatric mental health setting.*

32 (2) "Mental health professional shortage area" means an area  
33 designated as such by the Health Resources and Services  
34 Administration (HRSA) of the United States Department of Health  
35 and Human Services.

36 (c) Commencing January 1, 2005, any licensed mental health  
37 service provider, including a mental health service provider who  
38 is employed at a publicly funded mental health facility or a public  
39 or nonprofit private mental health facility that contracts with a  
40 county mental health entity or facility to provide mental health

1 services, who provides direct patient care in a publicly funded  
2 facility or a mental health professional shortage area may apply  
3 for grants under the program to reimburse his or her educational  
4 loans related to a career as a licensed mental health service  
5 provider.

6 (d) The Health Professions Education Foundation shall make  
7 recommendations to the director of the office concerning all of the  
8 following:

9 (1) A standard contractual agreement to be signed by the director  
10 and any licensed mental health service provider who is serving in  
11 a publicly funded facility or a mental health professional shortage  
12 area that would require the licensed mental health service provider  
13 who receives a grant under the program to work in the publicly  
14 funded facility or a mental health professional shortage area for  
15 at least one year.

16 (2) The maximum allowable total grant amount per individual  
17 licensed mental health service provider.

18 (3) The maximum allowable annual grant amount per individual  
19 licensed mental health service provider.

20 (e) The Health Professions Education Foundation shall develop  
21 the program, which shall comply with all of the following  
22 requirements:

23 (1) The total amount of grants under the program per individual  
24 licensed mental health service provider shall not exceed the amount  
25 of educational loans related to a career as a licensed mental health  
26 service provider incurred by that provider.

27 (2) The program shall keep the fees from the different licensed  
28 providers separate to ensure that all grants are funded by those  
29 fees collected from the corresponding licensed provider groups.

30 (3) A loan forgiveness grant may be provided in installments  
31 proportionate to the amount of the service obligation that has been  
32 completed.

33 (4) The number of persons who may be considered for the  
34 program shall be limited by the funds made available pursuant to  
35 Section 128458.

36 (f) This section shall become operative on July 1, 2018.

37 ~~(g) This section shall become inoperative on July 1, 2019, and~~  
38 ~~as of January 1, 2020, is repealed.~~

39 ~~SEC. 5. Section 128454 is added to the Health and Safety Code,~~  
40 ~~to read:~~

1 ~~128454. (a) There is hereby created the Licensed Mental Health~~  
2 ~~Service Provider Education Program within the Health Professions~~  
3 ~~Education Foundation.~~

4 ~~(b) For purposes of this article, the following definitions shall~~  
5 ~~apply:~~

6 ~~(1) “Licensed mental health service provider” means the~~  
7 ~~following licensees:~~

8 ~~(A) A psychologist licensed by the Board of Psychology,~~  
9 ~~registered psychologist, postdoctoral psychological assistant, or a~~  
10 ~~postdoctoral psychology trainee employed in an exempt setting~~  
11 ~~pursuant to Section 2910 of the Business and Professions Code or~~  
12 ~~employed pursuant to a State Department of Health Care Services~~  
13 ~~waiver pursuant to Section 5751.2 of the Welfare and Institutions~~  
14 ~~Code.~~

15 ~~(B) A licensed marriage and family therapist or an associate~~  
16 ~~marriage and family therapist.~~

17 ~~(C) A licensed clinical social worker or an associate clinical~~  
18 ~~social worker.~~

19 ~~(D) A licensed professional clinical counselor or an associate~~  
20 ~~professional clinical counselor.~~

21 ~~(E) A licensed educational psychologist.~~

22 ~~(F) A physician assistant who specializes in mental health~~  
23 ~~services.~~

24 ~~(G) A nurse practitioner licensed to practice pursuant to Article~~  
25 ~~8 (commencing with Section 2834) of Chapter 6 of Division 2 of~~  
26 ~~the Business and Professions Code and listed by the Board of~~  
27 ~~Registered Nursing as a “psychiatric-mental health nurse.”~~

28 ~~(2) “Mental health professional shortage area” means an area~~  
29 ~~designated as such by the Health Resources and Services~~  
30 ~~Administration (HRSA) of the United States Department of Health~~  
31 ~~and Human Services.~~

32 ~~(c) (1) Any licensed mental health service provider, including~~  
33 ~~a mental health service provider who is employed at a publicly~~  
34 ~~funded mental health facility or a public or nonprofit private mental~~  
35 ~~health facility that contracts with a county mental health entity or~~  
36 ~~facility to provide mental health services, who provides direct~~  
37 ~~patient care in a publicly funded facility or a mental health~~  
38 ~~professional shortage area may apply for grants under the program~~  
39 ~~to reimburse his or her educational loans related to a career as a~~  
40 ~~licensed mental health service provider, including educational~~

1 loans used to pay for education used to obtain a license as a  
2 physician assistant or psychiatric mental health nurse practitioner  
3 as defined in subparagraphs (F) and (G) of paragraph (1) of  
4 subdivision (b).

5 (2) Upon entering into a contractual agreement specified in  
6 paragraph (1) of subdivision (d) with a physician assistant  
7 described in subparagraph (F) of paragraph (1) of subdivision (b);  
8 the Health Professions Education Foundation shall notify the  
9 Physician Assistant Board for purposes of collecting the fee  
10 required under Section 3521.4 of the Business and Professions  
11 Code.

12 (d) The Health Professions Education Foundation shall make  
13 recommendations to the director of the office concerning all of the  
14 following:

15 (1) A standard contractual agreement to be signed by the director  
16 and any licensed mental health service provider who is serving in  
17 a publicly funded facility or a mental health professional shortage  
18 area that would require the licensed mental health service provider  
19 who receives a grant under the program to work in the publicly  
20 funded facility or a mental health professional shortage area for  
21 at least one year.

22 (2) The maximum allowable total grant amount per individual  
23 licensed mental health service provider.

24 (3) The maximum allowable annual grant amount per individual  
25 licensed mental health service provider.

26 (e) The Health Professions Education Foundation shall develop  
27 the program, which shall comply with all of the following  
28 requirements:

29 (1) The total amount of grants under the program per individual  
30 licensed mental health service provider shall not exceed the amount  
31 of educational loans related to a career as a licensed mental health  
32 service provider incurred by that provider.

33 (2) The program shall keep the fees from the different licensed  
34 providers separate to ensure that all grants are funded by those  
35 fees collected from the corresponding licensed provider groups.

36 (3) A loan forgiveness grant may be provided in installments  
37 proportionate to the amount of the service obligation that has been  
38 completed.

1 ~~(4) The number of persons who may be considered for the~~  
2 ~~program shall be limited by the funds made available pursuant to~~  
3 ~~Section 128458.~~

4 ~~(f) This section shall become operative on July 1, 2019.~~

5 ~~SEC. 6. Section 128456 of the Health and Safety Code is~~  
6 ~~amended to read:~~

7 ~~128456. (a) In developing the program established pursuant~~  
8 ~~to this article, the Health Professions Education Foundation shall~~  
9 ~~solicit the advice of representatives of the Board of Behavioral~~  
10 ~~Sciences, the Board of Psychology, the State Department of Health~~  
11 ~~Care Services, the County Behavioral Health Directors Association~~  
12 ~~of California, the California Behavioral Health Planning Council,~~  
13 ~~professional mental health care organizations, the California~~  
14 ~~Healthcare Association, the Chancellor of the California~~  
15 ~~Community Colleges, and the Chancellor of the California State~~  
16 ~~University. The foundation shall solicit the advice of~~  
17 ~~representatives who reflect the demographic, cultural, and linguistic~~  
18 ~~diversity of the state.~~

19 ~~(b) This section shall become inoperative on July 1, 2019, and~~  
20 ~~as of January 1, 2020, is repealed.~~

21 ~~SEC. 7. Section 128456 is added to the Health and Safety Code,~~  
22 ~~to read:~~

23 ~~128456. (a) In developing the program established pursuant~~  
24 ~~to this article, the Health Professions Education Foundation shall~~  
25 ~~solicit the advice of representatives of the Board of Behavioral~~  
26 ~~Sciences, the Board of Psychology, the Physician Assistant Board,~~  
27 ~~the Board of Registered Nursing, the State Department of Health~~  
28 ~~Care Services, the County Behavioral Health Directors Association~~  
29 ~~of California, the California Behavioral Health Planning Council,~~  
30 ~~professional mental health care organizations, the California~~  
31 ~~Healthcare Association, the Chancellor of the California~~  
32 ~~Community Colleges, and the Chancellor of the California State~~  
33 ~~University. The foundation shall solicit the advice of~~  
34 ~~representatives who reflect the demographic, cultural, and linguistic~~  
35 ~~diversity of the state.~~

36 ~~(b) This section shall become operative on July 1, 2019.~~

37 ~~SEC. 8.~~

38 ~~SEC. 2. This act is an urgency statute necessary for the~~  
39 ~~immediate preservation of the public peace, health, or safety within~~



1 the meaning of Article IV of the California Constitution and shall  
2 go into immediate effect. The facts constituting the necessity are:  
3 In order to address the urgent need for licensed mental health  
4 practitioners in medically underserved areas, it is necessary that  
5 this act take effect immediately.

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[Home Table of Contents](#)**§ 97930.6. Loan Application Process.**

22 CA ADC § 97930.6

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 22. Social Security

Division 7. Health Planning and Facility Construction

Chapter 17. Licensed Mental Health Service Provider Education Program

22 CCR § 97930.6

**§ 97930.6. Loan Application Process.**

- (a) Each person desiring a loan repayment shall submit a completed application.
- (b) The completed loan repayment application shall include information and documentation to establish the following:
- (1) Proof of licensure, including license number issued by the California Board of Behavioral Sciences or the California Board of Psychology, or proof of registration, including registration number issued by the California Board of Behavioral Sciences, or a unique identification number issued by the California Board of Psychology.
  - (2) Current employment as a licensed mental health service provider providing direct patient care in or through a qualified facility or in a mental health professional shortage area.
  - (3) The loan repayment amount requested with documentation on outstanding educational loans related to education required to become a licensed mental health service provider, including the current outstanding loan balance(s);
  - (4) Community background and involvement;
  - (5) Career goals;
  - (6) Cultural and linguistic competence;
  - (7) Two (2) letters of recommendation, dated within six (6) months of the application deadline, including author's name, mailing address, phone number, and relationship to applicant. Letters may comment on applicant's work experience, community service, volunteer activities, memberships in clubs, and/or attributes that indicate the applicant's likelihood to continue to practice in or through a qualified facility or in a mental health professional shortage area after service obligation has ended;
  - (8) A personal statement indicating qualifications, attributes, or characteristics that would increase the likelihood the applicant would continue to provide direct patient care in or through a qualified facility or in a mental health professional shortage area in California after service obligation has ended; and
  - (9) Any other information the applicant believes is relevant.
- (c) For the first calendar year of implementation, applications shall be due the fourth Friday in September. From the second year on, deadlines for the two (2) annual loan application cycles, shall be March 24 and September 11.

Note: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

**HISTORY**

1. New section filed 12-6-2007; operative 12-6-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

This database is current through 4/13/18 Register 2018, No. 15

22 CCR § 97930.6, 22 CA ADC § 97930.6

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[Home](#) [Table of Contents](#)**§ 97930.7. Selection Process.**

22 CA ADC § 97930.7

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 22. Social Security

Division 7. Health Planning and Facility Construction

Chapter 17. Licensed Mental Health Service Provider Education Program

22 CCR § 97930.7

**§ 97930.7. Selection Process.**

In recommending loan repayment recipients to the Office, the Foundation shall take into consideration the mental health workforce needs, including cultural and linguistic, of the state in general and the needs of qualified facilities and mental health professional shortage areas.

Note: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

**HISTORY**

1. New section filed 12-6-2007; operative 12-6-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

This database is current through 4/13/18 Register 2018, No. 15

22 CCR § 97930.7, 22 CA ADC § 97930.7

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- d) Amends the Confidentiality of Medical Information Act to include LPCCs and LCSWs in the requirement that a demand for settlement must include an authorization to disclose medical information. (Civil Code §56.105)
  - e) Adds LPCCs and LCSWs to the list of professionals who may provide a written statement regarding special circumstances that exist for a student to receive consideration for school enrollment outside his or her current attendance area. (Education Code §35160.5)
  - f) Adds LPCCs to the list of professionals who may be a child custody evaluator, if the LPCC has satisfied the requirements to treat couples and families as described in BPC §4999.20. (Family Code §3110.5)
  - g) Adds LPCCs to the list of professionals who may be involved in certain adoption and custody proceedings. (Family Code §§7663, 7827, 7850, 7851, 8502, 9001)
  - h) Adds LPCCs to the list of professionals who may provide services in workers compensation cases. (Labor Code §3209.8)
  - i) Adds LPCCs and LCSWs to the list of professionals who may be a part of a multidisciplinary personnel team in child abuse cases. (Welfare and Institutions Code §§18951, 18961.7)
- 2) Removes the half-quarter unit requirement for LPCC core content areas (Currently, LPCC applicants must have 3 semester units or 4.5 quarter units of coursework in each core content area. Under this proposal, they would instead need 3 semester units or 4 quarter units of coursework in each core content area.) (BPC §§4999.32, 4999.33, 4999.62, 4999.63)
- 3) For in-state applicants only, pushes back the requirement that applicants must not be deficient in the “assessment” or “diagnosis” core content areas, until August 31, 2020. Under the proposed amendments, the following individuals must not be deficient in the “assessment” or “diagnosis” core content areas (BPC §§4999.32, 4999.33):
- a) Applicants whose application for a license is received after August 31, 2020; or
  - b) Applicants who are not registered as an associate by August 31, 2020.

**Comments:**

- 1) **Intent.** This is primarily a cleanup measure to add LPCCs to provisions of law where other licensed mental health professionals are already included. LPCCs are the Board’s newest license type (the law providing their licensure was signed in 2009), and there are several instances in California law that have not been updated yet to include them.

In addition, this bill makes two other amendments that have previously been considered by the Board or its Policy and Advocacy Committee:

- a. It removes the half-quarter unit requirement for LPCC core content areas. (This issue was considered by the Board’s Policy and Advocacy Committee in February 2018. The Committee was generally supportive, however at that time it was too late

to pursue legislation for this year. The Committee directed staff to bring the issue back for consideration in April if it was not being pursued by CALPCC in a bill).

- b. It pushes back the requirements, for in-state applicants only, that an applicant must not be deficient in the “assessment” or “diagnosis” core content areas, until August 31, 2020. (This issue was considered by the Board at its February 22, 2018 meeting. The Board indicated support of the change, however it was likely too late into the legislative session to pursue a new bill proposal. CALPCC indicated to the Board that it was willing to carry the provision in their existing bill.)

**2) Core Content Areas – 3 Semester Unit or 4.5 Quarter Unit Requirement.** Current law requires LPCC applicants to have the equivalent of at least 3 semester units, or 4.5 quarter units of graduate coursework in specified core content areas to qualify for a license. Generally, one academic semester unit is considered to equal 1.5 quarter units. Therefore, 3 semester units are equivalent to 4.5 quarter units ( $3 \times 1.5 = 4.5$ ).

However, it is rare for degree programs to offer courses in 0.5-unit increments. This is especially true for out-of-state schools, who have not designed their degree programs to lead to a California license. For example, an out-of-state applicant who had 4 quarter units in all 13 core content areas would be ineligible for a license, because only 6 core content areas may be remediated. Relevant coursework integrated elsewhere within the degree may help such an applicant become eligible, but only if that coursework is not already being counted toward fulfilling another requirement.

Staff researched the core content area requirements of several other states and found the following:

**Arizona:** Has 8 required content areas. If not accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) or the Council on Rehabilitation Education (CORE), applicants are required to have a 3 semester or 4 quarter credit hour course in each content area.

**Colorado:** Has 8 core areas. If the program is not CACREP accredited, then the student must demonstrate completion of 2 or more graduate semester hours, or 3 or more graduate quarter hours in each core area.

**Florida:** If the program is not CACREP accredited, then the student must demonstrate completion of 12 specific core content areas, which must be a minimum of 3 semester hours or 4 quarter hours of graduate-level coursework.

**Indiana:** Requires 12 content areas, but no specific number of units are required in each content area.

**Massachusetts:** Requires 10 content areas, with a minimum of 3 semester credits or 4 quarter credits taken in each area.

**New York:** Requires 11 core content areas, but no specific number of units are required in each content area.

**Texas:** Requires 10 core content areas, and regulations state that an applicant must complete at least one 3 semester hour course in each area.

This topic was considered at the Board's February 2018 Policy and Advocacy Committee meeting. The Committee asked that the topic be brought back for further discussion in April.

- 3) **Required Core Content Areas – Assessment and Diagnosis.** In 2015, the Board discussed the need to tighten licensing requirements for LPCCs to ensure applicants possessed degrees designed to lead to licensure in professional clinical counseling. There were concerns that the Board was receiving applications, particularly from out-of-state candidates, with degrees that were not specifically designed to prepare the individual to be a clinical counselor.

The Board first considered designating specific degree titles as acceptable or not acceptable for licensure. However, after receiving stakeholder feedback and discussing the matter further, the Board ultimately concluded that a degree should be evaluated based on its content, and not by its title. The discussion shifted to two LPCC core content areas that the Board agreed are fundamental to a clinical counseling degree (Business and Professions Code (BPC) §§4999.32(c)(1)(E) & (G), 4999.33(c)(1)(E) &(G)):

1. **Assessment:** Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.
2. **Diagnosis:** Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

The Board recommended that these two core content areas be designated as not eligible for remediation, for both in-state and out-of-state degrees. In other words, an LPCC applicant's degree must fully contain these two core areas (3 semester units or 4.5 quarter units), with no exceptions, meaning a new degree would be required for licensure if this requirement is not met. All other core content areas remained eligible for remediation as allowed by current law.

The provision that the assessment and diagnosis core content areas could not be remediated was included in AB 1917 (Obernolte, Chapter 70, Statutes of 2016), and the provision became law for anyone applying for a license or a registration after January 1, 2017.

Since AB 1917 became effective, the Board's licensing unit has encountered situations where in-state applicants were denied licensure, due to the degree not containing the full number of units for the assessment and/or diagnosis core content areas (See **Attachment A**). In some cases, the applicants have argued they were not aware of the new requirement, and that more notice should have been given so that they had time to remediate. In other cases, schools have argued that their degree should qualify, because it falls under the provisions of BPC §4999.32 (which outlines degree requirements for degrees



begun before August 1, 2012 and completed before December 31, 2018) and therefore, they believed that any requirements could be finished by the end of 2018.

At its February 2018 Board meeting, the Board considered language that would allow in-state applicants additional time to remediate assessment and diagnosis coursework, until August 31, 2020. The Board indicated support of the language, and CALPCC offered to carry the provision in this bill.

#### **4) Previous Legislation.**

- **SB 788 (Wyland) (Chapter 619, Statutes of 2009)**, established the licensing and regulation of Licensed Professional Clinical Counselors (LPCCs) and associate professional clinical counselors by the Board of Behavioral Sciences. However, this bill only added and amended certain sections of the Business and Professions Code. It did not amend all sections of California Code where the addition of LPCCs is necessary.
- **SB 146 (Wyland) (Chapter 381, Statutes of 2011)**, added LPCCs to several other statutory code sections where the Board's other license types were already included, with the goal of ensuring that LPCCs be more effectively utilized in California.
- **AB 1917 (Oberholte) (Chapter 70, Statutes of 2016)**, made modifications the education requirements for LMFT and LPCC licensure. This included prohibiting remediation of the "assessment" and "diagnosis" core content areas.

**5) Recommended Position.** At its April 12, 2018 meeting, the Policy and Advocacy Committee recommended that Board consider taking a "support" position on this bill.

**6) Recent Amendment.** An additional amendment was made to this bill after the Policy and Advocacy meeting. The amendment, per AAMFT's request, specifies that LPCCs who are child custody evaluators pursuant to Family Code Section 3110.5 must meet the additional requirements to treat couples and families pursuant to BPC §4999.20. (This code section requires LPCCs treating couples and families to complete specific additional coursework and continuing education related to marriage and family therapy, and additional supervised experience working with couples, families, or children.)

#### **7) Support and Opposition.**

##### **Support:**

- California Association for Licensed Professional Clinical Counselors (CALPCC) (Sponsor)
- American Association for Marriage and Family Therapists (if amended)

**Oppose:** None at this time.

#### **8) History.**

**2018**

04/26/18      Read second time and amended.

04/25/18 From committee: Amend, and do pass as amended and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 10. Noes 0.) (April 24).

04/18/18 From committee: Do pass and re-refer to Com. on JUD. (Ayes 16. Noes 0.) (April 17). Re-referred to Com. on JUD.

04/11/18 Re-referred to Com. on B. & P.

04/10/18 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

04/02/18 Re-referred to Com. on B. & P.

03/23/18 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

03/22/18 Referred to Coms. on B. & P. and JUD.

02/14/18 From printer. May be heard in committee March 16.

02/13/18 Read first time. To print.

## 9) Attachments

**Attachment A:** In-State Applicant Denials in 2017 for Assessment and/or Diagnosis Core Content Deficiency

AMENDED IN ASSEMBLY APRIL 26, 2018

AMENDED IN ASSEMBLY APRIL 10, 2018

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2296**

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**Introduced by Assembly Member Waldron**

February 13, 2018

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An act to amend Sections 2908, 2995, 4507, 4999.32, 4999.33, 4999.62, and 4999.63 of the Business and Professions Code, to amend Section 56.105 of the Civil Code, to amend Section 35160.5 of the Education Code, to amend Sections 3110.5, 7663, 7827, 7850, 7851, 8502, and 9001 of the Family Code, to amend Section 3209.8 of the Labor Code, and to amend Sections 18951 and 18961.7 of the Welfare and Institutions Code, relating to healing arts licensees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2296, as amended, Waldron. Licensed professional clinical counselors: licensed clinical social workers.

(1) The Psychology Licensing Law provides for the licensure and regulation of psychologists by the Board of Psychology and makes a violation of its provisions a crime. This law does not prevent qualified members of specified recognized professional groups from doing work of a psychological nature consistent with the law, as provided. This law describes a psychological corporation as a corporation that is authorized to render professional services if the corporation and its shareholders, officers, directors, and employees rendering professional services are specified healing arts licensees.

Existing law establishes the Board of Behavioral Sciences and makes it responsible for the licensure and regulation of marriage and family therapists, clinical social workers, professional clinical counselors, and educational psychologists.

This bill would list licensed professional clinical counselors as one of those recognized professional groups not prohibited from doing psychological work and would include a licensed professional clinical counselor as a healing arts licensee allowed to render services in a psychological corporation. By expanding the scope of a crime under the Psychology Licensing Law, the bill would impose a state-mandated local program.

(2) The Psychiatric Technicians Law requires the Board of Vocational Nursing and Psychiatric Technicians of the State of California, which is within the Department of Consumer Affairs, to license and regulate vocational nurses and psychiatric technicians.

This bill would provide that the Psychiatric Technicians Law does not apply to professional clinical counselors.

(3) Existing law requires an applicant seeking licensure as a professional clinical counselor to possess a degree that contains the equivalent of at least 3 semester units or 4½ quarter units of graduate study in specified core content areas. Existing law allows an applicant whose degree is deficient in no more than 2 of the specified required areas of study to satisfy those deficiencies by successfully completing post-master's or postdoctoral degree coursework, except that this option does not apply to the required areas of study relating to assessment, appraisal, and testing of individuals and principles of the diagnostic process.

This bill would instead require the equivalent of at least 3 semester units or 4 quarter units of graduate study in specified core content areas. The bill would allow an applicant whose application for licensure is received by the board on or before August 31, 2020, or whose application for registration was received by the board by that date and whose registration was subsequently issued to satisfy deficiencies in the required areas of study relating to assessment, appraisal, and testing of individuals and principles of the diagnostic process by completing post-master's or postdoctoral degree coursework.

(4) The Confidentiality of Medical Information Act authorizes the disclosure of medical information to the person or organization insuring, responsible for, or defending professional liability that the specified

healing arts licensee may incur. A violation of the act that results in economic loss or personal injury to a patient is punishable as a crime.

This bill would expand this provision to include licensed clinical social workers and licensed professional clinical counselors. By expanding the scope of a crime under the act, the bill would impose a state-mandated local program.

(5) Existing law requires the governing board of a school district to establish an open enrollment policy within the district, as specified, as a condition of receiving certain school apportionments from the State School Fund. Under existing law, the open enrollment policy may provide that special circumstances may exist that might be harmful or dangerous to a pupil in his or her current attendance area. A finding of these special circumstances may be based on a written statement from, among others, specified licensed or registered professionals.

This bill would additionally authorize a finding of special circumstances to be based on a written statement from a licensed professional clinical counselor.

(6) Existing law sets forth the qualifications for a court-connected or private child custody evaluator. Under existing law, in addition to specified education, experience, and training requirements, a person may be a child custody evaluator only if he or she meets one of specified licensure or certification criteria. *Existing law requires a child custody evaluator to declare under penalty of perjury that he or she meets specified education, experience, training, and licensing requirements, as specified.*

This bill would additionally authorize ~~include~~ a licensed professional clinical counselor who *is qualified to assess couples and families and who* meets the education, experience, and training requirements to be a child custody evaluator. *The bill would require a licensed professional clinical counselor who is a child custody evaluator to make the above-described declaration under penalty of perjury. By expanding the crime of perjury, the bill would impose a state-mandated local program.*

(7) Under existing law, for purposes of terminating parental rights in an adoption proceeding, a court is required to attempt to identify all alleged fathers and presumed parents by causing the mother and any other appropriate person to be questioned, in the case of a stepparent adoption, the licensed clinical social worker or licensed marriage and family therapist who is performing a specified written investigative report.

This bill would additionally authorize a licensed professional clinical counselor who is performing the investigative report to question the mother or other appropriate person under the above-described circumstances.

(8) Existing law authorizes a proceeding to be brought for the purpose of having a child under 18 years of age declared free from the custody and control of either or both parents under specified circumstances, including when the child's parent or parents are mentally disabled and are likely to remain so in the foreseeable future. Under existing law, in support of a finding of mental disability, a court has discretion to call a licensed marriage and family therapist, or a licensed clinical social worker, with specified experience, in circumstances where the court determines that this testimony is in the best interests of the child and is warranted by the circumstances of the particular family or parenting issues involved.

This bill would additionally authorize the court to call a licensed professional clinical counselor to provide this testimony, as specified.

(9) Existing law authorizes a petition to be filed by an interested person, as defined, for an order or judgment declaring a child free from the custody and control of either or both parents under specified circumstances. Upon the filing of the petition, existing law requires the clerk of the court to notify one of specified agencies or appropriately licensed individuals to investigate the circumstances of the child and report to the court, as specified.

This bill would include a licensed professional clinical counselor as one of the individuals authorized to investigate the circumstances of the child in the above proceedings.

(10) Existing law defines an adoption service provider to include licensed or approved adoption agencies, as specified, and licensed clinical social workers and marriage and family therapists with a minimum of 5 years of experience providing professional social work or adoption casework services, as prescribed. Existing law requires a court, prior to granting or denying a stepparent adoption request, to review and consider a written investigative report, which may be completed by a licensed clinical social worker, a licensed marriage and family therapist, or a private licensed adoption agency, if the petitioner so elects.

This bill would expand the definition of an adoption service provider to include a licensed clinical professional counselor with similar qualifications. The bill would additionally authorize a petitioner in a

stepparent adoption request to elect to have the investigative report completed by a licensed professional clinical counselor.

(11) Existing law relating to workers' compensation provides that treatment reasonably required to cure or relieve the effects of an injury include the services of licensed marriage and family therapists and clinical social workers.

This bill would expand those provisions to include the services of licensed professional clinical counselors.

(12) Existing law establishes the Office of Child Abuse Prevention to plan, improve, develop, and carry out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect. Existing law provides for multidisciplinary personnel in this regard as a team of 3 or more persons trained in the prevention, identification, management, or treatment of child abuse or neglect cases and who are qualified to provide a broad range of services related to child abuse or neglect. Existing law also authorizes a county to establish a child abuse multidisciplinary personnel team within the county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse or neglect made pursuant to specified provisions. These multidisciplinary entities are similarly defined to include, among others, psychiatrists, psychologists, marriage and family therapists, or other trained counseling personnel.

This bill would expand the definitions of multidisciplinary personnel and child abuse multidisciplinary personnel teams to specifically include clinical social workers and professional clinical counselors.

(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. Section 2908 of the Business and Professions
- 2 Code is amended to read:
- 3 2908. Nothing in this chapter shall be construed to prevent
- 4 qualified members of other recognized professional groups licensed

1 to practice in the State of California, such as, but not limited to,  
 2 physicians, clinical social workers, educational psychologists,  
 3 marriage and family therapists, licensed professional clinical  
 4 counselors, optometrists, psychiatric technicians, or registered  
 5 nurses, or attorneys admitted to the State Bar of California, or  
 6 persons utilizing hypnotic techniques by referral from persons  
 7 licensed to practice medicine, dentistry, or psychology, or persons  
 8 utilizing hypnotic techniques which offer avocational or vocational  
 9 self-improvement and do not offer therapy for emotional or mental  
 10 disorders, or duly ordained members of the recognized clergy, or  
 11 duly ordained religious practitioners from doing work of a  
 12 psychological nature consistent with the laws governing their  
 13 respective professions, provided they do not hold themselves out  
 14 to the public by any title or description of services incorporating  
 15 the words “psychological,” “psychologist,” “psychology,”  
 16 “psychometrist,” “psychometrics,” or “psychometry,” or that they  
 17 do not state or imply that they are licensed to practice psychology;  
 18 except that persons licensed under Chapter 13.5 (commencing  
 19 with Section 4989.10) of Division 2 may hold themselves out to  
 20 the public as licensed educational psychologists.

21 SEC. 2. Section 2995 of the Business and Professions Code is  
 22 amended to read:

23 2995. A psychological corporation is a corporation that is  
 24 authorized to render professional services, as defined in Section  
 25 13401 of the Corporations Code, so long as that corporation and  
 26 its shareholders, officers, directors, and employees rendering  
 27 professional services who are psychologists, podiatrists, registered  
 28 nurses, optometrists, marriage and family therapists, licensed  
 29 professional clinical counselors, licensed clinical social workers,  
 30 chiropractors, acupuncturists, or physicians are in compliance with  
 31 the Moscone-Knox Professional Corporation Act, this article, and  
 32 all other statutes and regulations now or hereafter enacted or  
 33 adopted pertaining to that corporation and the conduct of its affairs.

34 SEC. 3. Section 4507 of the Business and Professions Code is  
 35 amended to read:

36 4507. This chapter shall not apply to the following:

37 (a) Physicians and surgeons licensed pursuant to Chapter 5  
 38 (commencing with Section 2000) of Division 2.

39 (b) Psychologists licensed pursuant to Chapter 6.6 (commencing  
 40 with Section 2900) of Division 2.



- 1 (c) Registered nurses licensed pursuant to Chapter 6
- 2 (commencing with Section 2700) of Division 2.
- 3 (d) Vocational nurses licensed pursuant to Chapter 6.5
- 4 (commencing with Section 2840) of Division 2.
- 5 (e) Social workers or clinical social workers licensed pursuant
- 6 to Chapter 14 (commencing with Section 4991) of Division 2.
- 7 (f) Marriage and family therapists licensed pursuant to Chapter
- 8 13 (commencing with Section 4980) of Division 2.
- 9 (g) Professional clinical counselors licensed pursuant to Chapter
- 10 16 (commencing with Section 4999.10) of Division 2.
- 11 (h) Teachers credentialed pursuant to Article 1 (commencing
- 12 with Section 44200) of Chapter 2 of Part 25 of Division 3 of Title
- 13 2 of the Education Code.
- 14 (i) Occupational therapists as specified in Chapter 5.6
- 15 (commencing with Section 2570) of Division 2.
- 16 (j) Art therapists, dance therapists, music therapists, and
- 17 recreation therapists, as defined in Division 5 (commencing with
- 18 Section 70001) of Title 22 of the California Code of Regulations,
- 19 who are personnel of health facilities licensed pursuant to Chapter
- 20 2 (commencing with Section 1250) of Division 2 of the Health
- 21 and Safety Code.
- 22 (k) Any other categories of persons the board determines are
- 23 entitled to exemption from this chapter because they have complied
- 24 with other licensing provisions of this code or because they are
- 25 deemed by statute or by regulations contained in the California
- 26 Code of Regulations to be adequately trained in their respective
- 27 occupations. The exemptions shall apply only to a given specialized
- 28 area of training within the specific discipline for which the
- 29 exemption is granted.
- 30 SEC. 4. Section 4999.32 of the Business and Professions Code
- 31 is amended to read:
- 32 4999.32. (a) This section shall apply to applicants for licensure
- 33 or registration who begin graduate study before August 1, 2012,
- 34 and complete that study on or before December 31, 2018. Those
- 35 applicants may alternatively qualify under paragraph (2) of
- 36 subdivision (a) of Section 4999.33.
- 37 (b) To qualify for licensure or registration, applicants shall
- 38 possess a master's or doctoral degree that is counseling or
- 39 psychotherapy in content and that meets the requirements of this
- 40 section, obtained from an accredited or approved institution, as

1 defined in Section 4999.12. For purposes of this subdivision, a  
2 degree is “counseling or psychotherapy in content” if it contains  
3 the supervised practicum or field study experience described in  
4 paragraph (3) of subdivision (c) and, except as provided in  
5 subdivision (d), the coursework in the core content areas listed in  
6 subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision  
7 (c).

8 (c) The degree described in subdivision (b) shall contain not  
9 less than 48 graduate semester or 72 graduate quarter units of  
10 instruction, which shall, except as provided in subdivision (d),  
11 include all of the following:

12 (1) The equivalent of at least three semester units or four quarter  
13 units of graduate study in each of the following core content areas:

14 (A) Counseling and psychotherapeutic theories and techniques,  
15 including the counseling process in a multicultural society, an  
16 orientation to wellness and prevention, counseling theories to assist  
17 in selection of appropriate counseling interventions, models of  
18 counseling consistent with current professional research and  
19 practice, development of a personal model of counseling, and  
20 multidisciplinary responses to crises, emergencies, and disasters.

21 (B) Human growth and development across the lifespan,  
22 including normal and abnormal behavior and an understanding of  
23 developmental crises, disability, psychopathology, and situational  
24 and environmental factors that affect both normal and abnormal  
25 behavior.

26 (C) Career development theories and techniques, including  
27 career development decisionmaking models and interrelationships  
28 among and between work, family, and other life roles and factors,  
29 including the role of multicultural issues in career development.

30 (D) Group counseling theories and techniques, including  
31 principles of group dynamics, group process components,  
32 developmental stage theories, therapeutic factors of group work,  
33 group leadership styles and approaches, pertinent research and  
34 literature, group counseling methods, and evaluation of  
35 effectiveness.

36 (E) Assessment, appraisal, and testing of individuals, including  
37 basic concepts of standardized and nonstandardized testing and  
38 other assessment techniques, norm-referenced and  
39 criterion-referenced assessment, statistical concepts, social and  
40 cultural factors related to assessment and evaluation of individuals

1 and groups, and ethical strategies for selecting, administering, and  
2 interpreting assessment instruments and techniques in counseling.

3 (F) Multicultural counseling theories and techniques, including  
4 counselors' roles in developing cultural self-awareness, identity  
5 development, promoting cultural social justice, individual and  
6 community strategies for working with and advocating for diverse  
7 populations, and counselors' roles in eliminating biases and  
8 prejudices, and processes of intentional and unintentional  
9 oppression and discrimination.

10 (G) Principles of the diagnostic process, including differential  
11 diagnosis, and the use of current diagnostic tools, such as the  
12 current edition of the Diagnostic and Statistical Manual, the impact  
13 of co-occurring substance use disorders or medical psychological  
14 disorders, established diagnostic criteria for mental or emotional  
15 disorders, and the treatment modalities and placement criteria  
16 within the continuum of care.

17 (H) Research and evaluation, including studies that provide an  
18 understanding of research methods, statistical analysis, the use of  
19 research to inform evidence-based practice, the importance of  
20 research in advancing the profession of counseling, and statistical  
21 methods used in conducting research, needs assessment, and  
22 program evaluation.

23 (I) Professional orientation, ethics, and law in counseling,  
24 including professional ethical standards and legal considerations,  
25 licensing law and process, regulatory laws that delineate the  
26 profession's scope of practice, counselor-client privilege,  
27 confidentiality, the client dangerous to self or others, treatment of  
28 minors with or without parental consent, relationship between  
29 practitioner's sense of self and human values, functions and  
30 relationships with other human service providers, strategies for  
31 collaboration, and advocacy processes needed to address  
32 institutional and social barriers that impede access, equity, and  
33 success for clients.

34 (2) In addition to the course requirements described in paragraph  
35 (1), a minimum of 12 semester units or 18 quarter units of advanced  
36 coursework to develop knowledge of specific treatment issues,  
37 special populations, application of counseling constructs,  
38 assessment and treatment planning, clinical interventions,  
39 therapeutic relationships, psychopathology, or other clinical topics.

- 1 (3) Not less than six semester units or nine quarter units of
- 2 supervised practicum or field study experience that involves direct
- 3 client contact in a clinical setting that provides a range of
- 4 professional clinical counseling experience, including the
- 5 following:
- 6 (A) Applied psychotherapeutic techniques.
- 7 (B) Assessment.
- 8 (C) Diagnosis.
- 9 (D) Prognosis.
- 10 (E) Treatment.
- 11 (F) Issues of development, adjustment, and maladjustment.
- 12 (G) Health and wellness promotion.
- 13 (H) Other recognized counseling interventions.
- 14 (I) A minimum of 150 hours of face-to-face supervised clinical
- 15 experience counseling individuals, families, or groups.
- 16 (d) (1) (A) An applicant whose degree is deficient in no more
- 17 than two of the required areas of study listed in subparagraphs (A)
- 18 to (I), inclusive, of paragraph (1) of subdivision (c) may satisfy
- 19 those deficiencies by successfully completing post-master’s or
- 20 postdoctoral degree coursework at an accredited or approved
- 21 institution, as defined in Section 4999.12.
- 22 (B) Notwithstanding subparagraph (A), an applicant shall not
- 23 be deficient in the required areas of study specified in
- 24 subparagraphs (E) or (G) of paragraph (1) of subdivision (c) unless
- 25 the applicant meets one of the following criteria and remediates
- 26 the deficiency:
- 27 (i) The application for licensure was received by the board on
- 28 or before August 31, 2020.
- 29 (ii) The application for registration was received by the board
- 30 on or before August 31, 2020, and the registration was subsequently
- 31 issued by the board.
- 32 (2) Coursework taken to meet deficiencies in the required areas
- 33 of study listed in subparagraphs (A) to (I), inclusive, of paragraph
- 34 (1) of subdivision (c) shall be the equivalent of three semester units
- 35 or four quarter units of study.
- 36 (3) The board shall make the final determination as to whether
- 37 a degree meets all requirements, including, but not limited to,
- 38 course requirements, regardless of accreditation.

1 (e) In addition to the degree described in this section, or as part  
2 of that degree, an applicant shall complete the following  
3 coursework or training prior to registration as an associate:

4 (1) A minimum of 15 contact hours of instruction in alcoholism  
5 and other chemical substance abuse dependency, as specified by  
6 regulation.

7 (2) A minimum of 10 contact hours of training or coursework  
8 in human sexuality as specified in Section 25, and any regulations  
9 promulgated thereunder.

10 (3) A two semester unit or three quarter unit survey course in  
11 psychopharmacology.

12 (4) A minimum of 15 contact hours of instruction in spousal or  
13 partner abuse assessment, detection, and intervention strategies,  
14 including knowledge of community resources, cultural factors,  
15 and same gender abuse dynamics.

16 (5) A minimum of seven contact hours of training or coursework  
17 in child abuse assessment and reporting as specified in Section 28  
18 and any regulations adopted thereunder.

19 (6) A minimum of 18 contact hours of instruction in California  
20 law and professional ethics for professional clinical counselors  
21 that includes, but is not limited to, instruction in advertising, scope  
22 of practice, scope of competence, treatment of minors,  
23 confidentiality, dangerous clients, psychotherapist-client privilege,  
24 recordkeeping, client access to records, dual relationships, child  
25 abuse, elder and dependent adult abuse, online therapy, insurance  
26 reimbursement, civil liability, disciplinary actions and  
27 unprofessional conduct, ethics complaints and ethical standards,  
28 termination of therapy, standards of care, relevant family law,  
29 therapist disclosures to clients, and state and federal laws related  
30 to confidentiality of patient health information. When coursework  
31 in a master's or doctoral degree program is acquired to satisfy this  
32 requirement, it shall be considered as part of the 48 semester unit  
33 or 72 quarter unit requirement in subdivision (c).

34 (7) A minimum of 10 contact hours of instruction in aging and  
35 long-term care, which may include, but is not limited to, the  
36 biological, social, and psychological aspects of aging. On and after  
37 January 1, 2012, this coursework shall include instruction on the  
38 assessment and reporting of, as well as treatment related to, elder  
39 and dependent adult abuse and neglect.

1 (8) A minimum of 15 contact hours of instruction in crisis or  
2 trauma counseling, including multidisciplinary responses to crises,  
3 emergencies, or disasters, and brief, intermediate, and long-term  
4 approaches.

5 (f) This section shall remain in effect only until January 1, 2019,  
6 and as of that date is repealed, unless a later enacted statute that  
7 is enacted before January 1, 2019, deletes or extends that date.

8 SEC. 5. Section 4999.33 of the Business and Professions Code  
9 is amended to read:

10 4999.33. (a) This section shall apply to the following:

11 (1) Applicants for licensure or registration who begin graduate  
12 study before August 1, 2012, and do not complete that study on  
13 or before December 31, 2018.

14 (2) Applicants for licensure or registration who begin graduate  
15 study before August 1, 2012, and who graduate from a degree  
16 program that meets the requirements of this section.

17 (3) Applicants for licensure or registration who begin graduate  
18 study on or after August 1, 2012.

19 (b) To qualify for licensure or registration, applicants shall  
20 possess a master's or doctoral degree that is counseling or  
21 psychotherapy in content and that meets the requirements of this  
22 section, obtained from an accredited or approved institution, as  
23 defined in Section 4999.12. For purposes of this subdivision, a  
24 degree is "counseling or psychotherapy in content" if it contains  
25 the supervised practicum or field study experience described in  
26 paragraph (3) of subdivision (c) and, except as provided in  
27 subdivision (f), the coursework in the core content areas listed in  
28 subparagraphs (A) to (M), inclusive, of paragraph (1) of  
29 subdivision (c).

30 (c) The degree described in subdivision (b) shall contain not  
31 less than 60 graduate semester units or 90 graduate quarter units  
32 of instruction, which shall, except as provided in subdivision (f),  
33 include all of the following:

34 (1) The equivalent of at least three semester units or four quarter  
35 units of graduate study in all of the following core content areas:

36 (A) Counseling and psychotherapeutic theories and techniques,  
37 including the counseling process in a multicultural society, an  
38 orientation to wellness and prevention, counseling theories to assist  
39 in selection of appropriate counseling interventions, models of  
40 counseling consistent with current professional research and

1 practice, development of a personal model of counseling, and  
2 multidisciplinary responses to crises, emergencies, and disasters.

3 (B) Human growth and development across the lifespan,  
4 including normal and abnormal behavior and an understanding of  
5 developmental crises, disability, psychopathology, and situational  
6 and environmental factors that affect both normal and abnormal  
7 behavior.

8 (C) Career development theories and techniques, including  
9 career development decisionmaking models and interrelationships  
10 among and between work, family, and other life roles and factors,  
11 including the role of multicultural issues in career development.

12 (D) Group counseling theories and techniques, including  
13 principles of group dynamics, group process components, group  
14 developmental stage theories, therapeutic factors of group work,  
15 group leadership styles and approaches, pertinent research and  
16 literature, group counseling methods, and evaluation of  
17 effectiveness.

18 (E) Assessment, appraisal, and testing of individuals, including  
19 basic concepts of standardized and nonstandardized testing and  
20 other assessment techniques, norm-referenced and  
21 criterion-referenced assessment, statistical concepts, social and  
22 cultural factors related to assessment and evaluation of individuals  
23 and groups, and ethical strategies for selecting, administering, and  
24 interpreting assessment instruments and techniques in counseling.

25 (F) Multicultural counseling theories and techniques, including  
26 counselors' roles in developing cultural self-awareness, identity  
27 development, promoting cultural social justice, individual and  
28 community strategies for working with and advocating for diverse  
29 populations, and counselors' roles in eliminating biases and  
30 prejudices, and processes of intentional and unintentional  
31 oppression and discrimination.

32 (G) Principles of the diagnostic process, including differential  
33 diagnosis, and the use of current diagnostic tools, such as the  
34 current edition of the Diagnostic and Statistical Manual, the impact  
35 of co-occurring substance use disorders or medical psychological  
36 disorders, established diagnostic criteria for mental or emotional  
37 disorders, and the treatment modalities and placement criteria  
38 within the continuum of care.

39 (H) Research and evaluation, including studies that provide an  
40 understanding of research methods, statistical analysis, the use of

1 research to inform evidence-based practice, the importance of  
2 research in advancing the profession of counseling, and statistical  
3 methods used in conducting research, needs assessment, and  
4 program evaluation.

5 (I) Professional orientation, ethics, and law in counseling,  
6 including California law and professional ethics for professional  
7 clinical counselors, professional ethical standards and legal  
8 considerations, licensing law and process, regulatory laws that  
9 delineate the profession's scope of practice, counselor-client  
10 privilege, confidentiality, the client dangerous to self or others,  
11 treatment of minors with or without parental consent, relationship  
12 between practitioner's sense of self and human values, functions  
13 and relationships with other human service providers, strategies  
14 for collaboration, and advocacy processes needed to address  
15 institutional and social barriers that impede access, equity, and  
16 success for clients.

17 (J) Psychopharmacology, including the biological bases of  
18 behavior, basic classifications, indications, and contraindications  
19 of commonly prescribed psychopharmacological medications so  
20 that appropriate referrals can be made for medication evaluations  
21 and so that the side effects of those medications can be identified.

22 (K) Addictions counseling, including substance abuse,  
23 co-occurring disorders, and addiction, major approaches to  
24 identification, evaluation, treatment, and prevention of substance  
25 abuse and addiction, legal and medical aspects of substance abuse,  
26 populations at risk, the role of support persons, support systems,  
27 and community resources.

28 (L) Crisis or trauma counseling, including crisis theory;  
29 multidisciplinary responses to crises, emergencies, or disasters;  
30 cognitive, affective, behavioral, and neurological effects associated  
31 with trauma; brief, intermediate, and long-term approaches; and  
32 assessment strategies for clients in crisis and principles of  
33 intervention for individuals with mental or emotional disorders  
34 during times of crisis, emergency, or disaster.

35 (M) Advanced counseling and psychotherapeutic theories and  
36 techniques, including the application of counseling constructs,  
37 assessment and treatment planning, clinical interventions,  
38 therapeutic relationships, psychopathology, or other clinical topics.

39 (2) In addition to the course requirements described in paragraph  
40 (1), 15 semester units or 22.5 quarter units of advanced coursework



1 to develop knowledge of specific treatment issues or special  
2 populations.

3 (3) Not less than six semester units or nine quarter units of  
4 supervised practicum or field study experience that involves direct  
5 client contact in a clinical setting that provides a range of  
6 professional clinical counseling experience, including the  
7 following:

8 (A) Applied psychotherapeutic techniques.

9 (B) Assessment.

10 (C) Diagnosis.

11 (D) Prognosis.

12 (E) Treatment.

13 (F) Issues of development, adjustment, and maladjustment.

14 (G) Health and wellness promotion.

15 (H) Professional writing including documentation of services,  
16 treatment plans, and progress notes.

17 (I) How to find and use resources.

18 (J) Other recognized counseling interventions.

19 (K) A minimum of 280 hours of face-to-face supervised clinical  
20 experience counseling individuals, families, or groups.

21 (d) The 60 graduate semester units or 90 graduate quarter units  
22 of instruction required pursuant to subdivision (c) shall, in addition  
23 to meeting the requirements of subdivision (c), include instruction  
24 in all of the following:

25 (1) The understanding of human behavior within the social  
26 context of socioeconomic status and other contextual issues  
27 affecting social position.

28 (2) The understanding of human behavior within the social  
29 context of a representative variety of the cultures found within  
30 California.

31 (3) Cultural competency and sensitivity, including a familiarity  
32 with the racial, cultural, linguistic, and ethnic backgrounds of  
33 persons living in California.

34 (4) An understanding of the effects of socioeconomic status on  
35 treatment and available resources.

36 (5) Multicultural development and cross-cultural interaction,  
37 including experiences of race, ethnicity, class, spirituality, sexual  
38 orientation, gender, and disability and their incorporation into the  
39 psychotherapeutic process.

1 (6) Case management, systems of care for the severely mentally  
 2 ill, public and private services for the severely mentally ill,  
 3 community resources for victims of abuse, disaster and trauma  
 4 response, advocacy for the severely mentally ill, and collaborative  
 5 treatment. The instruction required in this paragraph may be  
 6 provided either in credit level coursework or through extension  
 7 programs offered by the degree-granting institution.

8 (7) Human sexuality, including the study of the physiological,  
 9 psychological, and social cultural variables associated with sexual  
 10 behavior, gender identity, and the assessment and treatment of  
 11 psychosexual dysfunction.

12 (8) Spousal or partner abuse assessment, detection, intervention  
 13 strategies, and same gender abuse dynamics.

14 (9) A minimum of seven contact hours of training or coursework  
 15 in child abuse assessment and reporting, as specified in Section  
 16 28, and any regulations promulgated thereunder.

17 (10) Aging and long-term care, including biological, social,  
 18 cognitive, and psychological aspects of aging. This coursework  
 19 shall include instruction on the assessment and reporting of, as  
 20 well as treatment related to, elder and dependent adult abuse and  
 21 neglect.

22 (e) A degree program that qualifies for licensure under this  
 23 section shall do all of the following:

24 (1) Integrate the principles of mental health recovery-oriented  
 25 care and methods of service delivery in recovery-oriented practice  
 26 environments.

27 (2) Integrate an understanding of various cultures and the social  
 28 and psychological implications of socioeconomic position.

29 (3) Provide the opportunity for students to meet with various  
 30 consumers and family members of consumers of mental health  
 31 services to enhance understanding of their experience of mental  
 32 illness, treatment, and recovery.

33 (f) (1) (A) An applicant whose degree is deficient in no more  
 34 than three of the required areas of study listed in subparagraphs  
 35 (A) to (M), inclusive, of paragraph (1) of subdivision (c) may  
 36 satisfy those deficiencies by successfully completing post-master's  
 37 or postdoctoral degree coursework at an accredited or approved  
 38 institution, as defined in Section 4999.12.

39 (B) Notwithstanding subparagraph (A), an applicant shall not  
 40 be deficient in the required areas of study specified in

1 subparagraphs (E) or (G) of paragraph (1) of subdivision (c) unless  
2 the applicant meets one of the following criteria and remediates  
3 the deficiency:

4 (i) The application for licensure was received by the board on  
5 or before August 31, 2020.

6 (ii) The application for registration was received by the board  
7 on or before August 31, 2020, and the registration was subsequently  
8 issued by the board.

9 (2) Coursework taken to meet deficiencies in the required areas  
10 of study listed in subparagraphs (A) to (M), inclusive, of paragraph  
11 (1) of subdivision (c) shall be the equivalent of three semester units  
12 or four quarter units of study.

13 (3) The board shall make the final determination as to whether  
14 a degree meets all requirements, including, but not limited to,  
15 course requirements, regardless of accreditation.

16 SEC. 6. Section 4999.62 of the Business and Professions Code  
17 is amended to read:

18 4999.62. (a) This section applies to persons who apply for  
19 licensure or registration on or after January 1, 2016, and who do  
20 not hold a license as described in Section 4999.60.

21 (b) For purposes of Section 4999.61, education is substantially  
22 equivalent if all of the following requirements are met:

23 (1) The degree is obtained from an accredited or approved  
24 institution, as defined in Section 4999.12, and consists of, at a  
25 minimum, the following:

26 (A) (i) For an applicant who obtained his or her degree within  
27 the timeline prescribed by subdivision (a) of Section 4999.33 the  
28 degree shall contain no less than 60 graduate semester units or 90  
29 graduate quarter units of instruction.

30 (ii) Up to 12 semester units or 18 quarter units of instruction  
31 may be remediated, if missing from the degree. The remediation  
32 may occur while the applicant is registered as an associate.

33 (B) For an applicant who obtained his or her degree within the  
34 timeline prescribed by subdivision (a) of Section 4999.32 the  
35 degree shall contain no less than 48 graduate semester units or 72  
36 graduate quarter units of instruction.

37 (C) Six semester units or nine quarter units of practicum,  
38 including, but not limited to, a minimum of 280 hours of  
39 face-to-face supervised clinical experience counseling individuals,  
40 families, or groups.

1 (D) The required areas of study listed in subparagraphs (A) to  
 2 (M), inclusive, of paragraph (1) of subdivision (c) of Section  
 3 4999.33.

4 (i) (I) An applicant whose degree is deficient in no more than  
 5 six of the required areas of study listed in subparagraphs (A) to  
 6 (M), inclusive, of paragraph (1) of subdivision (c) of Section  
 7 4999.33 may satisfy those deficiencies by successfully completing  
 8 graduate level coursework at an accredited or approved institution,  
 9 as defined in Section 4999.12. Coursework taken to meet any  
 10 deficiencies shall be the equivalent of three semester units or four  
 11 quarter units of study.

12 (II) Notwithstanding subclause (I), no applicant shall be deficient  
 13 in the required areas of study specified in subparagraph (E) or (G)  
 14 of paragraph (1) of subdivision (c) of Section 4999.33.

15 (ii) An applicant who completed a course in professional  
 16 orientation, ethics, and law in counseling as required by  
 17 subparagraph (I) of paragraph (1) of subdivision (c) of Section  
 18 4999.33 that did not contain instruction in California law and ethics  
 19 shall complete an 18-hour course in California law and professional  
 20 ethics that includes, but is not limited to, instruction in advertising,  
 21 scope of practice, scope of competence, treatment of minors,  
 22 confidentiality, dangerous clients, psychotherapist-client privilege,  
 23 recordkeeping, client access to records, state and federal laws  
 24 relating to confidentiality of patient health information, dual  
 25 relationships, child abuse, elder and dependent adult abuse, online  
 26 therapy, insurance reimbursement, civil liability, disciplinary  
 27 actions and unprofessional conduct, ethics complaints and ethical  
 28 standards, termination of therapy, standards of care, relevant family  
 29 law, and therapist disclosures to clients. An applicant shall  
 30 complete this coursework prior to registration as an associate.

31 (iii) An applicant who has not completed a course in professional  
 32 orientation, ethics, and law in counseling as required by  
 33 subparagraph (I) of paragraph (1) of subdivision (c) of Section  
 34 4999.33 shall complete this required coursework, including content  
 35 in California law and ethics. An applicant shall complete this  
 36 coursework prior to registration as an associate.

37 (2) The applicant completes any units required by subdivision  
 38 (c) of Section 4999.33 not already completed in his or her education  
 39 as follows:

1 (A) At least 15 semester units or 22.5 quarter units of advanced  
2 coursework to develop knowledge of specific treatment issues or  
3 special populations. This coursework is in addition to the course  
4 requirements described in subparagraph (D) of paragraph (1).

5 (B) Coursework shall be from an accredited or approved school,  
6 college, or university as defined in Section 4999.12.

7 (3) (A) The applicant completes the following coursework not  
8 already completed in his or her education:

9 (i) A minimum of 10 contact hours of training in human  
10 sexuality, as specified in Section 25 and any regulations  
11 promulgated thereunder, including the study of the physiological,  
12 psychological, and social cultural variables associated with sexual  
13 behavior, gender identity, and the assessment and treatment of  
14 psychosexual dysfunction.

15 (ii) A minimum of 15 contact hours of instruction in spousal or  
16 partner abuse assessment, detection, intervention strategies, and  
17 same-gender abuse dynamics.

18 (iii) A minimum of seven contact hours of training or  
19 coursework in child abuse assessment and reporting as specified  
20 in Section 28 and any regulations promulgated thereunder.

21 (iv) A minimum of 10 contact hours of instruction in aging and  
22 long-term care, including biological, social, cognitive, and  
23 psychological aspects of aging. This coursework shall include  
24 instruction on the assessment and reporting of, as well as treatment  
25 related to, elder and dependent adult abuse and neglect.

26 (B) This coursework may be from an accredited or approved  
27 school, college, or university as defined in Section 4999.12, or  
28 from a continuing education provider that is acceptable to the board  
29 as defined in Section 4999.76. Undergraduate coursework shall  
30 not satisfy this requirement.

31 (4) The applicant completes the following coursework not  
32 already completed in his or her education from an accredited or  
33 approved school, college, or university as defined in Section  
34 4999.12, or from a continuing education provider that is acceptable  
35 to the board as defined in Section 4999.76. Undergraduate  
36 coursework shall not satisfy this requirement.

37 (A) At least three semester units, or 45 hours, of instruction  
38 regarding the principles of mental health recovery-oriented care  
39 and methods of service delivery in recovery-oriented practice  
40 environments, including structured meetings with various

1 consumers and family members of consumers of mental health  
 2 services to enhance understanding of their experiences of mental  
 3 illness, treatment, and recovery.

4 (B) At least one semester unit, or 15 hours, of instruction that  
 5 includes an understanding of various California cultures and the  
 6 social and psychological implications of socioeconomic position.

7 (5) An applicant may complete any units and course content  
 8 requirements required under paragraph (2), (3), or (4) not already  
 9 completed in his or her education while registered with the board  
 10 as an associate.

11 SEC. 7. Section 4999.63 of the Business and Professions Code  
 12 is amended to read:

13 4999.63. (a) This section applies to persons who apply for  
 14 licensure or registration on or after January 1, 2016, and who hold  
 15 a license as described in Section 4999.60.

16 (b) For purposes of Section 4999.60, education is substantially  
 17 equivalent if all of the following requirements are met:

18 (1) The degree is obtained from an accredited or approved  
 19 institution, as defined in Section 4999.12, and consists of the  
 20 following:

21 (A) (i) For an applicant who obtained his or her degree within  
 22 the timeline prescribed by subdivision (a) of Section 4999.33 the  
 23 degree shall contain no less than 60 graduate semester or 90  
 24 graduate quarter units of instruction.

25 (ii) Up to 12 semester units or 18 quarter units of instruction  
 26 may be remediated, if missing from the degree. The remediation  
 27 may occur while the applicant is registered as an associate.

28 (B) For an applicant who obtained his or her degree within the  
 29 timeline prescribed by subdivision (a) of Section 4999.32 the  
 30 degree shall contain no less than 48 graduate semester or 72  
 31 graduate quarter units of instruction.

32 (C) Six semester units or nine quarter units of practicum,  
 33 including, but not limited to, a minimum of 280 hours of  
 34 face-to-face supervised clinical experience counseling individuals,  
 35 families, or groups.

36 (i) An applicant who has been licensed for at least two years in  
 37 clinical practice, as verified by the board, is exempt from this  
 38 requirement.

39 (ii) An out-of-state applicant who has been licensed for less  
 40 than two years in clinical practice, as verified by the board, who

1 does not meet the practicum requirement, shall remediate the  
2 requirement by demonstrating completion of a total of 280 hours  
3 of face-to-face supervised clinical experience, as specified in  
4 subparagraph (K) of paragraph (3) of subdivision (c) of Section  
5 4999.33. Any postdegree hours gained to meet this requirement  
6 are in addition to the 3,000 hours of experience required by this  
7 chapter, and shall be gained while the applicant is registered with  
8 the board as an associate.

9 (D) The required areas of study specified in subparagraphs (A)  
10 to (M), inclusive, of paragraph (1) of subdivision (c) of Section  
11 4999.33.

12 (i) (I) An applicant whose degree is deficient in no more than  
13 six of the required areas of study specified in subparagraphs (A)  
14 to (M), inclusive, of paragraph (1) of subdivision (c) of Section  
15 4999.33 may satisfy those deficiencies by successfully completing  
16 graduate level coursework at an accredited or approved institution,  
17 as defined in Section 4999.12. Coursework taken to meet any  
18 deficiencies shall be the equivalent of three semester units or four  
19 quarter units of study.

20 (II) Notwithstanding subclause (I), no applicant shall be deficient  
21 in the required areas of study specified in subparagraphs (E) or  
22 (G) of paragraph (1) of subdivision (c) of Section 4999.33.

23 (ii) An applicant who completed a course in professional  
24 orientation, ethics, and law in counseling as required by  
25 subparagraph (I) of paragraph (1) of subdivision (c) of Section  
26 4999.33 that did not contain instruction in California law and ethics  
27 shall complete an 18-hour course in California law and professional  
28 ethics that includes, but is not limited to, instruction in advertising,  
29 scope of practice, scope of competence, treatment of minors,  
30 confidentiality, dangerous clients, psychotherapist-client privilege,  
31 recordkeeping, client access to records, state and federal laws  
32 relating to confidentiality of patient health information, dual  
33 relationships, child abuse, elder and dependent adult abuse, online  
34 therapy, insurance reimbursement, civil liability, disciplinary  
35 actions and unprofessional conduct, ethics complaints and ethical  
36 standards, termination of therapy, standards of care, relevant family  
37 law, and therapist disclosures to clients. An applicant shall  
38 complete this coursework prior to registration as an associate.

39 (iii) An applicant who has not completed a course in professional  
40 orientation, ethics, and law in counseling as required by

1 subparagraph (I) of paragraph (1) of subdivision (c) of Section  
2 4999.33 shall complete this required coursework, including content  
3 in California law and ethics. An applicant shall complete this  
4 coursework prior to registration as an associate.

5 (2) The applicant completes any units required under subdivision  
6 (c) of Section 4999.33 not already completed in his or her education  
7 as follows:

8 (A) At least 15 semester units or 22.5 quarter units of advanced  
9 coursework to develop knowledge of specific treatment issues or  
10 special populations. This coursework is in addition to the course  
11 requirements described in subparagraph (D) of paragraph (1).

12 (B) Coursework shall be from an accredited or approved school,  
13 college, or university as defined in Section 4999.12.

14 (3) The applicant completes the following coursework not  
15 already completed in his or her education:

16 (A) A minimum of 10 contact hours of training in human  
17 sexuality, as specified in Section 25 and any regulations  
18 promulgated thereunder, including the study of the physiological,  
19 psychological, and social cultural variables associated with sexual  
20 behavior, gender identity, and the assessment and treatment of  
21 psychosexual dysfunction.

22 (B) A minimum of 15 contact hours of instruction in spousal  
23 or partner abuse assessment, detection, intervention strategies, and  
24 same-gender abuse dynamics.

25 (C) A minimum of seven contact hours of training or coursework  
26 in child abuse assessment and reporting as specified in Section 28  
27 and any regulations promulgated under that section.

28 (D) A minimum of 10 contact hours of instruction in aging and  
29 long-term care, including biological, social, cognitive, and  
30 psychological aspects of aging. This coursework shall include  
31 instruction on the assessment and reporting of, as well as treatment  
32 related to, elder and dependent adult abuse and neglect.

33 (E) This coursework may be from an accredited or approved  
34 school, college, or university as defined in Section 4999.12, or  
35 from a continuing education provider that is acceptable to the board  
36 as defined in Section 4999.76. Undergraduate coursework shall  
37 not satisfy this requirement.

38 (4) The applicant completes the following coursework not  
39 already completed in his or her education from an accredited or  
40 approved school, college, or university as defined in Section



1 4999.12, or from a continuing education provider that is acceptable  
2 to the board as defined in Section 4999.76. Undergraduate  
3 coursework shall not satisfy this requirement.

4 (A) At least three semester units or 45 hours of instruction  
5 regarding the principles of mental health recovery-oriented care  
6 and methods of service delivery in recovery-oriented practice  
7 environments, including structured meetings with various  
8 consumers and family members of consumers of mental health  
9 services to enhance understanding of their experience of mental  
10 illness, treatment, and recovery.

11 (B) At least one semester unit or 15 hours of instruction that  
12 includes an understanding of various California cultures and the  
13 social and psychological implications of socioeconomic position.

14 (5) An applicant may complete any units and course content  
15 requirements required by subparagraph (D) of paragraph (1) or  
16 paragraphs (2), (3), and (4) not already completed in his or her  
17 education while registered with the board as an associate, unless  
18 otherwise specified.

19 SEC. 8. Section 56.105 of the Civil Code is amended to read:

20 56.105. Whenever, prior to the service of a complaint upon a  
21 defendant in any action arising out of the professional negligence  
22 of a person holding a valid physician's and surgeon's certificate  
23 issued pursuant to Chapter 5 (commencing with Section 2000) of  
24 Division 2 of the Business and Professions Code, a person holding  
25 a valid license as a marriage and family therapist issued pursuant  
26 to Chapter 13 (commencing with Section 4980) of Division 2 of  
27 the Business and Professions Code, a person holding a valid license  
28 as a clinical social worker issued pursuant to Chapter 14  
29 (commencing with Section 4991) of Division 2 of the Business  
30 and Professions Code, or a person holding a valid license as a  
31 professional clinical counselor issued pursuant to Chapter 16  
32 (commencing with Section 4999.10) of Division 2 of the Business  
33 and Professions Code, a demand for settlement or offer to  
34 compromise is made on a patient's behalf, the demand or offer  
35 shall be accompanied by an authorization to disclose medical  
36 information to persons or organizations insuring, responsible for,  
37 or defending professional liability that the certificate holder may  
38 incur. The authorization shall be in accordance with Section 56.11  
39 and shall authorize disclosure of that information that is necessary  
40 to investigate issues of liability and extent of potential damages

1 in evaluating the merits of the demand for settlement or offer to  
2 compromise.

3 Notice of any request for medical information made pursuant to  
4 an authorization as provided by this section shall be given to the  
5 patient or the patient’s legal representative. The notice shall  
6 describe the inclusive subject matter and dates of the materials  
7 requested and shall also authorize the patient or the patient’s legal  
8 representative to receive, upon request, copies of the information  
9 at his or her expense.

10 Nothing in this section shall be construed to waive or limit any  
11 applicable privileges set forth in the Evidence Code except for the  
12 disclosure of medical information subject to the patient’s  
13 authorization. Nothing in this section shall be construed as  
14 authorizing a representative of any person from whom settlement  
15 has been demanded to communicate in violation of the  
16 physician-patient privilege with a treating physician, or to  
17 communicate in violation of the psychotherapist-patient privilege  
18 with a treating licensed marriage and family therapist, licensed  
19 clinical social worker, or licensed professional clinical counselor,  
20 except for the medical information request.

21 The requirements of this section are independent of the  
22 requirements of Section 364 of the Code of Civil Procedure.

23 SEC. 9. Section 35160.5 of the Education Code is amended to  
24 read:

25 35160.5. (a) The governing board of a school district that  
26 maintains one or more schools containing any of grades 7 to 12,  
27 inclusive, as a condition for the receipt of inflation adjustments  
28 pursuant to Section 42238.02, as implemented by Section 42238.03,  
29 shall establish a school district policy regarding participation in  
30 extracurricular and cocurricular activities by pupils in grades 7 to  
31 12, inclusive. The criteria, which shall be applied to extracurricular  
32 and cocurricular activities, shall ensure that pupil participation is  
33 conditioned upon satisfactory educational progress in the previous  
34 grading period.

35 (1) For purposes of this subdivision, “extracurricular activity”  
36 means a program that has all of the following characteristics:

37 (A) The program is supervised or financed by the school district.

38 (B) Pupils participating in the program represent the school  
39 district.

1 (C) Pupils exercise some degree of freedom in either the  
2 selection, planning, or control of the program.

3 (D) The program includes both preparation for performance  
4 and performance before an audience or spectators.

5 (2) For purposes of this subdivision, an “extracurricular activity”  
6 is not part of the regular school curriculum, is not graded, does  
7 not offer credit, and does not take place during classroom time.

8 (3) For purposes of this subdivision, a “cocurricular activity”  
9 is defined as a program that may be associated with the curriculum  
10 in a regular classroom.

11 (4) A teacher graded or required program or activity for a course  
12 that satisfies the entrance requirements for admission to the  
13 California State University or the University of California is not  
14 an extracurricular or cocurricular activity as defined by this section.

15 (5) For purposes of this subdivision, “satisfactory educational  
16 progress” shall include, but not necessarily be limited to, both of  
17 the following:

18 (A) Maintenance of minimum passing grades, which is defined  
19 as at least a 2.0 grade point average in all enrolled courses on a  
20 4.0 scale.

21 (B) Maintenance of minimum progress toward meeting the high  
22 school graduation requirements prescribed by the governing board.

23 (6) For purposes of this subdivision, “previous grading period”  
24 does not include a grading period in which the pupil was not in  
25 attendance for all, or a majority of, the grading period due to  
26 absences excused by the school for reasons such as serious illness  
27 or injury, approved travel, or work. In that event, “previous grading  
28 period” is deemed to mean the grading period immediately prior  
29 to the grading period or periods excluded pursuant to this  
30 paragraph.

31 (7) A program that has, as its primary goal, the improvement  
32 of academic or educational achievements of pupils is not an  
33 extracurricular or cocurricular activity as defined by this section.

34 (8) The governing board of each school district may adopt, as  
35 part of its policy established pursuant to this subdivision, provisions  
36 that would allow a pupil who does not achieve satisfactory  
37 educational progress, as defined in paragraph (5), in the previous  
38 grading period to remain eligible to participate in extracurricular  
39 and cocurricular activities during a probationary period. The  
40 probationary period shall not exceed one semester in length, but

1 may be for a shorter period of time, as determined by the governing  
 2 board of the school district. A pupil who does not achieve  
 3 satisfactory educational progress, as defined in paragraph (5),  
 4 during the probationary period shall not be allowed to participate  
 5 in extracurricular and cocurricular activities in the subsequent  
 6 grading period.

7 (9) This subdivision does not preclude the governing board of  
 8 a school district from imposing a more stringent academic standard  
 9 than that imposed by this subdivision. If the governing board of a  
 10 school district imposes a more stringent academic standard, the  
 11 governing board shall establish the criteria for participation in  
 12 extracurricular and cocurricular activities at a meeting open to the  
 13 public pursuant to Section 35145.

14 (10) The governing board of each school district annually shall  
 15 review the school district policies adopted pursuant to the  
 16 requirements of this section.

17 (b) (1) On or before July 1, 1994, the governing board of each  
 18 school district, as a condition for the receipt of school  
 19 apportionments from the state school fund, shall adopt rules and  
 20 regulations establishing a policy of open enrollment within the  
 21 district for residents of the district. This requirement does not apply  
 22 to a school district that has only one school or a school district  
 23 with schools that do not serve any of the same grade levels.

24 (2) The policy shall include all of the following elements:

25 (A) It shall provide that the parent or guardian of each schoolage  
 26 child who is a resident in the district may select the schools the  
 27 child shall attend, irrespective of the particular locations of his or  
 28 her residence within the district, except that school districts shall  
 29 retain the authority to maintain appropriate racial and ethnic  
 30 balances among their respective schools at the school districts’  
 31 discretion or as specified in applicable court-ordered or voluntary  
 32 desegregation plans.

33 (B) It shall include a selection policy for a school that receives  
 34 requests for admission in excess of the capacity of the school that  
 35 ensures that selection of pupils to enroll in the school is made  
 36 through a random, unbiased process that prohibits an evaluation  
 37 of whether a pupil should be enrolled based upon his or her  
 38 academic or athletic performance. The governing board of a school  
 39 district shall calculate the capacity of the schools in the district for  
 40 purposes of this subdivision in a nonarbitrary manner using pupil

1 enrollment and available space. However, school districts may  
2 employ existing entrance criteria for specialized schools or  
3 programs if the criteria are uniformly applied to all applicants.  
4 This subdivision shall not be construed to prohibit school districts  
5 from using academic performance to determine eligibility for, or  
6 placement in, programs for gifted and talented pupils established  
7 pursuant to former Chapter 8 (commencing with Section 52200)  
8 of Part 28 of Division 4, as that chapter read on January 1, 2014.

9 (C) It shall provide that a pupil who currently resides in the  
10 attendance area of a school shall not be displaced by pupils  
11 transferring from outside the attendance area.

12 (3) Notwithstanding the requirement of subparagraph (B) of  
13 paragraph (2) that the policy include a selection policy for a school  
14 that receives requests for admission in excess of the capacity of  
15 the school that ensures that the selection is made through a random,  
16 unbiased process, the policy may include either of the following  
17 elements:

18 (A) (i) It may provide that special circumstances exist that  
19 might be harmful or dangerous to a particular pupil in the current  
20 attendance area of the pupil, including, but not necessarily limited  
21 to, threats of bodily harm or threats to the emotional stability of  
22 the pupil, that serve as a basis for granting a priority of attendance  
23 outside the current attendance area of the pupil. A finding of  
24 harmful or dangerous special circumstances shall be based upon  
25 either of the following:

26 (I) A written statement from a representative of the appropriate  
27 state or local agency, including, but not necessarily limited to, a  
28 law enforcement official or a social worker, or properly licensed  
29 or registered professionals, including, but not necessarily limited  
30 to, psychiatrists, psychologists, marriage and family therapists,  
31 clinical social workers, or professional clinical counselors.

32 (II) A court order, including a temporary restraining order and  
33 injunction, issued by a judge.

34 (ii) A finding of harmful or dangerous special circumstances  
35 pursuant to this subparagraph may be used by a school district to  
36 approve transfers within the district to schools that have been  
37 deemed by the school district to be at capacity and otherwise closed  
38 to transfers that are not based on harmful or dangerous special  
39 circumstances.

1 (B) It may provide that schools receiving requests for admission  
2 shall give priority for attendance to siblings of pupils already in  
3 attendance in that school and to pupils whose parent or legal  
4 guardian is assigned to that school as his or her primary place of  
5 employment.

6 (4) To the extent required and financed by federal law and at  
7 the request of the pupil’s parent or guardian, each school district  
8 shall provide transportation assistance to the pupil.

9 SEC. 10. Section 3110.5 of the Family Code is amended to  
10 read:

11 3110.5. (a) A person may be a court-connected or private child  
12 custody evaluator under this chapter only if the person has  
13 completed the domestic violence and child abuse training program  
14 described in Section 1816 and has complied with Rules 5.220 and  
15 5.230 of the California Rules of Court.

16 (b) (1) On or before January 1, 2002, the Judicial Council shall  
17 formulate a statewide rule of court that establishes education,  
18 experience, and training requirements for all child custody  
19 evaluators appointed pursuant to this chapter, Section 730 of the  
20 Evidence Code, or Chapter 15 (commencing with Section  
21 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure.

22 (A) The rule shall require a child custody evaluator to declare  
23 under penalty of perjury that he or she meets all of the education,  
24 experience, and training requirements specified in the rule and, if  
25 applicable, possesses a license in good standing. The Judicial  
26 Council shall establish forms to implement this section. The rule  
27 shall permit court-connected evaluators to conduct evaluations if  
28 they meet all of the qualifications established by the Judicial  
29 Council. The education, experience, and training requirements to  
30 be specified for court-connected evaluators shall include, but not  
31 be limited to, knowledge of the psychological and developmental  
32 needs of children and parent-child relationships.

33 (B) The rule shall require all evaluators to utilize comparable  
34 interview, assessment, and testing procedures for all parties that  
35 are consistent with generally accepted clinical, forensic, scientific,  
36 diagnostic, or medical standards. The rule shall also require  
37 evaluators to inform each adult party of the purpose, nature, and  
38 method of the evaluation.

39 (C) The rule may allow courts to permit the parties to stipulate  
40 to an evaluator of their choosing with the approval of the court

1 under the circumstances set forth in subdivision (d). The rule may  
2 require courts to provide general information about how parties  
3 can contact qualified child custody evaluators in their county.

4 (2) On or before January 1, 2004, the Judicial Council shall  
5 include in the statewide rule of court created pursuant to this  
6 section a requirement that all court-connected and private child  
7 custody evaluators receive training in the nature of child sexual  
8 abuse. The Judicial Council shall develop standards for this training  
9 that shall include, but not be limited to, the following:

10 (A) Children’s patterns of hiding and disclosing sexual abuse  
11 occurring in a family setting.

12 (B) The effects of sexual abuse on children.

13 (C) The nature and extent of child sexual abuse.

14 (D) The social and family dynamics of child sexual abuse.

15 (E) Techniques for identifying and assisting families affected  
16 by child sexual abuse.

17 (F) Legal rights, protections, and remedies available to victims  
18 of child sexual abuse.

19 (c) In addition to the education, experience, and training  
20 requirements established by the Judicial Council pursuant to  
21 subdivision (b), on or after January 1, 2005, a person may be a  
22 child custody evaluator under this chapter, Section 730 of the  
23 Evidence Code, or Chapter 15 (commencing with Section  
24 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure only  
25 if the person meets one of the following criteria:

26 (1) He or she is licensed as a physician under Chapter 5  
27 (commencing with Section 2000) of Division 2 of the Business  
28 and Professions Code and either is a board certified psychiatrist  
29 or has completed a residency in psychiatry.

30 (2) He or she is licensed as a psychologist under Chapter 6.6  
31 (commencing with Section 2900) of Division 2 of the Business  
32 and Professions Code.

33 (3) He or she is licensed as a marriage and family therapist under  
34 Chapter 13 (commencing with Section 4980) of Division 2 of the  
35 Business and Professions Code.

36 (4) He or she is licensed as a clinical social worker under Article  
37 4 (commencing with Section 4996) of Chapter 14 of Division 2  
38 of the Business and Professions Code.

39 (5) He or she is licensed as a professional clinical counselor  
40 under Chapter 16 (commencing with Section 4999.10) of Division

1 2 of the Business and Professions Code. Code and is qualified to  
 2 assess couples and families pursuant to paragraph (3) of  
 3 subdivision (a) of Section 4999.20 of the Business and Professions  
 4 Code.

5 (6) He or she is a court-connected evaluator who has been  
 6 certified by the court as meeting all of the qualifications for  
 7 court-connected evaluators as specified by the Judicial Council  
 8 pursuant to subdivision (b).

9 (d) Subdivision (c) does not apply in a case in which the court  
 10 determines that there are no evaluators who meet the criteria of  
 11 subdivision (c) who are willing and available, within a reasonable  
 12 period of time, to perform child custody evaluations. In those cases,  
 13 the parties may stipulate to an individual who does not meet the  
 14 criteria of subdivision (c), subject to approval by the court.

15 (e) A child custody evaluator who is licensed by the Medical  
 16 Board of California, the Board of Psychology, or the Board of  
 17 Behavioral Sciences shall be subject to disciplinary action by that  
 18 board for unprofessional conduct, as defined in the licensing law  
 19 applicable to that licensee.

20 (f) On or after January 1, 2005, a court-connected or private  
 21 child custody evaluator may not evaluate, investigate, or mediate  
 22 an issue of child custody in a proceeding pursuant to this division  
 23 unless that person has completed child sexual abuse training as  
 24 required by this section.

25 SEC. 11. Section 7663 of the Family Code is amended to read:

26 7663. (a) In an effort to identify all alleged fathers and  
 27 presumed parents, the court shall cause inquiry to be made of the  
 28 mother and any other appropriate person by one of the following:

- 29 (1) The State Department of Social Services.
- 30 (2) A licensed county adoption agency.
- 31 (3) The licensed adoption agency to which the child is to be  
 32 relinquished.

33 (4) In the case of a stepparent adoption, the licensed clinical  
 34 social worker, licensed marriage and family therapist, or licensed  
 35 professional clinical counselor who is performing the investigation  
 36 pursuant to Section 9001, if applicable. In the case of a stepparent  
 37 adoption in which a licensed clinical social worker, licensed  
 38 marriage and family therapist, or licensed professional clinical  
 39 counselor is not performing the investigation pursuant to Section  
 40 9001, the board of supervisors may assign those inquiries to a



1 licensed county adoption agency, the county department designated  
2 by the board of supervisors to administer the public social services  
3 program, or the county probation department.

4 (b) The inquiry shall include all of the following:

5 (1) Whether the mother was married at the time of conception  
6 of the child or at any time thereafter.

7 (2) Whether the mother was cohabiting with a man at the time  
8 of conception or birth of the child.

9 (3) Whether the mother has received support payments or  
10 promises of support with respect to the child or in connection with  
11 her pregnancy.

12 (4) Whether any person has formally or informally  
13 acknowledged or declared his or her possible parentage of the  
14 child.

15 (5) The names and whereabouts, if known, of every person  
16 presumed or man alleged to be the parent of the child, and the  
17 efforts made to give notice of the proposed adoption to each person  
18 identified.

19 (c) The agency that completes the inquiry shall file a written  
20 report of the findings with the court.

21 SEC. 12. Section 7827 of the Family Code is amended to read:

22 7827. (a) “Mentally disabled” as used in this section means  
23 that a parent or parents suffer a mental incapacity or disorder that  
24 renders the parent or parents unable to care for and control the  
25 child adequately.

26 (b) A proceeding under this part may be brought if the child is  
27 one whose parent or parents are mentally disabled and are likely  
28 to remain so in the foreseeable future.

29 (c) Except as provided in subdivision (d), the evidence of any  
30 two experts, each of whom shall be a physician and surgeon,  
31 certified either by the American Board of Psychiatry and Neurology  
32 or under Section 6750 of the Welfare and Institutions Code, a  
33 licensed psychologist who has a doctoral degree in psychology  
34 and at least five years of postgraduate experience in the diagnosis  
35 and treatment of emotional and mental disorders, is required to  
36 support a finding under this section. In addition to this requirement,  
37 the court shall have the discretion to call a licensed marriage and  
38 family therapist, a licensed professional clinical counselor, or a  
39 licensed clinical social worker, either of whom shall have at least  
40 five years of relevant postlicensure experience, in circumstances

1 in which the court determines that this testimony is in the best  
2 interest of the child and is warranted by the circumstances of the  
3 particular family or parenting issues involved. However, the court  
4 may not call a licensed marriage and family therapist, licensed  
5 professional clinical counselor, or licensed clinical social worker  
6 pursuant to this section who is the adoption service provider, as  
7 defined in Section 8502, of the child who is the subject of the  
8 petition to terminate parental rights.

9 (d) If the parent or parents reside in another state or in a foreign  
10 country, the evidence required by this section may be supplied by  
11 the affidavits of two experts, each of whom shall be either of the  
12 following:

13 (1) A physician and surgeon who is a resident of that state or  
14 foreign country, and who has been certified by a medical  
15 organization or society of that state or foreign country to practice  
16 psychiatric or neurological medicine.

17 (2) A licensed psychologist who has a doctoral degree in  
18 psychology and at least five years of postgraduate experience in  
19 the diagnosis and treatment of emotional and mental disorders and  
20 who is licensed in that state or authorized to practice in that  
21 country.

22 (e) If the rights of a parent are sought to be terminated pursuant  
23 to this section, and the parent does not have an attorney, the court  
24 shall appoint an attorney for the parent pursuant to Article 4  
25 (commencing with Section 7860) of Chapter 3, whether or not a  
26 request for the appointment is made by the parent.

27 SEC. 13. Section 7850 of the Family Code is amended to read:

28 7850. Upon the filing of a petition under Section 7841, the  
29 clerk of the court shall, in accordance with the direction of the  
30 court, immediately notify the juvenile probation officer, qualified  
31 court investigator, licensed clinical social worker, licensed marriage  
32 and family therapist, licensed professional clinical counselor, or  
33 the county department designated by the board of supervisors to  
34 administer the public social services program, who shall  
35 immediately investigate the circumstances of the child and the  
36 circumstances which are alleged to bring the child within any  
37 provision of Chapter 2 (commencing with Section 7820).

38 SEC. 14. Section 7851 of the Family Code is amended to read:

39 7851. (a) The juvenile probation officer, qualified court  
40 investigator, licensed clinical social worker, licensed marriage and

1 family therapist, licensed professional clinical counselor, or the  
2 county department shall render to the court a written report of the  
3 investigation with a recommendation of the proper disposition to  
4 be made in the proceeding in the best interest of the child.

5 (b) The report shall include all of the following:

6 (1) A statement that the person making the report explained to  
7 the child the nature of the proceeding to end parental custody and  
8 control.

9 (2) A statement of the child’s feelings and thoughts concerning  
10 the pending proceeding.

11 (3) A statement of the child’s attitude towards the child’s parent  
12 or parents and particularly whether or not the child would prefer  
13 living with his or her parent or parents.

14 (4) A statement that the child was informed of the child’s right  
15 to attend the hearing on the petition and the child’s feelings  
16 concerning attending the hearing.

17 (c) If the age, or the physical, emotional, or other condition of  
18 the child precludes the child’s meaningful response to the  
19 explanations, inquiries, and information required by subdivision  
20 (b), a description of the condition shall satisfy the requirement of  
21 that subdivision.

22 (d) The court shall receive the report in evidence and shall read  
23 and consider its contents in rendering the court’s judgment.

24 SEC. 15. Section 8502 of the Family Code is amended to read:

25 8502. (a) “Adoption service provider” means any of the  
26 following:

27 (1) A licensed private adoption agency.

28 (2) An individual who has presented satisfactory evidence to  
29 the department that he or she is a licensed clinical social worker  
30 who also has a minimum of five years of experience providing  
31 professional social work services while employed by a licensed  
32 California adoption agency or the department.

33 (3) In a state other than California, or a country other than the  
34 United States, an adoption agency licensed or otherwise approved  
35 under the laws of that state or country, or an individual who is  
36 licensed or otherwise certified as a clinical social worker under  
37 the laws of that state or country.

38 (4) An individual who has presented satisfactory evidence to  
39 the department that he or she is a licensed marriage and family  
40 therapist who has a minimum of five years of experience providing

1 professional adoption casework services while employed by a  
2 licensed California adoption agency or the department. The  
3 department shall review the qualifications of each individual to  
4 determine if he or she has performed professional adoption  
5 casework services for five years as required by this section while  
6 employed by a licensed California adoption agency or the  
7 department.

8 (5) An individual who has presented satisfactory evidence to  
9 the department that he or she is a licensed professional clinical  
10 counselor who has a minimum of five years' experience providing  
11 professional adoption casework services while employed by a  
12 licensed California adoption agency or the department. The  
13 department shall review the credentials of each individual to  
14 determine if he or she has performed professional adoption  
15 casework services as required by this paragraph.

16 (b) If, in the case of a birth parent located in California, at least  
17 three adoption service providers are not reasonably available, or,  
18 in the case of a birth parent located outside of California or outside  
19 of the United States who has contacted at least three potential  
20 adoption service providers and been unsuccessful in obtaining the  
21 services of an adoption service provider who is reasonably available  
22 and willing to provide services, independent legal counsel for the  
23 birth parent may serve as an adoption service provider pursuant  
24 to subdivision (e) of Section 8801.5. "Reasonably available" means  
25 that an adoption service provider is all of the following:

26 (1) Available within five days for an advisement of rights  
27 pursuant to Section 8801.5, or within 24 hours for the signing of  
28 the placement agreement pursuant to paragraph (3) of subdivision  
29 (b) of Section 8801.3.

30 (2) Within 100 miles of the birth mother.

31 (3) Available for a cost not exceeding five hundred dollars  
32 (\$500) to make an advisement of rights and to witness the signing  
33 of the placement agreement.

34 (c) If an attorney acts as an adoption service provider, the fee  
35 to make an advisement of rights and to witness the signing of the  
36 placement agreement shall not exceed five hundred dollars (\$500).

37 SEC. 16. Section 9001 of the Family Code is amended to read:

38 9001. (a) Except as provided in Section 9000.5, before granting  
39 or denying a stepparent adoption request, the court shall review  
40 and consider a written investigative report. The report in a

1 stepparent adoption case shall not require a home study unless so  
2 ordered by the court upon request of an investigator or interested  
3 person, or on the court’s own motion. “Home study” as used in  
4 this section means a physical investigation of the premises where  
5 the child is residing.

6 (b) At the time of filing the adoption request, the petitioner shall  
7 inform the court in writing if the petitioner is electing to have the  
8 investigation and written report completed by a licensed clinical  
9 social worker, a licensed marriage and family therapist, a licensed  
10 professional clinical counselor, or a private licensed adoption  
11 agency, in which cases the petitioner shall not be required to pay  
12 an investigation fee pursuant to Section 9002 at the time of filing,  
13 but shall pay these fees directly to the investigator. Absent that  
14 notification, the court may, at the time of filing, collect an  
15 investigation fee pursuant to Section 9002, and may assign one of  
16 the following to complete the investigation: a probation officer, a  
17 qualified court investigator, or the county welfare department, if  
18 so authorized by the board of supervisors of the county where the  
19 action is pending.

20 (c) If a private licensed adoption agency conducts the  
21 investigation, it shall assign the investigation to a licensed clinical  
22 social worker or licensed marriage and family therapist associated  
23 with the agency. A grievance regarding the investigation shall be  
24 directed to the licensing authority of the clinical social worker,  
25 licensed professional clinical counselor, or marriage and family  
26 therapist, as applicable.

27 (d) This section does not require the State Department of Social  
28 Services to issue regulations for stepparent adoptions.

29 SEC. 17. Section 3209.8 of the Labor Code is amended to read:

30 3209.8. Treatment reasonably required to cure or relieve from  
31 the effects of an injury shall include the services of marriage and  
32 family therapists, professional clinical counselors, and clinical  
33 social workers licensed by California state law and within the  
34 scope of their practice as defined by California state law if the  
35 injured person is referred to the marriage and family therapist, the  
36 professional clinical counselor, or the clinical social worker by a  
37 licensed physician and surgeon, with the approval of the employer,  
38 for treatment of a condition arising out of the injury. This section  
39 does not authorize marriage and family therapists, professional  
40 clinical counselors, or clinical social workers to determine

1 disability for the purposes of Article 3 (commencing with Section  
 2 4650) of Chapter 2 of Part 2. The requirement of this section that  
 3 the employer approve the referral by a licensed physician or  
 4 surgeon shall not be construed to preclude reimbursement for  
 5 self-procured treatment, found by the appeals board to be otherwise  
 6 compensable pursuant to this division, if the employer has refused  
 7 to authorize any treatment for the condition arising from the injury  
 8 treated by the marriage and family therapist, professional clinical  
 9 counselor, or clinical social worker.

10 SEC. 18. Section 18951 of the Welfare and Institutions Code  
 11 is amended to read:

12 18951. As used in this chapter:

- 13 (a) "Child" means an individual under 18 years of age.
- 14 (b) "Child services" means services for or on behalf of children,  
 15 and includes the following:
  - 16 (1) Protective services.
  - 17 (2) Caretaker services.
  - 18 (3) Day care services, including dropoff care.
  - 19 (4) Homemaker services or family aides.
  - 20 (5) Counseling services.
- 21 (c) "Adult services" means services for or on behalf of a parent  
 22 of a child, which shall include, but not be limited to, the following:
  - 23 (1) Access to voluntary placement, long or short term.
  - 24 (2) Counseling services before and after a crisis.
  - 25 (3) Homemaker services or family aides.
- 26 (d) "Multidisciplinary personnel" means a team of three or more  
 27 persons who are trained in the prevention, identification,  
 28 management, or treatment of child abuse or neglect cases and who  
 29 are qualified to provide a broad range of services related to child  
 30 abuse or neglect. The team may include, but need not be limited  
 31 to, any of the following:
  - 32 (1) Psychiatrists, psychologists, marriage and family therapists,  
 33 clinical social workers, professional clinical counselors, or other  
 34 trained counseling personnel.
  - 35 (2) Police officers or other law enforcement agents.
  - 36 (3) Medical personnel with sufficient training to provide health  
 37 services.
  - 38 (4) Social workers with experience or training in child abuse  
 39 prevention, identification, management, or treatment.

1 (5) A public or private school teacher, administrative officer,  
2 supervisor of child welfare and attendance, or certificated pupil  
3 personnel employee.

4 (6) A CalWORKs case manager whose primary responsibility  
5 is to provide cross program case planning and coordination of  
6 CalWORKs and child welfare services for those mutual cases or  
7 families that may be eligible for CalWORKs services and that,  
8 with the informed written consent of the family, receive cross  
9 program case planning and coordination.

10 (e) “Child abuse” as used in this chapter means a situation in  
11 which a child suffers from any one or more of the following:

12 (1) Serious physical injury inflicted upon the child by other than  
13 accidental means.

14 (2) Harm by reason of intentional neglect or malnutrition or  
15 sexual abuse.

16 (3) Going without necessary and basic physical care.

17 (4) Willful mental injury, negligent treatment, or maltreatment  
18 of a child under the age of 18 years by a person who is responsible  
19 for the child’s welfare under circumstances that indicate that the  
20 child’s health or welfare is harmed or threatened thereby, as  
21 determined in accordance with regulations prescribed by the  
22 Director of Social Services.

23 (5) Any condition that results in the violation of the rights or  
24 physical, mental, or moral welfare of a child or jeopardizes the  
25 child’s present or future health, opportunity for normal  
26 development, or capacity for independence.

27 (f) “Parent” means a person who exercises care, custody, and  
28 control of the child as established by law.

29 SEC. 19. Section 18961.7 of the Welfare and Institutions Code  
30 is amended to read:

31 18961.7. (a) Notwithstanding any other law, a county may  
32 establish a child abuse multidisciplinary personnel team within  
33 that county to allow provider agencies to share confidential  
34 information in order for provider agencies to investigate reports  
35 of suspected child abuse or neglect made pursuant to Section  
36 11160, 11166, or 11166.05 of the Penal Code, or for the purpose  
37 of child welfare agencies making a detention determination.

38 (b) For the purposes of this section, the following terms shall  
39 have the following meanings:

1 (1) “Child abuse multidisciplinary personnel team” means a  
 2 team of two or more persons who are trained in the prevention,  
 3 identification, or treatment of child abuse and neglect cases and  
 4 who are qualified to provide a broad range of services related to  
 5 child abuse. The team may include, but shall not be limited to:  
 6 (A) Psychiatrists, psychologists, marriage and family therapists,  
 7 clinical social workers, professional clinical counselors, or other  
 8 trained counseling personnel.  
 9 (B) Police officers or other law enforcement agents.  
 10 (C) Medical personnel with sufficient training to provide health  
 11 services.  
 12 (D) Social services workers with experience or training in child  
 13 abuse prevention.  
 14 (E) A public or private school teacher, administrative officer,  
 15 supervisor of child welfare attendance, or certified pupil personnel  
 16 employee.

17 (2) “Provider agency” means a governmental or other agency  
 18 that has as one of its purposes the prevention, identification,  
 19 management, or treatment of child abuse or neglect. The provider  
 20 agencies serving children and their families that may share  
 21 information under this section shall include, but not be limited to,  
 22 the following entities or service agencies:  
 23 (A) Social services.  
 24 (B) Children’s services.  
 25 (C) Health services.  
 26 (D) Mental health services.  
 27 (E) Probation.  
 28 (F) Law enforcement.  
 29 (G) Schools.

30 (c) (1) Notwithstanding Section 827 of the Welfare and  
 31 Institutions Code or any other law, during a 30-day period, or  
 32 longer if documented good cause exists, following a report of  
 33 suspected child abuse or neglect, members of a child abuse  
 34 multidisciplinary personnel team engaged in the prevention,  
 35 identification, and treatment of child abuse may disclose to and  
 36 exchange with one another information and writings that relate to  
 37 any incident of child abuse that may also be designated as  
 38 confidential under state law if the member of the team having that  
 39 information or writing reasonably believes it is generally relevant  
 40 to the prevention, identification, or treatment of child abuse. A



1 discussion relative to the disclosure or exchange of the information  
2 or writings during a team meeting is confidential and,  
3 notwithstanding any other law, testimony concerning that  
4 discussion is not admissible in any criminal, civil, or juvenile court  
5 proceeding.

6 (2) Disclosure and exchange of information pursuant to this  
7 section may occur telephonically and electronically if there is  
8 adequate verification of the identity of the child abuse  
9 multidisciplinary personnel who are involved in that disclosure or  
10 exchange of information.

11 (3) Disclosure and exchange of information pursuant to this  
12 section shall not be made to anyone other than members of the  
13 child abuse multidisciplinary personnel team, and those qualified  
14 to receive information as set forth in subdivision (d).

15 (d) The child abuse multidisciplinary personnel team may  
16 designate persons qualified pursuant to paragraph (1) of subdivision  
17 (b) to be a member of the team for a particular case. A person  
18 designated as a team member pursuant to this subdivision may  
19 receive and disclose relevant information and records, subject to  
20 the confidentiality provisions of subdivision (f).

21 (e) The sharing of information permitted under subdivision (c)  
22 shall be governed by protocols developed in each county describing  
23 how and what information may be shared by the child abuse  
24 multidisciplinary team to ensure that confidential information  
25 gathered by the team is not disclosed in violation of state or federal  
26 law. A copy of the protocols shall be distributed to each  
27 participating agency and to persons in those agencies who  
28 participate in the child abuse multidisciplinary team.

29 (f) Every member of the child abuse multidisciplinary personnel  
30 team who receives information or records regarding children and  
31 families in his or her capacity as a member of the team shall be  
32 under the same privacy and confidentiality obligations and subject  
33 to the same confidentiality penalties as the person disclosing or  
34 providing the information or records. The information or records  
35 obtained shall be maintained in a manner that ensures the maximum  
36 protection of privacy and confidentiality rights.

37 (g) This section shall not be construed to restrict guarantees of  
38 confidentiality provided under state or federal law.

39 (h) Information and records communicated or provided to the  
40 team members by all providers and agencies, as well as information

1 and records created in the course of a child abuse or neglect  
2 investigation, shall be deemed private and confidential and shall  
3 be protected from discovery and disclosure by all applicable  
4 statutory and common law protections. Existing civil and criminal  
5 penalties shall apply to the inappropriate disclosure of information  
6 held by the team members.

7 SEC. 20. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.

O

**Attachment A**

**In-State Applicant Denials in 2017 for Assessment and/or Diagnosis Core Content Deficiency**

<b>School</b>	<b>Degree Qualifying Code Section (BPC) [1]</b>	<b>Degree Title</b>	<b>Missing Content Area</b>	<b>Number of Applicants Denied</b>	<b>Year of Applicants' Graduation</b>
Azusa Pacific	4999.32	Education Counseling	Diagnosis	3	2009, 2012, 2014
Laverne	4999.32	Education Counseling	Diagnosis	2	2009, 2012
Redlands	4999.32	School Education	Diagnosis	1	2011
Point Loma Nazarene	4999.32	Education Guidance	Diagnosis	1	n/a
La Sierra	4999.32	School Counseling	Diagnosis	1	2008
Pacific Graduate	4999.32	Psych. Counseling	Diagnosis	1	2005
National University	4999.32	Education Counseling	Diagnosis	2	2005, 2008
CSU Northridge	4999.32	School Counseling	Diagnosis	2	1996, 2003
CA Institute of Integral Studies	4999.32	Psychology	Diagnosis	1	2007
Loyola	4999.32	School Counseling	Assessment	1	2012
CSU Fresno	4999.32	Rehabilitation Counseling	Diagnosis	2	2011, 2013
CSU San Diego	4999.32	Rehabilitation Counseling	Diagnosis	2	2010, 2013
Pepperdine	4999.33	Clinical Psychology	Assessment	1	2017
CSU Los Angeles	4999.33	Counseling	Diagnosis	1	2017
<b>Total Applicants Denied</b>				<b>21</b>	

[1] Degrees qualifying under Business and Professions Code Section 4999.32 must have begun before August 1, 2012 and completed on or before December 31, 2018. These degrees have 9 required core content areas. Degrees qualifying under Business and Professions Code Section 4999.33 are degrees begun after August 1, 2012, or are degrees that were begun earlier than this date and not completed by December 31, 2018. These degrees have 13 required core content areas.

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## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 2943                      **VERSION:** AMENDED MARCH 23, 2018

**AUTHOR:** LOW                                      **SPONSOR:**

- EQUALITY CALIFORNIA
- NATIONAL CENTER FOR LESBIAN RIGHTS
- TREVOR PROJECT

**RECOMMENDED POSITION:** SUPPORT

**SUBJECT:** UNLAWFUL BUSINESS PRACTICES: SEXUAL ORIENTATION CHANGE EFFORTS

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**Summary:** This bill would make advertising, offering to engage in, or engaging in sexual orientation change efforts with an individual an unfair or deceptive act under the Consumer Legal Remedies Act, allowing harmed consumers to bring legal action against violators to recover damages.

**Existing Law:**

- 1) Establishes the Consumers Legal Remedies Act (Act). (Civil Code (CC) §1750)
- 2) States that the act shall be liberally construed and applied to promote the following (CC §1760):
  - Protecting consumers against unfair and deceptive business practices; and
  - Providing efficient and economical procedures to secure this protection.
- 3) Defines “Services,” as used in the Act, to include work, labor, and services for other than a commercial or business use. (CC §1761(b))
- 4) Specifies certain unfair methods of competition and unfair or deceptive acts or practices undertaken by a person in a transaction that results in the sale of goods or services to a consumer are unlawful. (CC §1770)
- 5) Provides that a consumer who suffers damage as a result of the use of an unlawful act or practice specified in CC §1770 may bring an action against that person for actual damages, an order enjoining the acts or practices, restitution of property, punitive damages, or any other relieve the court deems proper. (CC §1780(a))
- 6) States that a consumer entitled to bring an action under Section 1780 may bring an action on behalf of other consumers to recover damages, if the act or practice also caused damage to those others. (CC §1781(a))

- 7) States that any action brought under CC §1770 must commence not more than three years from the date of commission of the method, act, or practice. (CC §1783)
- 8) Prohibits a mental health provider from engaging in sexual orientation change efforts with a patient under age 18. (Business and Professions Code (BPC) §865.1)
- 9) Makes it unprofessional conduct for a mental health provider to attempt sexual orientation change efforts on a patient under age 18. Violations are subject to disciplinary action by the mental health provider's licensing entity. (BPC §865.2)
- 10) Defines a "mental health provider" to include licensees, registrants, and trainees of the Board of Behavioral Sciences. (BPC §865)
- 11) Defines "sexual orientation change efforts" as any practices by mental health providers seeking to change an individual's sexual orientation, including efforts to change behaviors, gender expressions, or eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex. (BPC §865(b)(1))
- 12) States that sexual orientation change efforts do not include psychotherapies that do not seek to change sexual orientation, or that provide acceptance, support and understanding of or facilitation of clients coping, social support and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices. (BPC §865(b)(2))

**This Bill:**

- 1) The author of this bill cites several studies, including one by the American Psychological Association in 2009 that is summarized in **Attachment A**, that have issued findings that sexual orientation change efforts can pose critical health risks. (Section 1 of AB 2943)
- 2) Defines "sexual orientation change efforts" for purposes of the Consumer Legal Remedies Act. The definition is very similar to the definition currently in BPC §865 (for prohibition of sexual orientation change efforts between a mental health provider and a patient under age 18). The one difference is the proposed language does not specify that the sexual orientation change effort has to be by a mental health provider (as BPC §865 does):
  - "Sexual orientation change efforts" means any practices that seek to change an individual's sexual orientation. This includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex. (CC §1761(i)(1))
  - "Sexual orientation change efforts" does not include psychotherapies that (A) provide acceptance, support, and understanding of clients or the facilitation of clients' coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation. (CC §1761(i)(2))
- 3) Provides that advertising, offering to engage in, or engaging in sexual orientation change efforts with an individual in a transaction intended to result in the sale or lease of goods or services is an unlawful and unfair or deceptive act or practice for purposes of the Consumer Legal Remedies Act. (CC §1770(a)(28))

## **Comments:**

### **1) Author's Intent.** The author's office states the following:

Conversion therapy is a set of dangerous and discredited practices that falsely claim to be able to change a person's sexual orientation from homosexual to heterosexual, change their gender identity or expression, or lessen their same-sex sexual attraction. The American Psychiatric Association, American Psychological Association, the American Counseling Association, the National Association of Social Workers, and the American Medical Association all oppose the practice on the basis that it is not evidence-based and potentially harmful to a patient's mental health. (Author's fact sheet, March 2018)

The author's office also notes that since the passage of California's SB 1172 in 2012 (banning conversion therapy for minors), nine other states, the District of Columbia, and 32 local municipalities have also banned the therapy for minors.

### **2) Board Action for Unprofessional Conduct.** This bill bans sexual orientation change efforts with patients of all ages via the Civil Code, by making it unlawful if undertaken in a transaction meant to result in the sale or lease of goods or services to a consumer. However, the bill does not add provisions making it unprofessional conduct into the Business and Professions Code. For example, it could be added as unprofessional conduct in BPC §865.2 (which states sexual orientation change efforts with a minor are unprofessional conduct) or in the unprofessional conduct provisions for each of the Board's license types (BPC §§4982, 4989.54, 4992.3, and 4999.90)

If this bill passes and sexual orientation efforts becomes an unlawful practice via the Consumer Legal Remedies Act in the Civil Code, the Board may be able to take disciplinary action for unprofessional conduct via one of its more general unprofessional conduct provisions, such as "conviction of a crime substantially related to the qualifications functions or duties of a licensee or registrant," "gross negligence," or "intentionally or recklessly causing physical or emotional harm to any client."

### **3) Previous Legislation.** SB 1172 (Lieu, Chapter 835, Statutes of 2012) established the existing law that prohibits a mental health provider from engaging in sexual orientation change efforts with a patient under 18. After extensive work with the author's office and stakeholders to establish a precise definition of "sexual orientation change efforts," the Board took a "support" position on the bill.

### **4) Recommended Position.** At its April 12, 2018 meeting, the Policy and Advocacy Committee recommended a "support" position on this bill.

### **5) Support and Opposition.**

#### **Support:**

- Equality California (co-sponsor)
- National Center for Lesbian Rights (co-sponsor)
- The Trevor Project (co-sponsor)
- American Academy of Pediatrics
- California Asian Pacific Chamber of Commerce

- California Council of Community Behavioral Health Agencies
- California LGBT Health & Human Services Network
- California Psychological Association
- Consumer Attorneys of California
- Equality California
- Human Rights Campaign
- Los Angeles LGBT Community Center
- Sacramento LGBT Community Center
- San Francisco AIDS Foundation
- Numerous individuals

**Oppose:**

- Alliance Defending Freedom
- American College of Pediatricians
- Bethel Church
- California Family Council
- Concerned Women for America of California Equipped to Love
- Moral Revolution
- National Task Force for Therapy Equality Pacific Justice Institute
- The Salt and Light Council
- William Jessup University
- Numerous individuals

**6) History.**

**2018**

04/11/18 Read second time. Ordered to third reading.

04/10/18 From committee: Do pass. (Ayes 8. Noes 1.) (April 10).

04/04/18 From committee: Do pass and re-refer to Com. on JUD. (Ayes 8. Noes 2.) (April 3). Re-referred to Com. on JUD.

04/02/18 Re-referred to Com. on P. & C.P.

03/23/18 From committee chair, with author's amendments: Amend, and re-refer to Com. on P. & C.P. Read second time and amended.

03/15/18 Referred to Coms. on P. & C.P. and JUD.

02/17/18 From printer. May be heard in committee March 19.

02/16/18 Read first time. To print.

**7) Attachments.**

**Attachment A:** Executive Summary of the American Psychological Association, *Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation* (2009), available at [www.APA.org/pi/LGBT/Resources/Therapeutic-Response.pdf](http://www.APA.org/pi/LGBT/Resources/Therapeutic-Response.pdf).



AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2943**

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**Introduced by Assembly Member Low**  
**(Principal coauthors: Assembly Members Cervantes, Eggman, and Gloria)**

(Principal coauthors: Senators Atkins, Galgiani, Lara, and Wiener)

February 16, 2018

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An act to amend Sections 1761 and 1770 of the Civil Code, relating to unlawful business practices.

LEGISLATIVE COUNSEL'S DIGEST

AB 2943, as amended, Low. Unlawful business practices: sexual orientation change efforts.

Existing law, the Consumer Legal Remedies Act, makes unlawful certain unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to ~~result~~ *result*, or which ~~results~~ *results*, in the sale or lease of goods or services to any consumer. Existing law authorizes any consumer who suffers damages as a result of these unlawful practices to bring an action against that person to recover damages, among other things.

Existing law prohibits mental health providers, as defined, from performing sexual orientation change efforts, as specified, with a patient under 18 years of age. Existing law requires a violation of this provision to be considered unprofessional conduct and subjects the provider to discipline by the provider's licensing entity.

This bill would include, as an unlawful practice prohibited under the Consumer Legal Remedies Act, advertising, offering to engage in, or

engaging in sexual orientation change efforts with an individual. The bill would also declare the intent of the Legislature in this regard.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares the following:

2 (a) Contemporary science recognizes that being lesbian, gay,  
3 bisexual, or transgender is part of the natural spectrum of human  
4 identity and is not a disease, disorder, or illness.

5 (b) The American Psychological Association convened the Task  
6 Force on Appropriate Therapeutic Responses to Sexual Orientation.  
7 The task force conducted a systematic review of peer-reviewed  
8 journal literature on sexual orientation change efforts and issued  
9 a report in 2009. The task force concluded that sexual orientation  
10 change efforts can pose critical health risks to lesbian, gay, and  
11 bisexual people, including confusion, depression, guilt,  
12 helplessness, hopelessness, shame, social withdrawal, suicidality,  
13 substance abuse, stress, disappointment, self-blame, decreased  
14 self-esteem and authenticity to others, increased self-hatred,  
15 hostility and blame toward parents, feelings of anger and betrayal,  
16 loss of friends and potential romantic partners, problems in sexual  
17 and emotional intimacy, sexual dysfunction, high-risk sexual  
18 behaviors, a feeling of being dehumanized and untrue to self, a  
19 loss of faith, and a sense of having wasted time and resources.

20 (c) The American Psychological Association issued a resolution  
21 on Appropriate Affirmative Responses to Sexual Orientation  
22 Distress and Change Efforts in 2009, stating: “[T]he [American  
23 Psychological Association] advises parents, guardians, young  
24 people, and their families to avoid sexual orientation change efforts  
25 that portray homosexuality as a mental illness or developmental  
26 disorder and to seek psychotherapy, social support, and educational  
27 services that provide accurate information on sexual orientation  
28 and sexuality, increase family and school support, and reduce  
29 rejection of sexual minority youth.”

30 (d) The American Psychiatric Association published a position  
31 statement in March of 2000, stating:

32 “Psychotherapeutic modalities to convert or ‘repair’  
33 homosexuality are based on developmental theories whose

1 scientific validity is questionable. Furthermore, anecdotal reports  
2 of ‘cures’ are counterbalanced by anecdotal claims of psychological  
3 harm. In the last four decades, ‘reparative’ therapists have not  
4 produced any rigorous scientific research to substantiate their  
5 claims of cure. Until there is such research available, [the American  
6 Psychiatric Association] recommends that ethical practitioners  
7 refrain from attempts to change individuals’ sexual orientation,  
8 keeping in mind the medical dictum to first, do no harm.

9 The potential risks of reparative therapy are great, including  
10 depression, anxiety and self-destructive behavior, since therapist  
11 alignment with societal prejudices against homosexuality may  
12 reinforce self-hatred already experienced by the patient. Many  
13 patients who have undergone reparative therapy relate that they  
14 were inaccurately told that homosexuals are lonely, unhappy  
15 individuals who never achieve acceptance or satisfaction. The  
16 possibility that the person might achieve happiness and satisfying  
17 interpersonal relationships as a gay man or lesbian is not presented,  
18 nor are alternative approaches to dealing with the effects of societal  
19 stigmatization discussed.

20 Therefore, the American Psychiatric Association opposes any  
21 psychiatric treatment such as reparative or conversion therapy  
22 which is based upon the assumption that homosexuality per se is  
23 a mental disorder or based upon the a priori assumption that a  
24 patient should change his/her sexual homosexual orientation.”

25 (e) The American Academy of Pediatrics published an article  
26 in 1993 in its journal, *Pediatrics*, stating: “Therapy directed at  
27 specifically changing sexual orientation is contraindicated, since  
28 it can provoke guilt and anxiety while having little or no potential  
29 for achieving changes in orientation.”

30 (f) The American Medical Association Council on Scientific  
31 Affairs prepared a report in ~~1994~~ 1994, stating: “Aversion therapy  
32 (a behavioral or medical intervention which pairs unwanted  
33 behavior, in this case, homosexual behavior, with unpleasant  
34 sensations or aversive consequences) is no longer recommended  
35 for gay men and lesbians. Through psychotherapy, gay men and  
36 lesbians can become comfortable with their sexual orientation and  
37 understand the societal response to it.”

38 (g) The National Association of Social Workers prepared a 1997  
39 policy statement, stating: “Social stigmatization of lesbian, gay  
40 and bisexual people is widespread and is a primary motivating

1 factor in leading some people to seek sexual orientation changes.  
2 Sexual orientation conversion therapies assume that homosexual  
3 orientation is both pathological and freely chosen. No data  
4 demonstrates that reparative or conversion therapies are effective,  
5 and, in fact, they may be harmful.”

6 (h) The American Counseling Association Governing Council  
7 issued a position statement in April of 1999, stating: “We oppose  
8 ‘the promotion of “reparative therapy” as a “cure” for individuals  
9 who are homosexual.””

10 (i) The American School Counselor Association issued a  
11 position statement in 2014, stating: “It is not the role of the  
12 professional school counselor to attempt to change a student’s  
13 sexual orientation or gender identity. Professional school  
14 counselors do not support efforts by licensed mental health  
15 professionals to change a student’s sexual orientation or gender  
16 as these practices have been proven ineffective and harmful.”

17 (j) The American Psychoanalytic Association issued a position  
18 statement in June 2012 on attempts to change sexual orientation,  
19 gender, identity, or gender expression, stating: “As with any  
20 societal prejudice, bias against individuals based on actual or  
21 perceived sexual orientation, gender identity or gender expression  
22 negatively affects mental health, contributing to an enduring sense  
23 of stigma and pervasive self-criticism through the internalization  
24 of such prejudice.

25 Psychoanalytic technique does not encompass purposeful  
26 attempts to ‘convert,’ ‘repair,’ change or shift an individual’s  
27 sexual orientation, gender identity or gender expression. Such  
28 directed efforts are against fundamental principles of  
29 psychoanalytic treatment and often result in substantial  
30 psychological pain by reinforcing damaging internalized attitudes.”

31 (k) The American Academy of Child and Adolescent Psychiatry  
32 published an article in 2012 in its journal, *Journal of the American*  
33 *Academy of Child and Adolescent Psychiatry*, stating: “Clinicians  
34 should be aware that there is no evidence that sexual orientation  
35 can be altered through therapy, and that attempts to do so may be  
36 harmful. There is no empirical evidence adult homosexuality can  
37 be prevented if gender nonconforming children are influenced to  
38 be more gender conforming. Indeed, there is no medically valid  
39 basis for attempting to prevent homosexuality, which is not an  
40 illness. On the contrary, such efforts may encourage family

1 rejection and undermine self-esteem, connectedness and caring,  
2 important protective factors against suicidal ideation and attempts.  
3 Given that there is no evidence that efforts to alter sexual  
4 orientation are effective, beneficial or necessary, and the possibility  
5 that they carry the risk of significant harm, such interventions are  
6 contraindicated.”

7 (l) The Pan American Health Organization, a regional office of  
8 the World Health Organization, issued a statement in May of 2012,  
9 stating: “These supposed conversion therapies constitute a violation  
10 of the ethical principles of health care and violate human rights  
11 that are protected by international and regional agreements.” The  
12 organization also noted that reparative therapies “lack medical  
13 justification and represent a serious threat to the health and  
14 well-being of affected people.”

15 (m) The American Association of Sexuality Educators,  
16 Counselors and Therapists (AASECT) issued a statement in ~~2014~~  
17 2014, stating: “[S]ame sex orientation is not a mental disorder and  
18 we oppose any ‘reparative’ or conversion therapy that seeks to  
19 ‘change’ or ‘fix’ a person’s sexual orientation. AASECT does not  
20 believe that sexual orientation is something that needs to be ‘fixed’  
21 or ‘changed.’ The rationale behind this position is the following:  
22 Reparative therapy, for minors, in particular, is often forced or  
23 nonconsensual. Reparative therapy has been proven harmful to  
24 minors. There is no scientific evidence supporting the success of  
25 these interventions. Reparative therapy is grounded in the idea that  
26 nonheterosexual orientation is ‘disordered.’ Reparative therapy  
27 has been shown to be a negative predictor of psychotherapeutic  
28 benefit.”

29 (n) The American College of Physicians wrote a position paper  
30 in 2015, stating: “The College opposes the use of ‘conversion,’  
31 ‘reorientation,’ or ‘reparative’ therapy for the treatment of LGBT  
32 persons. . . . Available research does not support the use of  
33 reparative therapy as an effective method in the treatment of LGBT  
34 persons. Evidence shows that the practice may actually cause  
35 emotional or physical harm to LGBT individuals, particularly  
36 adolescents or young persons.”

37 (o) In October 2015, the Substance Abuse and Mental Health  
38 Services Administration of the United States Department of Health  
39 and Human Services issued a report titled “Ending Conversion  
40 Therapy: Supporting and Affirming LGBTQ Youth.” The report

1 found that “[i]nterventions aimed at a fixed outcome, such as  
 2 gender conformity or heterosexual orientation, including those  
 3 aimed at changing gender identity, gender expression, and sexual  
 4 orientation are coercive, can be harmful, and should not be part of  
 5 behavioral health treatment.”

6 (p) ~~Courts~~ Courts, including in California, have recognized the  
 7 practice of sexual orientation change efforts as a commercial  
 8 service, and service. Therefore, claims that sexual orientation  
 9 change efforts are effective in changing an individual’s sexual  
 10 orientation, may constitute unlawful, unfair, or fraudulent business  
 11 practices under state consumer protection laws. This bill intends  
 12 to make clear that sexual orientation change efforts are an unlawful  
 13 practice under California’s Consumer Legal Remedies Act.

14 (q) California has a compelling interest in protecting the physical  
 15 and psychological well-being of lesbian, gay, bisexual, and  
 16 transgender individuals.

17 (r) California has a compelling interest in protecting consumers  
 18 from false and deceptive practices that claim to change sexual  
 19 orientation and in protecting consumers against exposure to serious  
 20 harm caused by sexual orientation change efforts.

21 SEC. 2. Section 1761 of the Civil Code is amended to read:

22 1761. As used in this title:

23 (a) “Goods” means tangible chattels bought or leased for use  
 24 primarily for personal, family, or household purposes, including  
 25 certificates or coupons exchangeable for these goods, and including  
 26 goods that, at the time of the sale or subsequently, are to be so  
 27 affixed to real property as to become a part of real property,  
 28 whether or not they are severable from the real property.

29 (b) “Services” means work, labor, and services for other than  
 30 a commercial or business use, including services furnished in  
 31 connection with the sale or repair of goods.

32 (c) “Person” means an individual, partnership, corporation,  
 33 limited liability company, association, or other group, however  
 34 organized.

35 (d) “Consumer” means an individual who seeks or acquires, by  
 36 purchase or lease, any goods or services for personal, family, or  
 37 household purposes.

38 (e) “Transaction” means an agreement between a consumer and  
 39 another person, whether or not the agreement is a contract

1 enforceable by action, and includes the making of, and the  
2 performance pursuant to, that agreement.

3 (f) “Senior citizen” means a person who is 65 years of age or  
4 older.

5 (g) “Disabled person” means a person who has a physical or  
6 mental impairment that substantially limits one or more major life  
7 activities.

8 (1) As used in this subdivision, “physical or mental impairment”  
9 means any of the following:

10 (A) A physiological disorder or condition, cosmetic  
11 disfigurement, or anatomical loss substantially affecting one or  
12 more of the following body systems: neurological; musculoskeletal;  
13 special sense organs; respiratory, including speech organs;  
14 cardiovascular; reproductive; digestive; genitourinary; hemic and  
15 lymphatic; skin; or endocrine.

16 (B) A mental or psychological disorder, including intellectual  
17 disability, organic brain syndrome, emotional or mental illness,  
18 and specific learning disabilities. “Physical or mental impairment”  
19 includes, but is not limited to, diseases and conditions that include  
20 orthopedic, visual, speech, and hearing impairment, cerebral palsy,  
21 epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart  
22 disease, diabetes, intellectual disability, and emotional illness.

23 (2) “Major life activities” means functions that include caring  
24 for one’s self, performing manual tasks, walking, seeing, hearing,  
25 speaking, breathing, learning, and working.

26 (h) “Home solicitation” means a transaction made at the  
27 consumer’s primary residence, except those transactions initiated  
28 by the consumer. A consumer response to an advertisement is not  
29 a home solicitation.

30 (i) (1) “Sexual orientation change efforts” means any practices  
31 that seek to change an individual’s sexual orientation. This includes  
32 efforts to change behaviors or gender expressions, or to eliminate  
33 or reduce sexual or romantic attractions or feelings toward  
34 individuals of the same sex.

35 (2) “Sexual orientation change efforts” does not include  
36 psychotherapies that: (A) provide acceptance, support, and  
37 understanding of clients or the facilitation of clients’ coping, social  
38 support, and identity exploration and development, including sexual  
39 orientation-neutral interventions to prevent or address unlawful

1 conduct or unsafe sexual practices; and (B) do not seek to change  
2 sexual orientation.

3 SEC. 3. Section 1770 of the Civil Code is amended to read:

4 1770. (a) The following unfair methods of competition and  
5 unfair or deceptive acts or practices undertaken by any person in  
6 a transaction intended to result or that results in the sale or lease  
7 of goods or services to any consumer are unlawful:

- 8 (1) Passing off goods or services as those of another.
- 9 (2) Misrepresenting the source, sponsorship, approval, or  
10 certification of goods or services.
- 11 (3) Misrepresenting the affiliation, connection, or association  
12 with, or certification by, another.
- 13 (4) Using deceptive representations or designations of  
14 geographic origin in connection with goods or services.
- 15 (5) Representing that goods or services have sponsorship,  
16 approval, characteristics, ingredients, uses, benefits, or quantities  
17 that they do not have or that a person has a sponsorship, approval,  
18 status, affiliation, or connection that he or she does not have.
- 19 (6) Representing that goods are original or new if they have  
20 deteriorated unreasonably or are altered, reconditioned, reclaimed,  
21 used, or secondhand.
- 22 (7) Representing that goods or services are of a particular  
23 standard, quality, or grade, or that goods are of a particular style  
24 or model, if they are of another.
- 25 (8) Disparaging the goods, services, or business of another by  
26 false or misleading representation of fact.
- 27 (9) Advertising goods or services with intent not to sell them  
28 as advertised.
- 29 (10) Advertising goods or services with intent not to supply  
30 reasonably expectable demand, unless the advertisement discloses  
31 a limitation of quantity.
- 32 (11) Advertising furniture without clearly indicating that it is  
33 unassembled if that is the case.
- 34 (12) Advertising the price of unassembled furniture without  
35 clearly indicating the assembled price of that furniture if the same  
36 furniture is available assembled from the seller.
- 37 (13) Making false or misleading statements of fact concerning  
38 reasons for, existence of, or amounts of, price reductions.



1 (14) Representing that a transaction confers or involves rights,  
2 remedies, or obligations that it does not have or involve, or that  
3 are prohibited by law.

4 (15) Representing that a part, replacement, or repair service is  
5 needed when it is not.

6 (16) Representing that the subject of a transaction has been  
7 supplied in accordance with a previous representation when it has  
8 not.

9 (17) Representing that the consumer will receive a rebate,  
10 discount, or other economic benefit, if the earning of the benefit  
11 is contingent on an event to occur subsequent to the consummation  
12 of the transaction.

13 (18) Misrepresenting the authority of a salesperson,  
14 representative, or agent to negotiate the final terms of a transaction  
15 with a consumer.

16 (19) Inserting an unconscionable provision in the contract.

17 (20) Advertising that a product is being offered at a specific  
18 price plus a specific percentage of that price unless (A) the total  
19 price is set forth in the advertisement, which may include, but is  
20 not limited to, shelf tags, displays, and media advertising, in a size  
21 larger than any other price in that advertisement, and (B) the  
22 specific price plus a specific percentage of that price represents a  
23 markup from the seller's costs or from the wholesale price of the  
24 product. This subdivision shall not apply to in-store advertising  
25 by businesses that are open only to members or cooperative  
26 organizations organized pursuant to Division 3 (commencing with  
27 Section 12000) of Title 1 of the Corporations Code where more  
28 than 50 percent of purchases are made at the specific price set forth  
29 in the advertisement.

30 (21) Selling or leasing goods in violation of Chapter 4  
31 (commencing with Section 1797.8) of Title 1.7.

32 (22) (A) Disseminating an unsolicited prerecorded message by  
33 telephone without an unrecorded, natural voice first informing the  
34 person answering the telephone of the name of the caller or the  
35 organization being represented, and either the address or the  
36 telephone number of the caller, and without obtaining the consent  
37 of that person to listen to the prerecorded message.

38 (B) This subdivision does not apply to a message disseminated  
39 to a business associate, customer, or other person having an  
40 established relationship with the person or organization making

1 the call, to a call for the purpose of collecting an existing  
 2 obligation, or to any call generated at the request of the recipient.

3 (23) (A) The home solicitation, as defined in subdivision (h)  
 4 of Section 1761, of a consumer who is a senior citizen where a  
 5 loan is made encumbering the primary residence of that consumer  
 6 for purposes of paying for home improvements and where the  
 7 transaction is part of a pattern or practice in violation of either  
 8 subsection (h) or (i) of Section 1639 of Title 15 of the United States  
 9 Code or paragraphs (1), (2), and (4) of subdivision (a) of Section  
 10 226.34 of Title 12 of the Code of Federal Regulations.

11 (B) A third party shall not be liable under this subdivision unless  
 12 (i) there was an agency relationship between the party who engaged  
 13 in home solicitation and the third party, or (ii) the third party had  
 14 actual knowledge of, or participated in, the unfair or deceptive  
 15 transaction. A third party who is a holder in due course under a  
 16 home solicitation transaction shall not be liable under this  
 17 subdivision.

18 (24) (A) Charging or receiving an unreasonable fee to prepare,  
 19 aid, or advise any prospective applicant, applicant, or recipient in  
 20 the procurement, maintenance, or securing of public social services.

21 (B) For purposes of this paragraph, the following definitions  
 22 shall apply:

23 (i) “Public social services” means those activities and functions  
 24 of state and local government administered or supervised by the  
 25 State Department of Health Care Services, the State Department  
 26 of Public Health, or the State Department of Social Services, and  
 27 involved in providing aid or services, or both, including health  
 28 care services, and medical assistance, to those persons who,  
 29 because of their economic circumstances or social condition, are  
 30 in need of that aid or those services and may benefit from them.

31 (ii) “Public social services” also includes activities and functions  
 32 administered or supervised by the United States Department of  
 33 Veterans Affairs or the California Department of Veterans Affairs  
 34 involved in providing aid or services, or both, to veterans, including  
 35 pension benefits.

36 (iii) “Unreasonable fee” means a fee that is exorbitant and  
 37 disproportionate to the services performed. Factors to be  
 38 considered, if appropriate, in determining the reasonableness of a  
 39 fee, are based on the circumstances existing at the time of the  
 40 service and shall include, but not be limited to, all of the following:

- 1 (I) The time and effort required.
- 2 (II) The novelty and difficulty of the services.
- 3 (III) The skill required to perform the services.
- 4 (IV) The nature and length of the professional relationship.
- 5 (V) The experience, reputation, and ability of the person
- 6 providing the services.

7 (C) This paragraph shall not apply to attorneys licensed to  
8 practice law in California, who are subject to the California Rules  
9 of Professional Conduct and to the mandatory fee arbitration  
10 provisions of Article 13 (commencing with Section 6200) of  
11 Chapter 4 of Division 3 of the Business and Professions Code,  
12 when the fees charged or received are for providing representation  
13 in administrative agency appeal proceedings or court proceedings  
14 for purposes of procuring, maintaining, or securing public social  
15 services on behalf of a person or group of persons.

16 (25) (A) Advertising or promoting any event, presentation,  
17 seminar, workshop, or other public gathering regarding veterans'  
18 benefits or entitlements that does not include the following  
19 statement in the same type size and font as the term "veteran" or  
20 any variation of that term:

21 (i) "I am not authorized to file an initial application for Veterans'  
22 Aid and Attendance benefits on your behalf, or to represent you  
23 before the Board of Veterans' Appeals within the United States  
24 Department of Veterans Affairs in any proceeding on any matter,  
25 including an application for such benefits. It would be illegal for  
26 me to accept a fee for preparing that application on your behalf."  
27 The requirements of this clause do not apply to a person licensed  
28 to act as an agent or attorney in proceedings before the Agency of  
29 Original Jurisdiction and the Board of Veterans' Appeals within  
30 the United States Department of Veterans Affairs when that person  
31 is offering those services at the advertised event.

32 (ii) The statement in clause (i) shall also be disseminated, both  
33 orally and in writing, at the beginning of any event, presentation,  
34 seminar, workshop, or public gathering regarding veterans' benefits  
35 or entitlements.

36 (B) Advertising or promoting any event, presentation, seminar,  
37 workshop, or other public gathering regarding veterans' benefits  
38 or entitlements that is not sponsored by, or affiliated with, the  
39 United States Department of Veterans Affairs, the California  
40 Department of Veterans Affairs, or any other congressionally

1 chartered or recognized organization of honorably discharged  
2 members of the Armed Forces of the United States, or any of their  
3 auxiliaries that does not include the following statement, in the  
4 same type size and font as the term “veteran” or the variation of  
5 that term:

6  
7 “This event is not sponsored by, or affiliated with, the United  
8 States Department of Veterans Affairs, the California Department  
9 of Veterans Affairs, or any other congressionally chartered or  
10 recognized organization of honorably discharged members of the  
11 Armed Forces of the United States, or any of their auxiliaries.  
12 None of the insurance products promoted at this sales event are  
13 endorsed by those organizations, all of which offer free advice to  
14 veterans about how to qualify and apply for benefits.”

15  
16 (i) The statement in this subparagraph shall be disseminated,  
17 both orally and in writing, at the beginning of any event,  
18 presentation, seminar, workshop, or public gathering regarding  
19 veterans’ benefits or entitlements.

20 (ii) The requirements of this subparagraph shall not apply in a  
21 case where the United States Department of Veterans Affairs, the  
22 California Department of Veterans Affairs, or other congressionally  
23 chartered or recognized organization of honorably discharged  
24 members of the Armed Forces of the United States, or any of their  
25 auxiliaries have granted written permission to the advertiser or  
26 promoter for the use of its name, symbol, or insignia to advertise  
27 or promote the event, presentation, seminar, workshop, or other  
28 public gathering.

29 (26) Advertising, offering for sale, or selling a financial product  
30 that is illegal under state or federal law, including any cash payment  
31 for the assignment to a third party of the consumer’s right to receive  
32 future pension or veteran’s benefits.

33 (27) Representing that a product is made in California by using  
34 a Made in California label created pursuant to Section 12098.10  
35 of the Government Code, unless the product complies with Section  
36 12098.10 of the Government Code.

37 (28) Advertising, offering to engage in, or engaging in sexual  
38 orientation change efforts with an individual.

39 (b) (1) It is an unfair or deceptive act or practice for a mortgage  
40 broker or lender, directly or indirectly, to use a home improvement

1 contractor to negotiate the terms of any loan that is secured,  
2 whether in whole or in part, by the residence of the borrower and  
3 that is used to finance a home improvement contract or any portion  
4 of a home improvement contract. For purposes of this subdivision,  
5 “mortgage broker or lender” includes a finance lender licensed  
6 pursuant to the California Finance Lenders Law (Division 9  
7 (commencing with Section 22000) of the Financial Code), a  
8 residential mortgage lender licensed pursuant to the California  
9 Residential Mortgage Lending Act (Division 20 (commencing  
10 with Section 50000) of the Financial Code), or a real estate broker  
11 licensed under the Real Estate Law (Division 4 (commencing with  
12 Section 10000) of the Business and Professions Code).

13 (2) This section shall not be construed to either authorize or  
14 prohibit a home improvement contractor from referring a consumer  
15 to a mortgage broker or lender by this subdivision. However, a  
16 home improvement contractor may refer a consumer to a mortgage  
17 lender or broker if that referral does not violate Section 7157 of  
18 the Business and Professions Code or any other law. A mortgage  
19 lender or broker may purchase an executed home improvement  
20 contract if that purchase does not violate Section 7157 of the  
21 Business and Professions Code or any other law. Nothing in this  
22 paragraph shall have any effect on the application of Chapter 1  
23 (commencing with Section 1801) of Title 2 to a home improvement  
24 transaction or the financing of a home improvement transaction.

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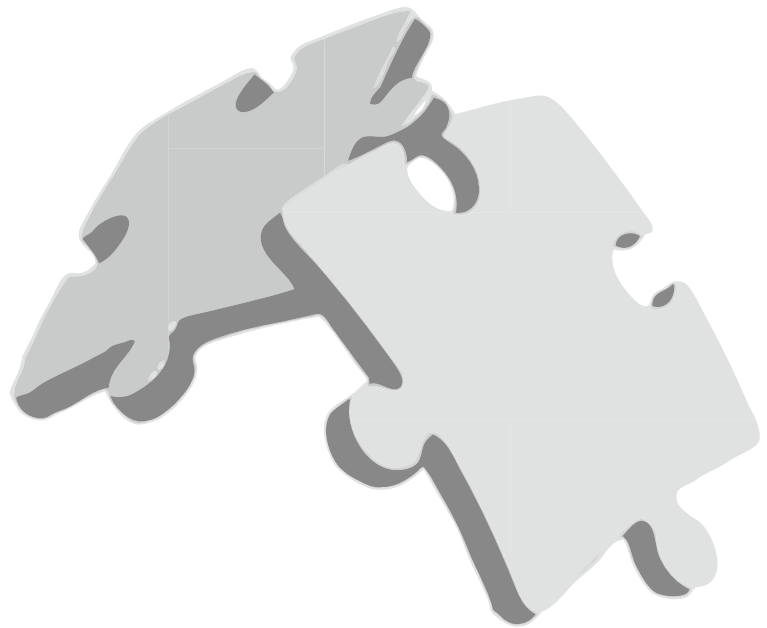
Report of the American Psychological Association Task Force on  
**Appropriate Therapeutic Responses  
to Sexual Orientation**







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Report of the American Psychological Association Task Force on  
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Available online at <http://www.apa.org/pi/lgbc/publications/therapeutic-resp.html>

*Printed copies available from:*

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*Suggested bibliographic reference:*

American Psychological Association, Task Force on Appropriate Therapeutic Responses to Sexual Orientation. (2009). *Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation*. Retrieved from <http://www.apa.org/pi/lgbc/publications/therapeutic-resp.html>

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August 2009  
Printed in the USA

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## ABSTRACT

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The American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation conducted a systematic review of the peer-reviewed journal literature on sexual orientation change efforts (SOCE) and concluded that efforts to change sexual orientation are unlikely to be successful and involve some risk of harm, contrary to the claims of SOCE practitioners and advocates. Even though the research and clinical literature demonstrate that same-sex sexual and romantic attractions, feelings, and behaviors are normal and positive variations of human sexuality regardless of sexual orientation identity, the task force concluded that the population that undergoes SOCE tends to have strongly conservative religious views that lead them to seek to change their sexual orientation. Thus, the appropriate application of affirmative therapeutic interventions for those who seek SOCE involves therapist acceptance, support, and understanding of clients and the facilitation of clients' active coping, social support, and identity exploration and development, without imposing a specific sexual orientation identity outcome.





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## EXECUTIVE SUMMARY

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In February 2007, the American Psychological Association (APA) established the Task Force on Appropriate Therapeutic Responses to Sexual Orientation and charged the task force with three major tasks:

1. Review and update the 1997 Resolution on Appropriate Therapeutic Responses to Sexual Orientation (APA, 1998).
2. Generate a report that includes discussion of the following:
  - The appropriate application of affirmative therapeutic interventions for children and adolescents who present a desire to change either their sexual orientation or their behavioral expression of their sexual orientation, or both, or whose guardian expresses a desire for the minor to change.
  - The appropriate application of affirmative therapeutic interventions for adults who present a desire to change their sexual orientation or their behavioral expression of their sexual orientation, or both.
  - The presence of adolescent inpatient facilities that offer coercive treatment designed to change sexual orientation or the behavioral expression of sexual orientation.
  - Education, training, and research issues as they pertain to such therapeutic interventions.
3. Inform APA's response to groups that promote treatments to change sexual orientation or its behavioral expression and support public policy that furthers affirmative therapeutic interventions.
  - Recommendations regarding treatment protocols that promote stereotyped gender-normative behavior to mitigate behaviors that are perceived to be indicators that a child will develop a homosexual orientation in adolescence and adulthood.

As part of the fulfillment of its charge, the task force undertook an extensive review of the recent literature on psychotherapy and the psychology of sexual orientation. There is a growing body of evidence concluding that sexual stigma, manifested as prejudice and discrimination directed at non-heterosexual sexual orientations and identities, is a major source of stress for sexual minorities.\* This stress, known as *minority stress*, is a factor in mental health disparities found in some sexual minorities. The minority stress model also provides a framework for considering psychotherapy with sexual minorities, including understanding stress, distress, coping, resilience, and recovery. For instance, the affirmative approach to psychotherapy grew out of an awareness that sexual minorities benefit

\* We use the term *sexual minority* (cf. Blumenfeld, 1992; McCarn & Fassinger, 1996; Ullerstam, 1966) to designate the entire group of individuals who experience significant erotic and romantic attractions to adult members of their own sex, including those who experience attractions to members of their own and of the other sex. This term is used because we recognize that not all sexual minority individuals adopt a lesbian, gay, or bisexual identity.

when the sexual stigma they experience is addressed in psychotherapy with interventions that reduce and counter internalized stigma and increase active coping.

The task force, in recognition of human diversity, conceptualized affirmative interventions within the domain of cultural competence, consistent with general multicultural approaches that acknowledge the importance of age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, and socioeconomic status. We see this multiculturally competent and affirmative approach as grounded in an acceptance of the following scientific facts:

- Same-sex sexual attractions, behavior, and orientations per se are normal and positive variants of human sexuality—in other words, they do not indicate either mental or developmental disorders.
- Homosexuality and bisexuality are stigmatized, and this stigma can have a variety of negative consequences (e.g., minority stress) throughout the life span.
- Same-sex sexual attractions and behavior occur in the context of a variety of sexual orientations and sexual orientation identities, and for some, sexual orientation identity (i.e., individual or group membership and affiliation, self-labeling) is fluid or has an indefinite outcome.
- Gay men, lesbians, and bisexual individuals form stable, committed relationships and families that are equivalent to heterosexual relationships and families in essential respects.
- Some individuals choose to live their lives in accordance with personal or religious values (i.e., telic congruence).

## Summary of the Systematic Review of the Literature

### *Efficacy and Safety*

In order to ascertain whether there was a research basis for revising the 1997 Resolution on Appropriate Therapeutic Responses to Sexual Orientation (APA, 1998) and providing more specific recommendations to licensed mental health practitioners, the public, and policymakers, the task force performed a systematic

review of the peer-reviewed literature to answer three questions:

- Are sexual orientation change efforts (SOCE)\*\* effective at changing sexual orientation?
- Are SOCE harmful?
- Are there any additional benefits that can be reasonably attributed to SOCE?

The review covered the peer-reviewed journal articles in English from 1960 to 2007. Most studies in this area were conducted before 1981, and only a few studies have been conducted in the last 10 years. We found serious methodological problems in this area of research; only a few studies met the minimal standards for evaluating whether psychological treatments such as efforts to change sexual orientation are effective. Few studies—all conducted in the period from 1969 to 1978—could be considered true experiments or quasi-experiments that would isolate and control the factors that might effect change (Birk, Huddleston, Miller, & Cohler, 1971; S. James, 1978; McConaghy, 1969, 1976; McConaghy, Proctor, & Barr, 1972; Tanner, 1974, 1975). Only one of these studies (Tanner, 1974) actually compared people who received a treatment with people who did not and could therefore rule out the possibility that other things, such as being motivated to change, were the true cause of any change the researchers observed in the study participants.

None of the recent research (1999–2007) meets methodological standards that permit conclusions regarding efficacy or safety. The few high-quality studies of SOCE conducted recently are qualitative (e.g., Beckstead & Morrow, 2004; Ponticelli, 1999; Wolkomir, 2001); although they aid in an understanding of the population that undergoes sexual orientation change, they do not provide the kind of information needed for definitive answers to questions of safety and efficacy. Given the limited amount of methodologically sound research, claims that recent SOCE is effective are not supported.

We concluded that the early high-quality evidence is the best basis for predicting what the outcome of valid interventions would be. These studies show that

\*\* In this report, we use the term *sexual orientation change efforts* (SOCE) to describe methods (e.g., behavioral techniques, psychoanalytic techniques, medical approaches, religious and spiritual approaches) that aim to change a person's same-sex sexual orientation to other-sex, regardless of whether mental health professionals or lay individuals (including religious professionals, religious leaders, social groups, and other lay networks, such as self-help groups) are involved.





enduring change to an individual's sexual orientation is uncommon. The participants in this body of research continued to experience same-sex attractions following SOCE and did not report significant change to other-sex attractions that could be empirically validated, though some showed lessened physiological arousal to sexual stimuli. Compelling evidence of decreased same-sex sexual behavior and of engagement in sexual behavior with the other sex was rare. Few studies provided strong evidence that any changes produced in laboratory conditions translated to daily life. Thus, the results of scientifically valid research indicate that it is unlikely that individuals will be able to reduce same-sex attractions or increase other-sex sexual attractions through SOCE.

We found that there was some evidence to indicate that individuals experienced harm from SOCE. Early studies documented iatrogenic effects of aversive forms of SOCE. These negative side effects included loss of sexual feeling, depression, suicidality, and anxiety. High dropout rates characterized early aversive treatment studies and may be an indicator that research participants experienced these treatments as harmful. Recent research reports on religious and nonaversive efforts indicate that there are individuals who perceive they have been harmed. Across studies, it is unclear what specific individual characteristics and diagnostic criteria would prospectively distinguish those individuals who will later perceive that they been harmed by SOCE.

### *Individuals Who Seek SOCE and Their Experiences*

Although the recent SOCE research cannot provide conclusions regarding efficacy or safety, it does provide some information on those individuals who participate in change efforts. SOCE research identified a population of individuals who experienced conflicts and distress related to same-sex attractions. The vast majority of people who participated in the early studies were adult White males, and many of these individuals were court-mandated to receive treatment. In the research conducted over the last 10 years, the population was mostly well-educated individuals, predominantly men, who consider religion to be an extremely important part of their lives and participate in traditional or conservative faiths (e.g., The Church of Jesus Christ of Latter-Day Saints, evangelical Christianity, and Orthodox Judaism). These recent

studies included a small number of participants who identified as members of ethnic minority groups, and a few studies included women.

Most of the individuals studied had tried a variety of methods to change their sexual orientation, including psychotherapy, support groups, and religious efforts. Many of the individuals studied were recruited from groups endorsing SOCE. The relation between the characteristics of the individuals in samples used in these studies and the entire population of people who seek SOCE is unknown because the studies have relied entirely on convenience samples.

Former participants in SOCE reported diverse evaluations of their experiences: Some individuals perceived that they had benefited from SOCE, while others perceived that they had been harmed. Individuals who failed to change sexual orientation, while believing they should have changed with such efforts, described their experiences as a significant cause of emotional and spiritual distress and negative self-image. Other individuals reported that SOCE was helpful—for example, it helped them live in a manner consistent with their faith. Some individuals described finding a sense of community through religious SOCE and valued having others with whom they could identify. These effects are similar to those provided by mutual support groups for a range of problems, and the positive benefits reported by participants in SOCE, such as reduction of isolation, alterations in how problems are viewed, and stress reduction, are consistent with the findings of the general mutual support group literature. The research literature indicates that the benefits of SOCE mutual support groups are not unique and can be provided within an affirmative and multiculturally competent framework, which can mitigate the harmful aspects of SOCE by addressing sexual stigma while understanding the importance of religion and social needs.

Recent studies of participants who have sought SOCE do not adequately distinguish between *sexual orientation* and *sexual orientation identity*. We concluded that the failure to distinguish these aspects of human sexuality has led SOCE research to obscure what actually can or cannot change in human sexuality. The available evidence of both early and recent studies suggests that although sexual orientation is unlikely to change, some individuals modified their sexual orientation identity (e.g., individual or group membership and affiliation, self-labeling) and other aspects of sexuality (e.g., values and behavior). They did so in a variety of ways and with varied and



unpredictable outcomes, some of which were temporary. For instance, in some research, individuals, through participating in SOCE, became skilled in ignoring or tolerating their same-sex attractions. Some individuals reported that they went on to lead outwardly heterosexual lives, developing a sexual relationship with an other-sex partner, and adopting a heterosexual identity. These results were less common for those with no prior heterosexual experience.

### *Literature on Children and Adolescents*

To fulfill part of the task force charge, we reviewed the limited research on child and adolescent issues and drew the following conclusions: There is no research demonstrating that providing SOCE to children or adolescents has an impact on adult sexual orientation. The few studies of children with gender identity disorder found no evidence that psychotherapy provided to those children had an impact on adult sexual orientation. There is currently no evidence that teaching or reinforcing stereotyped gender-normative behavior in childhood or adolescence can alter sexual orientation. We have concerns that such interventions may increase self-stigma and minority stress and ultimately increase the distress of children and adolescents.

We were asked to report on adolescent inpatient facilities that offer coercive treatment designed to change sexual orientation or the behavioral expression of sexual orientation. The limited published literature on these programs suggests that many do not present accurate scientific information regarding same-sex sexual orientations to youths and families, are excessively fear-based, and have the potential to increase sexual stigma. These efforts pose challenges to best clinical practices and professional ethics, as they potentially violate current practice guidelines by not providing treatment in the least-restrictive setting possible, by not protecting client autonomy, and by ignoring current scientific information on sexual orientation.

## Recommendations and Future Directions

### *Practice*

The task force was asked to report on the appropriate application of affirmative therapeutic interventions for adults who present a desire to change their sexual

orientation or their behavioral expression of their sexual orientation, or both. The clinical literature indicated that adults perceive a benefit when they are provided with client-centered, multicultural, evidence-based approaches that provide (a) acceptance and support, (b) a comprehensive assessment, (c) active coping, (d) social support, and (e) identity exploration and development. Acceptance and support include unconditional acceptance of and support for the various aspects of the client; respect for the client's values, beliefs, and needs; and a reduction in internalized sexual stigma. Comprehensive assessment involves an awareness of the complete person, including mental health concerns that could impact distress about sexual orientation. Active coping includes both cognitive and emotional strategies to manage stigma and conflicts, including the development of alternative cognitive frames to resolve cognitive dissonance and the facilitation of affective expression and resolution of losses. Social support, which can mitigate distress caused by isolation, rejection, and lack of role models, includes psychotherapy, self-help groups, or welcoming communities (e.g., ethnic communities, social groups, religious denominations). Identity exploration and development include offering permission and opportunity to explore a wide range of options and reducing the conflicts caused by dichotomous or conflicting conceptions of self and identity without prioritizing a particular outcome.

This framework is consistent with multicultural and evidence-based practices in psychotherapy and is built on three key findings:

- Our systematic review of the early research found that enduring change to an individual's sexual orientation was unlikely.
- Our review of the scholarly literature on individuals distressed by their sexual orientation indicated that clients perceived a benefit when offered interventions that emphasize acceptance, support, and recognition of important values and concerns.
- Studies indicate that experiences of stigma—such as self-stigma, shame, isolation and rejection from relationships and valued communities, lack of emotional support and accurate information, and conflicts between multiple identities and between values and attractions—played a role in creating distress in individuals. Many religious individuals desired to live their lives in a manner consistent with their values (telic congruence); however, telic



congruence based on stigma and shame is unlikely to result in psychological well-being.

In terms of formulating the goals of treatment, we propose that, on the basis of research on sexual orientation and sexual orientation identity, what appears to shift and evolve in some individuals' lives is sexual orientation identity, not sexual orientation. Given that there is diversity in how individuals define and express their sexual orientation identity, an affirmative approach is supportive of clients' identity development without an a priori treatment goal concerning how clients identify or live out their sexual orientation or spiritual beliefs. This type of therapy can provide a safe space where the different aspects of the evolving self can be acknowledged, explored, respected, and potentially rewoven into a more coherent sense of self that feels authentic to the client, and it can be helpful to those who accept, reject, or are ambivalent about their same-sex attractions. The treatment does not differ, although the outcome of the client's pathway to a sexual orientation identity does. Other potential targets of treatment are emotional adjustment, including shame and self-stigma, and personal beliefs, values, and norms.

We were asked to report on the appropriate application of affirmative therapeutic interventions for children and adolescents who present a desire to change either their sexual orientation or the behavioral expression of their sexual orientation, or both, or whose parent or guardian expresses a desire for the minor to

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*For parents who are concerned or distressed by their child's sexual orientation, licensed mental health providers (LMHP) can provide accurate information about sexual orientation and sexual orientation identity and can offer anticipatory guidance and psychotherapy that support family reconciliation.*

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change. The framework proposed for adults (i.e., acceptance and support, a comprehensive assessment, active coping, social support, and identity exploration and development) is also pertinent—with unique relevant features—to children and adolescents. For instance, the clinical

literature stresses interventions that accept and support the development of healthy self-esteem, facilitate the achievement of appropriate developmental milestones—including the development of a positive identity—and reduce internalized sexual stigma.

Research indicates that family interventions that reduce rejection and increase acceptance of their child and adolescent are helpful. For parents who are concerned or distressed by their child's sexual orientation, licensed mental health providers (LMHP) can provide accurate information about sexual orientation and sexual orientation identity and can offer anticipatory guidance and psychotherapy that support family reconciliation (e.g., communication, understanding, and empathy) and maintenance of the child's total health and well-being.

Additionally, the research and clinical literature indicates that increasing social support for sexual minority children and youth by intervening in schools and communities to increase their acceptance and safety is important. Services for children and youth should support and respect age-appropriate issues of self-determination; services should also be provided in the least restrictive setting that is clinically possible and should maximize self-determination. At a minimum, the assent of the youth should be obtained, including whenever possible a developmentally appropriate informed consent to treatment.

Some religious individuals with same-sex attractions experience psychological distress and conflict due to the perceived irreconcilability of their sexual orientation and religious beliefs. The clinical and research literature encourages the provision of acceptance, support, and recognition of the importance of faith to individuals and communities while recognizing the science of sexual orientation. This includes an understanding of the client's faith and the psychology of religion, especially issues such as religious coping, motivation, and identity. Clients' exploration of possible life paths can address the reality of their sexual orientation and the possibilities for a religiously and spiritually meaningful and rewarding life. Such psychotherapy can enhance clients' search for meaning, significance, and a relationship with the sacred in their lives; increase positive religious coping; foster an understanding of religious motivations; help integrate religious and sexual orientation identities; and reframe sexual orientation identities to reduce self-stigma.

LMHP strive to provide interventions that are consistent with current ethical standards. The *APA Ethical Principles of Psychologists and Code of Conduct* (APA, 2002b) and relevant APA guidelines and resolutions (e.g., APA, 2000, 2002c, 2004, 2005a, 2007b) are resources for psychologists, especially Ethical Principles A (Beneficence and Nonmaleficence), D (Justice), and E (Respect for People's Rights and

Dignity, including self-determination). For instance, LMHP reduce potential harm and increase potential benefits by basing their scientific and professional judgments and actions on the most current and valid scientific evidence, such as the evidence provided in this report (see APA, 2002b, Standard 2.04, Bases for Scientific and Professional Judgments). LMHP enhance principles of social justice when they strive to understand the effects of sexual stigma, prejudice, and discrimination on the lives of individuals, families, and communities. Further, LMHP aspire to respect diversity in all aspects of their work, including age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, and socioeconomic status.

Self-determination is the process by which a person controls or determines the course of her or his own life (according to the *Oxford American Dictionary*, 2007). LMHP maximize self-determination by (a) providing effective psychotherapy that explores the client's assumptions and goals, without preconditions on the outcome; (b) providing resources to manage and reduce distress; and (c) permitting the client to decide the ultimate goal of how to self-identify and live out her or his sexual orientation. Although some accounts suggest that providing SOCE increases self-determination, we were not persuaded by this argument, as it encourages LMHP to provide treatment that has not provided evidence of efficacy, has the potential to be harmful, and delegates important professional decisions that should be based on qualified expertise and training—such as diagnosis and type of therapy. Rather, therapy that increases the client's ability to cope, understand, acknowledge, and integrate sexual orientation concerns into a self-chosen life is the measured approach.

### *Education and Training*

The task force was asked to provide recommendations on education and training for LMHP working with this population. We recommend that mental health professionals working with individuals who are considering SOCE learn about evidence-based and multicultural interventions and obtain additional knowledge, awareness, and skills in the following areas:

- Sexuality, sexual orientation, and sexual identity development.
- Various perspectives on religion and spirituality, including models of faith development, religious coping, and the positive psychology of religion.

- Identity development, including integration of multiple identities and the resolution of identity conflicts.
- The intersections of age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, and socioeconomic status.
- Sexual stigma and minority stress.

We also recommend that APA (a) take steps to encourage community colleges, undergraduate programs, graduate school training programs, internship sites, and postdoctoral programs in psychology to include this report and other relevant material on lesbian, gay, bisexual, and transgender (LGBT) issues in their curriculum; (b) maintain the currently high standards for APA approval of continuing professional education providers and programs; (c) offer symposia and continuing professional education workshops at APA's annual convention that focus on treatment of individuals distressed by their same-sex attractions, especially those who struggle to integrate religious and spiritual beliefs with sexual orientation identities; and (d) disseminate this report widely, including publishing a version of this report in an appropriate journal or other publication.

The information available to the public about SOCE is highly variable and can be confusing and misleading. Sexual minorities, individuals aware of same-sex attractions, families, parents, caregivers, policymakers, the public, and religious leaders can benefit from accurate scientific information about sexual orientation and the appropriate interventions for individuals distressed by their same-sex attractions. We recommend that APA take the lead in creating informational materials for sexual minority individuals, families, parents, and other stakeholders, including religious organizations, on appropriate multiculturally competent and client-centered interventions for those distressed by their sexual orientation and who may seek SOCE. We also recommended that APA collaborate with other relevant organizations, especially religious organizations, to disseminate this information.

### *Research*

The task force was asked to provide recommendations for future research. We recommend that researchers and practitioners investigate multiculturally competent and affirmative evidence-based treatments for sexual



minorities that do not aim to alter sexual orientation. For such individuals, the focus would be on frameworks that include acceptance and support, a comprehensive assessment, active coping, social support, and identity exploration and development without prioritizing one outcome over another.

The research on SOCE has not adequately assessed efficacy and safety. Any future research should conform to best-practice standards for the design of efficacy research. Research on SOCE would (a) use methods that are prospective and longitudinal; (b) employ sampling methods that allow proper generalization; (c) use appropriate, objective, and high-quality measures of sexual orientation and sexual orientation identity; (d) address preexisting and co-occurring conditions, mental health problems, other interventions, and life histories to test competing explanations for any changes; (e) address participants' biases and potential need for monitoring self-impression and life histories; and (f) include measures capable of assessing harm.

### *Policy*

The task force was asked to inform (a) the association's response to groups that promote treatments to change sexual orientation or its behavioral expression and (b) public policy that furthers affirmative therapeutic interventions. We encourage APA to continue its advocacy for LGBT individuals and families and to oppose stigma, prejudice, discrimination, and violence directed at sexual minorities. We recommend that APA take a leadership role in opposing the distortion and selective use of scientific data about homosexuality by individuals and organizations and in supporting the dissemination of accurate scientific and professional information about sexual orientation in order to counteract bias. We encourage APA to engage in collaborative activities with religious communities in pursuit of shared prosocial goals when such collaboration can be done in a mutually respectful manner that is consistent with psychologists' professional and scientific roles.

The 1997 Resolution on Appropriate Responses to Sexual Orientation (APA, 1998) focuses on ethical issues for practitioners and still serves this purpose. However, on the basis of (a) our systematic review of efficacy and safety issues, (b) the presence of SOCE directed at children and adolescents, (c) the importance of religion for those who currently seek SOCE, and (d) the ideological and political disputes that affect this area, the task force recommended that the APA

Council of Representatives adopt a new resolution, the **Resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts**, to address these issues. [The Council adopted the resolution in August 2009.] (See Appendix A.)



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## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 2968                      **VERSION:** AMENDED MARCH 23, 2018

**AUTHOR:** LEVINE                              **SPONSOR:** BOARD OF PSYCHOLOGY

**RECOMMENDED POSITION:** SUPPORT

**SUBJECT:** PSYCHOTHERAPIST-CLIENT RELATIONSHIP: VICTIMS OF SEXUAL BEHAVIOR AND  
SEXUAL CONTACT: INFORMATIONAL BROCHURE

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**Summary:** This bill makes changes to sections of the Business and Professions Code (BPC) relating to the requirement that the Department of Consumer Affairs (DCA) create a brochure to educate the public about the prohibition of sexual contact in therapy.

**Existing Law:**

- 1) Requires DCA to prepare an informational brochure for victims of psychotherapist-patient sexual contact and their advocates. (BPC §337(a))
- 2) In developing the brochure, requires DCA to consult with the Attorney General's Office and the Sexual Assault Program of the Office of Criminal Justice Planning. (BPC §337(a))
- 3) Requires the brochure to include at least the following (BPC §337(b)):
  - a) A legal and informal definition of psychotherapist-patient sexual contact;
  - b) Common personal reactions and victim histories;
  - c) A patient's bill of rights;
  - d) Options and instructions for reporting psychotherapist-patient sexual relations;
  - e) A description of administrative, civil, and professional association complaint procedures; and
  - f) A description of support services available for victims.
- 4) Requires the brochure to be provided to everyone contacting the Medical Board or its affiliated health boards, or the Board of Behavioral Sciences, regarding a complaint involving psychotherapist-patient sexual relations. (BPC §337(c))
- 5) Requires any psychotherapist or their employer who becomes aware through a patient that the patient had alleged sexual intercourse or sexual contact with a previous psychotherapist during prior treatment, to provide and discuss the above-referenced brochure with the patient. Failure to comply is unprofessional conduct. (BPC §728 (a) and (b))

- 6) Defines “psychotherapist” to include a physician and surgeon practicing psychiatry or psychotherapy, a psychologist, a clinical social worker, marriage and family therapist, licensed professional clinical counselor, psychological assistant, MFT intern or trainee, PCC intern or trainee, or associate clinical social worker. (BPC §728(c))
- 7) Defines “sexual contact” as touching an intimate part of another person. (BPC §728(c))

**This Bill:**

- 1) Removes the requirement that DCA consult with the Attorney General’s Office and the Sexual Assault Program of the Office of Criminal Justice Planning (which no longer exists) in the development of the brochure. (BPC §337(a))
- 2) Updates the definition of “psychotherapist” to include licensed educational psychologists, and updates the terminology used for other Board license types. (All Board license types are now included: LMFTs, associate MFTs, LPCCs, associate PCCs, LEPs, LCSWs, associate clinical social workers, and MFT and PCC trainees.) (BPC §728(c))
- 3) Adds a definition of “sexual behavior” to include with “sexual contact.” “Sexual behavior” is defined as inappropriate contact or communication of a sexual nature. It does not include the provision of appropriate therapeutic interventions relating to sexual issues. (BPC §728(c))

**Comments:**

- 1) **Intent.** This is an effort being led by the Board of Psychology (BOP) to modernize the statutory language regarding the requirements for the “Professional Therapy Never Includes Sex” brochure (**Attachment A**). The BOP has held stakeholder meetings to gain input from this Board and the Medical Board, which are also affected by the law’s provisions.

Specific areas of concern being addressed in this bill include outdated terminology that does not include sexual behaviors that have arisen with advances in technology, concern about the requirement to define civil and professional association’s complaint procedures, and references to outdated license classifications.

- 2) **Recommended Position.** At its April 12, 2018 meeting, the Policy and Advocacy Committee recommended the Board consider a “support” position on this bill.

- 3) **Support and Opposition.**

**Support:** Board of Psychology (Sponsor)

**Oppose:** None at this time.

- 4) **History.**

**2018**

04/02/18 Re-referred to Com. on B. & P.

03/23/18 From committee chair, with author’s amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

03/22/18 Referred to Com. on B. & P.

02/17/18 From printer. May be heard in committee March 19.



02/16/18 Read first time. To print.

**5) Attachments.**

**Attachment A: Professional Therapy Never Includes Sex Brochure (Current Version)**

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AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2968**

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**Introduced by Assembly Member Levine**

February 16, 2018

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An act to amend ~~Section 105~~ *Sections 337 and 728* of the Business and Professions Code, relating to ~~consumer affairs~~; *healing arts*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2968, as amended, Levine. ~~Consumer—affairs.~~ *Psychotherapist-client relationship: victims of sexual behavior and sexual contact: informational brochure.*

*Existing law requires the Department of Consumer Affairs to prepare and disseminate an informational brochure for victims of psychotherapist-patient sexual contact and their advocates, and requires that the brochure be developed by the department in consultation with the office of Criminal Justice Planning and the office of the Attorney General, as specified. Existing law requires the brochure to include specified subjects and requires the brochure to be provided to individuals who contact the Medical Board of California and affiliated health boards or the Board of Behavioral Sciences regarding a complaint involving psychotherapist-patient sexual relations.*

*This bill would eliminate the requirement that the department develop the brochure in consultation with the office of Criminal Justice Planning and the office of the Attorney General. The bill would require that the brochure also be for victims of psychotherapist-client sexual behavior. The bill would revise the required content of the brochure, and would require the brochure to be provided to each individual contacting the Medical Board of California, the Osteopathic Medical Board of*

California, the Board of Psychology, or the Board of Behavioral Sciences regarding a complaint involving psychotherapist-client sexual behavior and sexual contact. The bill would make conforming changes.

Existing law requires a psychotherapist or an employer of a psychotherapist who becomes aware through a patient that the patient had alleged sexual intercourse or alleged sexual contact, as defined, with a previous psychotherapist to provide a brochure developed by the department that delineates the rights of, and remedies for, patients who have been involved sexually with their psychotherapists. Existing law defines “psychotherapist” for purposes of those provisions to include various mental health practitioners and makes a failure to comply unprofessional conduct.

This bill would make this requirement also apply in the case of alleged sexual behavior, as defined, with a previous psychotherapist and would specify that the required brochure is the above-described brochure developed by the department. The bill would also expand the list of mental health practitioners included in the definition of “psychotherapist” for those purposes.

Existing law establishes the Department of Consumer Affairs, which is comprised of various boards and requires members of a board to take an oath of office, as specified:

This bill would make a nonsubstantive change to that provision:

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

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

- 1     SECTION 1. Section 337 of the Business and Professions Code
- 2     is amended to read:
- 3     337. (a) The department shall prepare and disseminate an
- 4     informational brochure for victims of ~~psychotherapist-patient~~
- 5     *psychotherapist-client sexual behavior and sexual contact and*
- 6     ~~advocates for those victims. their advocates.~~ This brochure shall
- 7     be developed by the ~~department in consultation with members of~~
- 8     ~~the Sexual Assault Program of the Office of Criminal Justice~~
- 9     ~~Planning and the office of the Attorney General.~~ *department.*
- 10    (b) The brochure shall include, but is not limited to, the
- 11    following:
- 12    (1) A legal and an informal definition of ~~psychotherapist-patient~~
- 13    *psychotherapist-client sexual behavior and sexual contact.*

1 (2) A brief description of common personal ~~reactions and~~  
2 ~~histories of victims and victim’s families.~~ *reactions.*

3 (3) A ~~patient’s client’s~~ bill of rights.

4 (4) ~~Options~~ *Instructions* for reporting ~~psychotherapist-patient~~  
5 ~~sexual relations and instructions for each reporting option.~~  
6 *psychotherapist-client sexual behavior and sexual contact.*

7 (5) A full description of ~~administrative, civil, and professional~~  
8 ~~associations~~ *administrative* complaint procedures.

9 (6) A description of services available for support of victims.

10 (c) The brochure shall be provided to each individual contacting  
11 the Medical Board of ~~California and affiliated health boards~~  
12 *California, the Osteopathic Medical Board of California, the Board*  
13 *of Psychology*, or the Board of Behavioral Sciences regarding a  
14 complaint involving ~~psychotherapist-patient sexual relations.~~  
15 *psychotherapist-client sexual behavior and sexual contact.*

16 *SEC. 2. Section 728 of the Business and Professions Code is*  
17 *amended to read:*

18 728. (a) Any psychotherapist or employer of a psychotherapist  
19 who becomes aware through a ~~patient client~~ that the ~~patient client~~  
20 had alleged sexual intercourse or alleged *sexual behavior or* sexual  
21 contact with a previous psychotherapist during the course of a  
22 prior treatment shall provide to the ~~patient client~~ a brochure  
23 ~~promulgated developed~~ by the department *pursuant to Section 337*  
24 that delineates the rights of, and remedies for, ~~patients clients~~ who  
25 have been involved sexually with their psychotherapists. Further,  
26 the psychotherapist or employer shall discuss with the ~~patient client~~  
27 the brochure prepared by the department.

28 (b) Failure to comply with this section constitutes unprofessional  
29 conduct.

30 (c) For the purpose of this section, the following definitions  
31 apply:

32 (1) “Psychotherapist” means ~~a physician and surgeon~~  
33 ~~specializing in the practice of psychiatry or practicing~~  
34 ~~psychotherapy, a psychologist, a clinical social worker, a marriage~~  
35 ~~and family therapist, a licensed professional clinical counselor, a~~  
36 ~~psychological assistant, a marriage and family therapist registered~~  
37 ~~intern or trainee, an intern or clinical counselor trainee, as specified~~  
38 ~~in Chapter 16 (commencing with Section 4999.10), or an associate~~  
39 ~~clinical social worker.~~ *any of the following:*

- 1 (A) A physician and surgeon specializing in the practice of
- 2 psychiatry or practicing psychotherapy.
- 3 (B) A psychologist.
- 4 (C) A psychological assistant.
- 5 (D) A registered psychologist.
- 6 (E) A trainee under the supervision of a licensed psychologist.
- 7 (F) A marriage and family therapist.
- 8 (G) An associate marriage and family therapist.
- 9 (H) A marriage and family therapist trainee.
- 10 (I) A licensed educational psychologist.
- 11 (J) A clinical social worker.
- 12 (K) An associate clinical social worker.
- 13 (L) A licensed professional clinical counselor.
- 14 (M) An associate professional clinical counselor.
- 15 (N) A clinical counselor trainee.
- 16 (2) "Sexual behavior" means inappropriate contact or
- 17 communication of a sexual nature. "Sexual behavior" does not
- 18 include the provision of appropriate therapeutic interventions
- 19 relating to sexual issues.
- 20 ~~(2)~~
- 21 (3) "Sexual contact" means the touching of an intimate part of
- 22 another person.
- 23 ~~(3)~~
- 24 (4) "Intimate part" and "touching" have the same meaning as
- 25 defined in subdivisions (g) and (e), respectively, of Section 243.4
- 26 of the Penal Code.
- 27 ~~(4)~~
- 28 (5) "The course of a prior treatment" means the period of time
- 29 during which a ~~patient~~ *client* first commences treatment for services
- 30 that a psychotherapist is authorized to provide under his or her
- 31 scope of practice, or that the psychotherapist represents to the
- 32 ~~patient~~ *client* as being within his or her scope of practice, until the
- 33 ~~psychotherapist-patient~~ *psychotherapist-client* relationship is
- 34 terminated.
- 35 ~~SECTION 1. Section 105 of the Business and Professions Code~~
- 36 ~~is amended to read:~~

1     ~~105. Each member of a board in the department shall take an~~  
2     ~~oath of office as provided in the Constitution and the Government~~  
3     ~~Code.~~

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# Professional Therapy Never Includes Sex





# Professional Therapy Never Includes Sex

State of California

Department of Consumer Affairs



*Dear Reader:*

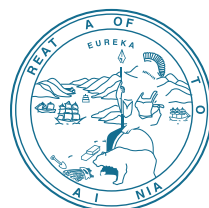
*As a reader of “Professional Therapy Never Includes Sex,” you may be a California consumer concerned about the conduct of your therapist. You may be a licensed therapist, or training to become a therapist. In any case, it’s good to know more about the high standards of professional conduct expected – and required — in the therapy relationship.*

*Consumers are looking for professionals they can trust. Therapists value the trust of their patients. When this mutual trust is violated by sexual exploitation, everyone loses. The patient loses an opportunity for improved health and becomes a victim. The therapist stops being a healer and becomes a victimizer. And the profession itself loses when the good reputation of the many is diminished by the illegal conduct of a few.*

*The California Department of Consumer Affairs is dedicated to working with its professional licensing board partners to protect and educate consumers. If you are a victim of sexual abuse by a therapist, it’s important for you to report your experience to the board that licenses your therapist.*

*This booklet offers guidance and resources for consumers. For more consumer guidelines and information, you may contact the appropriate licensing board or professional association, or contact the Department of Consumer Affairs at 1-800-952-5210 or [www.dca.ca.gov](http://www.dca.ca.gov).*

*California Department of Consumer Affairs*





# Professional Therapy Never Includes Sex

## Publishing Information

The 2011 edition of “Professional Therapy Never Includes Sex” is published by the California Department of Consumer Affairs. This publication is a joint project of the California Board of Psychology, the California Board of Behavioral Sciences and the Department of Consumer Affairs’ Office of Publications, Design & Editing.

This booklet is available in the “Publications” section of the Department of Consumer Affairs’ Web site at [www.dca.ca.gov](http://www.dca.ca.gov).

Single copies of the publication are available at no charge from the boards listed above and from *Publications Office, California Department of Consumer Affairs, P.O. Box 989004, West Sacramento, CA 95798-0004*.

This booklet may be copied, if (1) the meaning of copied text is not changed or misrepresented, (2) credit is given to the California Department of Consumer Affairs, and (3) all copies are distributed free of charge.

## Acknowledgments

The Department of Consumer Affairs, the Board of Psychology and the Board of Behavioral Sciences wish to thank former Senator Diane Watson, whose Senate Task Force on Psychotherapist and Patient Sexual Relations prompted the development of “Professional Therapy Never Includes Sex” in 1990.



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# Introduction

Professional psychotherapy never includes sex. It also never includes verbal sexual advances or any other kind of sexual contact or behavior. Sexual contact of any kind between a therapist and a patient is unethical and illegal in the state of California. Additionally, with regard to former patients, sexual contact within two years after termination of therapy is also illegal and unethical.

Sexual contact between a therapist and a patient can also be harmful to the patient. Harm may arise from the therapist's exploitation of the patient to fulfill his or her own needs or desires, and from the therapist's loss of the objectivity necessary for effective therapy. All therapists are trained and educated to know that this kind of behavior is inappropriate and can result in the revocation of their professional license.

Therapists are trusted and respected, and it is common for patients to admire and feel attracted to them. However, a therapist who accepts or encourages these normal feelings in a sexual way — or tells a patient that sexual involvement is part of therapy — is using the trusting therapy relationship to take advantage of the patient. And once sexual involvement begins, therapy for the patient ends. The original issues that brought the patient to therapy are postponed, neglected, and sometimes lost.

Many people who endure this kind of abusive behavior from therapists suffer harmful, long-lasting emotional and psychological effects. Family life and friendships are often disrupted, or sometimes ruined.

California's lawmakers, licensing boards, professional associations and ethical therapists want such inappropriate sexual behavior stopped. This booklet was developed to help patients who have been sexually exploited by their therapists.

It outlines their rights and options for reporting what happened. It also defines therapist sexual exploitation, gives warning signs of unprofessional behavior, presents a "Patient Bill of Rights," and answers some frequently asked questions.

Professional Therapy  
Never Includes Sex



# Definition of Terms

Throughout this booklet, the terms “therapist,” “therapy” and “patient” will be used. “Therapist” refers to anyone who is licensed to practice psychotherapy, or is training to become licensed, and includes:

- Psychiatrists (physicians practicing psychotherapy)
- Psychologists
- Registered psychologists
- Psychological interns
- Psychological assistants
- Licensed clinical social workers
- Registered associate clinical social workers
- Licensed marriage and family therapists
- Marriage and family therapist registered interns and trainees
- Licensed professional clinical counselors
- Professional clinical counselor interns

The terms “therapy,” “therapist” and “patient” in this booklet also refer to educational psychology, educational psychologists and their clients. Though educational psychologists do not practice psychotherapy, these licensed professionals work with clients, performing educational evaluations, diagnosis and test interpretation.

“Therapy” includes any type of mental health counseling from any of the licensed or registered, therapists listed above. “Patient” refers to anyone receiving therapy or counseling.





## According to California laws:

- Any act of sexual contact, sexual abuse, sexual exploitation, sexual misconduct or sexual relations by a therapist with a patient is unprofessional, illegal, as well as unethical as set forth in Business and Professions Code sections 726, 729, 2960(o), 4982(k), 4992.3(l), 4989.54(n), and 4999.90(k).
- “Sexual contact” means the touching of an intimate part of another person, including sexual intercourse.
- “Touching” means physical contact with another person either through the person’s clothes or directly with the person’s skin.
- “Intimate part” means the sexual organ, anus, groin or buttocks of any person and the breast of a female.

Sexual exploitation can include sexual intercourse, sodomy, oral copulation, or any other sexual contact between a therapist and a patient or a former patient under certain circumstances. Sexual misconduct includes a much broader range of activity, which may include fondling, kissing, spanking, nudity, verbal suggestions, innuendoes or advances. This kind of sexual behavior by a therapist with a patient is unethical, unprofessional and illegal.

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# Warning Signs

In most sexual abuse or exploitation cases, other inappropriate behavior comes first. While it may be subtle or confusing, it usually feels uncomfortable to the patient. Some clues or warning signs are:

- Telling sexual jokes or stories.
- “Making eyes at” or giving seductive looks to the patient.
- Discussing the therapist’s sex life or relationships excessively.
- Sitting too close, initiating hugging, holding the patient or lying next to the patient.

Another warning sign is “special” treatment by a therapist, such as:

- Inviting a patient to lunch, dinner or other social activities.
- Dating.
- Changing any of the office’s business practices (for example, scheduling late appointments so no one is around, having sessions away from the office, etc.).
- Confiding in a patient (for example, about the therapist’s love life, work problems, etc.).
- Telling a patient that he or she is special, or that the therapist loves him or her.
- Relying on a patient for personal and emotional support.
- Giving or receiving significant gifts.

Signs of inappropriate behavior and misuse of power include:

- Hiring a patient to do work for the therapist, or bartering goods or services to pay for therapy.
- Suggesting or supporting the patient’s isolation from social support systems, increasing dependency on the therapist.
- Providing or using alcohol (or drugs) during sessions.
- Any violation of the patient’s rights as a consumer (see “Patient Bill of Rights,” page 24).

Therapy is meant to be a guided learning experience, during which therapists help patients to find their own answers and feel better about themselves and their lives. A patient should never feel intimidated or threatened by a therapist's behavior.

If you are experiencing any of these warning signs, trust your own feelings. Check on the therapist's behavior with a different therapist, or with any of the agencies in "Where To Start" (see page 10). Depending on what you find out, you may want to find another therapist.

## What If It's Me?

If you have been sexually abused or exploited by your therapist, you may be feeling confused. You may feel:

- Guilty and responsible — even though it's the **therapist's** responsibility to keep sexual behavior out of therapy.
- Mixed feelings about the therapist — protectiveness, anger, love, betrayal.
- Isolated and empty.
- Distrustful of others or your own feelings.
- Fearful that no one will believe you or understand what happened, or that someone will find out.
- Confused about dependency, control and power.

You may even have nightmares, obsessive thoughts, depression, or suicidal or homicidal thoughts. You may feel overwhelmed as you try to decide what to do or whom to tell.

It's essential that you face what happened. This may be painful, but it is the first major step in healing and recovering from the experience. You may have positive and negative feelings at the same time, such as starting to feel personal control, being afraid of what may happen in the future, remembering the experience, and feeling relieved that the sexual relationship is over.

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The second step in the healing process is to decide what YOU want to do next. Try to be open-minded about your options.

Remember: **It doesn't matter** if you, the patient, started or wanted the sexual involvement with the therapist. Therapists are responsible for keeping sexual intimacy out of the therapy relationship and are trained to know how to handle a patient's sexual attractions and desires.

## Where To Start

You may need to (1) talk to someone who will understand what you're going through, (2) get information on whether the therapist's behavior was illegal and/or unethical, and (3) find out what you can do about it. Three places to get help are:

- **Licensing Boards** — In the Department of Consumer Affairs, three different boards license therapists. They can give general information on appropriate behavior for therapists and your rights for reporting what happened, as well as how to file a complaint (see page 13 for licensing board contact information).
- **Sexual Assault/Crisis Centers** — These centers have staff trained in all types of sexual abuse and exploitation. They can provide general information on appropriate behavior for therapists, crisis services, your rights for reporting what happened, and names of therapists and support groups that may be helpful. Centers are located throughout California. Look in your telephone book under “sexual assault center” or “crisis intervention service.”
- **Professional Associations** — Each licensed therapy profession has at least one professional association. Associations can provide general information on appropriate behavior for therapists, your rights for reporting what happened, and how to file a complaint. They can provide names of therapists who may be helpful (see pages 16-17 for association contact information).

# What You Can Do

You can deal with your situation in several different ways. Take time to explore all of your rights and options. It may help to decide what your goals are:

- **Reporting the Therapist** — Perhaps you want to prevent the therapist from hurting other patients. You may want to make it known that sexual exploitation is always wrong. If this is your decision, you have several reporting options (see page 12).

It is important to note that reporting misconduct is time-sensitive. What can be done in response to the report of misconduct usually depends on who the misconduct is reported to and the length of time between the misconduct and when the report was filed.

Such a time limit is called a “statute of limitations.” As you consider your options, be aware of these time limits.

- **Your Recovery** — You may also want to explore and process what happened between you and the therapist. If you decide to do this, you can look into therapy or support groups (see pages 20–21).
- **Moving On** — You may wish simply to move on past this experience as quickly as possible and get on with your life. Remember — you have the right to decide what is best for you.

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## Your Reporting Options

If you decide to report a therapist's behavior that you believe is unethical and illegal, there are four different ways to do so. All of these reporting options are affected by time limits, so you should consider reporting misconduct at the earliest appropriate opportunity. You may choose one or more of the options listed below. These options and their time limits are discussed in more detail on the following pages:

-  **Administrative Action** — File a complaint with the therapist's licensing board. (See "More About Administrative Action," page 13.)
-  **Professional Association Action** — File a complaint with the ethics committee of the therapist's professional association. (See "More About Professional Association Action," page 15.)
-  **Civil Action** — File a civil lawsuit. (See "More About Civil Action," page 18.)
-  **Criminal Action** — File a complaint with local law enforcement. (See "More About Criminal Action," page 19.)

## More About Administrative Action

Three California boards license and regulate therapists:

### Board of Behavioral Sciences

1625 N. Market Blvd., Suite S-200

Sacramento, CA 95834

(916) 574-7830

[www.bbs.ca.gov](http://www.bbs.ca.gov)

This board licenses and regulates educational psychologists; licensed clinical social workers; registered associate clinical social workers; licensed marriage and family therapists; registered marriage and family therapist interns; licensed professional clinical counselors; and registered professional clinical counselor interns.

### Board of Psychology

1625 N. Market Blvd., Suite N-215

Sacramento, CA 95815

(916) 574-7720

[www.psychology.ca.gov](http://www.psychology.ca.gov)

This board licenses and regulates psychologists, psychological assistants and registered psychologists.

### Medical Board of California

2005 Evergreen Street, Suite 1200

Sacramento, CA 95815

(916) 263-2389

[www.mbc.ca.gov](http://www.mbc.ca.gov)

This board licenses and regulates physicians, including psychiatrists.

The purpose of these licensing boards is to protect the health, safety and welfare of consumers. Licensing boards have the power to discipline therapists by using the administrative law process.

Depending on the violation, the board may revoke or suspend a

license, and/or place a license on probation with

terms and conditions the licensed professional must

follow. When a license is revoked, the therapist

cannot legally practice.

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In many cases, the California Business and Professions Code requires revocation of a therapist's license or registration whenever sexual misconduct is admitted or proven.

It is best to report any case of therapist-patient sexual exploitation as soon as possible, since delays may restrict the disciplinary options available to the board. Time limits require a licensing board to initiate disciplinary action by filing an "accusation" against a licensed professional accused of sexual misconduct:

- within three years from the date the board discovered the alleged sexual misconduct, or
- within 10 years from the date the alleged sexual misconduct occurred.

That means an accusation of sexual misconduct against a therapist can't be filed more than 10 years after the alleged incident. For complaints involving allegations other than sexual misconduct, the licensing board must file an accusation within seven years from the date of the alleged offense.

## How the Complaint Process Works

The licensing boards can give you information about the complaint filing process and discuss your situation with you. To file a complaint, you can request a complaint form, write a letter, or start the complaint process online with the appropriate licensing board. With your complaint, be sure to include your name, address, and telephone number; the therapist's name, address, and telephone number; a description of your complaint; copies of any available documentation (for example, letters, bill receipts, canceled checks, or pictures); and names, addresses and telephone numbers of any witnesses.

Each complaint is evaluated and investigated, and you and the therapist will be notified if the board has sufficient evidence to initiate disciplinary action. You and the therapist will be interviewed separately.

Most cases are settled by a *stipulated agreement* — the therapist typically admits to the violation(s) and accepts the disciplinary action, no hearing is held, and the patient does not have to testify. In the event that your case is not settled by a stipulated agreement, a hearing will be held by an administrative law judge, and you will be required to testify. When the judge makes a decision about the case, the board



will then decide whether to accept this decision or to issue its own decision.

It is board policy to use only initials, rather than full names, to identify patients in public disciplinary documents. However, hearings are open to the public, and there is a possibility that confidentiality may be jeopardized during the investigation process or at the hearing itself. If you are concerned about this, discuss it with the licensing board investigator.

The disciplinary process may take about two years from the time a complaint is received to the time a final decision is made. Sometimes the process takes longer. Keep in mind that you cannot receive monetary compensation from the therapist by using this option, but you may affect the therapist's ability to practice and thereby protect other patients from similar misconduct.

## More About Professional Association Action

Many therapists join professional associations — organizations that provide education and guidance to members of a profession. Each association has ethics guidelines, and all such guidelines state that sexual involvement with patients is unacceptable and unethical.

If your therapist is a member of a professional association, you may file a formal complaint with the association. After investigating the complaint, the association may recommend disciplinary actions that may include removal of the therapist from its membership. Removing a therapist from the association will let other members know about the person's unethical behavior, **but it will not keep the therapist from practicing**. Only a licensing board or court action can do that. In addition, the action will not result in monetary recovery for you (only a civil action can do that), and will not result in criminal action against the therapist.

Each association has different ways of filing complaints. Call or write the appropriate association for this information. To find out which association, if any, the therapist belongs to, call the therapist's office and request this information; have a friend call the office or therapist for you; or check with the different associations.

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## Professional Associations

Most professional association ethics committees will typically review only those complaints that include allegations made within one year of the date of the alleged misconduct.

Contact the appropriate association for specifics on reporting professional misconduct, or to get more general information.

### Psychiatrist, Physician

American Psychiatric Association  
1000 Wilson Blvd. Suite 1825  
Arlington, VA 22209  
(888) 357-7924  
[www.psych.org](http://www.psych.org)

California Medical Association  
1201 J Street, Suite 200  
Sacramento, CA 95814  
(916) 444-5532  
[www.cmanet.org](http://www.cmanet.org)

California Psychiatric Association  
1029 K Street, Suite 28  
Sacramento, CA 95814  
(916) 442-5196  
[www.calpsych.org](http://www.calpsych.org)

### Licensed Psychologist

American Psychological Association  
750 First Street, NE  
Washington, DC 20002  
(800) 374-2721  
[www.apa.org](http://www.apa.org)

California Psychological Association  
1231 I Street, Suite 204  
Sacramento, CA 95814  
(916) 286-7979  
[www.cpapsych.org](http://www.cpapsych.org)

### Licensed Clinical Social Worker

National Association of Social Workers, California Chapter  
1016 23rd Street  
Sacramento CA 95816  
(916) 442-4565  
[www.naswdc.org](http://www.naswdc.org)

National Association of Social Workers  
750 First Street, NE, Suite 700  
Washington, DC 20002  
(202) 408-8600  
[www.naswdc.org](http://www.naswdc.org)

California Society for Clinical Social Work  
6060 Sunrise Vista Drive, Suite 1300  
Citrus Heights, CA 95610  
(916) 560-9238  
[www.clinicalsocialworksociety.org](http://www.clinicalsocialworksociety.org)



### Licensed Educational Psychologist

California Association  
of Licensed Educational  
Psychologists  
P.O. Box 387  
Aptos, CA 95001  
[www.calep.com](http://www.calep.com)

California Association of  
School Psychologists  
1020 12th Street, Suite 200  
Sacramento, CA 95814  
(916) 444-1595  
[www.casponline.org](http://www.casponline.org)

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### Licensed Marriage and Family Therapist

American Association for  
Marriage and Family Therapy  
112 South Alfred Street  
Alexandria, VA 22314-3061  
(703) 838-9808  
[www.aamft.org](http://www.aamft.org)

American Association for  
Marriage and Family Therapy,  
California Division  
Post Office Box 6907  
Santa Barbara, CA 93160  
(800) 662-2638  
(805) 681-1413  
[www.aamftca.org](http://www.aamftca.org)

California Association  
of Marriage and Family  
Therapists  
7901 Raytheon Road  
San Diego, CA 92111  
(858) 292-2638  
[www.camft.org](http://www.camft.org)

### Licensed Professional Clinical Counselors

California Association for  
Licensed Professional Clinical  
Counselors  
P.O. Box 280640  
Northridge, CA 91328  
<http://calpcc.org/>

## **More About Civil Action**

### **Suing the Therapist or Their Employer**

Generally, civil lawsuits are filed to seek money for damages or injuries to a patient. For a sexual misconduct case, a patient may want to sue the therapist for injuries suffered and for the cost of future therapy sessions.

Under California law, you may file a lawsuit against the therapist or the therapist's employer if you believe the employer knew or should have known about the therapist's behavior. If the employer is a local or state public mental health agency for which the therapist works, you must first file a complaint with the agency within six months of the sexual misconduct. Consult with an attorney for specific advice.

If you think you want to file a lawsuit, it is important to consult an attorney as soon as possible, since there are different time limits for filing civil lawsuits. Most civil lawsuits must be filed within one year after the sexual misconduct occurred.

### **Media Attention**

Once a lawsuit is filed, there is the possibility of media coverage, especially if the patient or therapist is well-known. While many cases are settled out of court, some do go to trial, and it can take years before your case is tried.

### **Patients Don't Always Win**

You should be aware that some cases end up being decided in favor of the therapist, rather than the patient.

### **Finding an Attorney**

Take time to choose an attorney to represent you. You may need to interview several. Here are some points to consider:

- Get a list of attorneys from your County Bar Association's referral service. You can also check with your local legal aid society for legal assistance.

- Contact a lawyer referral service certified by the State Bar of California. To find a certified lawyer referral service, look in the telephone book yellow pages at the beginning of the “Attorneys” listings, or visit the State Bar Web site at [www.calbar.ca.gov](http://www.calbar.ca.gov).
- Check with the State Bar of California ([www.calbar.ca.gov](http://www.calbar.ca.gov)) to make sure the attorney has a clear license.
- While some attorneys are willing to wait to be paid based on the outcome of the suit (contingency basis), some will not.
- Be sure that the attorney has civil litigation experience in the area of medical and/or psychological malpractice.
- Make sure that you feel comfortable with your attorney and can trust and confide in him or her.

## More About Criminal Action

Sexual exploitation of patients by therapists is wrong. The law makes it a crime for a therapist to have sexual contact with a patient. For a first offense with only one victim, an offender would probably be charged with a misdemeanor. For this charge, the penalty may be a sentence of up to one year in county jail, or up to \$1,000 in fines, or both. Second and following offenses, or offenses with more than one victim, may be misdemeanors or felonies. The penalty in such felony cases can be up to three years in prison, or up to \$10,000 in fines, or both.

This law applies to two situations:

- The therapist has sexual contact with a patient during therapy, or
- The therapist ends therapy primarily to start having sexual contact with the patient (unless the therapist has referred the patient to an independent and objective therapist who has been recommended by a third-party therapist).

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To file a criminal complaint against a therapist:

- Contact your local law enforcement agency. Many agencies in larger cities have sexual assault units that handle these complaints.
- Contact your local victim/witness assistance program for help through the legal process. Look in your local telephone book under “District Attorney” or call 1-800-VICTIMS (842-8467).

Once a complaint is filed, it will be investigated by the law enforcement agency, which will give the results of the investigation to the district attorney’s office. The district attorney’s office will decide whether there is enough evidence to file criminal charges.

Time limits, or statutes of limitations, affect this reporting option. If you are considering this option, contact your local law enforcement agency. The agency’s authority to take action may expire as soon as one year from the date the alleged misconduct occurred.

## Where to Get Help

Many patients who have been sexually exploited by therapists find it difficult to see another therapist for help and support. However, for most people, the issues that brought them to therapy were never worked on or resolved, and the sexual exploitation created even more issues to handle. If this is your situation, therapy may be an important tool in your healing process.

Before selecting a therapist, interview several until you find one you are comfortable with. Use the “Patient Bill of Rights” as a guide (see page 24). If you are unsure after one session, either consider a different therapist or set up a follow-up session to clarify your concerns. Do not feel pressured to stay with one therapist.

## Finding a Therapist

Some ways of finding a therapist are:

- Asking someone you know who has been in therapy, who feels good about the experience and who has changed in ways you consider positive.
- Calling your local sexual assault center or crisis intervention service (in the telephone book yellow pages). These centers can refer you to therapists experienced in dealing with those who have suffered sexual exploitation or abuse.
- Calling professional associations (see pages 16-17) and asking for referrals to therapists who specialize in helping those who have been sexually abused or exploited by therapists.

After getting several names, call the appropriate licensing board (see page 13) or visit their Web site for on-line license verification and disciplinary actions. You can also call the professional association (see pages 16-17) and ask if the therapists are licensed and if any disciplinary actions have been filed against them. Check with your county Superior Court to see if there is a record of any malpractice lawsuits filed against the therapists.

## Self-Help Support Groups

There is an informal network of self-help support groups throughout California. While there might not be a group in your area specifically focused on sexual exploitation by therapists, there may be groups dealing with more general kinds of sexual abuse. To find out if there are any groups in your area, call your local sexual assault center or crisis intervention service (listed in the telephone book yellow pages).

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# Frequently Asked Questions

## > Is it normal to feel attracted to my therapist?

Yes. It is normal to feel attracted to someone who is attentive, kind and caring. This is a common reaction toward someone who is helping you. However, all therapists are trained to be aware of this and to maintain a therapy relationship that is beneficial to the patient.

## > What if I was the one who brought up having sex?

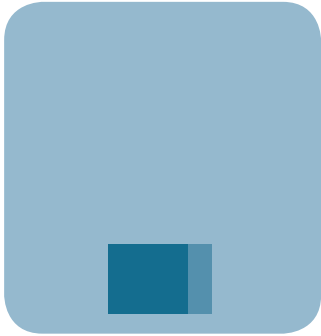
That doesn't matter. The therapist is the one who is responsible for keeping sexual intimacy out of therapy.

## > Does this happen a lot?

A national study revealed that probably fewer than 10 percent of all therapists have had sexual contact with their patients and that 80 percent of the sexually exploiting therapists have exploited more than one patient. If a therapist is sexually exploiting a patient, they have probably done so before and are likely to do so again. In recent years, aggressive prosecution of offending therapists—and passage of laws that facilitate the enforcement work of licensing boards—have helped to significantly reduce the number of such cases reported to the licensing boards.

### **Why do some therapists sexually exploit their patients?**

> There are probably as many excuses as there are therapists who engage in such unprofessional conduct. But no excuse is acceptable for a therapist to abuse the therapeutic relationship and the trust of a patient for the therapist's own sexual gain. All therapists should know that this conduct is unethical and illegal.





## ➤ Why do I feel scared or confused about reporting my therapist?

Feelings of confusion, protectiveness, shame or guilt are common. In most cases, the therapist is an important person in the patient's life. Get as much information as possible about your options. Keep in mind that you are in control and can choose what to do.

## ➤ What if the therapist retaliates against me, harasses me or files a lawsuit against me for reporting him or her?

Retaliation against a patient or harassment of a patient is illegal. Contact your local district attorney. If the therapist files a lawsuit against you, you will be required to defend yourself in the lawsuit. However, the law does provide immunity from monetary liability for reporting misconduct to a licensing board.

## ➤ How can I prevent this from happening again?

1. Acknowledge your right to be free from sexual exploitation.
2. When choosing a therapist, check with the licensing board (see page 13) to see if the therapist is licensed and if the license is under suspension or probation. Check on any complaints filed with a professional association. Review county Superior Court records to see if any malpractice lawsuit judgments are on file against the therapist.
3. Question any action that may seem sexual.
4. Remember that while feelings of attraction are natural, therapy is supposed to be a means to explore and resolve feelings, without having to act them out.
5. Feel free to end a relationship that no longer seems safe.

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### Can I file an anonymous complaint with a licensing board?

Anonymous complaints are accepted, but they are almost impossible to investigate without the cooperation of the accuser.

# Patient Bill of Rights

## Patients have the right to:

- Request and receive information about the therapist's professional capabilities, including licensure, education, training, experience, professional association membership, specialization and limitations.
- Have written information about fees, payment methods, insurance reimbursement, number of sessions, substitutions (in cases of vacation and emergencies), and cancellation policies before beginning therapy.
- Receive respectful treatment that will be helpful to you.
- A safe environment, free from sexual, physical and emotional abuse.
- Ask questions about your therapy.
- Refuse to answer any question or disclose any information you choose not to reveal.
- Request and receive information from the therapist about your progress.
- Know the limits of confidentiality and the circumstances in which a therapist is legally required to disclose information to others.
- Know if there are supervisors, consultants, students, or others with whom your therapist will discuss your case.
- Refuse a particular type of treatment, or end treatment without obligation or harassment.
- Refuse electronic recording (but you may request it if you wish).
- Request and (in most cases) receive a summary of your file, including the diagnosis, your progress, and the type of treatment.
- Report unethical and illegal behavior by a therapist (see "Your Reporting Options," page 12).
- Receive a second opinion at any time about your therapy or therapist's methods.
- Have a copy of your file transferred to any therapist or agency you choose.





**California Department  
of Consumer Affairs  
1625 N. Market Blvd.  
Sacramento, CA 95834**

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## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** SB 906                      **VERSION:** AMENDED APRIL 19, 2018

**AUTHOR:** BEALL AND ANDERSON      **SPONSOR:** STEINBERG INSTITUTE

**RECOMMENDED POSITION:** SUPPORT IF AMENDED

**SUBJECT:** **MEDI-CAL: MENTAL HEALTH SERVICES: PEER, PARENT, TRANSITION-AGE, AND FAMILY SUPPORT SPECIALIST CERTIFICATION**

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### **Overview:**

This bill requires the State Department of Health Care Services (DHCS) to establish a peer, parent, transition-age, and family support specialist certification program. It also allows DHCS to amend the state's Medicaid plan to include these providers as a provider type within the Medi-Cal program.

### **Existing Law:**

- 1) States that certain essential mental health and substance use disorder services are covered Medi-Cal benefits effective January 1, 2014. (Welfare and Institutions Code (WIC) §14132.03)
- 2) Defines a "Mental Health Rehabilitation Specialist" as someone who has a baccalaureate degree and four years of experience in a mental health setting as a specialist in physical restoration, social adjustment, or vocational adjustment. (California Code of Regulation (CCR) Title 9 §782.35)
- 3) Defines a "Licensed Mental Health Professional" as a licensed psychologist, physician, licensed clinical social worker, or licensed marriage and family therapist. (9 CCR §782.26)

### **This Bill:**

- 1) Establishes the Peer, Parent, Transition-Age, and Family Support Specialist Certification Program Act of 2018. (WIC Article 1.4, §§ 14045.10 – 14045.28))
- 2) Outlines the expected achievements of the peer, parent, transition-age, and family support specialist certification program, including providing increased family support, providing as part of a wraparound continuum of services, and collaborating with others providing care or support. (BPC §14045.12)
- 3) Defines "peer support specialist services" as culturally competent services that promote engagement, socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services. The services shall include support, coaching, facilitation, or education to Medi-Cal beneficiaries that is individualized to the beneficiary and is conducted by a

certified adult, transition-age youth, family, or parent peer support specialist.  
(WIC§14045.13(l))

- 4) By July 1, 2019, requires the State Department of Health Care Services (DHCS) to establish a certification program for adult, parent, transition-age youth, and family peer support specialists. (WIC §14045.14)
- 5) Requires DHCS to define responsibilities and practice guidelines for each type of peer support specialist using best practice materials, and to determine curriculum and core competencies including, at a minimum, the following (WIC §14045.14):
  - Hope, recovery, and wellness
  - Advocacy
  - The role of consumers and family members
  - Psychiatric rehabilitation skills and service delivery, and addiction recovery principals
  - Cultural competence training
  - Trauma-informed care
  - Group facilitation skills
  - Self-awareness and self-care
  - Co-occurring disorders of mental health and substance use
  - Conflict resolution
  - Professional boundaries and ethics
  - Safety and crisis planning
  - Navigation of and referral to other services
  - Documenting skills and standards
  - Study and test-taking skills
- 6) Requires DHCS to specify training requirements and continuing education requirements for certification, establish a code of ethics, determine the process for certification renewal and certification revocation, and to determine a process for allowing existing personnel employed in the peer support field to obtain certification. (WIC §14045.14)
- 7) Requires DHCS to determine clinical supervision requirements for certificate-holders, requiring at a minimum, certificate holders be under the direction of a mental health rehabilitation specialist as defined in §782.35 of Title 9 of the CCR, or a substance use disorder professional. A licensed mental health professional, as defined in §782.26 of Title 9 of the CCR, may also provide supervision. (WIC §14045.14(g)) *(Note: this regulation includes LCSWs and LMFTs in its definition of "licensed mental health professional," but omits LPCCs.)*
- 8) Provides minimum requirements for adult peer support specialists, transition-age youth peer support specialists, family peer support specialists, and parent peer support specialists to include the following (WIC §§14045.15, 14045.16, 14045.17, 14045.18):
  - Is at least age 18
  - Have or had a self-disclosed primary diagnosis of mental illness and/or substance use disorder (adult and transition-age only), or has a family member experiencing one of these (family only), or is a parent to someone experiencing one of these (parent only).

- Has or is receiving mental health or substance use disorder services. (adult and transition-age only)
  - Is willing to share his/her experience
  - Demonstrates leadership/advocacy skills
  - Is strongly dedicated to recovery
  - Agrees to follow a code of ethics
  - Completes the required curriculum and training
  - Passes a certification exam
  - Completes any required continuing education, training, and recertification requirements
- 9) States that this Act does not imply that a certification-holder is qualified or authorized to diagnose an illness, prescribe medication, or provide clinical services. It also does not alter the scope of practice for any health care professional, or authorize delivery of services in any setting or manner not authorized under the Business and Professions Code or Health and Safety Code. (WIC §14045.19)
- 10) Requires DHCS to collaborate with the Office of Statewide Health Planning and Development (OSHPD) and to consult with interested stakeholders, the County Behavioral Health Director's Association of California, health plans participating in the Medi-Cal program, the California Behavioral Health Planning Council, and other interested parties, when developing, implementing, and administering this program. This includes holding stakeholder meetings at least bimonthly. (WIC §14045.20)
- 11) Requires DHCS to amend its Medicaid state plan to include each category of peer support support specialist as a provider type, and to include peer support specialist services as a distinct service type which may be provided to eligible Medi-Cal beneficiaries. (WIC §14045.22)
- 12) Allows DHCS to use Mental Health Services Act Funds, as well as funds from certain other specified programs, to develop and administer the certification program. (WIC §14045.25)
- 13) Allows DHCS to establish certification fees. (WIC §14045.26)
- 14) Allows DHCS to implement this law via plan letters, bulletins, or similar instructions, without regulations, until regulations are adopted. Regulations must be adopted by July 1, 2021 (WIC §14045.28)

**Comments:**

- 1) **Intent of This Bill.** According to the author's office, the goal of this bill is twofold:
- Require DHCS to establish a peer support specialist certification program; and
  - Authorize DHCS to add peer support providers as a provider type within the Medi-Cal program.

The author notes that peer support programs have emerged as an evidence based practice across the nation, with the U.S. Department of Veterans Affairs and approximately

40 states having a certification process. However, California does not have a certification program or any established scope of practice.

## 2) **Examples of Requirements in Other States.**

Several other states recognize certified peer counselors. Staff surveyed a few of these states to determine their requirements.

### Washington

The state of Washington allows peer counselors to work in various settings, such as community clinics, hospitals, and crisis teams. Peer counselors must be supervised by a mental health professional. Examples of things they may do include assisting an individual in identifying services that promote recovery, share their own recovery stories, advocacy, and modeling skills in recovery and self-management.

To become a peer counselor in Washington, a person must be accepted as a training applicant. They must complete a 40-hour training program and pass a state exam.

### Tennessee

According to the State of Tennessee's Department of Mental Health and Substance Abuse Services, Certified Peer Recovery Specialists must complete an extensive application. If accepted, they complete an intensive 40-hour training program. They must be supervised by a mental health professional or a substance use disorder professional.

### New Mexico

The State of New Mexico offers peer support worker certification. Applicants must demonstrate 2 years of sustained recovery, complete a written application and phone interview, complete a 40-hour training program, and pass an examination.

3) **History and Previous Legislation.** The Board considered a bill very similar to this one in 2015-2016. SB 614 (Leno) proposed essentially the same program, although some modifications have been made. The Board took a "support if amended" position on SB 614, asking for a clear exclusion of psychotherapy services, a better defined scope of services, and the inclusion of LPCCs as acceptable supervisors. SB 614 was ultimately gut-and-amended to address a different topic.

4) **Scope of Practice and Scope of Practice Exclusions.** This bill appears to outline a scope of practice for peer support specialists, although somewhat indirectly, in WIC §§14045.12, and 14045.13(l) (via a definition of "peer support specialist services.")

One area of concern is with §14045.19, which excludes "providing clinical services" from work that peer support specialists are qualified or authorized to do. The Board may wish to consider recommending the following language to increase clarity:

*"Any services that fall under the scope of practice of the Licensed Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code), the Educational Psychologist Practice Act (Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions*



*Code), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code), and the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code), which are not performed in an exempt setting as defined in Sections 4980.01, 4996.14, and 4999.22 of the Business and Professions Code, shall only be performed by a licensee or a registrant of the Board of Behavioral Sciences or other appropriately licensed professional, such as a licensed psychologist or board certified psychiatrist.”*

- 5) **Inclusion of LPCCs as Supervisors.** WIC §14045.14(g) of the bill permits licensed mental health professionals, as defined in 9 CCR §782.26, to supervise peer support specialists.

The definition of a “licensed mental health professional” in that regulation section, which has not been updated since 1997, includes licensed psychologists, physicians, LCSWs, and LMFTs. However, it omits LPCCs. Due to this, the Board may wish to consider asking the author to list each acceptable license type for a supervisor in the bill, including LPCCs.

- 6) **Fingerprinting Not Required for Certification.** This bill does not specify fingerprinting as a requirement to obtain certification as a peer and family support specialist.
- 7) **Requirements Not Established in Legislation.** This bill requires DHCS to establish the several key components requirements of the peer certification program, including responsibilities and practice guidelines, curriculum, continuing education, training requirements, amount of supervision, renewal and grandparenting for existing personnel, via regulation. Assuming this bill was to pass, it would become effective January 1, 2019, and the certification program must be established by July 1, 2019. Regulations must be established by July 1, 2021. However, the bill leaves discretion to DHCS to implement the program via various instructions until regulations are adopted.
- 8) **Recommended Position.** At its April 12, 2018 meeting, the Policy and Advocacy Committee recommended that the Board consider taking a “support if amended” position on the bill, and request the following amendments:
- An amendment to include LPCCs as acceptable supervisors of peer support specialists; and
  - An amendment to clarify that the scope of practice of peer support specialists does not include services that fall under the scope of practice of the Board’s license types. (Item #4 of this analysis contains the suggested language.)

The bill was amended after the Policy and Advocacy Committee met. The amendment stated that the bill’s language does not alter the scope of practice for any health care professional, or authorize delivery of services in any setting or manner not authorized under the Business and Professions Code or Health and Safety Code.

- 9) **Support and Opposition.**

Support:

- Steinberg Institute (sponsor)

- American Civil Liberties Union of California
- Association of California Healthcare Districts
- Association of Community Human Service Agencies
- Bay Area Community Services
- California Alliance of Child and Family Services
- California Association of Mental Health Peer-Run Organizations California Behavioral Health Planning Council
- California Disability Community Action Network California State Association of Counties
- California Youth Empowerment Network
- County Behavioral Health Directors Association of California Disability Rights California
- Massage Garage Pit Crew
- Mental Health America of California
- Mental Health Services Oversight and Accountability Commission Pool of Consumer Champions
- Self-Help and Recovery Exchange
- Steinberg Institute
- The Village Family Services
- United Advocates for Children and Families
- United Advocates for Children and Families Action Alliance Western Center on Law and Poverty
- Several individuals

Oppose: None received.

## 10) History.

### 2018

- 04/19/18 From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.
- 03/14/18 From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (March 14). Re-referred to Com. on APPR.
- 02/28/18 Set for hearing March 14.
- 01/24/18 Referred to Com. on HEALTH.
- 01/18/18 From printer. May be acted upon on or after February 17.
- 01/17/18 Introduced. Read first time. To Com. on RLS. for assignment. To print.

## 11) Attachments.

**Attachment A:** *"Peer Certification: What are we Waiting For?"* by the California Mental Health Planning Council, February 2015

**Attachment B:** Executive Summary from *"Final Report: Recommendations from the Statewide Summit on Certification of Peer Providers,"* Working Well Together, 2013

AMENDED IN SENATE APRIL 19, 2018

**SENATE BILL**

**No. 906**

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**Introduced by Senators Beall and Anderson  
(Coauthors: Senators Hertzberg and Pan)**

January 17, 2018

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An act to add Article 1.4 (commencing with Section 14045.10) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 906, as amended, Beall. Medi-Cal: mental health services: peer, parent, transition-age, and family support specialist certification.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid *Program* provisions. Existing law provides for a schedule of benefits under the Medi-Cal program and provides for various services, including various behavioral and mental health services.

Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs. The act also requires funds to be reserved for the costs for the State Department of Health Care Services, the California Mental Health Planning Council, the Office of Statewide Health Planning and Development (OSHPD), the Mental Health Services Oversight and Accountability Commission, the State Department of Public Health, and any other state agency to implement all duties pursuant to certain

programs provided for by the act, subject to appropriation in the annual Budget Act. The act provides that it may be amended by the Legislature by a  $\frac{2}{3}$  vote of each house as long as the amendment is consistent with, and furthers the intent of, the act, and that the Legislature may also clarify procedures and terms of the act by majority vote.

This bill would require the State Department of Health Care Services to establish, no later than July 1, 2019, a statewide peer, parent, transition-age, and family support specialist certification program, as a part of the state's comprehensive mental health and substance use disorder delivery system and the Medi-Cal program. The bill would include 4 certification categories: adult peer support specialists, transition-age youth peer support specialists, family peer support specialists, and parent peer support specialists. The certification program's components would include, among others, defining responsibilities and practice guidelines, determining curriculum and core competencies, specifying training and continuing education requirements, establishing a code of ethics, and determining a certification revocation process. The bill would require an applicant for the certification as a peer, parent, transition-age, or family support specialist to meet specified requirements, including successful completion of the curriculum and training requirements.

This bill would require the department to collaborate with OSHPD and interested stakeholders in developing the certification program, and would authorize the department to contract to obtain technical assistance pursuant to a specified joint state-county decisionmaking process. The bill would authorize the department to use funding provided through the MHSA and designated funds administered by OSHPD to develop and administer the certification program, and would authorize the use of these MHSA funds to serve as the state's share of funding to develop and administer the certification program for the purpose of claiming federal financial participation under the Medicaid Program.

This bill would authorize the department to establish a certification fee schedule and to require remittance of fees as contained in the schedule, for the purpose of supporting the department's activities associated with the ongoing state administration of the certification program. The bill would require the department to utilize the other funding resources made available under the bill before determining the need for the certification fee schedule and requiring the remittance of fees. The bill would declare the intent of the Legislature that the certification fees charged by the department be reasonable and reflect

the expenditures directly applicable to the ongoing state administration of the certification program.

This bill would require the department to amend the Medicaid state plan to include a certified peer, parent, transition-age, and family support specialist as a provider type for purposes of the Medi-Cal program and to include peer support specialist services as a distinct service type for purposes of the Medi-Cal program. The bill would require Medi-Cal reimbursement for peer support specialist services to be implemented only if and to the extent that federal financial participation is available and the department obtains all necessary federal approvals. The bill would authorize the department to enter into exclusive or nonexclusive contracts on a bid or negotiated basis, as specified, on a statewide or more limited geographic basis. This bill also would authorize the department to implement, interpret, or make specific its provisions by means of plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until regulations are adopted. The bill would require the department to adopt regulations by July 1, 2021, and, commencing July 1, 2019, would require the department to provide semiannual status reports to the Legislature until regulations have been adopted.

This bill would declare that it clarifies terms and procedures under the Mental Health Services Act.

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. Article 1.4 (commencing with Section 14045.10)  
2 is added to Chapter 7 of Part 3 of Division 9 of the Welfare and  
3 Institutions Code, to read:

4  
5 Article 1.4. Peer, Parent, Transition-Age, and Family Support  
6 Specialist Certification Program

7  
8 14045.10. This article shall be known, and may be cited, as  
9 the Peer, Parent, Transition-Age, and Family Support Specialist  
10 Certification Program Act of 2018.

11 14045.11. The Legislature finds and declares all of the  
12 following:

1 (a) With the enactment of the Mental Health Services Act in  
2 2004, support to include peer providers identified as consumers,  
3 parents, and family members for the provision of services has been  
4 on the rise.

5 (b) There are over 6,000 peer providers in California who  
6 provide individualized support, coaching, facilitation, and  
7 education to clients with mental health care needs and substance  
8 use disorder, in a variety of settings, yet no statewide scope of  
9 practice, standardized curriculum, training standards, supervision  
10 standards, or certification protocol is available.

11 (c) The United States Department of Veterans Affairs and over  
12 30 states utilize standardized curricula and certification protocols  
13 for peer support services.

14 (d) The federal Centers for Medicare and Medicaid Services  
15 (CMS) recognizes peer support services as an evidence-based  
16 model of care and notes it is an important component in a state's  
17 delivery of effective mental health and substance use disorder  
18 treatment. The CMS encourages states to offer peer support  
19 services as a component of a comprehensive mental health and  
20 substance use disorder delivery system, and federal financial  
21 participation is available for this purpose.

22 (e) A substantial number of research studies demonstrate that  
23 peer supports improve client functioning, increase client  
24 satisfaction, reduce family burden, alleviate depression and other  
25 symptoms, reduce hospitalizations and hospital days, increase  
26 client activation, and enhance client self-advocacy.

27 (f) Certification at the state level can incentivize the public  
28 mental health system and the Medi-Cal program, including the  
29 Drug Medi-Cal program, to increase the number, diversity, and  
30 availability of peer providers and peer-driven services.

31 14045.12. It is the intent of the Legislature that the peer, parent,  
32 transition-age, and family support specialist certification program,  
33 established under this article, achieve all of the following:

34 (a) Establish the ongoing provision of peer support services for  
35 beneficiaries experiencing mental health care needs, substance use  
36 disorder needs, or both by certified peer support specialists.

37 (b) Provide support, coaching, facilitation, and education to  
38 beneficiaries with mental health needs, substance use disorder  
39 needs, or both, and to families or significant support persons.

1 (c) Provide increased family support, building on the strengths  
2 of families and helping them achieve desired outcomes.

3 (d) Provide a part of a wraparound continuum of services, in  
4 conjunction with other community mental health services and other  
5 substance use disorder services.

6 (e) Collaborate with others providing care or support to the  
7 beneficiary or family.

8 (f) Assist parents, when applicable, in developing coping  
9 mechanisms and problem-solving skills.

10 (g) Provide an individualized focus on the beneficiary, the  
11 family, or both, as needed.

12 (h) Encourage employment under the peer, parent, transition-age,  
13 and family support specialist certification program to reflect the  
14 culture, ethnicity, sexual orientation, gender identity, mental health  
15 service experiences, and substance use disorder experiences of the  
16 people whom they serve.

17 (i) Promote socialization, recovery, self-sufficiency,  
18 self-advocacy, development of natural supports, and maintenance  
19 of skills learned in other support services.

20 14045.13. For purposes of this article, the following definitions  
21 shall apply:

22 (a) “Adult peer support specialist” means a person who is 18  
23 years of age or older and who has self-identified as having lived  
24 experience of recovery from mental illness, substance use disorder,  
25 or both, and the skills learned in formal trainings to deliver peer  
26 support services in a behavioral setting to promote mind-body  
27 recovery and resiliency for adults.

28 (b) “Certification” means, as it pertains to the peer, parent,  
29 transition-age, and family support specialist certification program,  
30 all federal and state requirements have been satisfied, federal  
31 financial participation under Title XIX of the federal Social  
32 Security Act (42 U.S.C. Sec. 1396 et seq.) is available, and all  
33 necessary federal approvals have been obtained.

34 (c) “Certified” means all federal and state requirements have  
35 been satisfied by an individual who is seeking designation under  
36 this article, including completion of curriculum and training  
37 requirements, testing, and agreement to uphold and abide by the  
38 code of ethics.

39 (d) “Certification examination” means the competency testing  
40 requirements, as approved by the department, an individual is

1 required to successfully complete as a condition of becoming  
2 certified under this article. Each training program approved by the  
3 department may develop a unique competency examination for  
4 each category of peer, parent, transition-age, and family support  
5 specialist listed in subdivision (b) of Section 14045.14. Each  
6 certification examination shall include core curriculum elements.

7 (e) “Code of ethics” means the professional standards each  
8 certified peer, parent, transition-age, and family support specialist  
9 listed in subdivision (b) of Section 14045.14 is required to agree  
10 to uphold and abide by. These professional standards shall include  
11 principles, expected behavior and conduct of the certificate holder  
12 in an agreed-upon statement that is required to be provided to the  
13 applicant and acknowledged by signing with his or her personal  
14 signature prior to being granted certification under this article.

15 (f) “Core competencies” are the foundational and essential  
16 competencies required by each category of peer, parent,  
17 transition-age, and family support specialists listed in subdivision  
18 (b) of Section 14045.14 who provide peer support services.

19 (g) “Cultural competence” means a set of congruent behaviors,  
20 attitudes, and policies that come together in a system or agency  
21 that enables that system or agency to work effectively in  
22 cross-cultural situations. A culturally competent system of care  
23 acknowledges and incorporates, at all levels, the importance of  
24 language and culture, intersecting identities, assessment of  
25 cross-cultural relations, knowledge and acceptance of dynamics  
26 of cultural differences, expansion of cultural knowledge, and  
27 adaptation of services to meet culturally unique needs to provide  
28 services in a culturally competent manner.

29 (h) “Department” means the State Department of Health Care  
30 Services.

31 (i) “Family peer support specialist” means a person with lived  
32 experience as a self-identified family member of an individual  
33 experiencing mental illness, substance use disorder, or both, and  
34 the skills learned in formal trainings to assist and empower families  
35 of individuals experiencing mental illness, substance use disorder,  
36 or both. For the purposes of this subdivision, “family member”  
37 includes a sibling or kinship caregiver, and their partners.

38 (j) “Parent” means a person who is parenting or has parented a  
39 child or individual experiencing mental illness, substance use  
40 disorder, or both, and who can articulate his or her understanding



1 of his or her experience with another parent or caregiver. This  
2 person may be a birth parent, adoptive parent, or family member  
3 standing in for an absent parent.

4 (k) “Parent peer support specialist” means a parent with formal  
5 training to assist and empower families parenting a child or  
6 individual experiencing mental illness, substance use disorder, or  
7 both.

8 (l) “Peer support specialist services” means culturally competent  
9 services that promote engagement, socialization, recovery,  
10 self-sufficiency, self-advocacy, development of natural supports,  
11 identification of strengths, and maintenance of skills learned in  
12 other support services. Peer support specialist services shall  
13 include, but are not limited to, support, coaching, facilitation, or  
14 education to Medi-Cal beneficiaries that is individualized to the  
15 beneficiary and is conducted by a certified adult peer support  
16 specialist, a certified transition-age youth peer support specialist,  
17 a certified family peer support specialist, or a certified parent peer  
18 support specialist.

19 (m) “Recovery” means a process of change through which an  
20 individual improves his or her health and wellness, lives a  
21 self-directed life, and strives to reach his or her full potential. This  
22 process of change recognizes cultural diversity and inclusion, and  
23 honors the different routes to resilience and recovery based on the  
24 individual and his or her cultural community.

25 (n) “Transition-age youth peer support specialist” means a  
26 person who is 18 years of age or older and who has self-identified  
27 as having lived experience of recovery from mental illness,  
28 substance use disorder, or both, and the skills learned in formal  
29 trainings to deliver peer support services in a behavioral setting to  
30 promote mind-body recovery and resiliency for transition-age  
31 youth, including adolescents and young adults.

32 14045.14. No later than July 1, 2019, the department, as the  
33 sole state Medicaid agency, shall establish a peer, parent,  
34 transition-age, and family support specialist certification program  
35 that, at a minimum, shall do all of the following:

36 (a) Establish a certifying body, either within the department,  
37 through contract, or through an interagency agreement, to provide  
38 for the certification of peer, parent, transition-age, and family  
39 support specialists as described in this article.

- 1 (b) Provide for a statewide certification for each of the following  
2 categories of peer support specialists, as contained in federal  
3 guidance issued by the Centers for Medicare and Medicaid  
4 Services, State Medicaid Director Letter (SMDL) #07-011:
- 5 (1) Adult peer support specialists, who may serve individuals  
6 across the lifespan.
  - 7 (2) Transition-age youth peer support specialists.
  - 8 (3) Family peer support specialists.
  - 9 (4) Parent peer support specialists.
- 10 (c) Define the range of responsibilities and practice guidelines  
11 for the categories of peer support specialists listed in subdivision  
12 (b), by utilizing best practice materials published by the federal  
13 Substance Abuse and Mental Health Services Administration, the  
14 federal Department of Veterans Affairs, and related notable experts  
15 in the field as a basis for development.
- 16 (d) Determine curriculum and core competencies, including  
17 curriculum that may be offered in areas of specialization, such as  
18 older adults, veterans, family support, forensics, whole health,  
19 juvenile justice, youth in foster care, sexual orientation, gender  
20 identity, and any other areas of specialization identified by the  
21 department. Specialized curriculum shall be determined for each  
22 of the categories of peer, parent, transition-age, and family support  
23 specialists listed in subdivision (b). Core competencies-based  
24 curriculum shall include, at a minimum, all of the following  
25 elements:
- 26 (1) The concepts of hope, recovery, and wellness.
  - 27 (2) The role of advocacy.
  - 28 (3) The role of consumers and family members.
  - 29 (4) Psychiatric rehabilitation skills and service delivery, and  
30 addiction recovery principles, including defined practices.
  - 31 (5) Cultural competence training.
  - 32 (6) Trauma-informed care.
  - 33 (7) Group facilitation skills.
  - 34 (8) Self-awareness and self-care.
  - 35 (9) Cooccurring disorders of mental health and substance use.
  - 36 (10) Conflict resolution.
  - 37 (11) Professional boundaries and ethics.
  - 38 (12) Safety and crisis planning.
  - 39 (13) Navigation of, and referral to, other services.
  - 40 (14) Documentation skills and standards.

1 (15) Study and test-taking skills.

2 (e) Specify training requirements, including  
3 core-competencies-based training and specialized training  
4 necessary to become certified under this article, allowing for  
5 multiple qualified training entities, and requiring training to include  
6 people with lived experience as consumers and family members.

7 (f) Specify required continuing education requirements for  
8 certification.

9 (g) Determine clinical supervision requirements for personnel  
10 certified under this article, that shall require, at a minimum,  
11 personnel certified pursuant to this article to work under the  
12 direction of a mental health rehabilitation specialist, as defined in  
13 Section 782.35 of Title 9 of the California Code of Regulations,  
14 or substance use disorder professional. A licensed mental health  
15 professional, as defined in Section 782.26 of Title 9 of the  
16 California Code of Regulations, may also provide supervision.

17 (h) Establish a code of ethics.

18 (i) Determine the process for certification renewal.

19 (j) Determine a process for revocation of certification.

20 (k) Determine a process for allowing existing personnel  
21 employed in the peer support field to obtain certification under  
22 this article, at their option.

23 14045.15. In order to be certified as an adult peer support  
24 specialist, an individual shall, at a minimum, satisfy all of the  
25 following requirements:

26 (a) Be at least 18 years of age.

27 (b) Have or have had a primary diagnosis of mental illness,  
28 substance use disorder, or both, which is self-disclosed.

29 (c) Have received or is receiving mental health services,  
30 substance use disorder services, or both.

31 (d) Be willing to share his or her experience of recovery.

32 (e) Demonstrate leadership and advocacy skills.

33 (f) Have a strong dedication to recovery.

34 (g) Agree to uphold and abide by a code of ethics. A copy of  
35 the code of ethics shall be signed by the applicant.

36 (h) Successful completion of the curriculum and training  
37 requirements for an adult peer support specialist.

38 (i) Pass a certification examination approved by the department  
39 for an adult peer support specialist.

- 1 (j) Successful completion of any required continuing education,  
2 training, and recertification requirements.
- 3 14045.16. In order to be certified as a transition-age youth peer  
4 support specialist, an individual shall, at a minimum, satisfy all of  
5 the following requirements:
- 6 (a) Be at least 18 years of age.
- 7 (b) Have or have had a primary diagnosis of mental illness,  
8 substance use disorder, or both, which is self-disclosed.
- 9 (c) Have received or is receiving mental health services,  
10 substance use disorder addiction services, or both.
- 11 (d) Be willing to share his or her experience of recovery.
- 12 (e) Demonstrate leadership and advocacy skills.
- 13 (f) Have a strong dedication to recovery.
- 14 (g) Agree to uphold and abide by a code of ethics. A copy of  
15 the code of ethics shall be signed by the applicant.
- 16 (h) Successful completion of the curriculum and training  
17 requirements for a transition-age youth peer support specialist.
- 18 (i) Pass a certification examination approved by the department  
19 for a transition-age youth peer support specialist.
- 20 (j) Successful completion of any required continuing education,  
21 training, and recertification requirements.
- 22 14045.17. In order to be certified as a family peer support  
23 specialist, an individual shall, at a minimum, satisfy all of the  
24 following requirements:
- 25 (a) Be at least 18 years of age.
- 26 (b) Be self-identified as a family member of an individual  
27 experiencing mental illness, substance use disorder, or both.
- 28 (c) Be willing to share his or her experience.
- 29 (d) Demonstrate leadership and advocacy skills.
- 30 (e) Have a strong dedication to recovery.
- 31 (f) Agree to uphold and abide by a code of ethics. A copy of  
32 the code of ethics shall be signed by the applicant.
- 33 (g) Successful completion of the curriculum and training  
34 requirements for a family peer support specialist.
- 35 (h) Pass a certification examination approved by the department  
36 for a family peer support specialist.
- 37 (i) Successful completion of any required continuing education,  
38 training, and recertification requirements.

1 14045.18. In order to be certified as a parent peer support  
2 specialist, an individual shall, at a minimum, satisfy all of the  
3 following requirements:

- 4 (a) Be at least 18 years of age.
- 5 (b) Be self-identified as a parent, as defined in Section 14045.13.
- 6 (c) Be willing to share his or her experience.
- 7 (d) Demonstrate leadership and advocacy skills.
- 8 (e) Have a strong dedication to recovery.
- 9 (f) Agree to uphold and abide by a code of ethics. A copy of  
10 the code of ethics shall be signed by the applicant.
- 11 (g) Successful completion of the curriculum and training  
12 requirements for a parent peer support specialist.
- 13 (h) Pass a certification examination approved by the department  
14 for a parent peer support specialist.
- 15 (i) Successful completion of any required continuing education,  
16 training, and recertification requirements.

17 14045.19. (a) This article shall not be construed to imply that  
18 an individual who is certified pursuant to this article is qualified  
19 to, or authorize that individual to, diagnose an illness, prescribe  
20 medication, or provide clinical services.

21 (b) *This article does not alter the scope of practice for any health*  
22 *care professional or authorize the delivery of health care services*  
23 *in a setting or manner that is not authorized under any provision*  
24 *of the Business and Professions Code or the Health and Safety*  
25 *Code.*

26 14045.20. The department shall closely collaborate with the  
27 Office of Statewide Health Planning and Development (OSHPD)  
28 and its associated workforce collaborative, and regularly consult  
29 with interested stakeholders, including peer support and family  
30 organizations, mental health and substance use disorder services  
31 providers and organizations, the County Behavioral Health  
32 Directors Association of California, health plans participating in  
33 the Medi-Cal managed care program, the California Behavioral  
34 Health Planning Council, and other interested parties in developing,  
35 implementing, and administering the peer, parent, transition-age,  
36 and family support specialist certification program established  
37 pursuant to this article. This consultation shall initially include, at  
38 a minimum, bimonthly stakeholder meetings, which may also  
39 include technical workgroup meetings. The department may seek

1 private funds from a nonprofit organization or foundation for this  
2 purpose.

3 14045.21. The department may contract to obtain technical  
4 assistance for the development of the peer, parent, transition-age,  
5 and family support specialist certification program, as provided  
6 in Section 4061.

7 14045.22. (a) The department shall amend its Medicaid state  
8 plan to do both of the following:

9 (1) Include each category of peer, parent, transition-age, and  
10 family support specialist listed in subdivision (b) of Section  
11 14045.14 certified pursuant to this article as a provider type for  
12 purposes of this chapter.

13 (2) Include peer support specialist services as a distinct service  
14 type for purposes of this chapter, which may be provided to eligible  
15 Medi-Cal beneficiaries who are enrolled in either a Medi-Cal  
16 managed mental health care plan or a Medi-Cal managed care  
17 health plan.

18 (b) The department may seek any federal waivers or other state  
19 plan amendments as necessary to implement the certification  
20 program provided for under this article.

21 (c) Medi-Cal reimbursement for peer support specialist services  
22 shall be implemented only if and to the extent that federal financial  
23 participation under Title XIX of the federal Social Security Act  
24 (42 U.S.C. Sec. 1396 et seq.) is available and all necessary federal  
25 approvals have been obtained.

26 14045.23. To facilitate early intervention for mental health  
27 services, community health workers may partner with peer, parent,  
28 transition-age, and family support specialists for engagement,  
29 outreach, and education.

30 14045.24. It is not the intent of the Legislature in enacting this  
31 article to modify the Medicaid state plan in any manner that would  
32 otherwise change or nullify the requirements, billing, or  
33 reimbursement of the “other qualified provider” provider type, as  
34 currently authorized by the Medicaid state plan.

35 14045.25. The department may utilize Mental Health Services  
36 Act funds under subdivision (d) of Section 5892 and any designated  
37 Workforce Education and Training Program resources, including  
38 funding, as administered by OSHPD pursuant to Section 5820, to  
39 develop and administer the peer, parent, transition-age, and family  
40 support specialist certification program. Further, these Mental

1 Health Service Act funds may then serve as the state’s share of  
2 funding to develop and administer the peer, parent, transition-age,  
3 and family support specialist certification program and shall be  
4 available for purposes of claiming federal financial participation  
5 under Title XIX of the federal Social Security Act (42 U.S.C. Sec.  
6 1396 et seq.) once all necessary federal approvals have been  
7 obtained.

8 14045.26. The department may establish a certification fee  
9 schedule and may require remittance as contained in the  
10 certification fee schedule for the purpose of supporting the  
11 department’s activities associated with the ongoing state  
12 administration of the peer, parent, transition-age, and family  
13 support specialist certification program. The department shall  
14 utilize all funding resources as made available in Section 14045.25  
15 first, prior to determining the need for the certification fee schedule  
16 and requiring the remittance of fees. It is the intent of the  
17 Legislature that any certification fees charged by the department  
18 be reasonable and reflect the expenditures directly applicable to  
19 the ongoing state administration of the peer, parent, transition-age,  
20 and family support specialist certification program.

21 14045.27. For the purposes of implementing this article, the  
22 department may enter into exclusive or nonexclusive contracts on  
23 a bid or negotiated basis, including contracts for the purpose of  
24 obtaining subject matter expertise or other technical assistance.  
25 Contracts may be statewide or on a more limited geographic basis.

26 14045.28. Notwithstanding Chapter 3.5 (commencing with  
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
28 Code, the department may implement, interpret, or make specific  
29 this article by means of plan letters, plan or provider bulletins, or  
30 similar instructions, without taking regulatory action, until the  
31 time regulations are adopted. The department shall adopt  
32 regulations by July 1, 2021, in accordance with the requirements  
33 of Chapter 3.5 (commencing with Section 11340) of Part 1 of  
34 Division 3 of Title 2 of the Government Code. Commencing July  
35 1, 2019, the department shall provide semiannual status reports to  
36 the Legislature, in compliance with Section 9795 of the  
37 Government Code, until regulations have been adopted.

1     SEC. 2. The Legislature finds and declares that this act clarifies  
2     procedures and terms of the Mental Health Services Act within  
3     the meaning of Section 18 of the Mental Health Services Act.

O





## PEER CERTIFICATION:

CHAIRPERSON  
Cindy Clafin

EXECUTIVE OFFICER  
Jane Adcock

## WHAT ARE WE WAITING FOR?

- **Advocacy**
- **Evaluation**
- **Inclusion**

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*Examining the Opportunities, Barriers, and Precedents for the Official  
Recognition and Certification of Peer Specialists in California.*

February 2015

*<sup>1</sup> “When you talk to people who have been through these programs and ask them what helped them, it is not the drugs, not the diagnosis. It's the lasting, one-on-one relationships with adults who listen....”*

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<sup>1</sup> <http://www.npr.org/blogs/health/2014/10/20/356640026/halting-schizophrenia-before-it-starts>

## ***Leading the Way, yet Lagging Behind:***

California is accustomed to being at the forefront of progressive, compassionate policy and legislation. Voters passed the Mental Health Services Act because they couldn't stand to see the misery of unaddressed mental illness and the state was an early adopter of parity laws and Medicaid expansion. As a state, we have been proud of our leadership. So, where has California lagged behind? California has yet to follow the example of 31 other states and the Veterans Administration in establishing and utilizing a standardized curriculum and certification protocol for Peer Specialists' services.

Peers are persons with lived experience as consumers and family members or caretakers of individuals living with mental illness. Their experiences make Peer Specialists invaluable members of a service team. Employment and certification simultaneously bridges the gap between those that need it and those that can best provide it while reinforcing the peer provider's own wellness and sense of purpose.

Right now, more than half of the United States has a Peer Certification Program in place – people practicing, producing, and billing. Making a difference in the lives of people they intimately understand because they have already staved off the same potential devastation. Because if you ask somebody struggling with a life-altering, all-consuming episode of any type of mental distress if they have sought help yet, the response - more often than not - would be *“they don't understand”* or *“I just can't deal with the process of getting that help”*. California has not been able to summon up the political will it would take to make the most basic and meaningful connection with somebody who needs it the most.

*“A leader is not someone who stands before you, but someone who stands with you<sup>2</sup>”*

## ***What are Peer Specialists?***

Peer Specialists are empathetic guides and coaches who understand and model the process of recovery and healing while offering moral support and encouragement to people who need it. Moral support and encouragement have proven to result in greater compliance with treatment/services, better health function, lower usage of emergency departments, fewer medications and prescriptions, and a higher sense of purpose and connectedness on the part of the consumer.

Peer Specialists also model and train on communication between health care provider and consumer in order to educate both on potential barriers or side effects of existing medications or treatment plans. In a world where primary care intersects with mental health care, but

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<sup>2</sup> Native American Proverb

medical records are not necessarily shared, this alone is huge. Bridging that gap becomes one of the single highest predictors of effective treatment plans and positive outcomes. In a population with mortality rates that average 25 years sooner than non-SMI groups - for conditions that could be easily managed or cured - this one benefit alone is worth the investment.

It might be easier to describe Peer specialists by defining what they are NOT. Peer Specialists differ from Case Managers in that they do not identify resources, arrange for social or supportive services, or facilitate job trainings, educational opportunities, or living arrangements. They are not certified to offer medical advice or diagnoses, psychiatric or otherwise, or suggest, prescribe, or manage medications. Their function is not to “do for” but rather to “do with” and ultimately model and train wellness principles and self-sufficiency.

### ***What is Peer Specialist Certification?***

Peer Specialist Certification is an official recognition by a certifying body that the practitioner has met qualifications that include lived experience and training from a standardized curriculum on mental health issues. The standardized curriculum has been approved by the certifying body and includes a mandatory number of hours of training in various topics pertaining to mental health care, coaching, and ethics. The “specialist” designation is conferred when additional hours of training specific to special populations or age groups has been completed and the candidate has demonstrated thorough knowledge, skills, and ability within that subgroup.

The standardized curriculum includes topics such as documentation, boundaries and ethics, communication skills, working with specific populations, developing wellness plans, systems of care, principles of practices (i.e., engagement, strength-based planning, WRAP plans, case management); and advocacy, to name a few. At this time, there are several courses available through the community college system, but not on a statewide basis. Working Well Together has compiled an excellent comprehensive report - *Certification of Consumer, Youth, Family, and Parent Providers; A Review of the Research* – which provides detailed information, background, and context.<sup>3</sup>

### ***Why Certification?***

*“Regardless of the means selected to demonstrate competency, it is critical that the core competencies of a peer (knowledge, skills, job tasks, and performance domains of the profession) are identified according to a recognized process, such as a job task analysis or role delineation study. **This is because –all other program requirements, policies, and standards must tie back to the core competencies of the profession being credentialed.**”<sup>4</sup>*

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<sup>3</sup> [http://www.inspiredatwork.net/uploads/WWT\\_Peer\\_Certification\\_Research\\_Report\\_FINAL\\_6.20.12\\_\\_1\\_.pdf](http://www.inspiredatwork.net/uploads/WWT_Peer_Certification_Research_Report_FINAL_6.20.12__1_.pdf)

<sup>4</sup> Hendry, P., Hill, T., Rosenthal, H. Peer Services Toolkit: A Guide to Advancing and Implementing Peer-run Behavioral Health Services. ACMHA: The College for Behavioral Health Leadership and Optum, 2014

Defining and standardizing the classification of Peer Specialist through certification prevents engagement outside one's expertise. Like any other profession, the certification defines the level of care and services so that the parameters established by the standardized curriculum and certification requirements are respected and understood statewide. Any hiring organization can expect these levels of qualifications, training, and expertise in the person they hire and can plan their organizational functions around the duties encompassed by that expertise. It also provides guidance to the peer practitioner through an established code of ethics. This means that roles and functions of other providers will not be usurped or second-guessed by the Peer Specialists.

The role of the certified peer specialist is to encourage partners and lead through example on the best ways to advocate for oneself. Sometimes it is not enough to suggest resources and make recommendations for services – sometimes you have to walk the walk along with the person for the first few steps, or even the first few miles. In this respect, the Peer Specialist is the Sherpa of the mental health care world. As partners, they teach participants how to communicate with care providers, navigate insurance companies and bureaucracies, and lessen the anxieties that arise from these various interactions. As models, they demonstrate that recovery *is* possible.

### ***The Time is Now***

First and foremost, the time is now because Affordable Health Care, Mental Health Parity, Coordinated Care Initiative, and potentially even the Public Safety Realignment create workforce shortages, particularly in the area of rehabilitative services. The time is now because recognizing the value of Peer Specialists does not translate into standardized training, skill sets, duties, or pay scales. This will make it difficult to operationalize and maintain utilization on a scale sufficient to meet the workforce needs or government standards and requirements for reimbursement. In other words “failing to plan is planning to fail”.

The Center for Medicaid Services gave California permission to amend its State Plan to include Peer Providers in 2007, stating “*We encourage States to consider comprehensive programs but note that regardless of how a State models its mental health and substance use disorder service delivery system, the State Medicaid agency continues to have the authority to determine the service delivery system, medical necessity criteria, and to define the amount, duration, and scope of the service*”<sup>5</sup>.

The time is now because the state is starting to fully understand the concept and value of peer services as part of both mental health care and the larger arena of primary care. Examples of this are their inclusion in the SB 82 (Steinberg) Investment in Mental Health and Wellness Act

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<sup>5</sup> Center for Medicare and Medicaid Services; SMDL #07-011; August 15, 2007

grant requirements for mobile crisis teams; the intent in the original Prop 63 language to include peers, family members, and parent providers as part of the MHSA workforce; and a one-time dedicated state budget allocation of training funds to the Office of Statewide Health Planning and Development for peers to be trained as mobile crisis team members. All of these components will be working together as part of the larger mental health network of care, but run the risk of operating at disparate training levels, scope of work, code of ethics, and pay levels from county to county.

Finally, the time is now because trying to standardize the classification after a piecemeal acceptance is put into place is inefficient and uninformative to potential employers. Moreover, it is unfair to people who are willing to share their expertise and demonstrate their commitment to this important and effective aspect of care and services.

To draw a timely comparison, the classification of drug and alcohol counselors, which often has a strong peer component as part of the qualifications for employment, received an early welcome into the workforce. However, this acceptance was unaccompanied by any defined training, experience, or education requirements. There has been an attempt to retroactively achieve some standardization across the lines, but proponents are finding that, due to the unstructured engagement of their services, there is no uniform requirement or skill level across treatment sites. Worse, there is a reluctance to champion a certification process, due to potential hardships and setbacks created for current successful peer employees who might not meet certification standards after the fact.

### ***Is it Cost-Effective?***

In Alameda County, a Peer Mentoring pilot project provided 40 hours of training to 26 peers called “The Art of Facilitating Self-Determination” and matched them with people recently released from psychiatric hospitals. Those accepting a peer mentor experienced a 72% reduction in readmissions to the hospital. The cost savings for Alameda County was over a million dollars with an initial investment of \$238K- making a 470% return on investment<sup>6</sup>.

The Pew Trusts reported recently “In Georgia, a 2003 study compared patients diagnosed with schizophrenia, bipolar disorder and major depression whose treatment had included peer support, with patients who received traditional day treatment services without peers. The patients who had peer support had better health outcomes—and at a lower cost. The average annual cost of day treatment services is \$6,400 per person, while support services cost about \$1,000.”<sup>7</sup>

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<sup>6</sup> <http://www.oshpd.ca.gov/HWDD/pdfs/wet/PowerPoint-Peer-Support-Specialist-A-Galvez-S-Kuehn.pdf>

<sup>7</sup> <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2013/09/11/peers-seen-easing-mental-health-worker-shortage>; last accessed 11/5/2014

## ***Who Employs Peer Specialists?***

Between October 2013 and January 2015, the Advocacy Committee of the California Mental Health Planning Council (CMHPC) heard presentations from Peer Specialist Advocates and Peer-run programs throughout the state. The programs represented different models ranging from peer-run respite to peer partners in health care, but all of them reported positive outcomes for the participants, cost savings for their respective counties, and a bolstering of their own wellness commitment. Here is a brief review of a few of the models the Advocacy Committee heard from.

### ***Health Navigators USC***

The Peer Health navigator connects consumers to mental health, primary care, substance use, and specialty health care services; teaches them how to advocate for themselves and effectively communicate their needs; create a follow-up plan and other self-management skills through a “modeling, coaching, fading”. They differ from Case Managers or care coordinators in that the health navigator will ultimately step away from the participant once the modeling/coaching/fading process is successful.

Typically a full-time navigator will have 12 – 15 clients at any one time, and averages 30-40 clients annually, depending on how quickly the clients moves into full self-management. Many of the services are Medicaid billable under Targeted Case Management or Rehabilitation providing the documentation reflects justification for the services rendered. Participants are trained on billing codes and documentation. The program has developed its own curriculum and provides its own training and certification.

### ***2nd Story, Santa Cruz***

2nd Story is a SAMHSA-funded program that is an entirely Peer-Run Crisis Center in Santa Cruz. All staff are trained in “Intentional Peer Support” and all wellness class topics are determined by the guests. The program provides its own training. The length of stay is no longer than two weeks, and guests are encouraged to maintain their “normal” life (school, work) during their stay. Outreach is conducted by staff posted at County mental health departments telling potential guests about the program. Referrals are also made by psychiatrists, care managers, and Telecare, a county mental health services provider/contractor, sometimes diverts people to 2nd Story rather than enrolling them in a longer term, more structured social rehabilitation facility. The program is proving to be a key preventative service in Santa Cruz that forestalls or reduces the need for crisis residential and sub-acute stabilization programs.

### ***In-Home Outreach Team (IHOT), San Diego***

As Assisted Outpatient Treatment steadily gains ground in more California counties, a small program in San Diego is providing an effective and legitimate alternative at promoting and facilitating voluntary access to services. IHOT teams consist of a Peer Specialist, family member, personal service coordinator and team lead. They provide in-home outreach to adults with serious mental illness (SMI) who are reluctant or resistant to receiving mental health services. IHOT also provides support and education to family members and/or caretakers of IHOT participants. They work with individuals living with severe mental illness and who may also be dually diagnosed with a substance use disorder or drug dependency. Teams serve a combined 240-300 consumers per year (80-100 per team).

A 2013 San Diego Health and Human Services report notes that the average cost per IHOT participant amounts to \$8,100, compared to an annual cost per individual in a Full Service Partnership (\$20,000 including housing) and Assisted Outpatient Treatment (\$34,000). Staff ratios are similarly proportionate: IHOT = 1:25 staff to client ratio; FSP and AOT each have a 1:10 staff to client ratio.

### ***What Other States Employ and Certify Peer Specialists?***

As of 2013, Certified Peer Specialists were certified and employed in 31 states and the federal Department of Veteran's Affairs. The extent of engagement and responsibility varies from state to state, but all services are Medicaid billable. These 31 states are consistent in their belief and trust in Peer Specialists – when will California join them?

### ***What is Stopping California?***

Despite all of the merits, fiscal and clinical, of Certified Peer Specialists, California has not been able to match its actions to its talk in this area. California embraces the concept of recovery, wellness, and resilience – and recognizes the essential components of both employment and inclusion as part of those processes – but it has failed to turn those concepts to tangible actions.

No State Department feels that it is in their purview to establish, implement or oversee a state certification process. Education may approve a curriculum, but it is not empowered to grant certification. Department of Health Care Services may be able to approve billable services, but is not empowered to establish curriculum or gage mastery of the subject matter. The Office of Statewide Health Planning and Development (OSHPD) has a Workforce Development Division, and is specifically charged with mental health workforce development issues, but without specific language or policy permitting OSHPD to include or pursue the specific classification of Peer Specialist, OSHPD does not felt comfortable facilitating it. In short, the single, largest barrier has been the identification of a lead agency or organization that can be charged with facilitation, implementation, and identification of a certification and oversight



body. There may be philosophical or conceptual agreement on the importance of Peer Specialists, but no policy or political direction to move it forward.

### ***How Can California Catch Up?***

Peer Specialist Certification is a cross-cutting, inclusive, and cost-saving classification that has applications across all vulnerable and at-risk populations in the state – veterans, homeless, Transition Age Youth, elderly, and criminal justice populations to name a few - and has particular utility in integrated services for the dually diagnosed and co-morbid conditions in health care.

The California Mental Health Planning Council (CMHPC) recommends that the Legislature continue and solidify its mission to create a seamless, comprehensive, continuum of mental health services and care by:

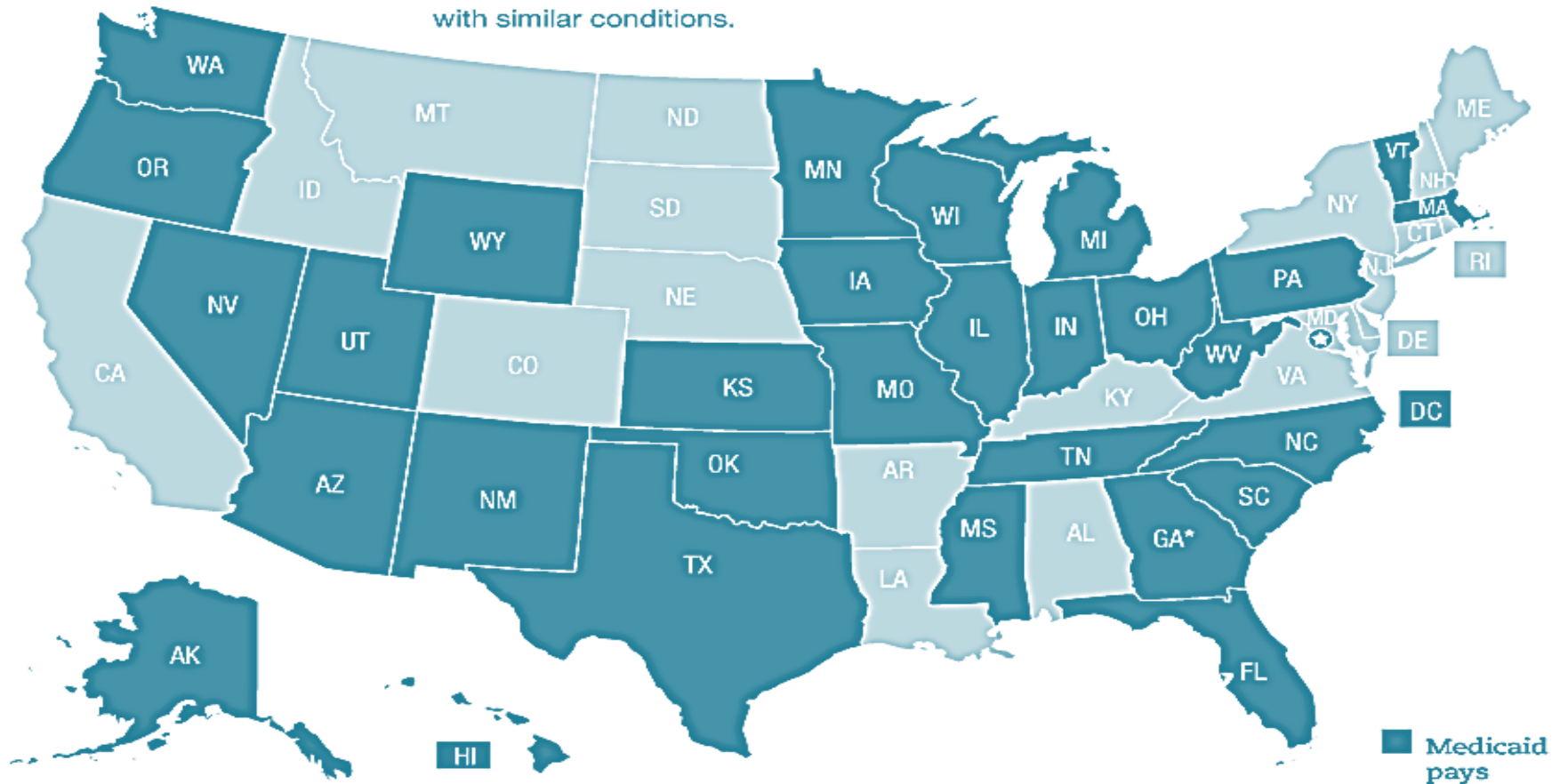
- developing clarifying legislative language that MHSAs and/or other funding may be used to establish an implementation and oversight body for statewide Peer Specialist Certification; and/or
- making Peer Certification a priority of the 2015-16 Legislative Session as a stand-alone issue ; and/or
- requiring the Certification of Peer Specialists in legislation pertaining to workforce expansion or expanded services for vulnerable populations: and/or
- identifying and including funding for the establishment of a Peer Specialist certifying and oversight body through the annual Budget Act.

The CMHPC has been following and supporting the efforts of Inspired at Work, California Association of Mental Health Peer Run Organizations (CAMHPRO), United Advocates for Children and Families (UACF), National Alliance on Mental Illness (NAMI) and the former Working Well Together Group to bring this issue to the forefront of mental health policy. These groups dedicated countless hours to investigating best practices, training models, potential curriculums, and workforce applications for Certified Peer Specialists and have generously shared their time and information to bring the CMHPC and others up to speed. Their work deserves attention and close consideration by anybody that might be in a position to support the implementation process. For detailed information on the background, issues, application, and potential processes, please visit: <http://workingwelltogether.org/resources/recruiting-hiring-and-workforce-retention/wwt-toolkit-employing-individuals-lived> or <http://www.inspiredatwork.net/Resources.html>,

# Mental Health Peer Specialists

## States where Medicaid pays for them

In 31 states, Medicaid pays for licensed peer specialists, counselors recovering from severe mental illness or substance addiction who are trained to help others with similar conditions.



Source: OptumHealth and Appalachian Consulting Group  
 NOTE: In Georgia, Medicaid pays peer specialists to provide "whole health" counseling.

Stateline infographic by Adam Rotmil and Christine Vestal  
 September 11, 2013

2013

# Final Report: Recommendations from the Statewide Summit on Certification of Peer Providers



**Working Well Together**  
Training and Technical Assistance Center



Report prepared for CAMHPRO-PEERS  
under Working Well Together  
by Inspired at Work  
Lucinda Dei Rossi, MPA, CPRP and  
Debra Brasher, MS, CPRP

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## ACKNOWLEDGEMENTS

We'd like to specially recognize Karin Lettau for her diligence, hard work and grace in ensuring that all stakeholders felt heard and understood throughout the process.

## DISCLAIMER

The views expressed in this publication do not necessarily reflect the views of the Office of Statewide Health Planning and Development.

## Executive Summary

Working Well Together is the only statewide organization dedicated to transforming systems to be client and family-driven by supporting the sustained development of client, family member and parent/caregiver employment within every level of the public mental health workforce. As part of this effort Working Well Together has, for the last three years, engaged in researching and evaluating the feasibility of inclusion of Peer Support into a State Plan Amendment for Specialty Mental Health services. This three year effort has included thorough state-wide and national research and extensive stakeholder involvement and has yielded seventeen recommendations for the development of Peer Support as an integral service within the public mental health system.

The statewide survey conducted to evaluate the current practice of hiring consumers and family members into the mental health workforce revealed that most counties have indeed hired people with lived experience of a mental health challenge or parents/family members of individuals with a mental health issue into the mental health workforce. However the survey also revealed that there remain significant workforce issues that must be addressed. Of the thirty responding counties that hire people with lived experience, none required previous training or education beyond a high school diploma as a qualification for hire. This was found to be true even in counties that have developed excellent training programs for Peer Support. Additional findings revealed that a variety of generalist job titles are used to hire Peer Support Specialists, job duties and descriptions vary widely and may or may not include peer support as a job duty.

The stakeholder process exposed a number of workforce issues that must be addressed to further the professional development of Peer Support as a discipline and Peer Support Specialists as practitioners. Perhaps the most pressing issue is the lack of a definition and/or understanding of Peer Support. While most counties have hired individuals with lived experience as well as parents and family members to provide services, many of these practitioners are providing services that are traditionally considered “case management” and include collateral, targeted case management and rehabilitation services. Another identified trend was the use of peer employees as clerical support, transportation providers and social or recreational activities support. Interestingly, while many of these practitioners are providing billable services within the scope of practice of “Other Qualified Provider”, very few

counties (approximately nine) are billing Medi-Cal for these services. Going forward it is vital that Peer Support is identified as a separate and distinct service from other services provided under the current definitions of Specialty Mental Health services. Additional workforce issues identified by stakeholders necessary to advance the development for and respect of Peer Support include the;

1. Creation of welcoming environments that embrace these practitioners.
2. Development of multi-disciplinary teams that respect this new discipline.
3. Education and training of County Directors and Administration as well as the existing workforce on the value, role and legitimacy of peer support.
4. Training and acceptance of Medi-Caid approved use of recovery/resilience/wellness language in documentation.

While stakeholders strongly support the inclusion of peer support into a State Plan Amendment, they also support flexibility in what services individuals with lived experience can provide within the mental health system. Stakeholders strongly support career ladders that include non-certified peer providers as well as people with lived experience continuing their education and advancing into existing positions traditionally used in mental health settings, including supervision and management as well as the development of career ladders that include advancement opportunities within the practice of peer support. In short, stakeholders support maximum flexibility in what people with lived experience can provide and bill for within the existing State Plan as well as the inclusion of peer support as a new service category.

Stakeholders also emphasize the importance of recognizing that there are a number of services that enhance wellness and recovery/resiliency that peers may provide but that may not be reimbursed by Medi-Caid. It will be vital, when considering adding peer support as a new service, that reimbursement for peer support services not become the primary driving focus when offering/providing these services to clients and their families.

Working Well Together has engaged stakeholders in on-going teleconferences, webinars, work-groups, and five regional stakeholder meetings to provide feedback and recommendations that will support the requirements as laid out by the CMS letter regarding inclusion of peer support as a part of services provided under Specialty Mental Health. This resulted in several recommendations in support of the development of a statewide

Certification for Peer Support Specialists. In May of 2013 a final Statewide Stakeholder Summit was convened to provide further vetting with the goal of finalizing recommendations for the inclusion of peer support into the State Plan Amendment as well as the development of a statewide Certification for Peer Support Specialists. By and large the vast majority of stakeholders support the original recommendations, however, where appropriate, adjustments have been made in alignment with stakeholder feedback. Also where appropriate, additional edits to specific recommendations have been made to provide clarity. The seventeen recommendations are listed below.

DRAFT

## Final Stakeholder Recommendations regarding Certification of Peer Support Specialists

### Recommendation 1

Develop a statewide certification for Peer Support Specialists, to include:

- Adult Peer Support Specialists
- Young Adult Peer Support Specialists
- Older Adult Peer Support Specialists
- Family Peer Support Specialists (Adult Services)
- Parent Peer Support Specialists (Child/Family Services)

- 1.1 Require Peer Support Specialists to practice within the adopted Peer Support Specialist Code of Ethics.
  - 1.1.1 Seek final approval of Peer Support Code of Ethics by the Governing Board of Working Well Together.
- 1.2 Develop or adopt standardized content for a state-wide curriculum for training Peer Support Specialists.
- 1.3 Require a total of 80 hours of training for Peer Support Specialist Certification.
  - 1.3.1 55-hour core curriculum of general peer support education that all peer support specialists will receive as part of the required hours towards certification.
  - 1.3.2 25-hours of specialized curriculum specific to each Peer Support Specialist category.
- 1.4 Require an additional 25 hours of training to become certified in a specialty area such as forensics, co-occurring services, whole health and youth in foster care.
- 1.5 Require six months full-time equivalent experience in providing peer support services.
  - 1.5.1 This experience can be acquired through employment, volunteer work or as part of an internship experience.
- 1.6 Require 15 hours of CEU's per year in subject matter relevant to peer support services to maintain certification.
- 1.7 Require re-certification every three years.
- 1.8 Allow a grandfathering-in process in lieu of training.



- 1.8.1 Require one year of full-time equivalent employment in peer support services.
- 1.8.2 Require three letters of recommendation. One letter must be from a supervisor.  
The other letters may come from co-workers or people served.
- 1.9 Require an exam to demonstrate competency.
  - 1.9.1 Provide test-taking accommodations as needed.
  - 1.9.2 Provide the exam in multiple languages and assure cultural competency of exam.

### **Recommendation 2**

Identify or create a single certifying body that is peer-operated and/or partner with an existing peer-operated entity with capacity for granting certification.

### **Recommendation 3**

Include Peer Support as a service and Peer Support Specialist as a provider type within a new State Plan Amendment.

- 3.1 Seek adoption of the definitions of Peer Support Specialist providers and Peer Support services by the Governing Board of Working Well Together for use within the State Plan Amendment.
- 3.2 Maintain the ability for people with lived experience to provide services as “other qualified provider” within their scope of practice, including but not limited to rehabilitation services, collateral and targeted case management.
- 3.2 Acknowledge that there are important and non-billable services that Peer Support Specialists can and do provide.

### **Recommendation 4**

Include in the State Plan the ability to grant site certification for peer-operated agencies to provide billable peer support services.

- 4.1 Allow for peer-operated agencies to provide other services billable under “other qualified provider” within their scope of practice, including but not limited to rehabilitation services, collateral and targeted case management.

### **Recommendation 5**

Address the concern that current practice of documentation for billing may not be aligned with the values and principles of peer support and a wellness, recovery and resiliency orientation.

- 5.1 Engage with partners such as Department of Health Care Services and the California Mental Health Director’s Association in order to develop an action plan to advocate for the use of CMS-approved recovery/resiliency-oriented language in documentation.

### **Recommendation 6**

Investigate the options for broadening the definition of “service recipient” to include parents and family members of minors receiving services so that peer support services can be accessed more easily.

### **Recommendation 7**

Convene a working group consisting of Working Well Together, the Mental Health Directors, the Office of Statewide Healthcare Planning and Development (OSHPD) and the Department of Health Care Services to develop buy-in and policies that will create consistency of practice regarding peer support services across the state.

### **Recommendation 8**

Develop standards and oversight for the provider/entity that provides training of Peer Support Specialists.

- 8.1 Allow for multiple qualified training entities.
- 8.2 Training organizations must demonstrate infrastructure capacity that will allow for peer trainers.
- 8.3 Training must be provided by either individuals with lived experience or by a team that includes individuals with lived experience.

### **Recommendation 9**

Establish qualifications for who may supervise Peer Support Specialists.

- 9.1 Engage with the Mental Health Directors to develop a policy that outlines key qualifications necessary for the supervision of Peer Support Specialists.
- 9.2 Preferred supervisors are those individuals with lived experience and expertise in peer support.
- 9.3 Due to capacity issues, supervisors may include qualified people who receive specific training on the role, values and philosophy of peer support.
- 9.4 Recognize and define the specific qualities and skills within supervision that are required for the supervision of Peer Support Specialists. These skills should align with the values and philosophy of peer support.

#### **Recommendation 10**

Develop a plan to provide extensive and expansive training on the values, philosophy and efficacy of peer support to mental health administration and staff.

#### **Recommendation 11**

Develop a plan to ensure that welcoming environments are created that embrace the use of multi-disciplinary teams that can incorporate Peer Support Specialists fully onto mental health teams.

#### **Recommendation 12**

Develop a policy statement that recognizes and defines the unique service components of peer support as separate and distinct from other disciplines and services in order to maintain the integrity of peer support services.

#### **Recommendation 13**

Develop a policy statement and plan that supports the professional development of Peer Support Specialists that allows the practitioner to maintain and hone his/her professional values, ethics and principles.

#### **Recommendation 14**

Develop a plan for funding the development of certification.

- 14.1 Work with the Office of Statewide Healthcare Planning and Development to utilize

state-wide monies from the MHSA Workforce, Education and Training fund.

14.2 Investigate other potential funding sources.

14.3 Develop recommendations for funding of components of certification such as financial assistance with training, exam and certification fees.

**Recommendation 15**

Seek representation on committees and workgroups that are addressing civil service barriers to the employment of Peer Support Specialists.

**Recommendation 16**

Work with Mental Health Directors to seek agreement on a desired workforce minimum of Peer Support Specialists within each county to more fully actualize the intent of the MHSA.

**Recommendation 17**

Develop state-wide models that can inform county leadership on the development of career ladders for Peer Support Specialists that begin with non-certified Peer Support Specialists and creates pathways into management and leadership positions.

## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER: SB 968**

**VERSION: AMENDED MAY 2, 2018**

**AUTHOR: PAN**

**SPONSORS:**

- CALIFORNIA FACULTY ASSOCIATION
- SEIU

**RECOMMENDED POSITION: SUPPORT**

**SUBJECT: POSTSECONDARY EDUCATION: MENTAL HEALTH COUNSELORS**

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### **Summary:**

This bill would require specified higher educational entities in California to hire one full-time equivalent mental health counselor per 1,500 students enrolled at each of their campuses.

### **Existing Law:**

- 1) Establishes the Donahoe Higher Education Act, specifying that public higher education consists of the California Community Colleges, the California State University, and the University of California. (Education Code (EC) §66010)

### **This Bill:**

- 1) Requires the following educational entities to have one full-time equivalent mental health counselor per 1,500 students enrolled at each respective campus, to the fullest extent consistent with state and federal law (EC §66027.7(a)):
  - The Trustees of the California State University;
  - The governing board of each community college district.
- 2) Requests the Regents of the University of California also follow this standard. (EC §66027.7(a))
- 3) Specifies that this requirement is a minimum requirement, and that additional mental health providers may be hired based on a campus's additional needs. (EC §66027.7(b))
- 4) Defines a "mental health counselor" as someone who meets both of the following (EC §66027.7(c)):
  - Provides individual and group counseling, crisis intervention, emergency services, referrals, program evaluation and research, or outreach and consultation interventions to the campus community, or any combination of these; and

- Is licensed in California by the applicable licensing entity.
- 5) Requires educational institutions subject to this requirement to report to the legislature every three years on how funding was spent and on the number of mental health counselors employed on each of its campuses. The report shall include the following (EC §66027.7(d)):
- Results from a campus survey and focus groups regarding student needs and challenges regarding their mental health, emotional well-being, sense of belonging, and academic success; and
  - Campus data on attempted suicides.

**Comment:**

- 1) **Author’s Intent.** The authors office states that the International Association of Counseling Services (IACS) recommends one full-time equivalent mental health counselor for every 1,000 to 1,500 students, and that exceeding this ratio could lead to longer wait lists for services, and decreased support for academic success. They note that while the UC system reports that their ratio falls within this recommended range, it is estimated to be significantly higher for the CSU system. However, it is difficult to know exact ratios because of a lack of reporting and data.

The author believes this bill will address the mental health crisis facing California’s public higher education system by helping campus counseling services meet growing student demand, and by providing more data to evaluate the best campus counseling practices.

- 2) **Definition of a “Mental Health Counselor.”** The Board may wish to discuss whether the bill’s definition of a “mental health counselor” is appropriate, including if it would be preferable to specifically state which licensing boards are considered “applicable licensing entities.”

- 3) **Consistency with Previous Board Recommendation.** In 2014, the Board considered AB 2198 (Levine). That bill proposed requiring licensees of this Board and the Board of Psychology to complete a six-hour training course in suicide assessment, treatment, and management. It would also have required new applicants who began graduate study after January 1, 2016 to take a 15-hour course in this subject area.

While the Board noted that it shared the author’s concerns regarding the prevalence of suicide, it did not believe AB 2198 would accomplish its objective. Therefore, the Board took an “oppose unless amended” position on the bill, and proposed the formation of a task force to discuss the best course of action on three areas of concern:

- a. Current coverage of the topic of suicide assessment, treatment, and management in Master’s level mental health degree programs, including identifying courses that typically include the topic, aspects of the topic that are already being addressed, and aspects of the topic where improved training is needed.
- b. Whether college campus mental health care workers and others who are likely to encounter suicidal individuals are likely to be licensed mental health care professionals, and if not, how to address their training needs; and

- c. Lack of resources at the county mental health care level which may be impeding treatment for those who need it.

A copy of the Board's position letter to the Governor, which includes alternative suggested actions, is shown in **Attachment A**.

SB 968 appears to take steps toward addressing one of the Board's identified concerns (item b. above) at the time it considered AB 2198.

Last year, the Board took a "support" position on another bill that took steps toward one of its previously identified concerns (item c. above). AB 1372 (Levine) aims to help ensure that a suicidal patient needing treatment at a crisis stabilization unit is not required to be released in a situation where the crisis stabilization unit's 24 treatment hours are up, but there are no available inpatient beds or outpatient services to help the patient before that time is up. This bill provides the treating crisis stabilization unit with an option, if it so chooses, to have extra time to find the person the care he or she needs before being released. AB 1372 is currently a two-year bill.

- 4) Recommended Position.** At its April 12, 2018 meeting, the Policy and Advocacy Committee recommended a "support" position on the bill. It also expressed that it would like to see associates included in the definition of those who qualify as a mental health counselor.

Since that meeting, the bill has been amended to require one full-time equivalent mental health counselor per 1,500 students. Previously, the ratio was set at one per 1,000 students.

## **5) Support and Opposition.**

### **Support:**

- California Academy of Child and Adolescent Psychiatry
- California Faculty Association
- California Federation of Teachers
- California Psychological Association
- California State Student Association
- Faculty Association of California Community Colleges
- National Association of Social Workers
- SEIU California
- Steinberg Institute

### **Opposition:**

None at this time.

## **6) History.**

### **2018**

05/02/18	Read second time and amended. Re-referred to Com. on APPR.
05/01/18	From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 25).
04/11/18	Set for hearing April 25.

03/20/18 March 21 set for first hearing canceled at the request of author.  
03/12/18 From committee with author's amendments. Read second time and amended. Re-referred to Com. on ED.  
03/05/18 From committee with author's amendments. Read second time and amended. Re-referred to Com. on ED.  
02/28/18 Set for hearing March 21.  
02/08/18 Referred to Com. on ED.  
02/01/18 From printer. May be acted upon on or after March 3.  
01/31/18 Introduced. Read first time. To Com. on RLS. for assignment. To print.

**7) Attachments.**

**Attachment A:** BBS Position Letter to the Governor: AB 2198 (August 20, 2014)



AMENDED IN SENATE MAY 2, 2018  
AMENDED IN SENATE MARCH 12, 2018  
AMENDED IN SENATE MARCH 5, 2018

**SENATE BILL**

**No. 968**

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**Introduced by Senator Pan**

January 31, 2018

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An act to add Section 66027.7 to the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 968, as amended, Pan. Postsecondary education: mental health counselors.

Existing law establishes the segments of postsecondary education in this state, including the University of California administered by the Regents of the University of California, the California State University administered by the Trustees of the California State University, the California Community Colleges administered by the Board of Governors of the California Community Colleges, and independent institutions of higher education. Existing provisions of the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program set forth the requirements for status as a "qualifying institution" whose students are eligible, if as individuals they meet pertinent program requirements, to receive Cal Grant awards. Existing law provides for licensing and regulation of various professions in the healing arts, including physicians and surgeons, psychologists, marriage and family therapists, educational psychologists, clinical social workers, and licensed professional clinical counselors.

This bill would require the Trustees of the California State University, and the governing board of each community college district, and request the Regents of the University of California, to have one full-time equivalent mental health counselor per ~~1,000~~ 1,500 students enrolled at each of their respective campuses to the fullest extent consistent with state and federal law. The bill would define mental health counselor for purposes of this provision. The bill would require those institutions, on or before January 1, 2020, and every 3 years thereafter, to report to the Legislature how funding was spent and the number of mental health counselors employed on each of its campuses, as specified. The bill would require each campus of those institutions to, at least every 3 years, conduct a campus survey and focus groups to understand student needs and challenges regarding, among other things, their mental health, would require each campus of those institutions to collect data on attempted suicides, as specified, and would require that data, without any personally identifiable ~~information~~, *information and collected in accordance with state and federal privacy law*, to be included in the report to the Legislature. To the extent that these provisions would impose new duties on community college districts, it would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Students face anxiety, depression, and stress as they confront
- 4 challenges of campus life.
- 5 (b) Suicide is the second leading cause of death among college
- 6 students claiming more than 1,100 lives every year nationally.

1 (c) One in four students has a diagnosable mental illness and  
2 40 percent of students do not seek mental health services when  
3 they need it.

4 (d) For students of color, these challenges may be even more  
5 acute as they face additional stressors, such as discrimination,  
6 immigration status, financial hardship, and being the first of their  
7 families to attend college, and students of color are less likely to  
8 access needed services.

9 (e) Among the many benefits of mental health counseling are  
10 lower college dropout rates, improved academic performance, and  
11 reduced legal liability for campuses.

12 (f) The California State University system in particular is  
13 woefully understaffed with mental health counselors to address  
14 the needs of their campuses.

15 SEC. 2. Section 66027.7 is added to the Education Code, to  
16 read:

17 66027.7. (a) (1) The Trustees of the California State  
18 University, and the governing board of each community college  
19 district, shall, and the Regents of the University of California are  
20 requested to, have one full-time equivalent mental health counselor  
21 per ~~1,000~~ 1,500 students enrolled at each of their respective  
22 campuses to the fullest extent consistent with state and federal  
23 law.

24 (2) Where possible, mental health counselors hired under  
25 paragraph (1) should be full-time.

26 (b) The number of mental health counselors as computed  
27 pursuant to subdivision (a) shall constitute the minimum number  
28 of mental health counselors to be hired on a campus based on the  
29 campus student population. Additional mental health counselors  
30 may be hired in accordance with additional needs identified on a  
31 campus.

32 (c) For purposes of this section, “mental health counselor” means  
33 a person who provides individual counseling, group counseling,  
34 crisis intervention, emergency services, referrals, program  
35 evaluation and research, or provides outreach and consultation  
36 interventions to the campus community, or any combination of  
37 these, and who is licensed in the State of California by the  
38 applicable licensing entity.

39 (d) (1) On or before January 1, 2020, and every three years  
40 thereafter, a postsecondary educational institution subject to this

1 section shall report to the Legislature, consistent with Section 9795  
2 of the Government Code, how funding was spent and the number  
3 of mental health counselors employed on each of its campuses.

4 (2) Each campus of a postsecondary educational institution  
5 subject to this section shall, at least every three years, conduct a  
6 campus survey and focus groups, including focus groups with  
7 students of color, to understand student needs and challenges  
8 regarding their mental health and emotional well-being, sense of  
9 belonging on campus, and academic success. ~~This data, without  
10 any personally identifiable information, shall be included in the  
11 report required to be submitted to the Legislature pursuant to  
12 paragraph (1).~~

13 (A) *The campus surveys and data collection required in  
14 paragraph (2) shall be conducted in accordance with state and  
15 federal privacy law, including, but not limited to, the state  
16 Confidentiality of Medical Information Act, the federal Family  
17 Educational Rights and Privacy Act, and the federal Health  
18 Insurance Portability and Accountability Act of 1996.*

19 (B) *The data collected, without any personally identifiable  
20 information, shall be included in the report required to be  
21 submitted to the Legislature pursuant to paragraph (1).*

22 (3) Each campus of a postsecondary educational institution  
23 subject to this section shall collect data on attempted suicides  
24 through self-reporting, mental health counselor records, and known  
25 hospitalizations. This data, without any personally identifiable  
26 information, shall be included in the report required to be submitted  
27 to the Legislature pursuant to paragraph (1).

28 SEC. 3. If the Commission on State Mandates determines that  
29 this act contains costs mandated by the state, reimbursement to  
30 local agencies and school districts for those costs shall be made  
31 pursuant to Part 7 (commencing with Section 17500) of Division  
32 4 of Title 2 of the Government Code.

O



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Governor Edmund G. Brown Jr.  
State of California  
Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

August 20, 2014

Governor Jerry Brown  
State Capitol  
Sacramento, CA 95814

RE: AB 2198 - Oppose

Dear Governor Brown:

At its May 22, 2014 meeting, the Board of Behavioral Sciences (Board) discussed and took a position of "oppose unless amended" on AB 2198 (Levine) (As Amended April 21, 2014).

The Board shared the author's concerns regarding the need to address deficiencies in suicide assessment, treatment, and management training for professionals who may encounter suicidal individuals. However, it did not believe that the bill, in its current form, would accomplish this objective.

Instead, the Board recommended the bill be amended to form a task force to include members of this Board, its stakeholders, the Board of Psychology, county mental health officials, and university educators. This group should discuss the following areas of concern to determine the best course of action:

1. Current coverage of the topic of suicide assessment, treatment, and management in Master's level mental health degree programs, including identifying courses that typically include the topic, aspects of the topic that are already being addressed, and aspects of the topic where improved training is needed.
2. Whether college campus mental health care workers and others who are likely to encounter suicidal individuals are likely to be licensed mental health care professionals, and if not, how to address their training needs; and
3. Lack of resources at the county mental health care level which may be impeding treatment for those who need it.

This bill was not amended to create such a task force, and therefore the Board is in opposition to this bill, in its current form.

It is the Board's hope that through a future series of stakeholder meetings, a model "Best Practice" training curriculum can be developed for Master's level mental health programs, and effective training for non-licensed workers encountering suicidal individuals can be developed as well.

Please feel free to contact my Legislative Analyst, Rosanne Helms, at (916) 574-7897 if you have any questions.



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Governor Edmund G. Brown Jr.  
State of California  
Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

Sincerely,

Steve Sodergren  
Acting Executive Officer

CC: Division of Legislative and Policy Review, Department of Consumer Affairs

## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 1116                      **VERSION:** AMENDED SEPTEMBER 8, 2017

**AUTHOR:** GRAYSON                      **SPONSOR:**

- CALIFORNIA PROFESSIONAL FIREFIGHTERS
- CALIFORNIA CORRECTIONAL PEACE OFFICERS ASSOCIATION

**RECOMMENDED POSITION:** NONE

**SUBJECT:** PEER SUPPORT AND CRISIS REFERRAL SERVICES ACT

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**Summary:** This bill establishes that a communication between an emergency service personnel worker and a peer support team member, crisis hotline staffer, or a crisis referral service staffer is privileged for a noncriminal proceeding.

**Existing Law:**

- 1) Establishes that a patient has privilege to refuse to disclose and to prevent another from disclosing a confidential communication between the patient and a psychotherapist under certain circumstances. (Evidence Code (EC) §1014)
- 2) Defines “confidential communication between patient and psychotherapist” as information, including that obtained by examination of the patient, transmitted between the patient and the psychotherapist in the course of that relationship and in confidence by a means which, so far as the patient is aware, discloses the information to not third persons other than those who further the interest of the patient. It includes the diagnosis made and advice given by the psychotherapist. (EC §1012)
- 3) Defines a “psychotherapist” as including the following persons (EC §1010):
  - A person authorized to practice medicine who practices psychiatry;
  - A licensed psychologist;
  - A licensed clinical social worker;
  - A credentialed school psychologist;
  - A licensed marriage and family therapist;
  - A registered psychological assistant;
  - A marriage and family therapist intern;
  - An associate clinical social worker;
  - A registered psychologist;

- A psychological intern;
  - An MFT trainee;
  - A registered nurse listed as a psychiatric-mental health nurse;
  - An advanced practice registered nurse certified as a clinical nurse specialist, who participates in expert clinical practice in the specialty of psychiatric-mental health nursing;
  - A person rendering mental health treatment or counseling services authorized by §6924 of the Family Code. (This section specifies the professional persons who may provide mental health treatment or counseling to a consenting minor age 12 or older.)
  - A licensed professional clinical counselor;
  - A clinical counselor intern;
  - A clinical counselor trainee.
- 4) Allows a communication between a patient and a licensed educational psychologist to be privileged to the same extent as a communication with a psychotherapist. (EC §1010.5)

**This Bill:**

- 1) Establishes the “Peer Support and Crisis Referral Services Act.” (Government Code (GC) §8669 et seq.)
- 2) Specifies that a communication made by emergency service personnel to a peer support team member is privileged for purposes of a noncriminal proceeding to the same extent, and subject to the same limitations, as a communication between a patient and a psychotherapist described in subdivisions (b), (d), and (e) of Evidence Code Section 1010. (These subsections refer to licensed psychologists, school psychologists, and LMFTs, respectively.) (EC §1029(a))
- 3) Establishes that communication between an individual employed as emergency service personnel and a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel is privileged for purposes of a noncriminal proceeding to the same extent, and subject to the same limitations, as a communication between a patient and a psychotherapist described in subdivisions (b), (d), and (e) of Evidence Code Section 1010. (EC §1029 (b))
- 4) Specifies that a communication made by an emergency service personnel to a peer support team member is confidential and shall not be disclosed in a civil or administrative proceeding, and a record kept by the peer support team member related to the provision of peer support services is also confidential, except under the following circumstances (Government Code (GC) §8669.2):
  - a) The peer support team member must make a referral, or must consult, with another member of the peer support team or appropriate professional associate with the peer support team.
  - b) Revealing the communication may prevent reasonably certain death, substantial body harm, or commission of a crime.



- c) The emergency service personnel agrees in writing that the communication is not confidential.
- 5) Specifies that emergency personnel who provide peer support services and who have completed a specified training course are not liable for damages, unless there is gross negligence, intentional misconduct, or an action for medical malpractice. (GC §8669.3)
- 6) Specifies that a communication made by an emergency service personnel to a crisis hotline or crisis referral service is confidential and shall not be disclosed in a civil or administrative proceeding. However, an exemption is provided to prevent reasonably certain death, substantial bodily harm, or commission of a crime. (GC §8669.5)

### Definitions

- 7) Defines “emergency service personnel” as a person who provides emergency response services, including a law enforcement officer, correctional officer, probation officer, juvenile detention officer, firefighter, paramedic, emergency medical technician, dispatcher, emergency response communication employee, or rescue service personnel. (GC §8669.1(d))
- 8) Defines “peer support services” to include services provided by a peer support team or team member to emergency service personnel affected by a critical incident or accumulation of multiple incidents. They include the following (GC §8669.1(e)):
  - a) Precrisis education;
  - b) Critical incident stress defusings and debriefings;
  - c) On-scene support services;
  - d) One-on-one support services;
  - e) Consultation;
  - f) Referral services;
  - g) Confidentiality obligations
  - h) The impact of toxic stress on health and well-being;
  - i) Grief support
  - j) Substance abuse identification and approaches; and
  - k) Active listening skills.
- 9) Defines a “peer support team” as a local critical incident response team composed of individuals from emergency service professions, emergency medical services, hospital staff, clergy, and educators who have completed a peer support training course developed by the Office of Emergency Services, California Firefighter Joint Apprenticeship Committee, or the Commission on Correctional Peace Officer Standards and Training. (GC §8669.1(f))
- 10) Defines a “peer support team member” as an individual who is specially trained to provide peer support services as a member of a peer support team. (GC §8669.1(g))

## **Comments:**

- 1) Intent.** The author states it is critical to provide first responders and law enforcement officials with an opportunity to address critical incidents of stress through peer support and other means to ensure they receive the help they need. Often, these emergency personnel do not discuss the post-traumatic incidents they experience, due to concern it may result in adverse job action.

The goal of this bill is to increase the availability of peer support by developing peer support training courses, and to allow peer support communication to be kept confidential.

- 2) Previous Board Position (2017).** AB 1116 is a two-year bill, and the Board considered it last year. A previous version of this bill added staffers of a crisis hotline or crisis referral service for emergency service personnel to the definition of “psychotherapists” and granted them the psychotherapist-patient privilege under Article 7 of Chapter 4 of Division 8 of the Evidence Code (which commences with section 1010) for purposes of a noncriminal proceeding. This caused concern among stakeholders, as well as the Policy and Advocacy Committee, about unintended consequences of adding unlicensed individuals to the definition of a “psychotherapist.”

However, the bill was amended and no longer adds crisis hotline or crisis referral service staffers to the definition of a “psychotherapist” under Evidence Code Section 1010. Instead, it protects communication between an individual employed as emergency service personnel and a peer support team member or a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel as privileged for purposes of a noncriminal proceeding to the same extent, and subject to the same limitations, as a communication between a patient and a psychotherapist. However, it does not include them in the definition of a psychotherapist. Due to this amendment, at its May 12, 2017 meeting, the Board took a “support” position on the bill.

- 3) Policy and Advocacy Committee Discussion (2018).** The Board’s Policy and Advocacy Committee discussed this bill at its April 12, 2018 meeting. At that meeting, a stakeholder raised an issue. The issue was about what would happen if a peer support provider had a concern that the first responder they were seeing as a client was unable to safely do their job. While there is a clause in the bill that allows disclosure if there is a concern of reasonably certain death, substantial bodily harm or commission of a crime, there does not appear to be an ability to disclose information if inability to safely do the job is a concern. The Committee directed staff to talk to the author’s office about this issue.

The author’s office indicated that the bill is in the process of being amended. The scope of the bill will narrow to only include the California Department of Corrections and Rehabilitation. The bill will prescribe that management and labor work together in this department to develop policies relating to peer support services, including when it is appropriate to break confidentiality. If this program is successful, the author hopes it can be used as a model for other agencies’ peer support service programs.

The new amendments are expected to be available soon, although it is unknown exactly when they will be amended into the bill.

#### 4) Support and Opposition.

##### Support (As of 9/8/17):

- California Correctional Peace Officers Association (co-source)
- California Professional Firefighters (co-source)
- American Red Cross
- Board of Behavioral Sciences
- Peace Officers Research Association of California
- State Coalition of Probation Organizations
- Steinberg Institute
- United EMS Workers

##### Opposition (As of 9/8/17):

- Department of Finance

#### 5) History

##### 2017

- 09/11/17 Ordered to inactive file at the request of Senator Atkins.
- 09/11/17 Read second time. Ordered to third reading.
- 09/08/17 Read third time and amended. Ordered to second reading.
- 09/05/17 Read second time. Ordered to third reading.
- 09/01/17 From committee: Do pass. (Ayes 7. Noes 0.) (September 1).
- 08/21/17 In committee: Referred to APPR. suspense file.
- 07/18/17 Read second time and amended. Re-referred to Com. on APPR.  
From committee: Amend, and do pass as amended and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (July 11).
- 07/06/17 From committee: Do pass and re-refer to Com. on JUD. (Ayes 9. Noes 0.) (July 5). Re-referred to Com. on JUD.
- 06/14/17 Referred to Coms. on HEALTH and JUD.
- 06/01/17 In Senate. Read first time. To Com. on RLS. for assignment.
- 05/31/17 Read third time. Passed. Ordered to the Senate. (Ayes 77. Noes 0. Page 1897.)
- 05/26/17 Read second time. Ordered to third reading.
- 05/26/17 From committee: Do pass. (Ayes 17. Noes 0.) (May 26).
- 05/17/17 In committee: Set, first hearing. Referred to APPR. suspense file.
- 04/24/17 Re-referred to Com. on APPR.
- 04/20/17 Read second time and amended.
- 04/19/17 From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 11. Noes 0.) (April 18).
- 04/05/17 From committee: Do pass and re-refer to Com. on JUD. (Ayes 14. Noes 0.) (April 4). Re-referred to Com. on JUD.
- 03/30/17 Re-referred to Com. on HEALTH.
- 03/29/17 From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
- 03/09/17 Referred to Coms. on HEALTH and JUD.
- 02/19/17 From printer. May be heard in committee March 21.

02/17/17 Read first time. To print.  
04/24/17 Re-referred to Com. on APPR.  
04/20/17 Read second time and amended.  
04/19/17 From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 11. Noes 0.) (April 18).  
04/05/17 From committee: Do pass and re-refer to Com. on JUD. (Ayes 14. Noes 0.) (April 4). Re-referred to Com. on JUD.  
03/30/17 Re-referred to Com. on HEALTH.  
03/29/17 From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.  
03/09/17 Referred to Coms. on HEALTH and JUD.  
02/19/17 From printer. May be heard in committee March 21.  
02/17/17 Read first time. To print.

AMENDED IN SENATE SEPTEMBER 8, 2017

AMENDED IN SENATE JULY 18, 2017

AMENDED IN ASSEMBLY APRIL 20, 2017

AMENDED IN ASSEMBLY MARCH 29, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1116**

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**Introduced by Assembly Member Grayson**

**(~~Coauthors: Assembly Members Rodriguez and Wood~~)**

***(Principal coauthors: Assembly Members Bonta, Burke, Cooper,  
Rodriguez, Rubio, and Wood)***

February 17, 2017

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An act to add Article 7.5 (commencing with Section 1029) to Chapter 4 of Division 8 of the Evidence Code, and to add Article 21 (commencing with Section 8669) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as amended, Grayson. Peer Support and Crisis Referral Services Act.

Under existing law, the California Emergency Services Act, the Governor is authorized to proclaim a state of emergency, as defined, under specified circumstances. The California Emergency Services Act also authorizes the governing body of a city, county, city and county, or an official designated by ordinance adopted by that governing body, to proclaim a local emergency, as defined.

This bill would create the Peer Support and Crisis Referral Services Act. The bill would, for purposes of the act, define a "peer support

team” as a local critical incident response team composed of individuals from emergency services professions, emergency medical services, hospital staff, clergy, and educators who have completed a peer support training course developed by the Office of Emergency Services, the California Firefighter Joint Apprenticeship Committee, or the Commission on Correctional Peace Officer Standards and Training, as specified. The bill would provide that a communication made by emergency service personnel to a peer support team member while the emergency service personnel receives peer support services, as defined, is confidential and shall not be disclosed in a civil or administrative proceeding, except as specified. The bill would also provide that, except for an action for medical malpractice, a peer support team or a peer support team member providing peer support services is not liable for damages, as specified, relating to the team’s or team member’s act, error, or omission in performing peer support services, unless the act, error, or omission constitutes gross negligence or intentional misconduct. The bill would provide that a communication made by emergency service personnel to a crisis hotline or crisis referral service, as defined, is confidential and shall not be disclosed in a civil or administrative proceeding, except as specified.

Existing law provides that a person has a privilege to refuse to disclose, and prevent another from disclosing, a confidential communication with specified persons, except in specified circumstances.

This bill would establish a privilege for a communication between an individual employed as emergency service personnel and a peer support team member or a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel for the purposes of a noncriminal proceeding, as specified.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Emergency service personnel frequently respond to traumatic
- 4 incidents and dangerous circumstances, including, but not limited
- 5 to, fires, stabbings, gun battles and shootings, domestic violence,
- 6 terrorist acts, riots, automobile accidents, airplane crashes, and

1 earthquakes. They are exposed to harmful substances, such as  
2 blood, urine, and vomit. They witness grave injuries, death, and  
3 grief. They are frequently placed in harm's way, with significant  
4 risk of bodily harm or physical assault while performing the duties  
5 of their jobs.

6 (b) The traumatic and unpredictable nature of emergency  
7 services results in a high-stress working environment that can take  
8 an overwhelming mental, emotional, and physical toll on personnel.  
9 Chronic exposure to traumatic events and critical incidents  
10 increases the risk for post-traumatic stress and other stress-induced  
11 symptoms.

12 (c) While most emergency service personnel survive the traumas  
13 of their jobs, sadly, many experience the impacts of occupational  
14 stressors when off duty. The psychological and emotional stress  
15 of their professions can have a detrimental impact long after their  
16 shift is over.

17 (d) Such trauma-related injuries can become overwhelming,  
18 manifesting in post-traumatic stress, substance abuse, and even,  
19 tragically, suicide. The fire service, as an example, is four times  
20 more likely to experience a suicide than a "traditional" death in  
21 the line of duty in any year.

22 (e) Similar to military personnel, California's emergency service  
23 personnel and first responders face unique and uniquely dangerous  
24 risks in their mission to keep the public safe. These professionals  
25 rely on each other for survival while placing their lives on the line  
26 every day to protect the communities they serve.

27 (f) The culture of emergency services has often inhibited its  
28 personnel from asking for assistance in battling their psychological  
29 stress for fear it will cause ridicule, shame, or adverse job action.

30 (g) California has a responsibility to ensure that its emergency  
31 service and public safety agencies are equipped with the tools  
32 necessary for assisting emergency service personnel in mitigating  
33 the occupational stress that they incur as a result of performing  
34 their job duties and protecting the public.

35 (h) It is, therefore, the intent of the Legislature in enacting this  
36 act to enable critically needed, confidential peer support and crisis  
37 referral services for California's emergency service personnel.

38 SEC. 2. Article 7.5 (commencing with Section 1029) is added  
39 to Chapter 4 of Division 8 of the Evidence Code, to read:

1 Article 7.5. Emergency Service Personnel Privilege

2  
3 1029. (a) A communication between an individual employed  
4 as emergency service personnel, as defined in subdivision (d) of  
5 Section 8669.1 of the Government Code, and a peer support team  
6 member, as defined in subdivision (g) of Section 8669.1 of the  
7 Government Code, shall be privileged for purposes of a  
8 noncriminal proceeding to the same extent, and subject to the same  
9 limitations, as a communication between a patient and a  
10 psychotherapist described in subdivisions (b), (d), and (e) of  
11 Section 1010.

12 (b) A communication between an individual employed as  
13 emergency service personnel, as defined in subdivision (d) of  
14 Section 8669.1 of the Government Code, and a person or volunteer  
15 staffing a crisis hotline or crisis referral service for emergency  
16 service personnel pursuant to Section 8669.5 of the Government  
17 Code, shall be privileged for purposes of a noncriminal proceeding  
18 to the same extent, and subject to the same limitations, as a  
19 communication between a patient and a psychotherapist described  
20 in subdivisions (b), (d), and (e) of Section 1010.

21 SEC. 3. Article 21 (commencing with Section 8669) is added  
22 to Chapter 7 of Division 1 of Title 2 of the Government Code, to  
23 read:

24  
25 Article 21. Peer Support and Crisis Referral Services Act

26  
27 8669. This article shall be known, and may be cited, as the  
28 Peer Support and Crisis Referral Services Act.

29 8669.1. For purposes of this article, the following terms have  
30 the following meanings:

31 (a) "Crisis referral services" include all public or private  
32 organizations that advise employees and volunteers of agencies  
33 employing emergency service personnel about consultation and  
34 treatment sources for personal problems, including mental health  
35 issues, chemical dependency, domestic violence, gambling,  
36 financial problems, and other personal crises.

37 (b) "Critical incident" means an actual or perceived event or  
38 situation that involves crisis, disaster, trauma, or emergency.

39 (c) "Critical incident stress" means the acute or cumulative  
40 psychological stress or trauma that emergency service personnel



1 may experience in providing emergency services in response to a  
2 critical incident. The stress or trauma is an unusually strong  
3 emotional, cognitive, behavioral, or physical reaction that may  
4 interfere with normal functioning, including, but not limited to,  
5 one or more of the following:

- 6 (1) Physical and emotional illness.
- 7 (2) Failure of usual coping mechanisms.
- 8 (3) Loss of interest in the job or normal life activities.
- 9 (4) Personality changes.
- 10 (5) Loss of ability to function.
- 11 (6) Psychological disruption of personal life, including his or  
12 her relationship with a spouse, child, or friend.

13 (d) “Emergency service personnel” means an individual who  
14 provides emergency response services, including a law enforcement  
15 officer, correctional officer, *probation officer*, *juvenile detention*  
16 *officer*, firefighter, paramedic, emergency medical technician,  
17 dispatcher, emergency response communication employee, or  
18 rescue service personnel.

19 (e) “Peer support services” include services provided by a peer  
20 support team or a peer support team member to emergency service  
21 personnel affected by a critical incident or the accumulation of  
22 witnessing multiple incidents. Peer support services assist  
23 emergency service personnel affected by a critical incident in  
24 coping with critical incident stress or mitigating reactions to critical  
25 incident stress. Peer support services include one or more of the  
26 following:

- 27 (1) Precrisis education.
- 28 (2) Critical incident stress defusings.
- 29 (3) Critical incident stress debriefings.
- 30 (4) On-scene support services.
- 31 (5) One-on-one support services.
- 32 (6) Consultation.
- 33 (7) Referral services.
- 34 (8) Confidentiality obligations.
- 35 (9) The impact of toxic stress on health and well-being.
- 36 (10) Grief support.
- 37 (11) Substance abuse identification and approaches.
- 38 (12) Active listening skills.

39 (f) “Peer support team” means a local critical incident response  
40 team composed of individuals from emergency services

1 professions, emergency medical services, hospital staff, clergy,  
 2 and educators who have completed a peer support training course  
 3 developed by the Office of Emergency Services, the California  
 4 Firefighter Joint Apprenticeship Committee, or the Commission  
 5 on Correctional Peace Officer Standards and Training, as described  
 6 in Section 8669.4.

7 (g) “Peer support team member” means an individual who is  
 8 specially trained to provide peer support services as a member of  
 9 a peer support team.

10 8669.2. (a) Except as otherwise provided in this section, a  
 11 communication made by emergency service personnel to a peer  
 12 support team member while the emergency service personnel  
 13 receives peer support services is confidential and shall not be  
 14 disclosed in a civil or administrative proceeding. A record kept by  
 15 a peer support team member relating to the provision of peer  
 16 support services to emergency service personnel by the peer support  
 17 team or a peer support team member is confidential and is not  
 18 subject to subpoena, discovery, or introduction into evidence in a  
 19 civil or administrative proceeding.

20 (b) A communication or record described in subdivision (a) is  
 21 not confidential if any of the following circumstances exist:

22 (1) The peer support team member reasonably must make an  
 23 appropriate referral of the emergency service personnel to, or  
 24 consult about the emergency service personnel with, another  
 25 member of the peer support team or an appropriate professional  
 26 associated with the peer support team.

27 (2) Revealing the communication by the emergency service  
 28 personnel may prevent reasonably certain death, substantial bodily  
 29 harm, or commission of a crime.

30 (3) The emergency service personnel or the legal representative  
 31 of the emergency service personnel expressly agrees in writing  
 32 that the emergency service personnel communication is not  
 33 confidential.

34 (c) If the confidentiality of a communication is removed under  
 35 paragraph (1) or (2) of subdivision (b), the peer support team  
 36 member shall notify the emergency service personnel of the  
 37 removal in writing.

38 8669.3. (a) Except as otherwise provided in subdivision (b),  
 39 emergency service personnel who provide peer support services  
 40 and have completed a training course described in Section 8669.4

1 shall not be liable for damages, including personal injury, wrongful  
2 death, property damage, or other loss related to an act, error, or  
3 omission in performing peer support services, unless the act, error,  
4 or omission constitutes gross negligence or intentional misconduct.

5 (b) Subdivision (a) does not apply to an action for medical  
6 malpractice.

7 8669.4. (a) The Office of Emergency Services shall develop  
8 a peer support training course that each peer support team member  
9 must complete to be eligible for the protections of this article. The  
10 course shall include topics on peer support and stress management,  
11 including, but not limited to, all of the following:

- 12 (1) Precrisis education.
- 13 (2) Critical incident stress defusings.
- 14 (3) Critical incident stress debriefings.
- 15 (4) On-scene support services.
- 16 (5) One-on-one support services.
- 17 (6) Consultation.
- 18 (7) Referral services.
- 19 (8) Confidentiality obligations.
- 20 (9) The impact of toxic stress on health and well-being.
- 21 (10) Grief support.
- 22 (11) Substance abuse identification and approaches.
- 23 (12) Active listening skills.

24 (b) (1) Notwithstanding subdivision (a), the Office of  
25 Emergency Services shall contract with the California Firefighter  
26 Joint Apprenticeship Committee to develop and deliver a fire  
27 service-specific peer support training course for a peer support  
28 team member who will provide peer support services for  
29 firefighters and other fire service emergency response personnel.

30 (2) This fire service-specific peer support training course shall  
31 be developed by the California Firefighter Joint Apprenticeship  
32 Committee in consultation with individuals knowledgeable about  
33 fire service first responder peer support services. The course shall  
34 include topics on peer support and stress management, including,  
35 but not limited to, all of the following:

- 36 (A) Precrisis education.
- 37 (B) Critical incident stress defusings.
- 38 (C) Critical incident stress debriefings.
- 39 (D) On-scene support services.
- 40 (E) One-on-one support services.

- 1 (F) Consultation.
- 2 (G) Referral services.
- 3 (H) Confidentiality obligations.
- 4 (I) The impact of toxic stress on health and well-being.
- 5 (J) Grief support.
- 6 (K) Substance abuse identification and approaches.
- 7 (L) Active listening skills.
- 8 (3) The contract shall provide for the delivery of training by the
- 9 California Firefighter Joint Apprenticeship Committee through
- 10 contracts with state, local, and regional public fire agencies.
- 11 (c) (1) Notwithstanding subdivision (a), the Commission on
- 12 Correctional Peace Officer Standards and Trainings shall develop
- 13 and deliver a peer support training course for a peer support team
- 14 member who will be operating in correctional facilities such as
- 15 the state prison or a county jail.
- 16 (2) This peer support training course shall include topics on
- 17 peer support and stress management, including, but not limited to,
- 18 all of the following:
- 19 (A) Precrisis education.
- 20 (B) Critical incident stress defusings.
- 21 (C) Critical incident stress debriefings.
- 22 (D) On-scene support services.
- 23 (E) One-on-one support services.
- 24 (F) Consultation.
- 25 (G) Referral services.
- 26 (H) Confidentiality obligations.
- 27 (I) The impact of toxic stress on health and well-being.
- 28 (J) Grief support.
- 29 (K) Substance abuse identification and approaches.
- 30 (L) Active listening skills.
- 31 8669.5. (a) Except as otherwise provided in this section, a
- 32 communication made by emergency service personnel to a crisis
- 33 hotline or crisis referral service is confidential and shall not be
- 34 disclosed in a civil or administrative proceeding.
- 35 (b) A crisis hotline or crisis referral service may reveal
- 36 information communicated by emergency service personnel to
- 37 prevent reasonably certain death, substantial bodily harm, or
- 38 commission of a crime.

O

## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 1436                      **VERSION:** AMENDED APRIL 23, 2018  
**AUTHOR:** LEVINE                              **SPONSOR:** THE STEINBERG INSTITUTE  
**RECOMMENDED POSITION:** NONE  
**SUBJECT:** BOARD OF BEHAVIORAL SCIENCES: LICENSEES: SUICIDE PREVENTION TRAINING

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### Overview:

This bill would require, beginning January 1, 2021, applicants for licensure as a marriage and family therapist, clinical social worker, educational psychologist, or professional clinical counselor to demonstrate completion of at least six hours of coursework or supervised experience in suicide risk assessment and intervention. Current licensees would also be required to demonstrate completion of this coursework or supervised experience in their first renewal period after this date.

### Existing Law:

- 1) Provides that the Board of Behavioral Sciences (Board) is the state licensing entity for marriage and family therapists (LMFTs), educational psychologists (LEPs), clinical social workers (LCSWs) and professional clinical counselors (LPCCs), and sets specific education and experience requirements for licensure. (Business and Professions Code (BPC) §§4980, 4980.36, 4980.37, 4989.12, 4989.20, 4996, 4996.2, 4999.30, 4999.32, 4999.33)
- 2) Requires the director of the Department of Consumer Affairs to establish, by regulation, guidelines to prescribe components for mandatory continuing education programs administered by any board within the department. The guidelines shall be developed to ensure that mandatory continuing education is used to create a more competent licensing population, thereby enhancing public protection. ((Business and Professions Code §166)
- 3) Requires licensees of the Board of Behavioral Sciences (Board), upon renewal of their license, to certify completion of at least 36 hours of approved continuing education in or relevant to their field of practice. (BPC §§4980.54, 4989.34, 4996.22, 4999.76).
- 4) Requires LMFT, LCSW, and LPCC applicants to complete specified coursework in spousal or partner abuse assessment, detection, and intervention. (BCP §§4980.36, 4980.41, 4996.2, 4999.32, 4999.33)
- 5) Requires LMFT, LCSW, and LPCC applicants to complete specified coursework in human sexuality. (BPC §§25, 4980.41, 4996.2, 4999.32, 4999.33, California Code of Regulations (CCR) Title 16 §1807)

- 6) Requires all Board applicants to complete specified coursework in child abuse and elder and dependent adult abuse assessment and reporting. (BPC §§28, 4980.36, 4980.41, 4996.2, 4999.32, 4999.33, 16 CCR §1807.2)
- 7) Requires LMFT, LCSW, and LPCC applicants to complete specified coursework in aging and long-term care. (BPC §§4980.36, 4980.36, 4980.395, 4996.25, 4996.26, 4999.32, 4999.33)
- 8) Requires all Board applicants to complete specified coursework in alcoholism and other substance dependency. (BPC §§4980.36, 4980.41, 4996.2, 4999.32, 4999.33, 16 CCR §1810)
- 9) Requires LMFT, LCSW, and LPCC applicants to complete 7 hours of coursework in assessment and treatment of HIV/AIDS as a one-time requirement. Equivalent coursework or proof of teaching or practice experience, may be submitted to the Board in lieu of the coursework requirement. (BPC §32, 16 CCR §1887.3)

**This Bill:**

- 1) Beginning January 1, 2021, requires an applicant for licensure as a marriage and family therapist, educational psychologist, professional clinical counselor, or clinical social worker to show, as part of the application, completion of at least six hours of coursework or applied supervised experience in suicide risk assessment and intervention. The coursework or experience must be gained via one of the following methods (BPC §§4980.396(a), 4989.23(a), 4996.27(a), 4999.66(a)):
  - a) It was obtained as part of the qualifying degree. The applicant must provide the Board with a written certification from the registrar or training director of the educational institution or program stating the coursework was included; or
  - b) It was obtained as part of the applicant's applied experience via practicum, internship, formal doctoral placement, or other qualifying supervised professional experience. The applicant must submit to the Board a written certification from the director of training for the program, or from the primary supervisor, stating the required training was included; or
  - c) It was obtained via a continuing education course from a provider designated as acceptable by the Board. The applicant must submit a certificate of course completion to the Board.
- 2) Beginning January 1, 2021, requires a licensee, upon his or her license renewal, reactivation, or reinstatement, to have completed at least six hours of coursework or applied supervised experience in suicide risk assessment and intervention, as a one-time requirement. Proof of compliance must be certified under penalty of perjury, and must be retained for submission to the Board upon request. (BPC §§4980.369(b) & (c), 4989.23(b) & (c), 4996.27(b) & (c), 4999.66(b) & (c))

**Comments:**

- 1) **Author's Intent.** The purpose of this bill is to establish a baseline coursework requirement for all licensed marriage and family therapists, clinical social workers,

educational psychologists, and professional clinical counselors in suicide risk assessment and intervention. Several organizations, including the United States Department of Health and Human Services, and the Institute of Medicine, have indicated a need for improved education and training in suicide assessment.

**2) History: Previous Legislation, Governor’s Directive, and 2015 Board Findings.**

During the 2013-2014 Legislative Session, AB 2198 (Levine) was introduced in an effort to ensure that licensed mental health professionals were receiving adequate training in suicide assessment, treatment, and management. The bill would have required licensees of the Board of Behavioral Sciences (Board) and the Board of Psychology to complete a six-hour training course in the subject. New applicants for licensure would have been required to complete a 15-hour course in the subject.

While the Board shared the author’s concerns that some health care professionals may lack training in suicide assessment, treatment and management, it indicated that it did not believe the bill, as written, would accomplish its objective. At its May 2014 meeting, the Board took an “oppose unless amended” position on the bill, and asked that it be amended to instead form a task force to include members of the Board, stakeholders, the Board of Psychology, county mental health officials, and university educators. However, the bill was not amended per the Board’s request.

The Governor vetoed AB 2198 in September 2014 (**Attachment B**). In his veto message, he asked that the licensing boards evaluate the issues the bill raised, and take any needed actions.

In response to the Governor’s veto message, in the spring of 2015 the Board designed a survey for schools in California offering a degree program intended to lead to Board licensure. The purpose of the 2015 survey was to determine the extent of exposure to the topics of suicide assessment, treatment, and management for students enrolled in these degree programs. These programs were asked to report courses required by the program covering these topics, and the number of hours or units devoted to the subject.

A total of 28 Master’s degree programs responded to the 2015 survey. The Board found that schools commonly integrate the topic of suicide assessment across a variety of courses, including in practicum. In addition, several schools offered additional elective coursework for students wanting further specialization on this topic.

Because of these findings, the Board concluded that mandating a specific number of hours of suicide assessment coursework is unlikely to be effective, because degree programs are already providing coverage of the topic. It offered alternative solutions as follows:

- Ensuring front-line health care professionals, such as nurses, physicians assistants, and unlicensed school and county mental health workers, have adequate training on the topic;
- Formation of a task force to discuss the latest research in suicidality and to develop a model curriculum;
- Assess resources at the county mental health level to determine if there is an adequate level of support for suicidal individuals; and

- Increase public awareness through media campaigns to reduce stigma of seeking mental health services, and to identify available local resources.

**Attachment C** contains the letter written by Board staff to the Department of Consumer Affairs' (DCA's) Division of Legislative and Regulatory Review in 2015 summarizing the survey findings. **Attachment D** summarizes the 2015 survey responses.

Since that time, the Board has taken steps to support its recommendations. Last year, the Board took a "support" position on AB 1372 (Levine), which proposes allowing a crisis stabilization unit to provide medically necessary crisis stabilization services to individuals in crisis beyond the allowable treatment time of 24 hours if the individual needs psychiatric care and beds or services are not reasonably available. AB 1372 is currently a two-year bill.

This year, the Board will consider taking a position on SB 968 (Pan), which would require specified higher education entities in California to hire one full-time mental health counselor per 1,000 students enrolled at each of their campuses.

- 3) **Board of Psychology Actions.** After the Governor's veto of AB 2198 and subsequent directive, the Board of Psychology also conducted two surveys of its graduate programs, internship programs, and post-doctoral training programs. These surveys found that the majority of survey respondents provided some education and training on suicide risk assessment and intervention. However, the amount of education and training varied widely. Approximately 3% of their students were not receiving training in risk assessment and over 7% were not receiving training in suicide intervention.

Due to these findings, the Board of Psychology sponsored AB 89 (Levine, Chapter 182, Statutes of 2017) last year. AB 89 was signed by the Governor, and requires applicants and licensees of the Psychology Board to demonstrate completion of at least six hours of coursework or supervised experience in suicide risk assessment and intervention effective January 1, 2020.

- 4) **2017-2018 Board Survey.** In late 2017, the Board conducted a second survey to gain updated information about suicide risk assessment and intervention course requirements. The survey, conducted via Survey Monkey (rather than via a questionnaire sent via mail for the 2015 survey), was sent to degree programs intended to lead to licensure with the Board.

The 2017 survey sought to answer the following questions:

- a) How many total clock hours of coverage does your school's required degree program curriculum provide on the topic of "suicide risk assessment and intervention"?
- b) Is this coursework contained in one course, or integrated across several courses?
- c) Which required courses cover this topic, and the clock hours of coverage in each.

A total of 44 school programs responded to the Board's 2017 survey. The findings are shown in **Attachment A** and were as follows:

- a) Clock Hours of Suicide Risk Assessment and Intervention Coursework in Required Curriculum



- No responding school programs reported less than 2 hours of coursework coverage.
- Eight school programs (18% of respondents) reported having 3 to 5 hours of coverage.
- Twenty-two school programs (50%) reported having 6 to 10 hours of coverage.
- Eight school programs (18%) reported having 11 to 20 hours of coverage.
- Six school programs (14%) reported having more than 20 hours of coverage.

**Attachment A** shows a chart of the results.

b) Location of the Suicide Risk Assessment and Intervention Coursework

Approximately 20 percent of school programs indicated that their suicide risk assessment and intervention coursework is contained in one course, while 79 percent indicated it is integrated throughout their program in several courses. (**Attachment A**)

c) Required Courses Covering the Topic

The responses identifying courses containing the suicide risk assessment and intervention coursework varied widely, making it difficult to identify any significant trends. However, commonly mentioned courses were as follows:

- Law and Ethics
- Practicum
- Psychopathology
- Assessment
- Crisis/Trauma
- Substance Abuse

5) **Fiscal Impact.** The fiscal impact of this bill would be absorbable within existing resources. Likely effects on Board resources would be as follows:

- Board licensing evaluators would need to verify applicants applying on and after January 1, 2021 included proof of the required suicide risk assessment and intervention coursework or supervised experience with their application for a license.
- The Board would need to verify a licensee who is renewing on or after January 1, 2021, has signed on his or her renewal form that the required hours of coursework or supervised experience have been completed.
- Updates to applications and renewal forms, and possibly minor Breeze changes.
- The Board would need to conduct outreach (likely through its website, Facebook, Twitter, and via consortiums and professional associations) in 2019 and 2020 to ensure licensees and future applicants are aware of the requirements and either have time to complete the required six hours of coursework or experience, or time to gather the appropriate documentation, prior to January 1, 2021.

## 6) Suggested Technical Amendments.

- a) Reference to “supervised professional experience” (§§4980.396(a)(2), 4989.23 (a)(2), 4996.27(a)(2), 4999.66(a)(2)): “Supervised professional experience” is a term defined in the Board of Psychology’s regulations. The text of this bill was modeled after AB 89, which placed the requirement in Psychology Board’s statute. This Board utilizes the term “supervised experience” in its statutes and regulations. The reference should be corrected to be consistent with this Board’s statute.
- b) Reference to “formal postdoctoral placement” (§§4980.396(a)(2), 4989.23(a)(2), 4996.27(a)(2), 4999.66(a)(2)): This subsection states that a “formal postdoctoral placement that meets the requirements of this chapter” is one type of applied experience that can be used to meet the suicide risk assessment and intervention requirement. However, the Board’s licensing chapters do not set requirements for formal postdoctoral placements. If the Board wishes to accept this type of experience, it should be changed to reference the Board of Psychology’s postdoctoral placement requirements.
- c) Requirement for Current Licensees (§§4980.396(b), 4989.23(b), 4996.27(b), 4999.66(b)): The proposed language requires current licensees to complete the required coursework in suicide risk assessment and intervention, “as specified in subdivision (a).” It may be clearer to state that they required coursework must be gained “using one of the methods specified in subdivision (a).”

## 7) Recommended Position.

The Policy and Advocacy Committee discussed this proposal at its April 12, 2018 meeting. However, the Committee was unable to recommend an official position at that time, because the bill had not been amended to include the proposed language yet. The proposed language has now been amended into the bill.

## 8) Support and Opposition.

Support: The Steinberg Institute (Sponsor)

Opposition: None at this time.

## 9) History.

04/23/18	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on GOV. & F.
06/26/17	In committee: Set, second hearing. Hearing canceled at the request of author.
06/20/17	In committee: Set, first hearing. Hearing canceled at the request of author.
06/01/17	Referred to Com. on GOV. & F.
05/22/17	In Senate. Read first time. To Com. on RLS. for assignment.
05/22/17	Read third time. Passed. Ordered to the Senate. (Ayes 44. Noes 28. Page 1654.)
05/15/17	Read second time. Ordered to third reading.
05/11/17	From committee: Do pass. (Ayes 5. Noes 3.) (May 10).

03/29/17 Re-referred to Com. on L. GOV.  
03/28/17 From committee chair, with author's amendments: Amend, and re-refer to  
Com. on L. GOV. Read second time and amended.  
03/27/17 Referred to Com. on L. GOV.  
02/19/17 From printer. May be heard in committee March 21.  
02/17/17 Read first time. To print.

**10) Attachments.**

- **Attachment A:** 2017 School Program Survey Results
- **Attachment B:** Governor's Veto Message: AB 2198 (2014)
- **Attachment C:** BBS Letter to DCA Division of Legislative and Regulatory Review (Summarizing 2015 Survey Findings), March 3, 2015
- **Attachment D:** 2015 School Program Survey Results
- **Attachment E:** Possible Training Classes for Suicide Assessment, Treatment, and Management (October 2017) (Provided by bill sponsors/supporters)

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AMENDED IN SENATE APRIL 23, 2018  
AMENDED IN ASSEMBLY MARCH 28, 2017  
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1436**

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**Introduced by Assembly Member Levine**

February 17, 2017

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~~An act to amend Section 1680 of the Streets and Highways Code, relating to county highways. An act to add Sections 4980.396, 4989.23, 4996.27, and 4999.66 to the Business and Professions Code, relating to healing arts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1436, as amended, Levine. ~~County highways.~~ *Board of Behavioral Sciences: licensees: suicide prevention training.*

*Existing law, the Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of marriage and family therapists, educational psychologists, clinical social workers, and professional clinical counselors, respectively, by the Board of Behavioral Sciences. Existing law requires a person applying for licensure as a marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor to complete specified coursework and training, requires licensees to complete specified continuing education requirements, and requires a licensee on inactive status to complete certain continuing education requirements as a condition of having his or her license reactivated.*

*This bill, on or after January 1, 2021, would require an applicant for licensure as a marriage and family therapist, an educational psychologist, a clinical social worker, or a professional clinical counselor to complete a minimum of 6 hours of coursework or applied experience under supervision in suicide risk assessment and intervention. The bill would require, on or after January 1, 2021, as a one-time requirement, a licensed marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor to have completed this suicide risk assessment and intervention training requirement prior to the time of his or her first renewal. The bill would also require, on or after January 1, 2021, a person applying for reactivation or for reinstatement to have completed this suicide risk assessment and intervention training requirement. The bill would require that proof of compliance with requirements be certified under penalty of perjury and be retained for submission to the board upon request. By expanding the crime of perjury, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law authorizes the board of supervisors of a county, by resolution adopted by a  $\frac{4}{5}$  vote of its members, to determine that specified activities relating to streets are of general county interest and that county aid shall be extended therefore.~~

~~This bill would instead authorize the board of supervisors of a county to adopt this resolution by a  $\frac{3}{5}$  vote of its members and would make nonsubstantive changes to this law.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
 State-mandated local program: ~~no~~-yes.

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

- 1     SECTION 1. Section 4980.396 is added to the Business and
- 2     Professions Code, immediately following Section 4980.395, to
- 3     read:
- 4     4980.396. (a) On or after January 1, 2021, an applicant for
- 5     licensure as a marriage and family therapist shall show, as part

1 of the application, that he or she has completed a minimum of six  
2 hours of coursework or applied experience under supervision in  
3 suicide risk assessment and intervention. This requirement shall  
4 be met in one of the following ways:

5 (1) Obtained as part of his or her qualifying graduate degree  
6 program. To satisfy this requirement, the applicant shall submit  
7 to the board a written certification from the registrar or training  
8 director of the educational institution or program from which the  
9 applicant graduated stating that the coursework required by this  
10 section is included within the institution's curriculum required for  
11 graduation at the time the applicant graduated, or within the  
12 coursework that was completed by the applicant.

13 (2) Obtained as part of his or her applied experience. Applied  
14 experience can be met in any of the following settings: practicum,  
15 internship, or formal postdoctoral placement that meets the  
16 requirement of this chapter, or other qualifying supervised  
17 professional experience. To satisfy this requirement, the applicant  
18 shall submit to the board a written certification from the director  
19 of training for the program or primary supervisor where the  
20 qualifying experience has occurred stating that the training  
21 required by this section is included within the applied experience.

22 (3) By taking a continuing education course that meets the  
23 requirements of Section 4980.54. To satisfy this requirement, the  
24 applicant shall submit to the board a certification of completion.

25 (b) On or after January 1, 2021, as a one-time requirement, a  
26 licensee prior to the time of his or her first renewal after the  
27 operative date of this section, or an applicant for reactivation or  
28 reinstatement to an active license status, shall have completed a  
29 minimum of six hours of coursework or applied experience under  
30 supervision in suicide risk assessment and intervention, as specified  
31 in subdivision (a).

32 (c) Proof of compliance with this section shall be certified under  
33 penalty of perjury that he or she is in compliance with this section  
34 and shall be retained for submission to the board upon request.

35 SEC. 2. Section 4989.23 is added to the Business and  
36 Professions Code, to read:

37 4989.23. (a) On or after January 1, 2021, an applicant for  
38 licensure as an educational psychologist shall show, as part of the  
39 application, that he or she has completed a minimum of six hours  
40 of coursework or applied experience under supervision in suicide

1 risk assessment and intervention. This requirement shall be met  
2 in one of the following ways:

3 (1) Obtained as part of his or her qualifying graduate degree  
4 program. To satisfy this requirement, the applicant shall submit  
5 to the board a written certification from the registrar or training  
6 director of the educational institution or program from which the  
7 applicant graduated stating that the coursework required by this  
8 section is included within the institution's curriculum required for  
9 graduation at the time the applicant graduated, or within the  
10 coursework that was completed by the applicant.

11 (2) Obtained as part of his or her applied experience. Applied  
12 experience can be met in any of the following settings: practicum,  
13 internship, or formal postdoctoral placement that meets the  
14 requirement of this chapter, or other qualifying supervised  
15 professional experience. To satisfy this requirement, the applicant  
16 shall submit to the board a written certification from the director  
17 of training for the program or primary supervisor where the  
18 qualifying experience has occurred stating that the training  
19 required by this section is included within the applied experience.

20 (3) By taking a continuing education course that meets the  
21 requirements of Section 4989.34. To satisfy this requirement, the  
22 applicant shall submit to the board a certification of completion.

23 (b) On or after January 1, 2021, as a one-time requirement, a  
24 licensee prior to the time of his or her first renewal after the  
25 operative date of this section, or an applicant for reactivation or  
26 reinstatement to an active license status, shall have completed a  
27 minimum of six hours of coursework or applied experience under  
28 supervision in suicide risk assessment and intervention, as specified  
29 in subdivision (a).

30 (c) Proof of compliance with this section shall be certified under  
31 penalty of perjury that he or she is in compliance with this section  
32 and shall be retained for submission to the board upon request.

33 SEC. 3. Section 4996.27 is added to the Business and  
34 Professions Code, to read:

35 4996.27. (a) On or after January 1, 2021, an applicant for  
36 licensure as a clinical social worker shall show, as part of the  
37 application, that he or she has completed a minimum of six hours  
38 of coursework or applied experience under supervision in suicide  
39 risk assessment and intervention. This requirement shall be met  
40 in one of the following ways:



1 (1) *Obtained as part of his or her qualifying graduate degree*  
2 *program. To satisfy this requirement, the applicant shall submit*  
3 *to the board a written certification from the registrar or training*  
4 *director of the educational institution or program from which the*  
5 *applicant graduated stating that the coursework required by this*  
6 *section is included within the institution's curriculum required for*  
7 *graduation at the time the applicant graduated, or within the*  
8 *coursework that was completed by the applicant.*

9 (2) *Obtained as part of his or her applied experience. Applied*  
10 *experience can be met in any of the following settings: practicum,*  
11 *internship, or formal postdoctoral placement that meets the*  
12 *requirement of this chapter; or other qualifying supervised*  
13 *professional experience. To satisfy this requirement, the applicant*  
14 *shall submit to the board a written certification from the director*  
15 *of training for the program or primary supervisor where the*  
16 *qualifying experience has occurred stating that the training*  
17 *required by this section is included within the applied experience.*

18 (3) *By taking a continuing education course that meets the*  
19 *requirements of Section 4996.22. To satisfy this requirement, the*  
20 *applicant shall submit to the board a certification of completion.*

21 (b) *On or after January 1, 2021, as a one-time requirement, a*  
22 *licensee prior to the time of his or her first renewal after the*  
23 *operative date of this section, or an applicant for reactivation or*  
24 *reinstatement to an active license status, shall have completed a*  
25 *minimum of six hours of coursework or applied experience under*  
26 *supervision in suicide risk assessment and intervention, as specified*  
27 *in subdivision (a).*

28 (c) *Proof of compliance with this section shall be certified under*  
29 *penalty of perjury that he or she is in compliance with this section*  
30 *and shall be retained for submission to the board upon request.*

31 SEC. 4. *Section 4999.66 is added to the Business and*  
32 *Professions Code, to read:*

33 4999.66. (a) *On or after January 1, 2021, an applicant for*  
34 *licensure as a professional clinical counselor shall show, as part*  
35 *of the application, that he or she has completed a minimum of six*  
36 *hours of coursework or applied experience under supervision in*  
37 *suicide risk assessment and intervention. This requirement shall*  
38 *be met in one of the following ways:*

39 (1) *Obtained as part of his or her qualifying graduate degree*  
40 *program. To satisfy this requirement, the applicant shall submit*

1 to the board a written certification from the registrar or training  
 2 director of the educational institution or program from which the  
 3 applicant graduated stating that the coursework required by this  
 4 section is included within the institution’s curriculum required for  
 5 graduation at the time the applicant graduated, or within the  
 6 coursework that was completed by the applicant.

7 (2) Obtained as part of his or her applied experience. Applied  
 8 experience can be met in any of the following settings: practicum,  
 9 internship, or formal postdoctoral placement that meets the  
 10 requirement of this chapter, or other qualifying supervised  
 11 professional experience. To satisfy this requirement, the applicant  
 12 shall submit to the board a written certification from the director  
 13 of training for the program or primary supervisor where the  
 14 qualifying experience has occurred stating that the training  
 15 required by this section is included within the applied experience.

16 (3) By taking a continuing education course that meets the  
 17 requirements of Section 4999.76. To satisfy this requirement, the  
 18 applicant shall submit to the board a certification of completion.

19 (b) On or after January 1, 2021, as a one-time requirement, a  
 20 licensee prior to the time of his or her first renewal after the  
 21 operative date of this section, or an applicant for reactivation or  
 22 reinstatement to an active license status, shall have completed a  
 23 minimum of six hours of coursework or applied experience under  
 24 supervision in suicide risk assessment and intervention, as specified  
 25 in subdivision (a).

26 (c) Proof of compliance with this section shall be certified under  
 27 penalty of perjury that he or she is in compliance with this section  
 28 and shall be retained for submission to the board upon request.

29 SEC. 5. No reimbursement is required by this act pursuant to  
 30 Section 6 of Article XIII B of the California Constitution because  
 31 the only costs that may be incurred by a local agency or school  
 32 district will be incurred because this act creates a new crime or  
 33 infraction, eliminates a crime or infraction, or changes the penalty  
 34 for a crime or infraction, within the meaning of Section 17556 of  
 35 the Government Code, or changes the definition of a crime within  
 36 the meaning of Section 6 of Article XIII B of the California  
 37 Constitution.

38 SECTION 1. ~~Section 1680 of the Streets and Highways Code~~  
 39 ~~is amended to read:~~

1 1680. ~~The board of supervisors of a county may, by a resolution~~  
2 ~~adopted by a three-fifths vote of its members, determine that any~~  
3 ~~of the following activities are of general county interest and that~~  
4 ~~county aid shall be extended therefor:~~

5 ~~(a) The laying out, opening, construction, improvement,~~  
6 ~~maintenance, repair, or altering of all or any part of a street within~~  
7 ~~a city or extending along or across the boundary of a city.~~

8 ~~(b) The establishing, modifying, or changing the grade of a~~  
9 ~~street.~~

10 ~~(c) The separation of the grades of two or more streets that~~  
11 ~~intersect.~~

12 ~~(d) The separation of the grade of a street from the grade of a~~  
13 ~~steam, electric, or street railroad crossing the street.~~

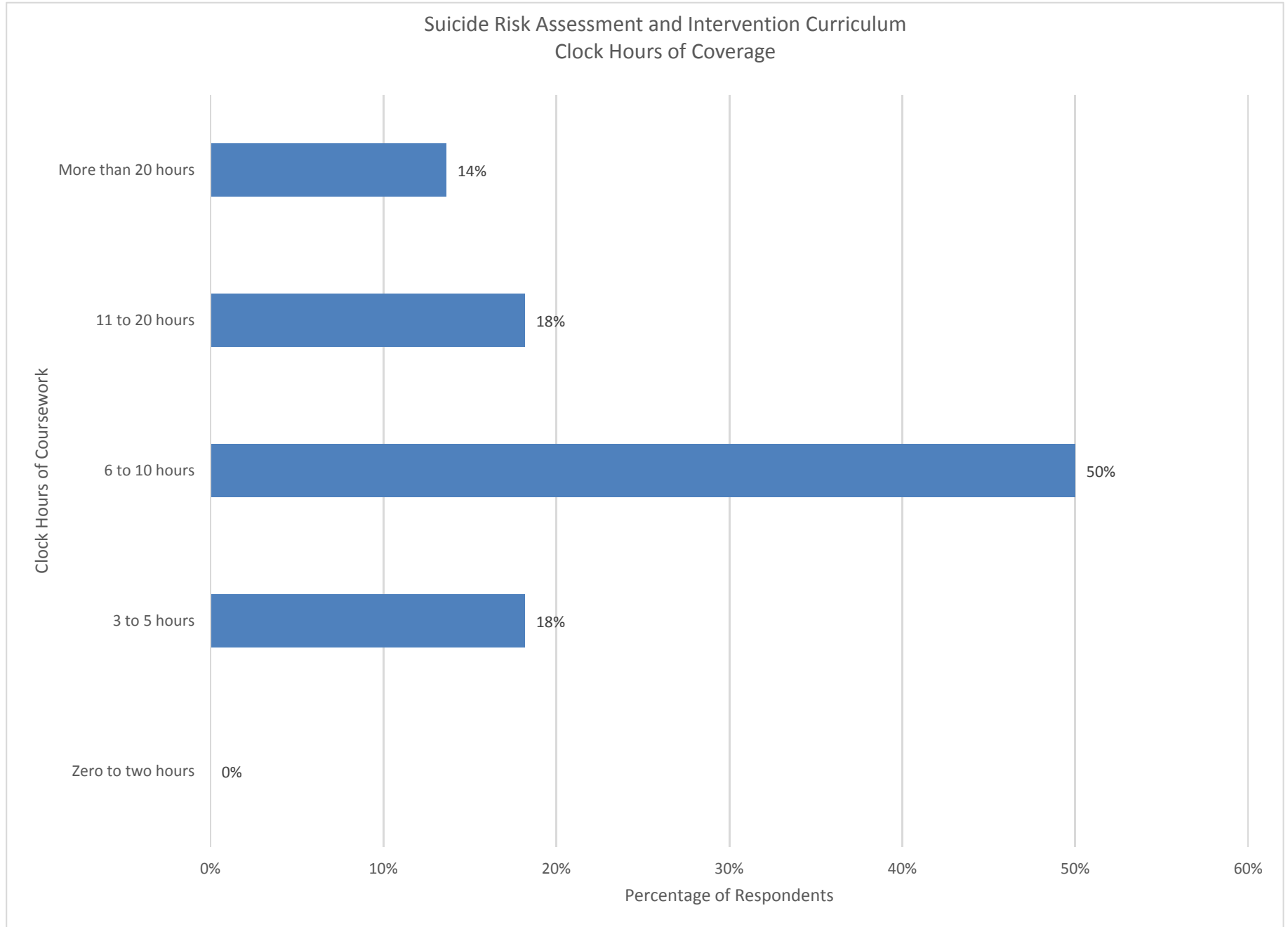
14 ~~(e) The construction of the necessary pavements, curbs, culverts,~~  
15 ~~bridges, tunnels, subways, viaducts, drainage facilities, or structures~~  
16 ~~incident to or a part of the street.~~

17 ~~(f) The acquisition of real property or interest in real property,~~  
18 ~~rights of way, or other property necessary for the purposes~~  
19 ~~mentioned in this section.~~

O

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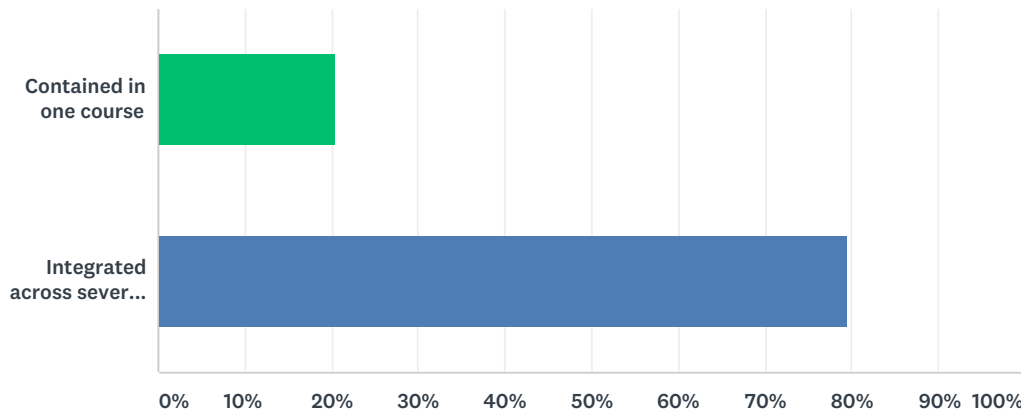
# ATTACHMENT A 2017 SCHOOL PROGRAM SURVEY RESULTS



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## Q2 Is this coursework contained in one course, or integrated across several courses?

Answered: 44 Skipped: 0



ANSWER CHOICES	RESPONSES
Contained in one course	20.45% 9
Integrated across several courses	79.55% 35
TOTAL	44

Q3 Please list each required course that covers this topic, and the clock hours of coverage on the topic that each course provides.

Human Behavior Psychotherapy Assessment Diagnosis  
Law and Ethics Legal Hrs Issues  
Practicum Clinical Psychopathology 1  
Professional PSY Case Conference  
PSY Law Child Advanced Counseling Family  
PSY Practice Crisis Practicum Hrs Mental Health  
Ethics Developmental Psychology  
Counseling Social Work MFT Seminar  
Clinical  
Assessment  
PSY Therapy Substance Abuse  
Legal PSY  
Abuse Therapeutic Practicum PSYC PSY  
Family Therapy Trauma Case Hrs Treatment  
Psychopathology  
Clinical Treatment PSY Professional Hrs Assessment  
Psychological Treatment Assessment



**ATTACHMENT B**  
**AB 2198 VETO MESSAGE (2014)**

BILL NUMBER: AB 2198  
VETOED DATE: 09/18/2014

To the Members of the California State Assembly:

I am returning Assembly Bill 2198 without my signature. This bill would require certain mental health professionals to complete a training program in "suicide assessment, treatment, and management."

California has an extensive regulatory scheme that aims to ensure that California physicians, psychologists and counselors are skilled in the healing arts to which they have committed their lives. Rather than further legislating in this field, I would ask our licensing boards to evaluate the issues which this bill raises and take whatever actions are needed.

Sincerely,

Edmund G. Brown Jr.

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1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
www.bbs.ca.gov

**To:** Justin Paddock  
Assistant Deputy Director Legislation Regulatory  
Review

**Date:** March 3, 2015

**From:** Kim Madsen  
Executive Officer

**Telephone:** (916) 574-7841

**Subject: Mental Health Professionals: Suicide Prevention Training**

---

## **Background**

During the 2013-2014 Legislative Session, AB 2198 (Levine) was introduced in an effort to ensure that licensed mental health professionals were receiving adequate training in suicide assessment, treatment, and management. The bill would have required licensees of the Board of Behavioral Sciences (Board) and the Board of Psychology to complete a six-hour training course in suicide assessment, treatment, and management. Applicants for licensure would have been required to complete a 15-hour course in this subject area.

While the Board shared the author's concerns that some health care professionals may lack training in in suicide assessment, treatment, and management, it did not believe that the bill, in its current form, would accomplish its objective.

Upon veto of the bill, the Governor asked the licensing boards to evaluate the issues raised and take any needed actions.

## **Survey of Master's Degree Programs**

The Board wanted to determine the extent of exposure to the topics of suicide assessment, treatment, and management, for a student enrolled in a Master's degree program intended to lead to licensure. In order to assess this, the Board designed a survey for schools in California offering a degree program leading to Board licensure. The Board conducted outreach to both stakeholder groups and mental health educator consortiums, in order to emphasize the importance of the topic and encourage participation in the survey.

Degree programs were asked to report the following:

- Courses required by the degree which cover the topic of suicide assessment, treatment, and management;
- Number of units or hours each required course spends on these topics;

- A description of the topics or methods covered by each required course; and
- Additional relevant courses offered as electives in the degree program.

A total of 28 Master's degree programs responded to the survey.

### **Survey Findings**

The survey results strongly indicate that schools are providing adequate training of suicide assessment, treatment, and management:

- The data support the claim by the schools that they commonly integrate the topic across a variety of courses, discussing it as it is relevant to the particular focus of a course.
- Many schools also indicated that the topics in question are discussed in practicum, where the students are doing the most hands-on portion of their learning.
- Several schools offer additional elective coursework on the topic, for students seeking further specialization.
- Schools consistently reported teachings of a wide range of aspects of suicidality, including legal and ethical issues, crisis intervention, assessment instruments for suicide risk factors, and role playing activities.

### **Conclusion**

Mandating a specific number of hours of suicide coursework in a degree program is unlikely to be effective in reducing suicides in the general population, because the degree programs are already providing coverage of the topic. Some of the following solutions may be more effective in addressing the treatment of suicidal individuals:

- Ensuring front-line health care professionals (such as registered and vocational nurses, physician's assistants, and unlicensed school and county mental health care or medical care workers) have adequate training in suicide assessment, treatment, and management.
- Formation of a task force among mental health educators and suicide experts to discuss the latest research in suicidology, and to develop model curriculum so that educators can ensure they are covering the latest suicide assessment techniques and concepts in their programs.
- Assessment of resources at the county mental health care level to determine if there is an adequate level of support for suicidal individuals. Consider seeking additional funding to adequately staff county mental health facilities.
- Increase public awareness through various media campaigns in an effort to reduce the stigma of seeking mental health services and to identify available local resources.

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses (Not Required)
<b>Alliant International University - Couple and Family Therapy Program [1]</b>			
PSY 6310 Law & Ethics	3 hours	Patient rights and responsibilities when patient is danger to self. Voluntary and involuntary hospitalization (5150 holds).	
PSY 6325 Crisis & Trauma	3 hours	Principles & processes of crisis intervention and treatment. Clinical management and treatment of suicidality.	
PSY 6322 MFT Theory and Technique II	2 hours	Clinical assessment of suicidality.	
PSY 6323 MFT Theory and Technique II Lab	2 hours	Students role-play to practice skills at clinical assessment and intervention in suicide.	
PSY 6360 Preparation for Community Practice	3 hours	Community resources for suicidal clients.	
PSY 7314 MFT Assessment	2 hours	Assessment instruments for depression and suicide risk.	
<b>Azusa Pacific University - Master of Social Work Program</b>			
SOCW 514 Practice I - Interviewing and Assessment	5 hours	Students trained using Applied Suicide Intervention Skills Training model as a framework for suicide intervention. Discussion of risk factors, signs. Role playing.	
SOCW 550 Intermediate Praxis	2 hours	Review of risk assessment and intervention	
SOCW 513 Micro Theory and Human Development	3 hours	Suicidality and risk across the life course	
SOCW 534/544 Field Seminar III & IV	3 hours	Risk assessment and intervention reviewed as part of internship training.	
			-SOCW 536 Advanced Practice I: Adult Mental Health (2 hours); Suicide risk associated with various mental health conditions. -SOCW Child and Adolescents (2 hours); Suicide risk & assessment unique to children/adolescents.
<b>California Southern University - MA in Psychology w/ Emphasis in Marriage and Family Therapy</b>			
PSY86502 Counseling Theories and Strategies			
MFT 86504 Ethical Issues in Marriage Family and Child Therapy			
PSY 86506 Psychopathology			
MFT 86510 Child and Adolescent Therapy			
PSY 86511 Alcoholism/Chemical Dependency Detection and Treatment	Approx. 18 hours total	Risk assessment, suicidality, reporting, treatment, and prevention.	
PSY 86512 Group Psychology			
PSY 86517 Psychology of Aging			
MFT 86700 Psychopharmacology			
PSY 87519 Psychology of Trauma			
PSY 87534 Dual Diagnosis			
<b>California State University, Bakersfield - MS in Counseling Psychology</b>			
CPSY 535 Domestic Violence			
CPSY 630 Clinical Ethics			
CPSY 631 Legal & Professional Issues in MFT			Suicide assessment, treatment & management is also highlighted in all 3 practicum and traineeships in reference to specific client situations.
<b>California State University, Dominguez Hills - Masters of Science in Marital &amp; Family Therapy</b>			
MFT 530 Community Mental Health Practicum	Approx. 6 hours	-Legal and ethical courses talk about therapist's responsibilities when making clinical decision on suicide.	
MFT 584 Laws and Ethics	Approx. 6 hours		
MFT 511, 521, 531, 541 Fieldwork Practice	Approx. 6 hours	'-Suicidality among specific populations (does not look the same for each gender, culture, or ages)	
MFT 566 Psychopathology in MFT	Approx. 6 hours	'-Clinical assessments, paperwork, documentation/reporting when conducting a suicide assessment.	
MFT 588 Treatment of Trauma	Approx. 6 hours		
<b>California State University, Fullerton - Clinical Psychology Program</b>			
501 Professional & Legal Issues	3 hours	Duty to warn and danger to self.	
561 Advanced Psychological Assessment	1.5 hours	Assessment of suicide risk.	
545 Advanced Psychopathology	.5 hours	General assessment and hospitalization.	

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses (Not Required)
549 Marriage, Family, and Child Therapy	2-3 hours	Topic addressed generally in this course in the context of addiction.	
<b>California State University, Fullerton - MS in Counseling</b>			
COUN 511 Pre-Practicum	2 hours	Assessment & suicide prevention (reading, lecture & role plays)	
COUN 522 Techniques in Brief Treatment and Assessment	2 hours	Assessment & intervention management (reading, lecture & role plays)	
COUN 526 Professional, Ethical and Legal Issues in Counseling	1 hour	Ethical issues in suicide assessment, management & prevention (reading, lecture & case scenarios)	
COUN 538 Crisis and Trauma Counseling	2 hours	Suicide intervention & management (reading & role plays)	
COUN 530 Beginning Practicum	2-4 hours	Discussion of suicide assessment, management, and intervention	
COUN 534 Advanced Practicum	2-4 hours	Discussion of suicide assessment, management, and intervention	
<b>California State University, Humboldt - Counseling Masters of Arts</b>			
PSY 660 Law and Ethics in Psychology	2 hours	Assessment, voluntary & involuntary hospitalization.	
PSY 630 Advanced Psychopathology	1 hour	Adjustment w/ depression and disorders w/ suicide risk factors.	
PSY 653 Advanced Psychopathology with Children & Families	16 hours	Understanding suicidal ideation & behavior; understanding prevention practices; Suicide Intervention Model (Snyder) (connect, understand, assist), safe plan options, attitudes toward intervention.	
<b>California State University, Northridge - MS in Counseling - MFT [1]</b>			
659B - Practicum	Approx. 3 hours	These courses cover examples, case studies, intervention techniques, and warning signs.	
672 - Diagnosis	Approx. 3 hours		
<b>California State University, Sacramento - MS in Counseling; specializations in Career Counseling (CC), Marriage &amp; Family Therapy (MFT), School Counseling (SC)</b>			
EDC 212 Gender Roles & Sexuality (required all specializations)	2 hours	law & ethics, 5150/harm to self, LBGTQ risk factors, domestic violence, child abuse, and terminal illness prevalence/risk factors for suicide.	
EDC 216 Counseling Theory (required all specializations)	1 hour	Limits of confidentiality, 5150 harm to self, law & ethics regarding suicide, brief overview of assessment of suicidality.	
EDC 218 Assessment in Counseling (required all specializations)	6 hours	Assessment models of suicide/self-harm, assessment tools for evaluating risk factors, review of legal & ethical responsibilities.	
EDC 231 Diagnosis & Treatment Planning (required all specializations)	6 hours	Discussion of risk factors & their treatment.	
EDC 233 Substance Abuse and the Family (required all specializations)	6 hours	Discussion of risk factors associated with substance abuse & their treatment.	
EDC 242 Play and Art Therapy (Required SC, elective for MFT)	1 hour	Suicidality in young children, treatment of children who have attempted suicide/self harm.	
EDC 244 Trauma & Crisis Counseling (Required CC & MFT, elective for SC)	6 hours	Coping strategies to prevent suicide, assessment for risk factors.	
EDC 252 Legal & Ethical Issues in Prof. Counseling (req'd all specializations)	6 hours	In depth discussion of legal/ethical responsibilities, analysis of case studies, assessment/evaluation, community resources.	
EDC 254 Counseling & Psychotropic Medicine (Req'd MFT, elective SC and CC)	3 hours	prevalence by age group, risk increase for prescription use, increased suicidality as side effect of prescription use, suicide safety contracts, co-occurring conditions that increase risk.	
EDC 268 Career/Job Search (Required for CC)	3 hours	Impact of unemployment /job loss risk factors	
EDC 272 Counseling Children & Youth (Required MFT and SC)	6 hours	Suicide assessment in children/adolescents, assessment & treatment of risk factors, legal/ethical responsibilities, community resources.	
EDC 274 Guidance & Consultation in School Counseling (Required for SC)	3 hours	Prevention of suicide through assessment and treatment of risk factors; explore community resources.	
EDC 475 Practicum in Counseling (Required all specializations)	3 hours min.	Discuss practicum cases, review of assessment, treatment, risk factors, legal/ethical responsibilities, discussion of self harm assessment/treatment.	

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses (Not Required)
EDC 480 Field Study in Counseling (Required all specializations)	3 hours min.	Discussion of internship cases, review of assessment techniques, risk factors, treatment protocol for those who have attempted suicide, legal/ethical responsibilities.	
<b>California State University, San Francisco - Master of Science in Marriage, Family &amp; Child Counseling</b>			
COUN 706 Practicum & Counseling Process	3 hours	dangerousness (suicide/homicide) assessment & treatment. Readings, demonstration, role playing, case study.	
COUN 715 Assessment in Counseling	2 assignments	Two homework assignments: identification of psychological tests & reviews that assess suicide/homicide potential. Development of an instrument to measure counselor competence in managing crisis (suicide/homicide).	
COUN 857 Law and Ethics in Counseling	3 hours	Dangerousness (suicide/homicide) assessment & management.	
COUN 858 Couple and Family Counseling		Impact of suicidality within context of families, including prevention strategies.	
COUN 705, 736, 890, 891 Counseling Practicum and Internship		Practicum/internship training program must have an agency crisis protocol, where trainees receive training in assessing/managing suicidal clients.	
<b>California State University, San Jose - MS in Clinical Psychology</b>			
PSY 203A Assessment	3 unit course	Lecture on suicide assessment.	
PSYC 228 Ethics	3 unit course	Discussion of the topic.	
PSYC 211 Child Psychopathology	3 unit course	Topic repeatedly discussed.	
PSYC 260 Crisis and Trauma Counseling	3 unit course	Topic is a focus of a section of the course.	
<b>Chapman University - Master of Arts in Marriage and Family Therapy</b>			
MFT 516 Assessment of Individuals and Families	Approx. 2 hours	Suicide risk assessment methods	
MFT 573 Crisis Management and Clinical Process	6 hours	Suicide assessment & management (handouts & lectures)	
MFT 578 Ethics and Professional Issues for MFTs	1.5 hours	Suicide assessment, relevant CA laws/regulations, ethical code, resources	
<b>The Chicago School of Professional Psychology - Masters in Clinical Psychology w/ Marital &amp; Family Therapy Specialization</b>			
MM520 Adult Psychopathology	6 hours	Mental status exams, risk factors associated with suicide and aggressive behaviors	
MM 511 Law and Professional Ethics	6 hours	Danger to self, danger to others, Tarasoff & Ewing ruling	
<b>Fuller Theological Seminary - Master of Science in Marital and Family Therapy</b>			
FT 530B Clinical Foundations II	3.5 hours		
FT 522 Assessment of Individuals/Couples/Families	2.5 hours		
FT 502 Legal & Ethical Issues in Family Practice	2 hours		
FT 549 Psychopharmacology	0.5 to 1 hour	The use of anti-depressants and their risk of suicidal tendencies in consumers.	
<b>Holy Names University - MA in Counseling Psychology/Dual Counseling and Forensic Psychology</b>			
CPSY 200	1.5 hours	Assessment	
CPSY 215	3 hours	Legal/ethical./reporting/therapeutic approaches: treatment and management	
CPSY 220	3 hours	Human development research on suicidality across lifespan: assessment	
CPSY 271	4 hours	Working with families of traumatic event; management and treatment	
			-CPSY 270 Trauma Types and Transformation: Assessment; Management
<b>Hope International University - MA in Marriage &amp; Family Therapy</b>			
PSY 5240 Disaster Trauma & Abuse Response	2 units		
PSY 5230 Family Violence	2 units		
PSY 6800 Practicum Course	2 units		
PSY 8120 Professional Ethics & Law	2 units	Courses cover suicide assessment via vignettes and readings from text.	



Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses (Not Required)
<b>Northcentral University; School of Marriage and Family Sciences - MA in Marriage and Family Therapy</b>			
MFT 6201 California Law and Professional Ethics	5 hours	Legal/ethical responsibilities of therapist facing a client expressing suicidal ideations.	
MFT 5103 Systemic Evaluation and Case Management	15 hours	Methods of client risk assessment/assessing issues of safety; case management in crisis situation	
MFT 6106 Families in Crisis	8 hours	Adolescent self harm, suicidal ideations and behaviors, suicide in the elderly, assessment and etiology of suicide.	
<b>Phillips Graduate Institute - MA in Psychology, Emphasis Marriage and Family Therapy [2]</b>			
PSY 520A Abnormal Psychology	2 unit course	Suicidal gestures, self harming behavior, and aggression. Crisis intervention and other levels of counseling intervention are discussed.	
PSY 503 Developmental Psychology	3 unit course	Suicide risk covered with developmental issues.	
PSY 539 Legal, Ethical, & Professional Issues	3 unit course	Managing confidentiality when clients are dangerous to themselves.	
PSY 531A and 531B Applied Therapeutic Methodology	1 unit each	Common clinical emergencies, including assessment and treatment of suicidality and self-harm.	
PSY 533A and 533B Practicum	2 units each	Case discussions, which usually involve experience with crisis situation such as suicide	
<b>Saybrook University - Marriage and Family Therapy License Program</b>			
MFT 2562 (CO) Crisis and Trauma Intervention	Approx. 6 hours	Stages of assessment and intervention; emphasizes interventions for crisis and trauma.	
<b>Touro University Worldwide - Masters of Arts in Marriage and Family Therapy</b>			
MFT 611 Foundation of Psychopathology	5 hours	Covers suicide assessment, treatment, and management	
<b>University of La Verne - Marriage and Family Therapy MS</b>			
PSY 512 Clinical Psychopathology	6 hours	Suicide assessment for high risk diagnostic categories	
PSY 544 Trauma Focused Treatment	2 hours	Trauma response and harm assessment, hospitalization, collaboration of care	
PSY 509 Psychological Testing	3 hours	Suicide assessment/interview techniques	
PSY 550 Community Mental Health Counseling	2 hours	Disaster/trauma response. Harm assessment.	
PSY 580 Fieldwork I	6 hours	Discussion of clinical cases, suicide assessment techniques/steps needed when clients require hospitalization	
PSY 581 Fieldwork II	6 hours		
<b>University of Phoenix (Southern California Campus) - MSC/MFCT</b>			
Legal and Ethical Issues in MFT	3 hours	Duty to warn/protect in cases of danger to self and others	
Introduction to Clinical Assessment	4 hours	Prevalence of suicidal behavior in individuals with mental disorders, evaluation criteria, assessment techniques and strategies for suicidal clients, interventions with suicidal clients.	
Pre-practicum	2 hours	Suicide prevention; strategies of risk assessment of self harm.	
			Students can take additional seminars that are offered on MFT related topics. One of these is a 4 hour suicide assessment workshop.
<b>University of San Diego - MA in Marital and Family Therapy</b>			
MFTS 528 Psychopathology	1 hour	Video and discussion on suicide assessment.	
MFTS 529 Ethical and Legal Issues in Family Therapy	2 hours	interviewing techniques for suicidal clients, assessment, risk factors, and treatment options.	
EDU 704i Treatment of Severe Mental Illness	5 hours	Suicide risk assessment, treatment, and intervention. Final assignment is treatment plan based on vignette for suicidal patient.	
<b>USC - Masters in Marriage and Family Therapy</b>			
EDUC 507 Professional Identity and Law and Ethics for Counselors	3 hours	Duties around suicide assessment, suicide assessment practices, suicidal ideation	



Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses (Not Required)
EDUC 644 Practicum in Counseling Other: Fieldwork A and B	3 hours Approx. 9 hours	assessment practices, suicidal ideation intervention Suicidality discussed throughout fieldwork; hours shown is an estimate.	
<b>USC School of Social Work - Master of Social Work</b>			
SOWK 543 Social Work Practice With Individuals	4 hours	Assessing suicide across the lifespan. Suicide viewed from a micro, mezzo and macro level.	-SOWK 631 Advanced Theories and Clinical Interventions in Health Care (Approx. 1 hr. covering suicide ideation, assessment, & resources) -SOWK 612 Psychopathology and Diagnosis of Mental Disorders (Approx. 4 hrs.) -SOWK 615 Brief Therapy and Crisis Intervention (Approx. 4 hrs.) -SOWK 617 Substance Abuse w/ Consideration of Other Addictive Disorders (Approx. 4 hrs.) -SOWK 618 Systems of Recovery from Mental Illness in Adults (Approx. 4 hrs.) -SOWK 645 Clinical Practice in Mental Health Settings (Approx. 4 hrs.)
<b>Vanguard University - Graduate Program in Clinical Psychology</b>			
PSYG 601, 603, 604, 626, 724, and 726	Lectured in these courses, but no required number of hours. Also discussed in clinical work in practicum course.		PSYG 618 - This course changes each semester, but one offering of this course is specifically on suicide assessment, treatment, and management.
<b>Western Seminary (Sacramento Campus) - Master of Arts in Marriage and Family Therapy</b>			
Tests and Measurements	2 hours	Uses a book teaching clinical and legal standards of care for suicidal patients; students learn instruments for assessment of suicidal clients.	
Psychopathology	5 hours	Studies the dangers of suicide with mentally ill clients, students develop a treatment plan regarding suicide and mental illness.	
Legal and Ethical Issues	3 hours	Studies legal and ethical issues around a suicide crisis, breaking confidentiality, reporting, & hospitalization when patient is a danger to themselves.	
Counseling for Addictions	3 hours	Discussion of drugs & alcohol use/abuse/addiction as risk factors for suicide.	
Emergency Preparedness: Crisis Management	12 hours	Suicide crisis, assessment, prevention, and treatment. Text is focused on developing clinical skills in these areas.	

[1] These programs note that the topic is covered in other elective courses as well, for example, suicidality in specific populations.

[2] This program also offers an emphasis in Art Therapy and School Counseling along with the Marriage and Family Therapy emphasis. All of these programs are required to complete the courses shown.

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## ATTACHMENT E

### Possible training classes for suicide assessment, treatment, and management October 2017

There are some national trainings available to meet a suicide assessment, treatment and management training requirements:

1. Assessing and Managing Suicide Risk: Core Competencies for Mental Health Professionals  
<http://www.sprc.org/training-events/amr>
2. Recognizing and Responding to Suicide Risk: Essential Skills for Clinicians (RRSR)  
<http://www.suicidology.org/training-accreditation/rrsr>
3. Cognitive Behavior Therapy for Depression and Suicidality  
<https://www.beckinstitute.org/event/cbt-depression-suicidality-core-1/>
4. The QPRT Suicide Risk Assessment and Management Training Program  
[http://courses.qprinstitute.com/index.php?option=com\\_zoo&task=item&item\\_id=5&Itemid=739](http://courses.qprinstitute.com/index.php?option=com_zoo&task=item&item_id=5&Itemid=739)
5. At-Risk in Primary Care At-Risk in Primary Care <https://www.kognito.com/products/pcp/>
6. Adolescent Suicide Risk Assessment <https://ce.napnap.org/content/adolescent-suicide-risk-assessment-0>
7. The Chronological Assessment of Suicide Events (the CASE Approach)  
<http://www.suicideassessment.com/web/top-level/case.html>
8. Managing Suicidal Risk: A Collaborative Approach <https://www.therapeuticresources.com/67-Managing%20Suicidal%20Risk%20A%20Collaborative%20Approach.html>

There are also helpful fact sheets:

1. Suicide Screening and Suicide Assessment  
[http://www.sprc.org/sites/default/files/migrate/library/RS\\_suicide%20screening\\_91814%20final.pdf](http://www.sprc.org/sites/default/files/migrate/library/RS_suicide%20screening_91814%20final.pdf)
2. Suicide Prevention and the Clinical Workforce: Guidelines for Training  
<http://actionallianceforsuicideprevention.org/sites/actionallianceforsuicideprevention.org/files/Guidelines.pdf>
3. Preventing Suicide through Improved Training in Suicide Risk Assessment and Care: An American Association of Suicidology Task Force Report Addressing Serious Gaps in U.S. Mental Health Training  
<http://www.intheforefront.org/sites/default/files/articles/AASuicideTaskForceArticle.pdf>

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## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 2138

**VERSION:** AMENDED APRIL 2, 2018

**AUTHOR:** CHIU AND LOW

**SPONSOR:**

- Anti-Recidivism Coalition
- East Bay Community Law Center
- Legal Services for Prisoners with Children
- Root & Rebound

**RECOMMENDED POSITION:** NONE

**SUBJECT:** LICENSING BOARDS: DENIAL OF APPLICATION: REVOCATION OR SUSPENSION OF  
LICENSURE: CRIMINAL CONVICTIONS

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**Overview:** This bill would make significant amendments to the Board's enforcement process, including limits on when a board can deny, revoke or suspend a license based on a conviction or other act and limits on the length of probation. It also limits the Board's timeframe to decide on a petition to modify probation to 90 days.

### **Existing Law:**

#### **Law Related to Denying a License:**

- 1) Allows a board under the Department of Consumer Affairs (DCA) to deny a license on grounds the applicant has one of the following (Business and Professions Code (BPC) §480(a)):
  - a. A criminal conviction. A conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
  - b. Committed a dishonest, fraudulent, or deceitful act with intent to substantially benefit his/herself, or with the intent to substantially injure someone else.
  - c. Committed an act that, if committed by a licensee, would be grounds to suspend or revoke the license.
- 2) Only allows a board to deny a license if the crime or act is substantially related to the qualifications, functions, or duties of the profession. (BPC §480(a))
- 3) Prohibits a board from denying an applicant a license solely because he or she was convicted of a felony, if the applicant has obtained a certificate of rehabilitation. (BPC §480(b))

- 4) Prohibits a board from denying an applicant a license solely because he or she was convicted of a misdemeanor, if the applicant has met all of the rehabilitation requirements developed by the Board. (BPC §480(b))
- 5) Prohibits the denial of a license solely based on a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. The applicant must provide proof of the dismissal. (BPC §480(c))
- 6) Permits a board to deny a license because the applicant knowingly made a false statement of a fact that is required to be revealed in the license application. (BPC §480(d))
- 7) Requires a board to develop criteria for use when considering a denial, suspension, or revocation, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the profession it regulates (BPC §481)
- 8) States that the Board shall consider a crime or act to be substantially related to the qualifications, functions, or duties of one of the Board's professions if it substantially evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with public health, safety, or welfare. (16 CCR §1812)
- 9) Requires the Board to develop criteria to evaluate a person's rehabilitation when considering the denial, suspension, or revocation of a license. (BPC §482)
- 10) Requires the Board of Behavioral Sciences to consider the following when evaluating the rehabilitation of an applicant and his or her present eligibility for a license or registration (16 CCR §1813):
  - a. The nature and severity of the act or crimes;
  - b. Evidence of committing any subsequent acts;
  - c. The time elapsed since the acts;
  - d. The applicant's compliance with his or her terms of probation, parole, restitution, or other sanctions; and
  - e. Any evidence of rehabilitation by the applicant.

Law Related to Suspending or Revoking a License:

- 1) Permits a board to suspend or revoke a license because the licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the profession. (BPC §490)
- 2) Permits a board to suspend a license if a licensee is not in compliance with a child support order. (BPC §490.5)
- 3) Provides that successful completion of any Penal Code diversion program or successful completion of an alcohol and drug problem assessment program shall not prohibit a board

from taking disciplinary action against a licensee or from denying a license for professional misconduct. (BPC §492)

- 4) Allows, in a board proceeding to deny, suspend, revoke, or discipline a license, the board to inquire about the circumstances surrounding a crime to determine the degree of discipline or to determine if the conviction is substantially related to the profession. (BPC §493)

#### Law Related to Expungement:

- 1) Allows a court to permit a defendant to withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant has fulfilled the conditions of probation, been discharged from probation, or otherwise been granted relief. The court must then dismiss the accusations and release the defendant from all penalties and disabilities. The defendant is still required to disclose the conviction in an application for state licensure. This provision of law does not apply to certain sex offenses. (Penal Code (PC) §1203.4)
- 2) Allows a court to permit a defendant who was convicted of a misdemeanor or infraction and not granted probation to, after one year, withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant has fully complied with and completed the court's sentence, is not serving a sentence for another offense, and is obeying all laws. The court must then dismiss the accusations and release the defendant from all penalties and disabilities. (PC §1203.4a)
- 3) Allows a court to permit defendants who were convicted of certain felonies punishable by imprisonment in county jail, to, after a specified period of time of time after completion of the sentence, withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant is not under supervision or serving or charged for another offense. The court must then release the defendant from all penalties and disabilities. The defendant is still required to disclose the conviction in an application for state licensure. (PC §§1203.41, 1170)

#### Other Law:

- 1) Defines a "violent felony" to include several types of crimes. (PC §667.5(c)) (**Attachment D**)

#### This Bill:

- 1) Amends the definition of a "conviction" to mean a judgement following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. A board may act following the conviction when the time for appeal has elapsed, the conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence. (BPC §7.5)

### **Amendments Related to Denying a License:**

- 1) Only permits a board to deny a license (including denying an unrestricted license and then issuing a restricted or probationary license) on grounds the applicant has been convicted of a crime or subjected to formal discipline under the following circumstances (BPC §480):
  - a. The applicant is presently incarcerated for the conviction, or the conviction occurred within the past 5 years. (The 5-year limit does not apply to a violent felony as defined in PC §667.5 (**Attachment D**)). A board may only deny for these reasons if the crime is directly and adversely related to the qualifications, functions, or duties of the business or profession; or
  - b. The applicant has been subject to formal discipline by a licensing board in the past 5 years based on professional misconduct that would have been cause for discipline by the board to which he/she is applying, and the misconduct is directly and adversely related to the qualifications, functions, or duties of the business or profession. However, disciplinary action within the past 5 years cannot be a basis for denial if the basis for the disciplinary action was a conviction that has been dismissed pursuant to PC §§1203.4, 1203.4a, or 1203.41.
- 2) Prohibits a board from denying a license on the basis that he or she was convicted of a crime, or on the basis of acts underlying a conviction of a crime if the applicant has obtained a certificate of rehabilitation under Chapter 3.5 of Title 6 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to BPC §482. (BPC §480(b))
- 3) Prohibits a board from denying a license based on any conviction, or on the basis of acts underlying a conviction, that has been dismissed pursuant to PC §§1203.4, 1203.4a, or 1203.41, or a comparable dismissal or expungement. (BPC §480(c))
- 4) Prohibits a board from denying a license based on an arrest that resulted in an outcome other than a conviction, such as an arrest that resulted in an infraction, citation, or juvenile adjudication. (BPC §480(d))
- 5) Prohibits a board from denying a license solely on the applicant's failure to disclose a fact that would not have been cause for denial of the license. (BPC §480(e))
- 6) When requesting or acting on an applicant's criminal history information, requires a board to do the following (BPC §480(f)):
  - a. The board is prohibited from requiring an applicant to disclose any information or documentation regarding criminal history.
  - b. If the board decides to deny an application based on an applicant's conviction history, it must notify the applicant of the denial, the procedure to challenge the decision or request reconsideration, the right to appeal, and the process for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record.



- 7) Requires a board to retain documents submitted by the applicant, notices provided to the applicant, all communications from and provided to the applicant, and criminal history reports, for at least 3 years. (BPC §480(g))
- 8) Requires a board to retain the following data and report it each year on its web site and to the Legislature (BPC §480(g)):
  - a. Number of applications received for each license type;
  - b. Number of applications requiring criminal history inquiries;
  - c. Number of applicants with a criminal record who were denied or disqualified from licensure;
  - d. Number of applicants with a criminal record who provided evidence of rehabilitation;
  - e. Number of applicants with a criminal record who appealed a denial or disqualification from licensure; and
  - f. Final outcome and demographic information, including voluntarily provided information on race or gender, of any applicant described in items c, d, or e above.
- 9) Provides that the provisions described above override any contradictory provisions currently in any board's licensing act. (BPC §480(i))
- 10) Requires a board to develop criteria to utilize to determine for use when considering a denial, suspension, or revocation, to determine whether a crime is directly and adversely related to the qualifications, functions, or duties of the profession it regulates. The board must post a summary of this criteria on its website. The criteria must include the following (BPC §481):
  - a. The nature and gravity of the offense;
  - b. Number of years since the offense;
  - c. The nature and duties of the profession;
- 11) Prohibits a board from denying a license based on a conviction without considering rehabilitation. (BPC §481)
- 12) Limits the amount of time a license may be placed on probation to two years or less. Additional conditions may be imposed only if a board determines there is clear and convincing evidence that additional conditions are necessary to address a risk. (BPC §481.5)
- 13) Requires each board to develop criteria to use when considering probation conditions to determine what conditions may be imposed to address a risk shown by clear and convincing evidence. (BPC §481.5)
- 14) Allows a probationer to petition the board for a modification or termination of probation after one year. The board would then have 90 days to make a decision. If the board does not deny the petition within 90 days, it is considered granted. (BPC §481.5)
- 15) Requires a board to find an applicant is rehabilitated if he or she meets any of the following:

- a. Completion of the criminal sentence without violating parole or probation;
  - b. Can document that he or she has worked in a related field continuously for at least one year or successfully completed training in a related field, as long as there are no public or official findings of professional misconduct; or
  - c. Has satisfied criteria for rehabilitation developed by the board.
- 16) If, after a hearing requested by an applicant to appeal a denial, a board decides to grant the license, revoke it, stay the revocation and impose probationary conditions, requires the board to also issue a public reproof. (BPC §488)

**Amendments Related to Suspending or Revoking a License:**

- 1) Permits the board to suspend or revoke a license on grounds the licensee has been convicted of a crime, only if the crime is directly and adversely related to the qualifications, functions, or duties of the profession, and if one of the following is met (BPC §490(a)):
  - a. The applicant is presently incarcerated; or
  - b. The conviction occurred within the past 5 years (except for a “violent felony;” see **Attachment D**)
- 2) Permits a board to discipline a licensee for a conviction of any other crime only if both of the following are met (BPC §490(b))
  - a. The crime is directly and adversely related to the qualification, functions, or duties of the profession; and
  - b. The licensee was convicted of the crime within the past 5 years or is presently incarcerated for it. (Does not apply to a violent felony; see **Attachment D**.)
- 3) Prohibits a board from suspending or revoking a license based on a conviction or its underlying acts, if the conviction has been dismissed pursuant to Penal Code Sections 1203.4, 1203.4a, 1203.41, or 1203.42. (BPC §490(c))
- 4) Prohibits a board from suspending or revoking a license based on an arrest that resulted in a disposition other than a conviction, such as an infraction, citation, or juvenile adjudication. (BPC §490(d))
- 5) Requires a board to do the following in requesting or acting on a licensee’s criminal history information (BPC §490(e)):
  - a. Not require a licensee to disclose any documentation or information about his or her criminal history;
  - b. If the Board chooses to file an accusation based on the licensee’s conviction history, it must notify him or her in writing of how to request his or her complete conviction history, and how to question its accuracy and completeness.

- 6) Requires a board to retain documents submitted by the licensee, notices provided to the licensee, all communications from and provided to the licensee, and criminal history reports, for at least 3 years. (BPC §490(f))
- 7) Requires a board to retain the following data and report it each year on its web site and to the Legislature (BPC §490(f)):
  - a. Number of licensees with a criminal record who received notice of potential revocation or suspension of their license or who had it suspended or revoked;
  - b. Number of licensees with a criminal record who provided evidence of rehabilitation;
  - c. Number of licensees with a criminal record who appealed a suspension or revocation of a license; and
  - d. Final outcome and demographic information, including voluntarily provided information on race or gender, of any applicant described in items a, b, or c above.
- 8) Provides that the provisions described above override any contradictory provisions currently in any board's licensing act. (BPC §490(g))
- 9) States that this section does not prohibit a board from disciplining a licensee for professional misconduct that is based on evidence independent of an arrest. (BPC §490(g))
- 10) Deletes the provision in law allowing a board to suspend a license if the licensee is not in compliance with a child support order. (BPC §490.5)
- 11) Prohibits a board from taking disciplinary action against a licensee or from denying a license for professional misconduct if any of the following are met (BPC §492):
  - a. Successful completion of a diversion program;
  - b. A deferred entry of judgement; or
  - c. Successful completion of a specified alcohol and drug assessment program prescribed under the Vehicle Code.

However, a board is permitted to take disciplinary action against a licensee for professional misconduct that falls within the scope of the profession, based on evidence that is independent of an arrest.

- 12) Provides that in a proceeding to deny, suspend, revoke, or discipline a license, the record of a conviction shall be conclusive evidence of the fact the conviction occurred. Removes the board's ability to inquire into the circumstances surrounding the commission of the crime to determine discipline or to determine the conviction is substantially related to the qualification, functions, or duties of the licensee. (BPC §493)
- 13) Requires a board to use the following criteria to determine if a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession (BPC §493):
  - a. The nature and gravity of the offense;

- b. The years elapsed since the offense;
- c. The nature and duties of the profession;
- d. The board may not bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

**Comment:**

- 1) **Author's Intent.** According to the author, approximately 1 in 3 adults in California have arrest or conviction records. They note that California has one of the highest re-offense rates in the country, with many committing new crimes within a year of release. A root cause of this is the inability of these individuals to gain employment after release from jail. However, nearly 30% of California jobs require licensure, and qualified individuals are often denied a license, or their license is revoked or suspended based on prior arrests or convictions, many of which are old, unrelated to the job, or dismissed. Therefore, the author is seeking to remove barriers on these individuals' ability to gain employment.
- 2) **Board Denials Based on Convictions.** The Board compiled data on applications denied based on convictions for Fiscal Years 2015/2016 and 2016/2017 (**Attachment A**).
  - For Fiscal Year 2015/2016, there were 28 application denials that were appealed. Of these denials, 20 (71%) were for non-violent convictions.
  - For Fiscal Year 2016/2017, there were 17 applications denied that were appealed. Of these denials, 16 (94%) were for non-violent convictions.

It should be noted that the data only includes applications denied that were appealed, as this was the information readily available at the time of writing this analysis. Most application denials (approximately 95%) are appealed, with the remainder typically waiting a year or so to re-apply.

- 3) **Effect of This Bill.** If this bill were to become law, key changes to the Board's current enforcement process would be as follows:
  - The Board would be prohibited from denying, revoking, or suspending a license on the grounds an applicant had been convicted of a crime unless the conviction occurred in the past 5 years (this does not apply to a violent felony) and has not been expunged. The crime must be directly and adversely related to the qualifications, functions, or duties of the profession.
  - For dismissed or expunged convictions, prohibits the Board from acting based on the crime's underlying acts.
  - Prohibits the Board from requiring a licensee or applicant to disclose or document information about his or her criminal history.
  - Requires the Board to collect and compile data regarding the outcomes of applicants or licensees with a criminal history.
  - Limits probation terms to two years or less, unless the Board can provide clear and convincing evidence that additional conditions are necessary.

- Requires a Board to decide on a petition for modification or termination or probation within 90 days.

- 4) **Definition of “Violent Felony.”** This bill excludes violent felonies from the requirement that in order to deny or discipline a license, it must have occurred in the past 5 years. Section 667.5(c) of the Penal Code (**Attachment D**) provides a definition of a “violent felony” for the purposes of determining prison terms.

However, at times, the Board denies licenses for nonviolent convictions. Examples of nonviolent convictions that Board applicants sometimes have include convictions for petty theft, grand theft, drug use, driving under the influence, disturbing the peace, or fraud.

These convictions may be substantially related to the practice of the profession, and may be especially relevant if there are multiple convictions showing a pattern.

- 5) **Effect on Penal Code 23 Revocations.** At times, when a Board licensee is charged with a serious crime, Penal Code §23 permits a state agency to appear in court to provide information or make recommendations to the court that the license be temporarily revoked.

It is unclear how or if this bill would inhibit the Board’s ability to seek a PC §23 revocation.

- 6) **Department of Justice Background Checks.** This bill prohibits the Board from requiring a licensee or applicant to self-disclose criminal history information. The rationale for this is that any criminal history will show up on the person’s Department of Justice (DOJ) background check.

However, according to the Board’s enforcement unit, there are times that some criminal history is left off a DOJ background check, especially for more recent crimes.

- 7) **Effect on Probation Process.** This bill restricts most probation terms to two years or less. According to the Board’s enforcement unit, current probation terms typically range between 3 and 5 years.

Current law allows a probationer to petition to modify probation after 2 years for a probation term of 3 years or more, or after 1 year for a probation of less than 3 years. Upon filing of the petition, the hearing must be held within 180 days (BPC §4990.30).

This bill allows a probationer to petition to modify probation after 1 year, and requires the Board to decide within 90 days of the petition’s filing.

- 8) **Fiscal Effect.** This bill would likely have a substantial fiscal impact on the Board due to two factors:

- It shortens the timeframe for a probation petition. Currently, a hearing must be held within 180 days, but under the bill, the Board must decide within 90 days. Therefore, the Board would need to meet more frequently to make these decisions. It would also likely need additional legal staff and enforcement staff to comply with the 90-day time limit.
- It requires extensive data collection on applicants and licensees who have a criminal record. The Board would need modifications to its Breeze database system to track

the required information, and potentially an additional staff position to collect and compile the information.

**Attachment F** shows the estimated fiscal impact to the Board.

- 9) **Conflict with Current Board Law.** The provisions of this bill contradict and override several existing enforcement provisions in the Boards existing licensing laws. For example, the Board's unprofessional conduct sections state criteria for denying a license or registration, much of which would be overridden. If this bill passes, the Board will need to work with its legal counsel to determine which areas of its licensing laws are in conflict and need to be revised. The Board's Uniform Standards Related to Substance Abuse and Disciplinary Guidelines would also need significant revisions.
- 10) **Recommended Position.** The Board's Policy and Advocacy Committee discussed this bill at its April 12, 2018 meeting. The Committee did not recommend a position, but asked that staff work with the author's office to identify potential areas of improvement to the enforcement process. Staff met with representatives from the authors' offices on April 30<sup>th</sup>.
- 11) **Previous Legislation.**

- **AB 2396 (Chapter 737, Statutes of 2014)** was signed by the Governor and became effective on January 1, 2015. This bill removed the Board's ability to deny a license under BPC §480 because the applicant had a conviction, if that conviction had been expunged under Penal Code Sections 1203.4, 1203.4a, and 1203.41.

Penal Code Sections 1203.4, 1203.4a, and 1203.41 allow for the expungement of certain convictions after a specified length of time and fulfillment of the court's punishment. Expungement is not available for certain sex offenses, or for individuals who were sentenced to prison.

If the Board receives a case with an expunged conviction and has public protection concerns, it would need to "prove up" the case to take disciplinary action. This means that the Board needs to conduct its own investigation to substantiate the cause of the violation of law. This might involve interviewing parties involved in the incident, such as the arresting officer. If the Board can substantiate the violation, it may then present this information at a hearing.

The Board had an "oppose" position on AB 2396. In its letter to the Governor, the Board stated that the criteria for rehabilitation for an expungement is not the same as the criteria for rehabilitation to be able to practice safely as a psychotherapist. The letter also noted that Board has seen cases of applicants having multiple DUI, theft, and assault charges which occurred over the past 5-10 years, all of which have been expunged. To ensure public protection, the Board must examine each case individually to determine whether these convictions remain relevant to the safe practice of psychotherapy.

- **AB 1351 (Eggman)**, vetoed, 2015-2016 Legislative Session. This bill would have changed the existing deferred entry of judgment program for specified offenses involving personal use or possession of controlled substances into a pretrial drug diversion program that allows for a not guilty plea to be entered.

- **AB 1352** (Eggman), Chapter 646, Statutes of 2016, requires a court to allow a defendant to withdraw his or her guilty or nolo contendere plea and thereafter dismiss the case upon a finding that the case was dismissed after the defendant completed deferred entry of judgement and that the plea may result in the denial or loss to the defendant, as specified.
- **AB 813** (Gonzales), Chapter 739, Statutes of 2014, created an avenue of post-conviction relief for a person to vacate a conviction or sentence based on error damaging the petitioner's ability to meaningfully understand, defend against, or knowingly accept the immigration consequences of the conviction.

## 12) **Support and Opposition.**

### *Support:*

- Anti-Recidivism Coalition (Sponsor)
- East Bay Community Law Center (Sponsor)
- Legal Services for Prisoners with Children (Sponsor)
- Root & Rebound (Sponsor)
- American Civil Liberties Union (ACLU)
- American Federation of State, County and Municipal Employees (AFSCME)
- Alameda County Public Defender
- All of Us or None
- Alliance for Boys and Men of Color
- Anchor of Hope Ministries
- Bay Area Legal Aid
- Bayview Hunters Point Foundation
- Because Black is Still Beautiful
- California Immigrant Policy Center
- Californians for Prop 57
- Californians for Safety and Justice
- California Workforce Organization
- Center for Employment Opportunities
- Center on Juvenile and Criminal Justice
- Center for Living and Learning
- Checkr
- Courage Campaign
- Downtown Women's Center
- Ella Baker Center for Human Rights
- Hillview Mental Health Center
- Homeboy Industries
- Hunters Point Family
- Lawyer's Committee for Civil Rights
- Leadership for Urban Renewal Network
- Legal Services of Northern California
- Leonard Carter
- Los Angeles Regional Reentry Partnership (LARRP)
- National Association of Social Workers - California Chapter
- National Employment Law Project
- New Door Ventures

- Oakland Private Industry Council
- Planting Justice
- Prisoner Reentry Network
- Project Rebound: Expanded
- REDF (Roberts Enterprise Development Fund)
- Rise Together Bay Area
- Rubicon Programs
- San Francisco Adult Probation Department
- San Francisco Conservation Corps
- San Francisco Public Defender Jeff Adachi
- San Francisco State University Project Rebound
- San Jose State University Record Clearance Project
- The Rock Found
- The Young Women's Freedom Center
- Three Individuals

*Opposition:*

- Plumbing-Heating-Cooling Contractors Association of California
- Western Electrical Contractors Association
- San Diego, Southern and Central California Chapters of Associated Builders and Contractors

**13) History.**

**2018**

- 04/24/18 From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 5.) (April 24). Re-referred to Com. on APPR.
- 04/03/18 Re-referred to Com. on B. & P.
- 04/02/18 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
- 02/26/18 Referred to Com. on B. & P.
- 02/13/18 From printer. May be heard in committee March 15.
- 02/12/18 Read first time. To print.

**14) Attachments.**

**Attachment A:** Applications Denied Based on Convictions (Fiscal Year 2015/2016 and 2016-2017)

**Attachment B:** Penal Code Sections 1203.4, 1203.4a, 1203.41, and 1170

**Attachment C:** Current Law: Business and Professions Code Sections 480 and 490

**Attachment D:** Penal Code Section 667.5(c): Definition of "Violent Felony"

**Attachment E:** Board of Behavioral Sciences Regulation Section 1813: Criteria for Rehabilitation – Denial of Licensure

**Attachment F:** Estimated Fiscal Impact



AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2138**

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**Introduced by Assembly Members Chiu and Low**

February 12, 2018

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An act to amend ~~Sections 480 and~~ Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 ~~of of~~, to add Section 481.5 to, and to repeal Section 490.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: *revocation or suspension of licensure*: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and Affairs. Existing law authorizes a board to ~~deny deny~~, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the

*business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.*

~~This bill would instead prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime and would make conforming changes.~~ *revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.*

*The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.*

*Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.*

*This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.*

*Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.*

*This bill would repeal that authorization.*

*Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.*

*This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.*

*Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.*

*This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board’s decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.*

*This bill would also make necessary conforming changes.*

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 7.5 of the Business and Professions Code
- 2     is amended to read:
- 3     7.5. (a) A conviction within the meaning of this code means
- 4     a judgment following a plea or verdict of guilty or a conviction
- 5     following a plea of nolo contendere, contendere or finding of guilt.
- 6     Any action which a board is permitted to take following the

1 establishment of a conviction may be taken when the time for  
 2 appeal has elapsed, or the judgment of conviction has been affirmed  
 3 on appeal or when an order granting probation is made suspending  
 4 the imposition of sentence, irrespective of a subsequent order under  
 5 the provisions of Section 1203.4 of the Penal Code: *sentence*.  
 6 However, a board may not deny a license to an applicant who is  
 7 otherwise qualified pursuant to subdivision (b) *or* (c) of Section  
 8 480.

9 **Nothing**

10 (b) *Nothing* in this section shall apply to the licensure of persons  
 11 pursuant to Chapter 4 (commencing with Section 6000) of Division  
 12 3.

13 (c) *Except as provided in subdivision (b), this section controls*  
 14 *over and supersedes the definition of conviction contained within*  
 15 *individual practice acts under this code.*

16 **SECTION 1.**

17 **SEC. 2.** Section 480 of the Business and Professions Code is  
 18 amended to read:

19 480. (a) ~~A(1)~~ *Notwithstanding any other provision of this*  
 20 *code, a board may deny a license regulated by this code on the*  
 21 *grounds that the applicant has one of the following: been convicted*  
 22 *of a crime or has been subject to formal discipline only if either*  
 23 *of the following conditions are met:*

24 ~~(1) Been convicted of a crime. A conviction within the meaning~~  
 25 ~~of this section means a plea or verdict of guilty or a conviction~~  
 26 ~~following a plea of nolo contendere. Any action that a board is~~  
 27 ~~permitted to take following the establishment of a conviction may~~  
 28 ~~be taken when the time for appeal has elapsed, or the judgment of~~  
 29 ~~conviction has been affirmed on appeal, or when an order granting~~  
 30 ~~probation is made suspending the imposition of sentence,~~  
 31 ~~irrespective of a subsequent order under the provisions of Section~~  
 32 ~~1203.4, 1203.4a, or 1203.41 of the Penal Code.~~

33 ~~(2) Done any act involving dishonesty, fraud, or deceit with the~~  
 34 ~~intent to substantially benefit himself or herself or another, or~~  
 35 ~~substantially injure another.~~

36 ~~(3) (A) Done any act that if done by a licentiate of the business~~  
 37 ~~or profession in question, would be grounds for suspension or~~  
 38 ~~revocation of license.~~

39 ~~(B) The board may deny a license pursuant to this subdivision~~  
 40 ~~only if the crime or act is substantially related to the qualifications;~~

1 ~~functions, or duties of the business or profession for which~~  
2 ~~application is made.~~

3 *(A) The applicant has been convicted of a crime for which the*  
4 *applicant is presently incarcerated or for which the conviction*  
5 *occurred within the preceding five years. However, the preceding*  
6 *five year limitation shall not apply to a conviction for a violent*  
7 *felony, as defined in Section 667.5 of the Penal Code.*

8 *The board may deny a license pursuant to this subparagraph*  
9 *only if the crime is directly and adversely related to the*  
10 *qualifications, functions, or duties of the business or profession*  
11 *for which application is made.*

12 *(B) The applicant has been subjected to formal discipline by a*  
13 *licensing board within the preceding five years based on*  
14 *professional misconduct that would have been cause for discipline*  
15 *before the board for which the present application is made and*  
16 *that is directly and adversely related to the qualifications,*  
17 *functions, or duties of the business or profession for which the*  
18 *present application is made. However, prior disciplinary action*  
19 *by a licensing board within the preceding five years shall not be*  
20 *the basis for denial of a license if the basis for that disciplinary*  
21 *action was a conviction that has been dismissed pursuant to Section*  
22 *1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable*  
23 *dismissal or expungement.*

24 *(2) Denial of a license includes denial of an unrestricted license*  
25 *by issuance of a restricted or probationary license.*

26 *(b) Notwithstanding any other provision of this code, a person*  
27 *shall not be denied a license solely on the basis that he or she has*  
28 *been convicted of a ~~nonviolent crime.~~ crime, or on the basis of*  
29 *acts underlying a conviction for a crime, if he or she has obtained*  
30 *a certificate of rehabilitation under Chapter 3.5 (commencing with*  
31 *Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been*  
32 *granted clemency or a pardon by a state or federal executive, or*  
33 *has made a showing of rehabilitation pursuant to Section 482.*

34 *(c) Notwithstanding any other provision of this code, a person*  
35 *shall not be denied a license on the basis of any conviction, or on*  
36 *the basis of the acts underlying the conviction, that has been*  
37 *dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the*  
38 *Penal Code, or a comparable dismissal or expungement. An*  
39 *applicant who has a conviction that has been dismissed pursuant*  
40 *to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code*

1 shall provide proof of the dismissal if it is not reflected on the  
 2 report furnished by the Department of Justice.

3 (d) Notwithstanding any other provision of this code, a board  
 4 shall not deny a license on the basis of an arrest that resulted in  
 5 a disposition other than a conviction, including an arrest that  
 6 resulted in an infraction, citation, or a juvenile adjudication.

7 ~~(e)~~

8 (e) A board may deny a license regulated by this code on the  
 9 ground that the applicant knowingly made a false statement of fact  
 10 that is required to be revealed in the application for the license. A  
 11 board shall not deny a license based solely on an applicant's  
 12 failure to disclose a fact that would not have been cause for denial  
 13 of the license had it been disclosed.

14 (f) A board shall follow the following procedures in requesting  
 15 or acting on an applicant's criminal history information:

16 (1) A board shall not require an applicant for licensure to  
 17 disclose any information or documentation regarding the  
 18 applicant's criminal history.

19 (2) If a board decides to deny an application based solely or in  
 20 part on the applicant's conviction history, the board shall notify  
 21 the applicant in writing of all of the following:

22 (A) The denial or disqualification of licensure.

23 (B) Any existing procedure the board has for the applicant to  
 24 challenge the decision or to request reconsideration.

25 (C) That the applicant has the right to appeal the board's  
 26 decision.

27 (D) The processes for the applicant to request a copy of his or  
 28 her complete conviction history and question the accuracy or  
 29 completeness of the record pursuant to Sections 11122 to 11127  
 30 of the Penal Code.

31 (g) (1) For a minimum of three years, each board under this  
 32 code shall retain application forms and other documents submitted  
 33 by an applicant, any notice provided to an applicant, all other  
 34 communications received from and provided to an applicant, and  
 35 criminal history reports of an applicant.

36 (2) Each board under this code shall retain the number of  
 37 applications received for each license and the number of  
 38 applications requiring inquiries regarding criminal history. In  
 39 addition, each licensing authority shall retain all of the following  
 40 information:

1 (A) The number of applicants with a criminal record who  
2 received notice of denial or disqualification of licensure.

3 (B) The number of applicants with a criminal record who  
4 provided evidence of mitigation or rehabilitation.

5 (C) The number of applicants with a criminal record who  
6 appealed any denial or disqualification of licensure.

7 (D) The final disposition and demographic information,  
8 including, but not limited to, voluntarily provided information on  
9 race or gender, of any applicant described in subparagraph (A),  
10 (B), or (C).

11 (3) (A) Each board under this code shall annually make  
12 available to the public through the board's Internet Web site and  
13 through a report submitted to the appropriate policy committees  
14 of the Legislature deidentified information collected pursuant to  
15 this subdivision. Each board shall ensure confidentiality of the  
16 individual applicants.

17 (B) A report pursuant to subparagraph (A) shall be submitted  
18 in compliance with Section 9795 of the Government Code.

19 (h) "Conviction" as used in this section shall have the same  
20 meaning as defined in Section 7.5.

21 (i) This section supersedes any contradictory provision in a  
22 licensing act under this code or initiative act referred to in Division  
23 2 (commencing with Section 500) that authorizes license denial  
24 based on a criminal conviction, arrest, or the acts underlying an  
25 arrest or conviction.

26 SEC. 3. Section 481 of the Business and Professions Code is  
27 amended to read:

28 481. (a) Each board under ~~the provisions of~~ this code shall  
29 develop criteria to aid it, when considering the denial, ~~suspension~~  
30 *suspension*, or revocation of a license, to determine whether a  
31 ~~crime or act is substantially~~ *is directly and adversely* related to the  
32 qualifications, functions, or duties of the business or profession it  
33 regulates.

34 (b) *Criteria for determining whether a crime is directly and*  
35 *adversely related to the qualifications, functions, or duties of the*  
36 *business or profession a board regulates shall include all of the*  
37 *following:*

38 (1) *The nature and gravity of the offense.*

39 (2) *The number of years elapsed since the date of the offense.*

1 (3) *The nature and duties of the profession in which the*  
 2 *applicant seeks licensure or in which the licensee is licensed.*

3 (c) *A board shall not deny a license based in whole or in part*  
 4 *on a conviction without considering evidence of rehabilitation.*

5 (d) *Each board shall post on its Internet Web site a summary*  
 6 *of the criteria used to consider whether a crime is considered to*  
 7 *be directly and adversely related to the qualifications, functions,*  
 8 *or duties of the business or profession it regulates consistent with*  
 9 *this section.*

10 SEC. 4. *Section 481.5 is added to the Business and Professions*  
 11 *Code, to read:*

12 481.5. (a) *Probationary terms or restrictions placed on a*  
 13 *license by a board shall be limited to two years or less. Any*  
 14 *additional conditions may be imposed only if the board determines*  
 15 *that there is clear and convincing evidence that additional*  
 16 *conditions are necessary to address a risk shown by clear and*  
 17 *convincing evidence.*

18 (b) *Each board under this code shall develop criteria to aid it*  
 19 *when considering the imposition of probationary conditions or*  
 20 *restrictions to determine what conditions may be imposed to*  
 21 *address a risk shown by clear and convincing evidence.*

22 (c) (1) *A licensee or registrant whose license or registration*  
 23 *has been placed on probation may petition the board for a change*  
 24 *to the probation, including modification or termination of*  
 25 *probation, one year from the effective date of the decision. The*  
 26 *board shall issue its decision on the petition within 90 days of*  
 27 *submission of the petition. The petition shall be deemed granted*  
 28 *by operation of law if the board does not file a decision denying*  
 29 *the petition within 90 days of submission of the petition.*

30 (2) *The one-year time period to petition for modification or*  
 31 *termination of penalty shall control over longer time periods under*  
 32 *a licensing act under this code or initiative act referred to in*  
 33 *Division 2 (commencing with Section 500).*

34 SEC. 5. *Section 482 of the Business and Professions Code is*  
 35 *amended to read:*

36 482. (a) *Each board under the provisions of this code shall*  
 37 *develop criteria to evaluate the rehabilitation of a person when:*  
 38 *when doing either of the following:*

39 (a)



1 (1) Considering the denial of a license by the board under  
2 Section ~~480~~, or 480.

3 ~~(b)~~

4 (2) Considering suspension or revocation of a license under  
5 Section 490.

6 ~~Each~~

7 (b) ~~Each board shall take into account all competent evidence~~  
8 ~~of rehabilitation furnished by the applicant or licensee. find that~~  
9 ~~an applicant or licensee has made a showing of rehabilitation if~~  
10 ~~any of the following are met:~~

11 (1) ~~The applicant or licensee has completed the criminal~~  
12 ~~sentence at issue without a violation of parole or probation.~~

13 (2) (A) ~~The applicant or licensee documents that he or she has~~  
14 ~~worked in a related field continuously for at least one year prior~~  
15 ~~to licensure or successfully completed a course of training in a~~  
16 ~~related field, unless the board finds a public record of an official~~  
17 ~~finding that the applicant committed professional misconduct in~~  
18 ~~the course of that work.~~

19 (B) ~~Work in a related field may include, but is not limited to,~~  
20 ~~work performed without compensation and work performed while~~  
21 ~~incarcerated.~~

22 (C) ~~“Related field,” for purposes of this paragraph, means a~~  
23 ~~field of employment whose duties are substantially similar to the~~  
24 ~~field regulated by the board.~~

25 (3) ~~The applicant or licensee has satisfied criteria for~~  
26 ~~rehabilitation developed by the board.~~

27 *SEC. 6. Section 488 of the Business and Professions Code is*  
28 *amended to read:*

29 488. Except as otherwise provided by law, following a hearing  
30 requested by an applicant pursuant to subdivision (b) of Section  
31 485, the board may take any of the following actions:

32 (a) Grant the license effective upon completion of all licensing  
33 requirements by the applicant.

34 (b) Grant the license effective upon completion of all licensing  
35 requirements by the applicant, *grant the license and immediately*  
36 *issue a public reproof pursuant to Section 495,* immediately  
37 revoke the license, stay the revocation, and impose probationary  
38 conditions on the license, which may include suspension.

39 (c) Deny the license.

1 (d) Take other action in relation to denying or granting the  
2 license as the board in its discretion may deem proper.

3 *SEC. 7. Section 490 of the Business and Professions Code is*  
4 *amended to read:*

5 490. (a) (1) In addition to any other action that a board is  
6 permitted to take against a licensee, a board may suspend or revoke  
7 a license on the ground that the licensee has been convicted of a  
8 crime, ~~if the crime is substantially related to the qualifications,~~  
9 ~~functions, or duties of the business or profession for which the~~  
10 ~~license was issued.~~ *crime for which the applicant is presently*  
11 *incarcerated or for which the conviction occurred within the*  
12 *preceding five years. However, the preceding five year limitation*  
13 *shall not apply to a conviction for a violent felony, as defined in*  
14 *Section 667.5 of the Penal Code.*

15 (2) *The board may suspend or revoke a license pursuant to this*  
16 *subdivision only if the crime is directly and adversely related to*  
17 *the qualifications, functions, or duties of the business or profession*  
18 *for which application is made.*

19 (b) Notwithstanding any other provision of law, a board may  
20 exercise any authority to discipline a licensee for conviction of a  
21 crime that is independent of the authority granted under subdivision  
22 (a) only if ~~the both of the following are met:~~

23 (1) ~~The crime is substantially directly and adversely~~ related to  
24 the qualifications, functions, or duties of the business or profession  
25 for which the licensee's license was issued.

26 (2) ~~The licensee was convicted of the crime within the preceding~~  
27 ~~five years or is presently incarcerated for the crime. However, the~~  
28 ~~preceding five year limitation shall not apply to a conviction for~~  
29 ~~a violent felony, as defined in Section 667.5 of the Penal Code.~~

30 ~~(e) A conviction within the meaning of this section means a~~  
31 ~~plea or verdict of guilty or a conviction following a plea of nolo~~  
32 ~~contendere. An action that a board is permitted to take following~~  
33 ~~the establishment of a conviction may be taken when the time for~~  
34 ~~appeal has elapsed, or the judgment of conviction has been affirmed~~  
35 ~~on appeal, or when an order granting probation is made suspending~~  
36 ~~the imposition of sentence, irrespective of a subsequent order under~~  
37 ~~Section 1203.4 of the Penal Code.~~

38 ~~(d) The Legislature hereby finds and declares that the application~~  
39 ~~of this section has been made unclear by the holding in Petropoulos~~  
40 ~~v. Department of Real Estate (2006) 142 Cal.App.4th 554, and~~

1 ~~that the holding in that case has placed a significant number of~~  
2 ~~statutes and regulations in question, resulting in potential harm to~~  
3 ~~the consumers of California from licensees who have been~~  
4 ~~convicted of crimes. Therefore, the Legislature finds and declares~~  
5 ~~that this section establishes an independent basis for a board to~~  
6 ~~impose discipline upon a licensee, and that the amendments to this~~  
7 ~~section made by Chapter 33 of the Statutes of 2008 do not~~  
8 ~~constitute a change to, but rather are declaratory of, existing law.~~

9 *(c) Notwithstanding any other provision of this code, a board*  
10 *shall not suspend or revoke a license on the basis of a conviction,*  
11 *or of the acts underlying a conviction, where that conviction has*  
12 *been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or*  
13 *1203.42 of the Penal Code or a comparable dismissal or*  
14 *expungement.*

15 *(d) Notwithstanding any other provision of this code, a board*  
16 *shall not suspend or revoke a license on the basis of an arrest that*  
17 *resulted in a disposition other than a conviction, including an*  
18 *arrest that resulted in an infraction, citation, or juvenile*  
19 *adjudication.*

20 *(e) The board shall use the following procedures in requesting*  
21 *or acting on a licensee's criminal history information:*

22 *(1) A board shall not require a licensee to disclose any*  
23 *information or documentation regarding the licensee's criminal*  
24 *history.*

25 *(2) If a board chooses to file an accusation against a licensee*  
26 *based solely or in part on the licensee's conviction history, the*  
27 *board shall notify the licensee in writing of the processes for the*  
28 *licensee to request a copy of the licensee's complete conviction*  
29 *history and question the accuracy or completeness of his or her*  
30 *criminal record pursuant to Sections 11122 to 11127, inclusive,*  
31 *of the Penal Code.*

32 *(f) (1) For a minimum of three years, each board under this*  
33 *code shall retain all documents submitted by a licensee, notices*  
34 *provided to a licensee, all other communications received from or*  
35 *provided to a licensee, and criminal history reports of a licensee.*

36 *(2) Each board under this code shall retain all of the following*  
37 *information:*

38 *(A) The number of licensees with a criminal record who received*  
39 *notice of potential revocation or suspension of their license or who*  
40 *had their license suspended or revoked.*

1 (B) *The number of licensees with a criminal record who*  
 2 *provided evidence of mitigation or rehabilitation.*

3 (C) *The number of licensees with a criminal record who*  
 4 *appealed any suspension or revocation of a license.*

5 (D) *The final disposition and demographic information,*  
 6 *including, but not limited to, voluntarily provided information on*  
 7 *race or gender, of any applicant described in subparagraph (A),*  
 8 *(B), or (C).*

9 (3) (A) *Each board under this code shall annually make*  
 10 *available to the public through the board’s Internet Web site and*  
 11 *through a report submitted to the appropriate policy committees*  
 12 *of the Legislature deidentified information collected pursuant to*  
 13 *this subdivision. Each board shall ensure the confidentiality of the*  
 14 *individual licensees.*

15 (B) *A report pursuant to subparagraph (A) shall be submitted*  
 16 *in compliance with Section 9795 of the Government Code.*

17 (g) (1) *This section supersedes any contradictory provision in*  
 18 *a licensing act under this code or initiative act referred to in*  
 19 *Division 2 (commencing with Section 500) that authorizes action*  
 20 *based on a criminal conviction, arrest, or the acts underlying an*  
 21 *arrest or conviction.*

22 (2) *This section shall not prohibit any agency from taking*  
 23 *disciplinary action against a licensee for professional misconduct*  
 24 *in the course and scope of the licensee’s profession that is based*  
 25 *on evidence that is independent of an arrest.*

26 *SEC. 8. Section 490.5 of the Business and Professions Code*  
 27 *is repealed.*

28 ~~490.5. A board may suspend a license pursuant to Section~~  
 29 ~~17520 of the Family Code if a licensee is not in compliance with~~  
 30 ~~a child support order or judgment.~~

31 *SEC. 9. Section 492 of the Business and Professions Code is*  
 32 *amended to read:*

33 492. (a) *Notwithstanding any other provision of law, successful*  
 34 *completion of any diversion program under the Penal Code,*  
 35 *successful completion by a licensee or applicant of any*  
 36 *nonstatutory diversion program, deferred entry of judgment, or*  
 37 *successful completion of an alcohol and drug problem assessment*  
 38 *program under Article 5 (commencing with Section 23249.50) of*  
 39 *Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit*  
 40 *any agency established under Division 2 (commencing with Section*

1 500) of this code, or any initiative act referred to in that division,  
2 board from taking disciplinary action against a licensee or from  
3 denying a license for professional misconduct, notwithstanding  
4 that evidence of that misconduct may be recorded in a record  
5 pertaining to an arrest. *misconduct.*

6 This section shall not be construed to apply to any drug diversion  
7 program operated by any agency established under Division 2  
8 (commencing with Section 500) of this code, or any initiative act  
9 referred to in that division.

10 (b) This section shall not prohibit any agency established under  
11 Division 2 (commencing with Section 500) of this code, or any  
12 initiative act referred to in that division, from taking disciplinary  
13 action against a licensee for professional misconduct in the course  
14 and scope of the profession, which is based on evidence that is  
15 independent of an arrest.

16 SEC. 10. Section 493 of the Business and Professions Code is  
17 amended to read:

18 493. (a) Notwithstanding any other provision of law, in a  
19 proceeding conducted by a board within the department pursuant  
20 to law to deny an application for a license or to suspend or revoke  
21 a license or otherwise take disciplinary action against a person  
22 who holds a license, upon the ground that the applicant or the  
23 licensee has been convicted of a crime ~~substantially~~ *directly and*  
24 *adversely* related to the qualifications, functions, and duties of the  
25 licensee in question, the record of conviction of the crime shall be  
26 conclusive evidence of the fact that the conviction occurred, but  
27 only of that fact, and the board may inquire into the circumstances  
28 surrounding the commission of the crime in order to fix the degree  
29 of discipline or to determine if the conviction is substantially  
30 related to the qualifications, functions, and duties of the licensee  
31 in question. *fact.*

32 (b) (1) Criteria for determining whether a crime is directly and  
33 adversely related to the qualifications, functions, or duties of the  
34 business or profession the board regulates shall include all of the  
35 following:

36 (A) The nature and gravity of the offense.

37 (B) The number of years elapsed since the date of the offense.

38 (C) The nature and duties of the profession.

1 (2) A board shall not categorically bar an applicant based solely  
2 on the type of conviction without considering evidence of  
3 rehabilitation.

4 ~~As~~

5 (c) As used in this section, “license” includes “certificate,”  
6 “permit,” “authority,” and “registration.”

7 *SEC. 11. Section 1005 of the Business and Professions Code*  
8 *is amended to read:*

9 1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,  
10 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,  
11 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, ~~490.5~~,  
12 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,  
13 710, 716, 730.5, 731, and 851 are applicable to persons licensed  
14 by the State Board of Chiropractic Examiners under the  
15 Chiropractic Act.

16 ~~SEC. 2.~~

17 *SEC. 12. Section 11345.2 of the Business and Professions Code*  
18 *is amended to read:*

19 11345.2. (a) An individual shall not act as a controlling person  
20 for a registrant if any of the following apply:

21 (1) The individual has entered a plea of guilty or no contest to,  
22 or been convicted of, a felony. If the individual’s felony conviction  
23 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41  
24 of the Penal Code, the bureau may allow the individual to act as  
25 a controlling person.

26 (2) The individual has had a license or certificate to act as an  
27 appraiser or to engage in activities related to the transfer of real  
28 property refused, denied, canceled, or revoked in this state or any  
29 other state.

30 (b) Any individual who acts as a controlling person of an  
31 appraisal management company and who enters a plea of guilty  
32 or no contest to, or is convicted of, a felony, or who has a license  
33 or certificate as an appraiser refused, denied, canceled, or revoked  
34 in any other state shall report that fact or cause that fact to be  
35 reported to the office, in writing, within 10 days of the date he or  
36 she has knowledge of that fact.

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## Attachment A Applications Denied Based on Convictions

Applications Denied Based on Convictions - FY 2015/2016	Count
Battery and Assault – (Violent Crime)	5
Driving Under the Influence & Assault – (Violent Crime)	2
Driving Under the Influence of Alcohol/Drugs - (Non-Violent Crime)	12
Theft & Fraudulent Act (Non-Violent)	3
Possession of Controlled Substances (Non-Violent)	3
Sexual Battery & Lewd Act (Violent Crime)	1
Other Crimes – (Non-Violent)	2
<b>Total Denials Based on Convictions</b>	<b>28*</b>

Applications Denied Based on Convictions - FY 2016/2017	Count
Battery and Assault – (Violent Crime)	1
Driving Under the Influence & Assault – (Violent Crime)	0
Driving Under the Influence of Alcohol/Drugs - (Non-Violent Crime)	7
Theft & Fraudulent Act (Non-Violent)	8
Possession of Controlled Substances (Non-Violent)	1
Sexual Battery & Lewd Act (Violent Crime)	0
Other Crimes – (Non-Violent)	0
<b>Total Denials Based on Convictions</b>	<b>17*</b>

\*It should be noted that the above information only includes applications denied that were appealed and became final decisions. The majority of denied applicants (approximately 95%) appeal their denial. The above information does not include applications that were denied and no appeals were received; that information was not readily available.

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**Attachment B**  
**Penal Code Sections 1203.4, 1203.4a, 1203.41, and 1170**

**Penal Code (PC) §1203.4.**

(a) (1) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

(2) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(3) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(4) This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of Section 42002.1 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, subdivision (j) of Section 289, Section 311.1, 311.2, 311.3, or 311.11, or any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interests of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or

expunged, at a rate to be determined by the city council not to exceed one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(g) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

*(Amended by Stats. 2013, Ch. 143, Sec. 2. (AB 20) Effective January 1, 2014.)*

#### **PC§ 1203.4a.**

(a) Every defendant convicted of a misdemeanor and not granted probation, and every defendant convicted of an infraction shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime, and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty; or if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusatory pleading against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 13555 of the Vehicle Code.

(b) If a defendant does not satisfy all the requirements of subdivision (a), after a lapse of one year from the date of pronouncement of judgment, a court, in its discretion and in the interests of justice, may grant the relief available pursuant to subdivision (a) to a defendant convicted of an infraction, or of a misdemeanor and not granted probation, or both, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense, and is not under charge of commission of any crime.

(c) (1) The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he or she is sentenced. The defendant may make an application and change of plea in person or by attorney, or by the probation officer authorized in writing, provided that, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

(2) Dismissal of an accusatory pleading pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(3) Dismissal of an accusatory pleading underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(d) This section applies to any conviction specified in subdivision (a) or (b) that occurred before, as well as those occurring after, the effective date of this section, except that this section does not apply to the following:

(1) A misdemeanor violation of subdivision (c) of Section 288.

(2) Any misdemeanor falling within the provisions of Section 42002.1 of the Vehicle Code.

(3) Any infraction falling within the provisions of Section 42001 of the Vehicle Code.

(e) A person who petitions for a dismissal of a charge under this section may be required to reimburse the county and the court for the cost of services rendered at a rate to be determined by the county board of supervisors for the county and by the court for the court, not to exceed sixty dollars (\$60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars (\$60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(f) A petition for dismissal of an infraction pursuant to this section shall be by written declaration, except upon a showing of compelling need. Dismissal of an infraction shall not be granted under this section unless the prosecuting attorney has been given at least 15 days' notice of the petition for dismissal. It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(g) Any determination of amount made by a court under this section shall be valid only if either (1) made under procedures adopted by the Judicial Council or (2) approved by the Judicial Council.

*(Amended by Stats. 2013, Ch. 76, Sec. 153.5. (AB 383) Effective January 1, 2014.)*

#### **PC §1203.41.**

(a) If a defendant is sentenced pursuant to paragraph (5) of subdivision (h) of Section 1170, the court, in its discretion and in the interests of justice, may order the following relief, subject to the conditions of subdivision (b):

(1) The court may permit the defendant to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code.

(2) The relief available under this section may be granted only after the lapse of one year following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, or after the lapse of two years following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170.

(3) The relief available under this section may be granted only if the defendant is not under supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, and is not serving a sentence for, on probation for, or charged with the commission of any offense.

(4) The defendant shall be informed, either orally or in writing, of the provisions of this section and of his or her right, if any, to petition for a certificate of rehabilitation and pardon at the time he or she is sentenced.

(5) The defendant may make the application and change of plea in person or by attorney, or by a probation officer authorized in writing.

(b) Relief granted pursuant to subdivision (a) is subject to the following conditions:

(1) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed.

(2) The order shall state, and the defendant shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

(3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(4) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(c) This section applies to any conviction specified in subdivision (a) that occurred before, on, or after January 1, 2014.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

*(Added by Stats. 2013, Ch. 787, Sec. 1. (AB 651) Effective January 1, 2014.)*

## **PC §1170.**

(a) (1) The Legislature finds and declares that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, this purpose is best served by terms that are proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances.

(2) The Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational, rehabilitative, and restorative justice programs that are designed to promote behavior change and to prepare all eligible offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate all eligible offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to allow all eligible inmates the

opportunity to enroll in programs that promote successful return to the community. The Department of Corrections and Rehabilitation is directed to establish a mission statement consistent with these principles.

(3) In any case in which the sentence prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison or a term pursuant to subdivision (h) of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the sentence prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life, except as provided in paragraph (2) of subdivision (d). In any case in which the amount of preimprisonment credit under Section 2900.5 or any other law is equal to or exceeds any sentence imposed pursuant to this chapter, except for the remaining portion of mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h), the entire sentence shall be deemed to have been served, except for the remaining period of mandatory supervision, and the defendant shall not be actually delivered to the custody of the secretary or to the custody of the county correctional administrator. The court shall advise the defendant that he or she shall serve an applicable period of parole, postrelease community supervision, or mandatory supervision, and order the defendant to report to the parole or probation office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole, postrelease community supervision, or mandatory supervision. The sentence shall be deemed a separate prior prison term or a sentence of imprisonment in a county jail under subdivision (h) for purposes of Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation. In determining the appropriate term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall select the term which, in the court's discretion, best serves the interests of justice. The court shall set forth on the record the reasons for imposing the term selected and the court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000 or 3000.08 or postrelease community supervision for a period as provided in Section 3451.

(d) (1) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison or county jail pursuant to subdivision (h) and has been committed to the custody of the secretary or the county correctional administrator, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings in the case of state prison inmates, or the county correctional administrator in the case of county jail inmates, recall the

sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The court resentencing under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(2) (A) (i) When a defendant who was under 18 years of age at the time of the commission of the offense for which the defendant was sentenced to imprisonment for life without the possibility of parole has been incarcerated for at least 15 years, the defendant may submit to the sentencing court a petition for recall and resentencing.

(ii) Notwithstanding clause (i), this paragraph shall not apply to defendants sentenced to life without parole for an offense where it was pled and proved that the defendant tortured, as described in Section 206, his or her victim or the victim was a public safety official, including any law enforcement personnel mentioned in Chapter 4.5 (commencing with Section 830) of Title 3, or any firefighter as described in Section 245.1, as well as any other officer in any segment of law enforcement who is employed by the federal government, the state, or any of its political subdivisions.

(B) The defendant shall file the original petition with the sentencing court. A copy of the petition shall be served on the agency that prosecuted the case. The petition shall include the defendant's statement that he or she was under 18 years of age at the time of the crime and was sentenced to life in prison without the possibility of parole, the defendant's statement describing his or her remorse and work towards rehabilitation, and the defendant's statement that one of the following is true:

(i) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.

(ii) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the sentence is being considered for recall.

(iii) The defendant committed the offense with at least one adult codefendant.

(iv) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.

(C) If any of the information required in subparagraph (B) is missing from the petition, or if proof of service on the prosecuting agency is not provided, the court shall return the petition to the defendant and advise the defendant that the matter cannot be considered without the missing information.

(D) A reply to the petition, if any, shall be filed with the court within 60 days of the date on which the prosecuting agency was served with the petition, unless a continuance is granted for good cause.

(E) If the court finds by a preponderance of the evidence that one or more of the statements specified in clauses (i) to (iv), inclusive, of subparagraph (B) is true, the court shall recall the sentence and commitment previously ordered and hold a hearing to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. Victims, or victim family members if the victim is deceased, shall retain the rights to participate in the hearing.

(F) The factors that the court may consider when determining whether to resentence the defendant to a term of imprisonment with the possibility of parole include, but are not limited to, the following:

(i) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.

- (ii) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the defendant was sentenced to life without the possibility of parole.
- (iii) The defendant committed the offense with at least one adult codefendant.
- (iv) Prior to the offense for which the defendant was sentenced to life without the possibility of parole, the defendant had insufficient adult support or supervision and had suffered from psychological or physical trauma, or significant stress.
- (v) The defendant suffers from cognitive limitations due to mental illness, developmental disabilities, or other factors that did not constitute a defense, but influenced the defendant's involvement in the offense.
- (vi) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.
- (vii) The defendant has maintained family ties or connections with others through letter writing, calls, or visits, or has eliminated contact with individuals outside of prison who are currently involved with crime.
- (viii) The defendant has had no disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor.
- (G) The court shall have the discretion to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. The discretion of the court shall be exercised in consideration of the criteria in subparagraph (F). Victims, or victim family members if the victim is deceased, shall be notified of the resentencing hearing and shall retain their rights to participate in the hearing.
- (H) If the sentence is not recalled or the defendant is resented to imprisonment for life without the possibility of parole, the defendant may submit another petition for recall and resentencing to the sentencing court when the defendant has been committed to the custody of the department for at least 20 years. If the sentence is not recalled or the defendant is resented to imprisonment for life without the possibility of parole under that petition, the defendant may file another petition after having served 24 years. The final petition may be submitted, and the response to that petition shall be determined, during the 25th year of the defendant's sentence.
- (I) In addition to the criteria in subparagraph (F), the court may consider any other criteria that the court deems relevant to its decision, so long as the court identifies them on the record, provides a statement of reasons for adopting them, and states why the defendant does or does not satisfy the criteria.
- (J) This subdivision shall have retroactive application.
- (K) Nothing in this paragraph is intended to diminish or abrogate any rights or remedies otherwise available to the defendant.
- (e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.
- (2) The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:
  - (A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.
  - (B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentencing or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) Any physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

(5) The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

(6) Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(7) Any recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(8) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(9) If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession: a discharge medical summary, full medical records, state identification, parole or postrelease community supervision medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

(10) The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.



(11) The provisions of this subdivision shall be available to an inmate who is sentenced to a county jail pursuant to subdivision (h). For purposes of those inmates, "secretary" or "warden" shall mean the county correctional administrator and "chief medical officer" shall mean a physician designated by the county correctional administrator for this purpose.

(f) Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) (1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant (A) has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7 or a prior or current conviction for a violent felony described in subdivision (c) of Section 667.5, (B) has a prior felony conviction in another jurisdiction for an offense that has all the elements of a serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5, (C) is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) (A) Unless the court finds that, in the interests of justice, it is not appropriate in a particular case, the court, when imposing a sentence pursuant to paragraph (1) or (2), shall suspend execution of a concluding portion of the term for a period selected at the court's discretion.

(B) The portion of a defendant's sentenced term that is suspended pursuant to this paragraph shall be known as mandatory supervision, and, unless otherwise ordered by the court, shall commence upon release from physical custody or an alternative custody program, whichever is later. During the period of mandatory supervision, the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. Any proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section 1203.2 or Section 1203.3. During the period when the defendant is under that supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. Any time period which is suspended because a person has absconded shall not be credited toward the period of supervision.

(6) When the court is imposing a judgment pursuant to this subdivision concurrent or consecutive to a judgment or judgments previously imposed pursuant to this subdivision in another county or counties, the court rendering the second or other subsequent judgment shall determine the county or counties of incarceration and supervision of the defendant.

(7) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

(8) The sentencing changes made to paragraph (5) by the act that added this paragraph shall become effective and operative on January 1, 2015, and shall be applied prospectively to any person sentenced on or after January 1, 2015.

(i) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

*(Amended (as amended by Stats. 2016, Ch. 887, Sec. 5.3) by Stats. 2017, Ch. 287, Sec. 1. (SB 670) Effective January 1, 2018. Repealed as of January 1, 2022, by its own provisions. See later operative version, as amended by Sec. 2 of Stats. 2017, Ch. 287.)*

**Attachment C**  
**Business and Professions Code Sections 480 and 490**

**Business and Professions Code (BPC) §480**

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

**BPC §490**

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

## ATTACHMENT D

**PENAL CODE - PEN**

**PART 1. OF CRIMES AND PUNISHMENTS [25 - 680]** ( Part 1 enacted 1872. )

**TITLE 16. GENERAL PROVISIONS [654 - 678]** ( Title 16 enacted 1872. )

**667.5-** Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail under subdivision (h) of Section 1170 is imposed or is not suspended, in addition and consecutive to any other sentence therefor, the court shall impose a one-year term for each prior separate prison term or county jail term imposed under subdivision (h) of Section 1170 or when sentence is not suspended for any felony; provided that no additional term shall be imposed under this subdivision for any prison term or county jail term imposed under subdivision (h) of Section 1170 or when sentence is not suspended prior to a period of five years in which the defendant remained free of both the commission of an offense which results in a felony conviction, and prison custody or the imposition of a term of jail custody imposed under subdivision (h) of Section 1170 or any felony sentence that is not suspended. A term imposed under the provisions of paragraph (5) of subdivision (h) of Section 1170, wherein a portion of the term is suspended by the court to allow mandatory supervision, shall qualify as a prior county jail term for the purposes of the one-year enhancement.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(4) Sodomy as defined in subdivision (c) or (d) of Section 286.

(5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.

(6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.

(9) Any robbery.

(10) Arson, in violation of subdivision (a) or (b) of Section 451.

(11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.

(12) Attempted murder.

(13) A violation of Section 18745, 18750, or 18755.

(14) Kidnapping.

(15) Assault with the intent to commit a specified felony, in violation of Section 220.

(16) Continuous sexual abuse of a child, in violation of Section 288.5.

(17) Carjacking, as defined in subdivision (a) of Section 215.

(18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22.

(20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody, including any period of mandatory supervision, or until release on parole or postrelease community supervision, whichever first occurs, including any time during which the defendant remains subject to reimprisonment or custody in county jail for escape from custody or is reimprisoned on revocation of parole or postrelease community supervision. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison or in county jail under subdivision (h) of Section 1170.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which, if committed in California, is punishable by imprisonment in the state prison or in county jail under subdivision (h) of Section 1170 if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Mental Health, or its successor the State Department of State Hospitals, as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Secretary of the Department of Corrections and Rehabilitation is incarcerated at a facility operated by the Division of Juvenile Justice, that incarceration shall be deemed to be a term served in state prison.

(k) (1) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

(2) This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

*(Amended by Stats. 2014, Ch. 442, Sec. 10. (SB 1465) Effective September 18, 2014. Note: This section was amended on March 7, 2000, by initiative Prop. 21, and on Nov. 7, 2006, by initiative Prop. 83.)*

**Attachment E**  
**California Code of Regulation Title 16, Division 18, Section 1813**

**California Code of Regulation (CCR) Title 16:**

**§1813. CRITERIA FOR REHABILITATION-DENIAL OF LICENSURE**

When considering the denial of a license or registration under Section 480 of the Code, the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration shall consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in Section 480 of the Code.
- (d) The extent to which the applicant has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the applicant.
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 480 and 482, Business and Professions Code.

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**Attachment F**  
**AB 2138 - Estimated Fiscal Impact**

This bill requires that a licensee or registration on probation may file a petition and appeal to the Board to modify the probation after one year. The Board must then make a decision within 90 days of the petition being filed.

This is a shortening of the current appeal process. Current law allows a probationer to petition to modify probation after 2 years for a probation term of 3 years or more, or after one year for a probation of less than 3 years. Upon filing of the petition, the hearing must be held within 180 days.

This bill also requires extensive data collection on applicants and licensees who have a criminal background. The Board would need modifications to the Breeze database system to track the required information, and staff to collect and enter the data into the Breeze system.

**Staff Costs**

The Board estimates it would need the following new positions to comply with the above requirements:

1. One Attorney III position dedicated to complying with appeals within 90 days and representing the Board in court
2. One full time Office Technician in the Enforcement Unit to provide clerical support for the attorney, and to collect and enter the data the Board is required to collect.
3. One full time AGPA in the Enforcement Unit to track cases and receive and process petition requests.

**Additional Compliance Costs**

In addition to the staff costs listed above, the Board would also incur additional costs as follows:

1. Costs to program Breeze in order to collect the required data. (OIS would need to estimate this cost.)
2. Costs for additional Board meetings. The Board estimates it would need to meet approximately every month for 2 days in order to comply with the 90-day probation petition timeline. (This equals 8 additional 2-day Board meetings; the Board currently meets four times a year.) The Board approximates these additional meeting costs as follows:

Type of Cost	Amount
OAH (8 two-day meetings)	\$ 13,000
Court Reporter (8 two-day meetings)	\$ 12,800
Hotel Contract Cost (8 meetings)	\$ 24,000
Board Member Per Diem (8 two-day Meetings)	\$ 3,200
Other Unknown Expenses (Travel for Staff/Board Members)	\$150,000
<b>Total Cost for 8 two-day Meetings (per year)</b>	<b>\$203,000</b>

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## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 2608                      **VERSION:** AMENDED APRIL 3, 2018  
**AUTHOR:** STONE                              **SPONSOR:** JOURNEY HOUSE (SPONSOR)

**RECOMMENDED POSITION:** NONE

**SUBJECT:** LICENSED MENTAL HEALTH SERVICE PROVIDER EDUCATION PROGRAM:  
FORMER FOSTER YOUTH

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**Summary:** This bill creates a new fund under the Mental Health Practitioner Education Fund loan repayment grant program specifically for loan repayment grants for LMFT and LCSW licensees and registrants who were formerly in California's foster youth care system. The program would be funded by levying an additional \$10 fee on LMFT and LCSWs each renewal cycle.

**Existing Law:**

- 1) Establishes a maximum biennial renewal fee that LMFT, LCSW, and LPCC licensees must pay to renew a license. (Business and Professions Code (BPC) §§4984, 4984.7, 4996.3, 4996.6, 4999.102, 4999.120)
- 2) Sets the amount for the LMFT renewal fee at \$130 (California Code of Regulations (CCR) Title 16, Section 1816(d))
- 3) Sets the amount for the LCSW renewal fee at \$100. (16 CCR §1816(f))
- 4) Sets the amount for the LPCC renewal fee at \$175. (16 CCR §1816(g))
- 5) Effective July 1, 2018, requires that in addition to the regular biennial license renewal fee, LMFTs, LCSWs, and LPCCs must pay an additional \$20 biennial fee at renewal, which shall be deposited in the Mental Health Practitioner Education Fund. (BPC §§4984.75, 4996.65, 4999.121)
- 6) Creates the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation. Funds from this program are administered by the Office of Statewide Health Planning and Development (OSHDP). (Health and Safety Code (HSC) §§128454(a), 128458)
- 7) Allows any licensed mental health service provider who provides direct patient care in a publicly funded facility or a mental health professional shortage area to apply for grants under this program to reimburse educational loans related to a career as a licensed mental health service provider. (HSC §128454(c))

- 8) Defines a “licensed mental health service provider” to include several types of licensed mental health professionals, including marriage and family therapists, associate MFTs, licensed clinical social workers, associate clinical social workers, licensed professional clinical counselors, and associate professional clinical counselors. (HSC §128454(b))
- 9) Defines a “mental health professional shortage area” as an area given this designation by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. (HSC §128454(b))
- 10) Requires the Health Professions Education Foundation to develop the grant program, and allows it to make recommendations to the director of OSHPD regarding the following (HSC §128454(d) and (e)):
  - The length of the contract that a grant recipient must sign obligating him or her to work in a publicly funded facility or a mental health professional shortage area (the law requires it to be at least one year);
  - The maximum allowable total grant per person and the maximum annual grant per person;
- 11) When selecting loan repayment recipients, requires the Foundation to take into consideration the mental health workforce needs, including cultural and linguistic needs, of the state in general and of the qualifying facilities and mental health professional shortage areas. (22 California Code of Regulation (CCR) §97930.7)
- 12) Requires a recipient of a loan repayment grant to provide service for 24 months for no less than 32 hours per week. (22 CCR §97930.8(a))

**This Bill:**

- 1) Beginning January 1, 2019, requires the Board to collect an additional \$10 fee to LMFTs and LCSWs upon renewal, for deposit into the Mental Health Practitioner Education Fund. (BPC §§4984.75(b), 4996.65(b))
- 2) Requires the money deposited from the extra \$10 fee to be used solely to fund grants to repay educational loans for applicants who meet the following criteria (HSC §128455(a)(1)):
  - Commit to provide direct patient care in a publicly funded facility or mental health professional shortage area for at least 24 months;
  - Are LMFTs, associate MFTs, LCSWs, or ASWs; and
  - Were formerly in California’s foster youth care system.
- 3) Allows this grant to a former foster youth to be combined with other Licensed Mental Health Service Provider Education Program grants, for a total of up to \$20,000 in grant funding per applicant. (HSC §128455(a)(2))
- 4) In addition to this special grant program for former foster youth, requires individuals formerly in California’s foster youth system to be given priority over other grant applicants for the regular Mental Health Practitioner Education Fund loan repayment grants. (HSC §128455(b))

**Comment:**

- 1) **About the Sponsor.** This bill is sponsored by Journey House, which is an organization that assists former foster youth. Their web site states the following: “By providing education and housing support to former foster youth, along with critically important life-guidance, Journey House helps former foster youth to make a successful transition into self-sufficiency while completing their education and job training.”
- 2) **LPCCs and Associate Professional Clinical Counselors Not Included.** This bill creates a loan repayment grant program for former California foster youth who are marriage and family therapist and clinical social work licensees and registrants. However, LPCC licensees and registrants are not included in the program.
- 3) **Fee Comparison.** Below is a chart comparing the current biennial renewal fee for each license type with what the biennial renewal fee would be if this bill became law.

License Type	Current Renewal Fee (As of 7/1/18)			Proposed Renewal Fee			
	Renewal Fee	MHP Edu. Fund Fee	Total Fee	Renewal Fee	MHP Edu. Fund Fee	Foster Youth MHP Edu. Fund Fee [1]	Total Fee
LMFT	\$130	\$20	<b>\$150</b>	\$130	\$20	\$10	<b>\$160</b>
LCSW	\$100	\$20	<b>\$120</b>	\$100	\$20	\$10	<b>\$130</b>
LPCC	\$175	\$20	<b>\$195</b>	\$175	\$20	\$0	<b>\$195</b>

[1] LPCCs are currently omitted from this proposed program.

- 4) **Fiscal Impact and Revenue Generated.** If this bill became law, each LMFT and LCSW would pay an extra \$10 every other year.  
  
DCA’s Budget office estimates that approximately 26,000 LMFT and LCSW licensees renew each year, resulting in approximately \$260,000 in additional fee revenue per year.
- 5) **Delayed Implementation Needed.** Implementation of this bill will require new fee codes to be established in the Breeze database system. In addition, staff will need to update renewal forms for each license type to reflect the new fee amount. Given that license renewal notices are sent out three months in advance, and the deadline for the Governor to decide whether or not to sign this bill is September 30, 2018, the current effective date of January 1, 2019 does not allow enough time for implementation. Therefore, staff recommends that the Board consider asking for a delayed implementation date of July 1, 2019.
- 6) **Previous Legislation.** AB 1188 (Chapter 557, Statutes of 2018), increased the Mental Health Practitioner fee that LMFTs and LCSWs pay upon license renewal from \$10 to \$20. It also requires LPCCs to pay a \$20 fee into the fund upon license renewal (they previously were not included in the program), and allows LPCCs and associate PCCs to apply for the loan repayment grant if they work in a mental health professional shortage area.

The Board had a “support” position on AB 1188, and negotiated a 6-month delayed implementation date for the bill so that it could implement the change properly.

- 7) Recommended Position.** The Board’s Policy and Advocacy Committee considered this bill at its April 12, 2018 meeting. Concerns were discussed that the Mental Health Practitioner fee was just increased last year via AB 1188. In addition, the Board is in the process of beginning a fee audit. Finally, some had concerns that collecting a fee to fund loan repayments for one specific group may set a precedent that would cause others to request similar fees be collected for equally worthy causes.

The Committee decided to watch this bill, and asked staff to relay its concerns to the bill’s author. The author is now aware of the concerns, and is determining how to proceed.

**8) Support and Opposition.**

Support:

Journey House (Sponsor)

Opposition:

None at this time.

**9) History**

**2018**

04/04/18 Re-referred to Com. on B. & P.

04/03/18 From committee chair, with author’s amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

03/19/18 Re-referred to Com. on B. & P.

03/15/18 From committee chair, with author’s amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

03/15/18 Referred to Com. on B. & P.

02/16/18 From printer. May be heard in committee March 18.

02/15/18 Read first time. To print.

AMENDED IN ASSEMBLY APRIL 3, 2018  
AMENDED IN ASSEMBLY MARCH 15, 2018  
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2608**

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**Introduced by Assembly Member Mark Stone**

February 15, 2018

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An act to amend Sections 4984.75 and 4996.65 of the Business and Professions Code, and to add Section 128455 to the Health and Safety Code, relating to health professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2608, as amended, Mark Stone. Licensed Mental Health Service Provider Education Program: former foster youth.

Existing law authorizes any licensed mental health service provider, as defined, including a marriage and family therapist, associate marriage and family therapist, licensed clinical social worker, and associate clinical social worker, who provides direct patient care in a publicly funded facility or a mental health professional shortage area, as defined, to apply for grants under the Licensed Mental Health Service Provider Education Program to reimburse his or her educational loans related to a career as a licensed mental health service provider, as specified. Existing law establishes the Mental Health Practitioner Education Fund and provides that moneys in that fund are available, upon appropriation by the Legislature, for purposes of the Licensed Mental Health Service Provider Education Program.

The Licensed Marriage and Family Therapist Act and the Clinical Social Worker Practice Act make the Board of Behavioral Sciences responsible for the licensure and regulation of marriage and family

therapists, associate marriage and family therapists, clinical social workers, and associate clinical social workers, respectively. Those acts require the board to establish and assess biennial license renewal fees, as specified. Those acts also require the board to collect an additional fee at the time of renewal of those licenses and directs the deposit of that additional fee into the Mental Health Practitioner Education Fund.

With respect to grants funded with that fee under the Licensed Mental Health Service Provider Education Program, the bill would require applicants who were formerly in California’s foster youth care system to receive priority over other applicants. This bill would also require the Board of Behavioral Sciences to collect an additional \$10 fee for deposit into the Mental Health Practitioner Education Fund. The bill would require the \$10 fee to be used solely to fund grants to repay educational loans for applicants who commit to practice in specified facilities for ~~up to~~ *at least* 24 months, who are marriage and family therapists, associate marriage and family therapists, licensed clinical social workers, or associate clinical social workers, and who were formerly in California’s foster youth care system. The bill would authorize those grants to be combined with other grants provided under the Licensed Mental Health Service Provider Education Program to provide up to \$20,000 in grant funding per applicant.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

Vote:  $\frac{2}{3}$ . 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 4984.75 of the Business and Professions
- 2 Code, as added by Section 4 of Chapter 557 of the Statutes of
- 3 2017, is amended to read:
- 4 4984.75. (a) In addition to the fees charged pursuant to Section
- 5 4984.7 for the biennial renewal of a license pursuant to Section
- 6 4984, the board shall collect an additional fee of twenty dollars
- 7 (\$20) at the time of renewal. The board shall transfer this amount
- 8 to the Controller who shall deposit the funds in the Mental Health
- 9 Practitioner Education Fund.



1 (b) Commencing on January 1, 2019, in addition to the fees  
2 charged pursuant to Section 4984.7 for the biennial renewal of a  
3 license, and in addition to the fee charged pursuant to subdivision  
4 (a), the board shall collect an additional fee of ten dollars (\$10) at  
5 the time of renewal. The board shall transfer this amount to the  
6 Controller who shall deposit the funds in the Mental Health  
7 Practitioner Education Fund.

8 (c) This section shall become operative on July 1, 2018.

9 SEC. 2. Section 4996.65 of the Business and Professions Code,  
10 as added by Section 6 of Chapter 557 of the Statutes of 2017, is  
11 amended to read:

12 4996.65. (a) In addition to the fees charged pursuant to Section  
13 4996.3 for the biennial renewal of a license pursuant to Section  
14 4996.6, the board shall collect an additional fee of twenty dollars  
15 (\$20) at the time of renewal. The board shall transfer this amount  
16 to the Controller who shall deposit the funds in the Mental Health  
17 Practitioner Education Fund.

18 (b) Commencing on January 1, 2019, in addition to the fees  
19 charged pursuant to Section 4996.3 for the biennial renewal of a  
20 license pursuant to Section 4996.6, and in addition to the fee  
21 charged pursuant to subdivision (a), the board shall collect an  
22 additional fee of ten dollars (\$10) at the time of renewal. The board  
23 shall transfer this amount to the Controller who shall deposit the  
24 funds in the Mental Health Practitioner Education Fund.

25 (c) This section shall become operative on July 1, 2018.

26 SEC. 3. Section 128455 is added to the Health and Safety Code,  
27 to read:

28 128455. (a) (1) The moneys deposited in the Mental Health  
29 Practitioner Education Fund pursuant to subdivision (b) of Section  
30 4984.75 of, and subdivision (b) of Section 4996.65 of, the Business  
31 and Professions Code shall be used solely to fund grants, consistent  
32 with this article, to repay educational loans for applicants who  
33 meet all of the following requirements:

34 (A) Commit to provide direct patient care in a publicly funded  
35 facility or a mental health professional shortage area for ~~up to~~ *at*  
36 *least* 24 months.

37 (B) Are marriage and family therapists, associate marriage and  
38 family therapists, licensed clinical social workers, or associate  
39 clinical social workers.

40 (C) Were formerly in California's foster youth care system.

1 (2) A grant provided to an applicant pursuant to paragraph (1)  
2 may be combined with other grants provided to the applicant under  
3 this article to provide a total of up to twenty thousand dollars  
4 (\$20,000) in grant funding per applicant.

5 (b) An applicant for a grant under this article, from the moneys  
6 deposited in the Mental Health Practitioner Education Fund  
7 pursuant to subdivision (a) of Section 4984.75 of, and subdivision  
8 (a) of Section 4996.65 of, the Business and Professions Code, who  
9 is a marriage and family therapist, associate marriage and family  
10 therapist, licensed clinical social worker, or an associate clinical  
11 social worker and who was formerly in California's foster youth  
12 care system shall be given priority over other grant applicants  
13 within the corresponding licensed provider group.

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## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** AB 2302                      **VERSION:** AMENDED MARCH 15, 2018

**AUTHOR:** BAKER                              **SPONSOR:** AUTHOR

**RECOMMENDED POSITION:** NONE

**SUBJECT:** CHILD ABUSE: SEXUAL ASSAULT: MANDATED REPORTERS

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**Summary:** This bill would make a mandated reporter's failure to report the sexual assault of a child a continuing offense. This means that the one-year statute of limitations would begin when law enforcement discovers the failure to report, instead of when the failure to report occurred.

### **Existing Law:**

- 1) Specifies that licensees of the Board of Behavioral Sciences (Board) are mandated reporters under the Child Abuse and Neglect Reporting Act and as such, must submit a report whenever in their professional capacity, they have knowledge of, or observe a child who is known, or reasonably suspected to have been, a victim of child abuse or neglect. (Penal Code (PC) §§11165.7(a)(21) – (25) and 11166(a))
- 2) Requires mandated reports of suspected child abuse or neglect be made to any police or sheriff's department, the county probation department, or the county welfare department. (PC §11165.9)
- 3) States that a mandated reporter who fails to report is guilty of a misdemeanor, with a punishment of up to 6 months in county jail, a \$1,000 fine, or both. (PC §11166(c))
- 4) Sets the statute of limitation for a mandated reporter's failure to report at one year (starting when the mandated reporter fails to report). (PC §802(a))
- 5) Specifies that if a mandated reporter intentionally conceals his or her failure to report, that failure to report is a continuing offense until an agency discovers the offense. (In such a case, the one-year statute of limitations does not start until the law enforcement agency discovers the offense. (PC §11166(c))

### **This Bill:**

- 1) Makes a mandated reporter's failure to report known sexual assault of a child a continuing offense until the agency discovers the offense. (PC §11166(c))

### **Comment:**

- 1) **Author's Intent.** The author's office notes that current law does not make failure to report the sexual assault of a child a continuing offense. This can mean that by the time the abuse is discovered, the statute of limitations is up and the mandated reporter cannot be

prosecuted (because the statute of limitations began when the failure to report occurred, not when law enforcement learned of the failure to report.) Therefore, this bill seeks to make failure to report sexual assault of a child a continuing offense. Making a failure to report a continuing offense would mean the one-year statute of limitations would not begin until law enforcement learned of the failure to report, allowing the mandated reporter to be held accountable.

## 2) **Support and Opposition.**

### Support

- California Statewide Law Enforcement Association
- Child Abuse Prevention Council
- Crime Victims United
- Consumer Attorneys of California
- Contra Costa County District Attorneys' Association
- S.E.S.A.M.E.

### Opposition

- American Civil Liberties Union of California

## 3) **History**

- 04/19/18 In Senate. Read first time. To Com. on RLS. for assignment.
- 04/19/18 Read third time. Passed. Ordered to the Senate. (Ayes 71. Noes 0.)
- 04/11/18 Read second time. Ordered to third reading.
- 04/10/18 From committee: Do pass. (Ayes 6. Noes 0.) (April 10).
- 04/10/18 Coauthors revised.
- 03/19/18 Re-referred to Com. on PUB. S.
- 03/15/18 From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.
- 03/15/18 Referred to Com. on PUB. S.
- 02/14/18 From printer. May be heard in committee March 16.
- 02/13/18 Read first time. To print.

AMENDED IN ASSEMBLY MARCH 15, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2302**

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**Introduced by Assembly Member Baker**  
*(Coauthors: Assembly Members Acosta, Cooper, Mathis, and  
Rodriguez)*  
*(Coauthor: Senator Nguyen)*

February 13, 2018

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An act to amend Section 11166 of the Penal Code, relating to ~~child abuse~~ mandated reporters.

LEGISLATIVE COUNSEL'S DIGEST

AB 2302, as amended, Baker. ~~Child abuse~~: *sexual assault: mandated reporters.*

Existing law, the Child Abuse and Neglect Reporting Act, makes certain persons, including teachers and social workers, mandated reporters. Under existing law, mandated reporters are required to report whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure by a mandated reporter to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor. *Existing law generally requires prosecution of a misdemeanor to commence within one year after commission of the offense. Under existing law, if the mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect, it is a continuing offense until discovered by the appropriate law enforcement agency.*

This bill would ~~state the intent of the Legislature to enact legislation relating to child abuse.~~ *make the failure to report an incident known by the mandated reporter to be sexual assault, as defined, a continuing offense until the appropriate law enforcement agency discovers the offense.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1 ~~SECTION 1. It is the intent of the Legislature to enact~~  
2 ~~legislation relating to child abuse.~~

3 *SECTION 1. Section 11166 of the Penal Code is amended to*  
4 *read:*

5 11166. (a) Except as provided in subdivision (d), and in  
6 Section 11166.05, a mandated reporter shall make a report to an  
7 agency specified in Section 11165.9 whenever the mandated  
8 reporter, in his or her professional capacity or within the scope of  
9 his or her employment, has knowledge of or observes a child whom  
10 the mandated reporter knows or reasonably suspects has been the  
11 victim of child abuse or neglect. The mandated reporter shall make  
12 an initial report by telephone to the agency immediately or as soon  
13 as is practicably possible, and shall prepare and send, fax, or  
14 electronically transmit a written followup report within 36 hours  
15 of receiving the information concerning the incident. The mandated  
16 reporter may include with the report any nonprivileged  
17 documentary evidence the mandated reporter possesses relating  
18 to the incident.

19 (1) For purposes of this article, “reasonable suspicion” means  
20 that it is objectively reasonable for a person to entertain a suspicion,  
21 based upon facts that could cause a reasonable person in a like  
22 position, drawing, when appropriate, on his or her training and  
23 experience, to suspect child abuse or neglect. “Reasonable  
24 suspicion” does not require certainty that child abuse or neglect  
25 has occurred nor does it require a specific medical indication of  
26 child abuse or neglect; any “reasonable suspicion” is sufficient.  
27 For purposes of this article, the pregnancy of a minor does not, in  
28 and of itself, constitute a basis for a reasonable suspicion of sexual  
29 abuse.

1 (2) The agency shall be notified and a report shall be prepared  
2 and sent, faxed, or electronically transmitted even if the child has  
3 expired, regardless of whether or not the possible abuse was a  
4 factor contributing to the death, and even if suspected child abuse  
5 was discovered during an autopsy.

6 (3) A report made by a mandated reporter pursuant to this  
7 section shall be known as a mandated report.

8 (b) If, after reasonable efforts, a mandated reporter is unable to  
9 submit an initial report by telephone, he or she shall immediately  
10 or as soon as is practicably possible, by fax or electronic  
11 transmission, make a one-time automated written report on the  
12 form prescribed by the Department of Justice, and shall also be  
13 available to respond to a telephone followup call by the agency  
14 with which he or she filed the report. A mandated reporter who  
15 files a one-time automated written report because he or she was  
16 unable to submit an initial report by telephone is not required to  
17 submit a written followup report.

18 (1) The one-time automated written report form prescribed by  
19 the Department of Justice shall be clearly identifiable so that it is  
20 not mistaken for a standard written followup report. In addition,  
21 the automated one-time report shall contain a section that allows  
22 the mandated reporter to state the reason the initial telephone call  
23 was not able to be completed. The reason for the submission of  
24 the one-time automated written report in lieu of the procedure  
25 prescribed in subdivision (a) shall be captured in the Child Welfare  
26 Services/Case Management System (CWS/CMS). The department  
27 shall work with stakeholders to modify reporting forms and the  
28 CWS/CMS as is necessary to accommodate the changes enacted  
29 by these provisions.

30 (2) This subdivision shall not become operative until the  
31 CWS/CMS is updated to capture the information prescribed in this  
32 subdivision.

33 (3) This subdivision shall become inoperative three years after  
34 this subdivision becomes operative or on January 1, 2009,  
35 whichever occurs first.

36 (4) On the inoperative date of these provisions, a report shall  
37 be submitted to the counties and the Legislature by the State  
38 Department of Social Services that reflects the data collected from  
39 automated one-time reports indicating the reasons stated as to why

1 the automated one-time report was filed in lieu of the initial  
2 telephone report.

3 ~~(5) Nothing in this section shall~~ *This section does not* supersede  
4 the requirement that a mandated reporter first attempt to make a  
5 report via telephone, or that agencies specified in Section 11165.9  
6 accept reports from mandated reporters and other persons as  
7 required.

8 (c) A mandated reporter who fails to report an incident of known  
9 or reasonably suspected child abuse or neglect as required by this  
10 section is guilty of a misdemeanor punishable by up to six months  
11 confinement in a county jail or by a fine of one thousand dollars  
12 (\$1,000) or by both that imprisonment and fine. If a mandated  
13 reporter *either fails to report an incident under this section known*  
14 *by the mandated reporter to be sexual assault as defined in Section*  
15 *11165.1, or if the mandated reporter intentionally conceals his or*  
16 *her failure to report an incident known by the mandated reporter*  
17 *to be abuse or severe neglect under this section, the failure to report*  
18 *is a continuing offense until an agency specified in Section 11165.9*  
19 *discovers the offense.*

20 (d) (1) A clergy member who acquires knowledge or a  
21 reasonable suspicion of child abuse or neglect during a penitential  
22 communication is not subject to subdivision (a). For the purposes  
23 of this subdivision, “penitential communication” means a  
24 communication, intended to be in confidence, including, but not  
25 limited to, a sacramental confession, made to a clergy member  
26 who, in the course of the discipline or practice of his or her church,  
27 denomination, or organization, is authorized or accustomed to hear  
28 those communications, and under the discipline, tenets, customs,  
29 or practices of his or her church, denomination, or organization,  
30 has a duty to keep those communications secret.

31 ~~(2) Nothing in this subdivision shall be construed to~~ *This*  
32 *subdivision does not* modify or limit a clergy member’s duty to  
33 report known or suspected child abuse or neglect when the clergy  
34 member is acting in some other capacity that would otherwise  
35 make the clergy member a mandated reporter.

36 (3) (A) On or before January 1, 2004, a clergy member or any  
37 custodian of records for the clergy member may report to an agency  
38 specified in Section 11165.9 that the clergy member or any  
39 custodian of records for the clergy member, prior to January 1,  
40 1997, in his or her professional capacity or within the scope of his



1 or her employment, other than during a penitential communication,  
2 acquired knowledge or had a reasonable suspicion that a child had  
3 been the victim of sexual abuse and that the clergy member or any  
4 custodian of records for the clergy member did not previously  
5 report the abuse to an agency specified in Section 11165.9. The  
6 provisions of Section 11172 shall apply to all reports made pursuant  
7 to this paragraph.

8 (B) This paragraph shall apply even if the victim of the known  
9 or suspected abuse has reached the age of majority by the time the  
10 required report is made.

11 (C) The local law enforcement agency shall have jurisdiction  
12 to investigate any report of child abuse made pursuant to this  
13 paragraph even if the report is made after the victim has reached  
14 the age of majority.

15 (e) (1) A commercial film, photographic print, or image  
16 processor who has knowledge of or observes, within the scope of  
17 his or her professional capacity or employment, any film,  
18 photograph, videotape, negative, slide, or any representation of  
19 information, data, or an image, including, but not limited to, any  
20 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
21 video laser disc, computer hardware, computer software, computer  
22 floppy disk, data storage medium, CD-ROM, computer-generated  
23 equipment, or computer-generated image depicting a child under  
24 16 years of age engaged in an act of sexual conduct, shall,  
25 immediately or as soon as practicably possible, telephonically  
26 report the instance of suspected abuse to the law enforcement  
27 agency located in the county in which the images are seen. Within  
28 36 hours of receiving the information concerning the incident, the  
29 reporter shall prepare and send, fax, or electronically transmit a  
30 written followup report of the incident with a copy of the image  
31 or material attached.

32 (2) A commercial computer technician who has knowledge of  
33 or observes, within the scope of his or her professional capacity  
34 or employment, any representation of information, data, or an  
35 image, including, but not limited to, any computer hardware,  
36 computer software, computer file, computer floppy disk, data  
37 storage medium, CD-ROM, computer-generated equipment, or  
38 computer-generated image that is retrievable in perceivable form  
39 and that is intentionally saved, transmitted, or organized on an  
40 electronic medium, depicting a child under 16 years of age engaged

1 in an act of sexual conduct, shall immediately, or as soon as  
2 practicably possible, telephonically report the instance of suspected  
3 abuse to the law enforcement agency located in the county in which  
4 the images or materials are seen. As soon as practicably possible  
5 after receiving the information concerning the incident, the reporter  
6 shall prepare and send, fax, or electronically transmit a written  
7 followup report of the incident with a brief description of the  
8 images or materials.

9 (3) For purposes of this article, “commercial computer  
10 technician” includes an employee designated by an employer to  
11 receive reports pursuant to an established reporting process  
12 authorized by subparagraph (B) of paragraph (43) of subdivision  
13 (a) of Section 11165.7.

14 (4) As used in this subdivision, “electronic medium” includes,  
15 but is not limited to, a recording, CD-ROM, magnetic disk memory,  
16 magnetic tape memory, CD, DVD, thumbdrive, or any other  
17 computer hardware or media.

18 (5) As used in this subdivision, “sexual conduct” means any of  
19 the following:

20 (A) Sexual intercourse, including genital-genital, oral-genital,  
21 anal-genital, or oral-anal, whether between persons of the same or  
22 opposite sex or between humans and animals.

23 (B) Penetration of the vagina or rectum by any object.

24 (C) Masturbation for the purpose of sexual stimulation of the  
25 viewer.

26 (D) Sadoomasochistic abuse for the purpose of sexual stimulation  
27 of the viewer.

28 (E) Exhibition of the genitals, pubic, or rectal areas of a person  
29 for the purpose of sexual stimulation of the viewer.

30 (f) Any mandated reporter who knows or reasonably suspects  
31 that the home or institution in which a child resides is unsuitable  
32 for the child because of abuse or neglect of the child shall bring  
33 the condition to the attention of the agency to which, and at the  
34 same time as, he or she makes a report of the abuse or neglect  
35 pursuant to subdivision (a).

36 (g) Any other person who has knowledge of or observes a child  
37 whom he or she knows or reasonably suspects has been a victim  
38 of child abuse or neglect may report the known or suspected  
39 instance of child abuse or neglect to an agency specified in Section  
40 11165.9. For purposes of this section, “any other person” includes

1 a mandated reporter who acts in his or her private capacity and  
2 not in his or her professional capacity or within the scope of his  
3 or her employment.

4 (h) When two or more persons, who are required to report,  
5 jointly have knowledge of a known or suspected instance of child  
6 abuse or neglect, and when there is agreement among them, the  
7 telephone report may be made by a member of the team selected  
8 by mutual agreement and a single report may be made and signed  
9 by the selected member of the reporting team. Any member who  
10 has knowledge that the member designated to report has failed to  
11 do so shall thereafter make the report.

12 (i) (1) The reporting duties under this section are individual,  
13 and no supervisor or administrator may impede or inhibit the  
14 reporting duties, and no person making a report shall be subject  
15 to any sanction for making the report. However, internal procedures  
16 to facilitate reporting and apprise supervisors and administrators  
17 of reports may be established provided that they are not inconsistent  
18 with this article. An internal policy shall not direct an employee  
19 to allow his or her supervisor to file or process a mandated report  
20 under any circumstances.

21 (2) The internal procedures shall not require any employee  
22 required to make reports pursuant to this article to disclose his or  
23 her identity to the employer.

24 (3) Reporting the information regarding a case of possible child  
25 abuse or neglect to an employer, supervisor, school principal,  
26 school counselor, coworker, or other person shall not be a substitute  
27 for making a mandated report to an agency specified in Section  
28 11165.9.

29 (j) (1) A county probation or welfare department shall  
30 immediately, or as soon as practicably possible, report by  
31 telephone, fax, or electronic transmission to the law enforcement  
32 agency having jurisdiction over the case, to the agency given the  
33 responsibility for investigation of cases under Section 300 of the  
34 Welfare and Institutions Code, and to the district attorney's office  
35 every known or suspected instance of child abuse or neglect, as  
36 defined in Section 11165.6, except acts or omissions coming within  
37 subdivision (b) of Section 11165.2, or reports made pursuant to  
38 Section 11165.13 based on risk to a child that relates solely to the  
39 inability of the parent to provide the child with regular care due  
40 to the parent's substance abuse, which shall be reported only to

1 the county welfare or probation department. A county probation  
2 or welfare department also shall send, fax, or electronically transmit  
3 a written report thereof within 36 hours of receiving the information  
4 concerning the incident to any agency to which it makes a  
5 telephone report under this subdivision.

6 (2) A county probation or welfare department shall immediately,  
7 and in no case in more than 24 hours, report to the law enforcement  
8 agency having jurisdiction over the case after receiving information  
9 that a child or youth who is receiving child welfare services has  
10 been identified as the victim of commercial sexual exploitation,  
11 as defined in subdivision (d) of Section 11165.1.

12 (3) When a child or youth who is receiving child welfare  
13 services and who is reasonably believed to be the victim of, or is  
14 at risk of being the victim of, commercial sexual exploitation, as  
15 defined in Section 11165.1, is missing or has been abducted, the  
16 county probation or welfare department shall immediately, or in  
17 no case later than 24 hours from receipt of the information, report  
18 the incident to the appropriate law enforcement authority for entry  
19 into the National Crime Information Center database of the Federal  
20 Bureau of Investigation and to the National Center for Missing  
21 and Exploited Children.

22 (k) A law enforcement agency shall immediately, or as soon as  
23 practicably possible, report by telephone, fax, or electronic  
24 transmission to the agency given responsibility for investigation  
25 of cases under Section 300 of the Welfare and Institutions Code  
26 and to the district attorney's office every known or suspected  
27 instance of child abuse or neglect reported to it, except acts or  
28 omissions coming within subdivision (b) of Section 11165.2, which  
29 shall be reported only to the county welfare or probation  
30 department. A law enforcement agency shall report to the county  
31 welfare or probation department every known or suspected instance  
32 of child abuse or neglect reported to it which is alleged to have  
33 occurred as a result of the action of a person responsible for the  
34 child's welfare, or as the result of the failure of a person responsible  
35 for the child's welfare to adequately protect the minor from abuse  
36 when the person responsible for the child's welfare knew or  
37 reasonably should have known that the minor was in danger of  
38 abuse. A law enforcement agency also shall send, fax, or  
39 electronically transmit a written report thereof within 36 hours of

1 receiving the information concerning the incident to any agency  
2 to which it makes a telephone report under this subdivision.

3

4

5 **REVISIONS:**

6 **Heading—Line 2.**

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- 2) Removes the time limit for recovery of damages due to childhood sexual assault. (CCP §340.1(a))
- 3) Allows a person who is sexually assaulted as a result of a cover up to recover treble damages against a defendant found to have covered up the sexual assault of a minor. (CCP §340.1(b))
- 4) Defines a “cover up” as an effort to hide evidence relating to a childhood sexual assault, including moving the perpetrator to another location without notifying authorities and adults at the new location, giving an accused person a positive recommendation without disclosing the accusations, or destroying documents to conceal a childhood sexual assault. (CCP §340.1(b))
- 5) Requires a person holding a professional state license to report to his or her state licensing agency that an action to recover damages due to childhood sexual assault has been filed against him or her. If a judgement is entered, they must also report the entry of judgement. The licensee must report this information within 30 days of learning of it. Failure to comply may be grounds for the licensing agency to take disciplinary action. (CCP §340.1(c))

**Comments:**

- 1) **Author’s Intent.** The author’s office states that due to psychological trauma, shame, fear, or other reasons, victims of childhood sexual assault can take a long time to come forward. They cite cases with USA Gymnastics and USA swimming, in which victims took many years to come forward, and in some cases, others within the organization were aware of the abuse but did not take action.

With this bill, the author is seeking to expand access to justice for victims of childhood sexual assault by removing arbitrary time limits for reporting, and increasing damages that may be recovered. They note that several other jurisdictions, such as Delaware, Maine, Utah, and Guam have removed the statute of limitations for claims of childhood sexual abuse.

- 2) **Licensee Reporting of Filed Action.** This bill would require Board licensees to report to the Board within 30 days that an action to recover damages due to childhood sexual assault has been filed against him or her. If a judgement is entered, they must also report the entry of judgement. Failure to do this may be grounds for disciplinary action.

The Board would be able to take action against a licensee who had been found guilty of childhood sexual assault. However, the Board may wish to discuss what, if any, action it would legally be able to take against a licensee if it received a report that an action had been filed, but not yet proven.

**3) Support and Opposition.**

**Support:**

- National Center for Victims of Crime (sponsor)
- California State PTA
- Consumer Attorneys of California
- Crime Victims United of California
- National Association of Social Workers – California Chapter



**Oppose:**

- American Insurance Association
- California Association of School Business Officials
- California Association of Joint Powers Authority
- California Catholic Conference (unless amended)
- CSAC Excess Insurance Authority
- Independent Insurance Agents & Bankers of California
- Property Casualty Insurers Association of America
- Schools Excess Liability Fund

**4) History.**

**2018**

05/01/18 Re-referred to Com. on APPR.

04/30/18 Read second time and amended.

04/26/18 From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 8. Noes 0.) (April 24).

04/23/18 Re-referred to Com. on JUD.

04/19/18 From committee chair, with author's amendments: Amend, and re-refer to Com. on JUD. Read second time and amended.

03/12/18 Referred to Com. on JUD.

02/17/18 From printer. May be heard in committee March 19.

02/16/18 Read first time. To print.

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AMENDED IN ASSEMBLY APRIL 30, 2018

AMENDED IN ASSEMBLY APRIL 19, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3120**

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**Introduced by Assembly Member Gonzalez Fletcher**

February 16, 2018

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An act to amend Sections 340.1 and 1002 of the Code of Civil Procedure, and to amend Section 905 of the Government Code, relating to childhood sexual assault.

LEGISLATIVE COUNSEL'S DIGEST

AB 3120, as amended, Gonzalez Fletcher. Damages: childhood sexual assault: statute of limitations.

Existing law requires that an action for recovery of damages suffered as a result of childhood sexual abuse, as defined, be commenced within 8 years of the date the plaintiff attains the age of majority or within 3 years of the date the plaintiff discovers or reasonably should have discovered that the psychological injury or illness occurring after the age of majority was caused by sexual abuse, whichever occurs later, and provides that certain of those actions may not be commenced on or after the plaintiff's 26th birthday. Existing law also prohibits confidentiality provisions within a settlement agreement arising from a claim of childhood sexual abuse.

This bill would expand the definition of childhood sexual abuse, which it would instead refer to childhood sexual assault. This bill would eliminate the time limit for commencing an action for recovery of damages suffered as a result of childhood sexual assault and would provide for the recovery of treble damages against certain defendants

in these actions. This bill would also require a person who holds a license in the state to report any childhood sexual assault claim made against him or her, and any ensuing judgment, to the relevant licensing agency.

Existing law, the Government Claims Act, generally requires the presentation of all claims for money or damages against local public entities. The Government Claims Act excludes from this requirement claims made for the recovery of damages suffered as a result of childhood sexual abuse, as defined, arising from conduct that occurred on or after January 1, 2009.

This bill would change that reference from childhood sexual abuse to childhood sexual assault, as defined, and it would remove the requirement that the conduct occurred on or after that specified date. The bill would also make a conforming change to the provision governing confidentiality provisions in childhood sexual abuse claims.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 340.1 of the Code of Civil Procedure is
- 2 amended to read:
- 3 340.1. (a) In an action for recovery of damages suffered as a
- 4 result of childhood sexual assault, there is no time limit for
- 5 commencement of any of the following actions:
- 6 (1) An action against any person for committing an act of
- 7 childhood sexual assault.
- 8 (2) An action for liability against any person or entity who owed
- 9 a duty of care to the plaintiff, if a wrongful or negligent act by that
- 10 person or entity was a legal cause of the childhood sexual assault
- 11 that resulted in the injury to the plaintiff.
- 12 (3) An action for liability against any person or entity if an
- 13 intentional act by that person or entity was a legal cause of the
- 14 childhood sexual assault that resulted in the injury to the plaintiff.
- 15 (b) (1) In an action described in subdivision (a), a person who
- 16 is sexually assaulted as the result of a cover up may recover treble
- 17 damages against a defendant who is found to have covered up the
- 18 sexual assault of a minor.
- 19 (2) For purposes of this subdivision, a “cover up” is a concerted
- 20 effort to hide evidence relating to childhood sexual assault, which

1 includes moving a perpetrator to another location without notifying  
2 authorities and adults at the new location, giving an accused  
3 perpetrator a positive recommendation for further employment  
4 without disclosing the accusations of childhood-~~sex~~ *sexual* assault,  
5 or destroying documents to conceal childhood-~~sex~~ *sexual* assault.

6 (c) A person holding a professional license from the state shall  
7 report to the licensing agency that an action pursuant to subdivision  
8 (a) has been filed against him or her. If a judgment is entered, the  
9 licensee shall also report the entry of judgment to the licensing  
10 agency. Reports made pursuant to this subdivision shall be made  
11 in writing within 30 days of the licensee learning of the action or  
12 judgment. Failure to comply with this subdivision ~~is~~ *may be*  
13 grounds for the licensing agency to discipline the licensee.

14 (d) In an action described in subdivision (a), a court shall not  
15 keep confidential the name of any alleged perpetrator of childhood  
16 sexual assault, and the fact that he or she has been accused shall  
17 not be sealed in any court records unless the party requesting the  
18 confidentiality or sealing establishes good cause.

19 (e) “Childhood sexual assault” as used in this section includes  
20 any act committed against the plaintiff that occurred when the  
21 plaintiff was under the age of 18 years and that would have been  
22 proscribed by Section 266j of the Penal Code; Section 285 of the  
23 Penal Code; paragraph (1) or (2) of subdivision (b), or of  
24 subdivision (c), of Section 286 of the Penal Code; subdivision (a)  
25 or (b) of Section 288 of the Penal Code; paragraph (1) or (2) of  
26 subdivision (b), or of subdivision (c), of Section 288a of the Penal  
27 Code; Section 288.2 of the Penal Code; Section 288.4 of the Penal  
28 Code; subdivision (h), (i), or (j) of Section 289 of the Penal Code;  
29 Section 311.3 of the Penal Code; Section 311.4 of the Penal Code;  
30 any sexual conduct as defined in paragraph (1) of subdivision (d)  
31 of Section 311.4 of the Penal Code; Section 647.6 of the Penal  
32 Code; or any prior laws of this state of similar effect at the time  
33 the act was committed. This subdivision does not limit the  
34 availability of causes of action permitted under subdivision (a),  
35 including causes of action against persons or entities other than  
36 the alleged perpetrator of the abuse.

37 (f) This section shall not be construed to alter the otherwise  
38 applicable burden of proof, as defined in Section 115 of the  
39 Evidence Code, that a plaintiff has in a civil action subject to this  
40 section.

1 (g) The changes made to this section by the act that added this  
 2 subdivision apply to and revive any action commenced on or after  
 3 the date of enactment of that act, and to any action filed before the  
 4 date of enactment, and still pending on that date, including any  
 5 action or causes of action that would have been barred by the laws  
 6 in effect before the date of enactment. This subdivision is not  
 7 intended to revive actions or causes of action as to which there has  
 8 been a final adjudication before the date of enactment.

9 SEC. 2. Section 1002 of the Code of Civil Procedure is  
 10 amended to read:

11 1002. (a) Notwithstanding any other law, a provision within  
 12 a settlement agreement that prevents the disclosure of factual  
 13 information related to the action is prohibited in any civil action  
 14 the factual foundation for which establishes a cause of action for  
 15 civil damages for any of the following:

- 16 (1) An act that may be prosecuted as a felony sex offense.
- 17 (2) An act of childhood sexual assault, as defined in Section  
 18 340.1.
- 19 (3) An act of sexual exploitation of a minor, as defined in  
 20 Section 11165.1 of the Penal Code, or conduct prohibited with  
 21 respect to a minor pursuant to Section 311.1, 311.5, or 311.6 of  
 22 the Penal Code.
- 23 (4) An act of sexual assault, as defined in paragraphs (1) to (9),  
 24 inclusive, of subdivision (e) of Section 15610.63 of the Welfare  
 25 and Institutions Code, against an elder or dependent adult, as  
 26 defined in Sections 15610.23 and 15610.27 of the Welfare and  
 27 Institutions Code.

28 (b) Notwithstanding any other law, in a civil action described  
 29 in paragraphs (1) to (4), inclusive, of subdivision (a), a court shall  
 30 not enter, by stipulation or otherwise, an order that restricts the  
 31 disclosure of information in a manner that conflicts with  
 32 subdivision (a).

33 (c) Subdivisions (a) and (b) do not preclude an agreement  
 34 preventing the disclosure of any medical information or personal  
 35 identifying information, as defined in subdivision (b) of Section  
 36 530.55 of the Penal Code, regarding the victim of the offense listed  
 37 in subdivision (a) or of any information revealing the nature of the  
 38 relationship between the victim and the defendant. This subdivision  
 39 shall not be construed to limit the right of a crime victim to disclose  
 40 this information.

1 (d) Except as authorized by subdivision (c), a provision within  
2 a settlement agreement that prevents the disclosure of factual  
3 information related to the action described in subdivision (a) that  
4 is entered into on or after January 1, 2017, is void as a matter of  
5 law and against public policy.

6 (e) An attorney's failure to comply with the requirements of  
7 this section by demanding that a provision be included in a  
8 settlement agreement that prevents the disclosure of factual  
9 information related to the action described in subdivision (a) that  
10 is not otherwise authorized by subdivision (c) as a condition of  
11 settlement, or advising a client to sign an agreement that includes  
12 such a provision, may be grounds for professional discipline and  
13 the State Bar of California shall investigate and take appropriate  
14 action in any such case brought to its attention.

15 SEC. 3. Section 905 of the Government Code is amended to  
16 read:

17 905. There shall be presented in accordance with Chapter 1  
18 (commencing with Section 900) and Chapter 2 (commencing with  
19 Section 910) all claims for money or damages against local public  
20 entities except any of the following:

21 (a) Claims under the Revenue and Taxation Code or other statute  
22 prescribing procedures for the refund, rebate, exemption,  
23 cancellation, amendment, modification, or adjustment of any tax,  
24 assessment, fee, or charge or any portion of the charge, or of any  
25 penalties, costs, or related charges.

26 (b) Claims in connection with which the filing of a notice of  
27 lien, statement of claim, or stop notice is required under any law  
28 relating to liens of mechanics, laborers, or materialmen.

29 (c) Claims by public employees for fees, salaries, wages,  
30 mileage, or other expenses and allowances.

31 (d) Claims for which the workers' compensation authorized by  
32 Division 4 (commencing with Section 3200) of the Labor Code is  
33 the exclusive remedy.

34 (e) Applications or claims for any form of public assistance  
35 under the Welfare and Institutions Code or other provisions of law  
36 relating to public assistance programs, and claims for goods,  
37 services, provisions, or other assistance rendered for or on behalf  
38 of any recipient of any form of public assistance.

39 (f) Applications or claims for money or benefits under any public  
40 retirement or pension system.

- 1 (g) Claims for principal or interest upon any bonds, notes,
- 2 warrants, or other evidences of indebtedness.
- 3 (h) Claims that relate to a special assessment constituting a
- 4 specific lien against the property assessed and that are payable
- 5 from the proceeds of the assessment, by offset of a claim for
- 6 damages against it or by delivery of any warrant or bonds
- 7 representing it.
- 8 (i) Claims by the state or by a state department or agency or by
- 9 another local public entity or by a judicial branch entity.
- 10 (j) Claims arising under any provision of the Unemployment
- 11 Insurance Code, including, but not limited to, claims for money
- 12 or benefits, or for refunds or credits of employer or worker
- 13 contributions, penalties, or interest, or for refunds to workers of
- 14 deductions from wages in excess of the amount prescribed.
- 15 (k) Claims for the recovery of penalties or forfeitures made
- 16 pursuant to Article 1 (commencing with Section 1720) of Chapter
- 17 1 of Part 7 of Division 2 of the Labor Code.
- 18 (l) Claims governed by the Pedestrian Mall Law of 1960 (Part
- 19 1 (commencing with Section 11000) of Division 13 of the Streets
- 20 and Highways Code).
- 21 (m) Claims made pursuant to Section 340.1 of the Code of Civil
- 22 Procedure for the recovery of damages suffered as a result of
- 23 childhood sexual assault.
- 24 (n) Claims made pursuant to Section 701.820 of the Code of
- 25 Civil Procedure for the recovery of money pursuant to Section
- 26 26680.
- 27 (o) Claims made pursuant to Section 49013 of the Education
- 28 Code for reimbursement of pupil fees for participation in
- 29 educational activities.
- 30 (p) The changes made to this section by the act that added this
- 31 subdivision are retroactive and apply to any action commenced
- 32 on or after the date of enactment of that act, and to any action filed
- 33 before the date of enactment and still pending on that date,
- 34 including any action or causes of action that would have been
- 35 barred by the laws in effect before the date of enactment.

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## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** SB 399                      **VERSION:** AMENDED JANUARY 22, 2018

**AUTHOR:** PORTANTINO                      **SPONSOR:**

- AUTISM DESERVES EQUAL COVERAGE FOUNDATION
- SPECIAL NEEDS NETWORK
- THE DIR/ FLOORTIME COALITION OF CALIFORNIA

**RECOMMENDED POSITION:** NONE

**SUBJECT:** HEALTH CARE COVERAGE: PERVASIVE DEVELOPMENTAL DISORDER OR AUTISM

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### **Summary:**

This bill seeks to close some of the loopholes that insurance companies use to deny treatment for behavioral health treatment. It also revises the definitions of a “qualified autism service professional” and a “qualified autism service paraprofessional.”

### **Existing Law:**

- 1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). (Health and Safety Code (HSC) §1374.73(a), Insurance Code (IC) §10144.51(a))
- 2) Requires these health care service plans and health insurers subject to this provision to maintain an adequate network of qualified autism service providers. (HSC §1374.73(b), IC §10144.51(b))
- 3) Defines “behavioral health treatment” as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, which develop or restore the functioning of an individual with pervasive developmental disorder or autism, and meets the following criteria (HSC §1374.73(c), IC §10144.51(c):
  - a) Is prescribed by a licensed physician and surgeon or is developed by a licensed psychologist;
  - b) Is provided under a treatment plan prescribed by a qualified autism service provider and administered by such a provider by one of the following:
    - A qualified autism service provider;
    - A qualified autism service professional under supervision of a qualified autism service provider; or

- A qualified autism service paraprofessional supervised by a qualified autism service provider or qualified autism service professional.
  - c) The treatment plan has measurable goals over a specific timeline and the plan is reviewed by the provider at least once every six months; and
  - d) Is not used for purposes of providing or for the reimbursement of respite, day care, or educational services.
- 4) Defines a “qualified autism service provider” as either (HSC §1374.73(c), IC §10144.51(c)):
- a) A person that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited and which designs, supervises, or provides treatment for pervasive developmental disorder or autism; or
  - b) A person who is licensed as a specified healing arts practitioner, including a psychologist, marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor. The licensee must design, supervise, or provide treatment for pervasive developmental disorder or autism and be within his or her experience and competence.
- 5) Defines a “qualified autism service professional” as someone who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):
- a) Provides behavioral health treatment;
  - b) Is supervised by a qualified autism service provider;
  - c) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider.
  - d) Is a behavioral service provider who meets the educational and experience qualifications for an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations (CCR); and
  - e) Has training and experience providing services for pervasive developmental disorder or autism pursuant to the Lanterman Developmental Disabilities Services Act or California Early Intervention Services Act.
  - f) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.
- 6) Defines a “qualified autism service paraprofessional” as an unlicensed and uncertified person who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):
- a) Is supervised by a qualified autism service provider or qualified autism service professional at a level of clinical supervision that meets professionally recognized standards of practice;
  - b) Provides treatment and services according to a treatment plan developed and approved by the qualified autism service provider;
  - c) Meets education and training qualifications set forth in Title 17, §54342 of the CCR;

- d) Has adequate education, training, and experience as certified by a qualified autism service provider or an entity or group that employs qualified autism service providers.
  - e) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.
- 7) Defines vendor service codes and sets requirements for regional centers to classify the following professions (17 CCR §54342):
- a) Associate Behavior Analysts;
  - b) Behavior Analysts;
  - c) Behavior Management Assistants;
  - d) Behavior Management Consultants; and
  - e) Behavior Management Programs.

**This Bill:**

- 1) Specifies that the behavioral health treatment plan's intervention plan must include parent or caregiver participation that is individualized to the patient and takes into account the ability of the parent or caregiver to participate. (HSC §1374.73(c)(1)(C)(ii) and IC §10144.51(c)(1)(C))
- 2) Makes the following changes to the definition of a "qualified autism service professional" (HSC §1374.73(c)(4) and IC §10144.51(c)(4)):
  - a) Specifies that they may provide behavioral health treatment, including clinical case management and case supervision, under the direction of a qualified autism service provider, provided that the services are consistent with their experience, training, or education of the professional.
  - b) Requires them to meet one of the following criteria:
    - i. Meet the education and experience requirements to be approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program as defined in regulation (17 CCR §54342), or
    - ii. Have a bachelor of arts or science degree and one of the following:
      - One year of experience in designing or implementing behavioral health treatment under supervision by a qualified autism service provider and 12 semester units from an accredited school in either applied behavior analysis or clinical coursework in behavioral health; or
      - Two years of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider; or

- Be a registered psychological assistant or registered psychologist. However, these professionals may not supervise a qualified autism service paraprofessional until he or she has obtained at least 500 experience hours designing or implementing behavioral health treatment; or
  - Be an associate clinical social worker, associate marriage and family therapist, or associate professional clinical counselor. However, these professionals may not supervise a qualified autism service paraprofessional until he or she has obtained at least 500 hours of experience in designing or implementing behavioral health treatment; or
  - Be credentialed or certified by an accredited national entity, including but not limited to the Behavior Analyst Certification Board, to provide applied behavior analysis or behavioral health treatment.
- c) Have training and experience providing services for pervasive developmental disorder our autism.
- d) Has completed a background check with subsequent notifications.
- 3) Makes the following changes to the definition of a “qualified autism service paraprofessional” (HSC §1374.73(c)(5) and IC §10144.51(c)(5)):**
- a) Requires them to meet one of the following:
- i. The education and training qualifications described in 17 CCR §54342; or
  - ii. They meet all of the following:
    - Have an associate’s degree or have completed two years of study from an accredited college with coursework in a related field of study; and
    - Have 40 hours of training in the specific form of behavioral health treatment developed by a qualified autism provider, and administered by a qualified autism service provider or autism services professional competent in the form of behavioral health treatment to be practiced by the paraprofessional; and
    - Has adequate education, training, and experience, as certified by a qualified autism service provider; or
  - iii. They are credentialed or certified in applied behavior analysis or behavioral health treatment for paraprofessionals or technicians by an accredited national entity, including but not limited to the Behavior Analyst Certification Board. If the applicant has finished the required training and education necessary for this certification or credential and meets all other requirements, he or she may provide treatment and services for up to 180 days while in the process of obtaining the certification or credential.
- b) Requires them to complete a background check with subsequent notification.

- 4) Specifies that the setting, location, or time of treatment recommended by the qualified autism service provider cannot be used as the only reason to deny or reduce coverage for medically necessary services. Also requires the setting to be consistent with the standard of care for behavioral health treatment. (HSC §1374.73(g)(1), IC §10144.51(g)(1))
- 5) Specifies that lack of parent or caregiver participation due to hardship shall not be used as a basis for denying or reducing coverage of medically necessary services. (HSC §1374.73(g)(2), IC §10144.51(g)(2))

### **Comments:**

- 1) **Author's Intent.** The author's office states that currently, patients with pervasive development disorder or autism (PDD/A) are being denied treatment coverage for prescribed behavioral health treatment, due to loopholes in the law. Some of these loopholes include the requirement for parental participation, location requirements, vendorization requirements, and only offering coverage for one form of behavioral health treatment. This bill seeks to remove these loopholes, and to increase the requirements to qualify as an autism service paraprofessional.
- 2) **Effect on Board Licensees.** This bill would broaden the requirements to qualify as an autism service professional. Currently, to qualify, one must meet the same education and experience requirements as a behavioral service provider approved by a regional center to provide services. This bill would leave that as one option to qualify, but would also allow an individual with a registration as an associate marriage and family therapist, associate clinical social worker, or associate professional clinical counselor to qualify. Under the proposed language, a Board registrant would need to obtain at least 500 hours of experience designing and implementing behavioral health treatment before he or she could supervise a qualified autism service paraprofessional.
- 3) **Previous Legislation.** AB 1074 (Chapter 385, Statutes of 2017) sought to close several loopholes in law being used to deny coverage for behavioral health treatment, thereby increasing access to care.

SB 946 (Chapter 650, Statutes of 2011) requires every health care service plan contract and insurance policy that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for PDD/A.

SB 126 (Chapter 680, Statutes of 2013) extended the provisions of SB 946 until January 1, 2017.

SB 1034 (Mitchell, 2016) would have made some adjustments to law to close some of the loopholes insurance companies use to deny behavioral health treatment. The Board took a "support" position on SB 1034 at its May 2016 meeting. However, the bill died in the Assembly Appropriations Committee.

AB 796 (Chapter 493, Statutes of 2016) deleted the sunset date on the law that requires health care service plans or insurance policies to provide coverage for behavioral health treatment for PDD/A.

- 4) Previous Position (2017).** At its April 21, 2017 meeting, the Policy and Advocacy Committee recommended the Board consider watching this bill and not taking a position. The bill was a two-year bill at the time of the Board's May 12, 2017 meeting, so the bill was not considered at that time.
- 5) Policy and Advocacy Committee Recommendation (2018).** At its April 12, 2018 meeting, the Policy and Advocacy Committee decided to continue watching this bill.

### **Support and Opposition.**

#### **Support (As of 1/19/18):**

- Autism Deserves Equal Coverage Foundation (co-source)
- DIR/Floortime Coalition of California (co-source)
- Special Needs Network Inc. (co-source)
- Autism Business Association
- Autism Society of California
- California Psychological Association
- Child Development Institute
- Greenhouse Therapy Center
- Newton Center for Affect Regulation
- Professional Child Development Associates
- Special Needs Network, Inc.
- 242 Individuals

#### **Oppose (As of 1/19/18):**

- Advanced Behavioral Pathways
- America's Health Insurance Plans
- Association of California Life and Health Insurance Companies
- California Association for Behavior Analysis
- California Association of Health Plans
- California Chamber of Commerce

### **History**

04/16/18 Referred to Com. on HEALTH.

01/30/18 In Assembly. Read first time. Held at Desk.

01/29/18 Read third time. Passed. (Ayes 28. Noes 8.) Ordered to the Assembly.

01/22/18 Read second time and amended. Ordered to third reading.

01/18/18 From committee: Do pass as amended. (Ayes 5. Noes 2. Page 4055.) (January 18).

01/17/18 Set for hearing January 18.

01/16/18 January 16 hearing: Placed on APPR. suspense file.  
01/12/18 Set for hearing January 16.  
01/10/18 From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 2.) (January 10). Re-referred to Com. on APPR.  
01/03/18 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH.  
12/21/17 Set for hearing January 10.  
04/26/17 April 26 set for first hearing canceled at the request of author.  
04/17/17 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH.  
04/06/17 Set for hearing April 26.  
04/05/17 From committee: Do pass and re-refer to Com. on HEALTH. (Ayes 3. Noes 1. Page 625.) (April 4). Re-referred to Com. on HEALTH.  
03/20/17 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HUMAN S.  
03/16/17 Set for hearing April 4.  
03/14/17 Re-referred to Coms. on HUMAN S. and HEALTH.  
03/14/17 Withdrawn from committee.  
02/23/17 Referred to Coms. on HEALTH and HUMAN S.  
02/16/17 From printer. May be acted upon on or after March 18.  
02/15/17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

### **Attachments**

**Attachment A:** Definitions in 17 CCR §54342 (*Partial: only includes pages with relevant definitions*)

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AMENDED IN SENATE JANUARY 22, 2018

AMENDED IN SENATE JANUARY 3, 2018

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 20, 2017

**SENATE BILL**

**No. 399**

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**Introduced by Senator Portantino**

February 15, 2017

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An act to amend Section 1374.73 of the Health and Safety Code, and to amend Section 10144.51 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 399, as amended, Portantino. Health care coverage: pervasive developmental disorder or autism.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law defines developmental disability for these purposes, to include, among other things, autism.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism, and defines "behavioral health treatment" to mean

specified services provided by, among others, a qualified autism service professional or a qualified autism service paraprofessional supervised and employed by a qualified autism service provider. A “qualified autism service provider” is defined as a person that meets certain certification and specialization criteria or a person licensed as a specified healing arts professional who meets certain specialization criteria. For purposes of this provision, existing law defines a “qualified autism service professional” to mean a person who, among other requirements, is a behavioral service provider approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program pursuant to specified regulations adopted under the Lanterman Developmental Disabilities Services Act. Existing law also defines a “qualified autism service paraprofessional” to mean an unlicensed and uncertified individual who, among other things, meets the criteria set forth in regulations adopted pursuant to the provisions that require the State Department of Social Services to adopt emergency regulations regarding the use of paraprofessionals in group practice provider behavioral intervention services for developmentally disabled persons living in the community.

This bill, among other things, would expand the definition of “qualified autism service professional” to include behavioral service providers who meet specified educational, professional, and work experience qualifications. The bill, with regard to the definition of “qualified autism service paraprofessional,” would also authorize the substitution of specified education, work experience, and training qualifications, or the substitution of specified credentialing or certification, for the requirement to meet the criteria set forth in regulations adopted by the State Department of Social Services, as described above. The bill would also require providers to pass a background check, as specified, in order to meet the definition of a qualified autism service professional or a qualified autism service paraprofessional.

~~This bill would require that the treatment plan be reviewed, as specified, and would require that the intervention plan include parent or caregiver participation that is individualized to the patient and that~~ takes into account the ability of the parent or caregiver to participate in therapy sessions and other recommended activities. The bill would specify that *the* lack of parent or caregiver participation *shall* not be used to deny or reduce medically necessary services *if a hardship*

*interferes with parent or caregiver participation* and that the setting, location, or time of treatment not be used as *a the only* reason to deny medically necessary services. Because a willful violation of the bill's provisions by a health care service plan would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1     ~~SECTION 1. The Legislature finds and declares all of the~~
- 2     ~~following:~~
- 3     ~~(a) Autism and other pervasive developmental disorders are~~
- 4     ~~complex neurobehavioral disorders that include impairments in~~
- 5     ~~social communication and social interaction combined with rigid,~~
- 6     ~~repetitive behaviors, interests, and activities.~~
- 7     ~~(b) Autism covers a large spectrum of symptoms and levels of~~
- 8     ~~impairment ranging in severity from somewhat limiting to a severe~~
- 9     ~~disability that may require institutional care.~~
- 10    ~~(c) One in 68 children born today will be diagnosed with autism~~
- 11    ~~or another pervasive developmental disorder.~~
- 12    ~~(d) Research has demonstrated that children diagnosed with~~
- 13    ~~autism can often be helped with early administration of behavioral~~
- 14    ~~health treatment.~~
- 15    ~~(e) There are several forms of evidence-based behavioral health~~
- 16    ~~treatment, including, but not limited to, applied behavioral analysis.~~
- 17    ~~(f) Children diagnosed with autism respond differently to~~
- 18    ~~behavioral health treatment.~~
- 19    ~~(g) It is critical that each child diagnosed with autism receives~~
- 20    ~~the specific type of evidence-based behavioral health treatment~~
- 21    ~~best suited to him or her, as prescribed by his or her physician or~~
- 22    ~~developed by a psychologist.~~
- 23    ~~(h) The Legislature intends that evidence-based behavioral~~
- 24    ~~health treatment be covered by health care service plans, pursuant~~
- 25    ~~to Section 1374.73 of the Health and Safety Code, and health~~

1 insurance policies, pursuant to Section 10144.51 of the Insurance  
2 Code.

3 (i) ~~The Legislature intends that health care service plan provider  
4 networks include qualified professionals practicing all forms of  
5 evidence-based behavioral health.~~

6 ~~SEC. 2.~~

7 *SECTION 1.* Section 1374.73 of the Health and Safety Code,  
8 as amended by Chapter 385 of the Statutes of 2017, is amended  
9 to read:

10 1374.73. (a) (1) Every health care service plan contract that  
11 provides hospital, medical, or surgical coverage shall also provide  
12 coverage for behavioral health treatment for pervasive  
13 developmental disorder or autism no later than July 1, 2012. The  
14 coverage shall be provided in the same manner and shall be subject  
15 to the same requirements as provided in Section 1374.72.

16 (2) Notwithstanding paragraph (1), as of the date that proposed  
17 final rulemaking for essential health benefits is issued, this section  
18 does not require any benefits to be provided that exceed the  
19 essential health benefits that all health plans will be required by  
20 federal regulations to provide under Section 1302(b) of the federal  
21 Patient Protection and Affordable Care Act (Public Law 111-148),  
22 as amended by the federal Health Care and Education  
23 Reconciliation Act of 2010 (Public Law 111-152).

24 (3) This section shall not affect services for which an individual  
25 is eligible pursuant to Division 4.5 (commencing with Section  
26 4500) of the Welfare and Institutions Code or Title 14  
27 (commencing with Section 95000) of the Government Code.

28 (4) This section shall not affect or reduce any obligation to  
29 provide services under an individualized education program, as  
30 defined in Section 56032 of the Education Code, or an individual  
31 service plan, as described in Section 5600.4 of the Welfare and  
32 Institutions Code, or under the federal Individuals with Disabilities  
33 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing  
34 regulations.

35 (b) Every health care service plan subject to this section shall  
36 maintain an adequate network that includes qualified autism service  
37 providers who supervise or employ qualified autism service  
38 professionals or paraprofessionals who provide and administer  
39 behavioral health treatment. A health care service plan is not

1 prevented from selectively contracting with providers within these  
2 requirements.

3 (c) For the purposes of this section, the following definitions  
4 shall apply:

5 (1) “Behavioral health treatment” means professional services  
6 and treatment programs, including applied behavior analysis and  
7 ~~other~~ evidence-based behavior intervention programs, that develop  
8 or restore, to the maximum extent practicable, the functioning of  
9 an individual with pervasive developmental disorder or autism and  
10 that meet all of the following criteria:

11 (A) The treatment is prescribed by a physician and surgeon  
12 licensed pursuant to Chapter 5 (commencing with Section 2000)  
13 of, or is developed by a psychologist licensed pursuant to Chapter  
14 6.6 (commencing with Section 2900) of, Division 2 of the Business  
15 and Professions Code.

16 (B) The treatment is provided under a treatment plan prescribed  
17 by a qualified autism service provider and is administered by one  
18 of the following:

19 (i) A qualified autism service provider.

20 (ii) A qualified autism service professional supervised by the  
21 qualified autism service provider.

22 (iii) A qualified autism service paraprofessional supervised by  
23 a qualified autism service provider or qualified autism service  
24 professional.

25 (C) The treatment plan has measurable goals over a specific  
26 timeline that is developed and approved by the qualified autism  
27 service provider for the specific patient being treated. The treatment  
28 plan shall be reviewed no less than once every six months by the  
29 qualified autism service provider and modified whenever  
30 appropriate, and shall be consistent with Section 4686.2 of the  
31 Welfare and Institutions Code pursuant to which the qualified  
32 autism service provider does all of the following:

33 (i) Describes the patient’s behavioral health impairments or  
34 developmental challenges that are to be treated.

35 (ii) Designs an intervention plan that includes the service type,  
36 number of hours, and parent participation needed to achieve the  
37 plan’s goal and objectives, and the frequency at which the patient’s  
38 progress is evaluated and reported. The plan shall include parent  
39 or caregiver participation that is individualized to the patient and

1 that takes into account the ability of the parent or caregiver to  
2 participate in therapy sessions and other recommended activities.

3 (iii) Provides intervention plans that utilize evidence-based  
4 practices, with demonstrated clinical efficacy in treating pervasive  
5 developmental disorder or autism.

6 (iv) Discontinues intensive behavioral intervention services  
7 when the treatment goals and objectives are achieved or no longer  
8 appropriate.

9 (D) The treatment plan is not used for purposes of providing or  
10 for the reimbursement of respite, day care, or educational services  
11 and is not used to reimburse a parent for participating in the  
12 treatment program. The treatment plan shall be made available to  
13 the health care service plan upon request.

14 (2) “Pervasive developmental disorder or autism” shall have  
15 the same meaning and interpretation as used in Section 1374.72.

16 (3) “Qualified autism service provider” means either of the  
17 following:

18 (A) A person who is certified by a national entity, such as the  
19 Behavior Analyst Certification Board, with a certification that is  
20 accredited by the National Commission for Certifying Agencies  
21 or the American National Standards Institute, and who designs,  
22 supervises, or provides treatment for pervasive developmental  
23 disorder or autism, provided the services are within the experience  
24 and competence of the person who is nationally certified.

25 (B) A person licensed as a physician and surgeon, physical  
26 therapist, occupational therapist, psychologist, marriage and family  
27 therapist, educational psychologist, clinical social worker,  
28 professional clinical counselor, speech-language pathologist, or  
29 audiologist pursuant to Division 2 (commencing with Section 500)  
30 of the Business and Professions Code, who designs, supervises,  
31 or provides treatment for pervasive developmental disorder or  
32 autism, provided the services are within the experience and  
33 competence of the licensee.

34 (4) “Qualified autism service professional” means an individual  
35 who meets all of the following criteria:

36 (A) Provides behavioral health treatment, which may include  
37 clinical case management and case supervision under the direction  
38 and supervision of a qualified autism service provider, provided  
39 that the services are consistent with the experience, training, or  
40 education of the professional.

- 1 (B) Is supervised by a qualified autism service provider.
- 2 (C) Provides treatment pursuant to a treatment plan developed
- 3 and approved by the qualified autism service provider.
- 4 (D) Is a behavioral service provider who meets one of the
- 5 following criteria:
- 6 (i) Meets the education and experience qualifications described
- 7 in Section 54342 of Title 17 of the California Code of Regulations
- 8 for an associate behavior analyst, behavior analyst, behavior
- 9 management assistant, behavior management consultant, or
- 10 behavior management program.
- 11 (ii) Possesses a bachelor of arts or science degree and meets
- 12 one of the following qualifications:
- 13 (I) One year of experience in designing or implementing
- 14 behavioral health treatment supervised by a qualified autism service
- 15 provider and 12 semester units from an accredited institution of
- 16 higher learning in either applied behavioral analysis or clinical
- 17 coursework in behavioral health.
- 18 (II) Two years of experience in designing or implementing
- 19 behavioral health treatment supervised by a qualified autism service
- 20 provider.
- 21 (III) The person is a registered psychological assistant or
- 22 registered psychologist pursuant to Chapter 6.6 (commencing with
- 23 Section 2900) of Division 2 of the Business and Professions Code.
- 24 *A registered psychological assistant or registered psychologist*
- 25 *may not supervise a qualified autism service paraprofessional*
- 26 *until he or she has obtained at least 500 hours of experience in*
- 27 *designing or implementing behavioral health treatment.*
- 28 (IV) The person is an associate clinical social worker registered
- 29 with the Board of Behavioral Sciences pursuant to Section 4996.18
- 30 of the Business and Professions Code. *An associate clinical social*
- 31 *worker may not supervise a qualified autism service*
- 32 *paraprofessional until he or she has obtained at least 500 hours*
- 33 *of experience in designing or implementing behavioral health*
- 34 *treatment.*
- 35 (V) The person is a registered associate marriage and family
- 36 therapist with the Board of Behavioral Sciences pursuant to Section
- 37 4980.44 of the Business and Professions Code. *A registered*
- 38 *associate marriage and family therapist may not supervise a*
- 39 *qualified autism service paraprofessional until he or she has*

1 *obtained at least 500 hours of experience in designing or*  
2 *implementing behavioral health treatment.*

3 (VI) The person is a registered associate professional clinical  
4 counselor with the Board of Behavioral Sciences pursuant to  
5 Section 4999.42 of the Business and Professions Code. *A registered*  
6 *associate professional clinical counselor may not supervise a*  
7 *qualified autism service paraprofessional until he or she has*  
8 *obtained at least 500 hours of experience in designing or*  
9 *implementing behavioral health treatment.*

10 (VII) The person is credentialed or certified by a national entity,  
11 including, but not limited to, the Behavior Analyst Certification  
12 Board that is accredited by the National Commission for Certifying  
13 Agencies or the American National Standards Institute to provide  
14 applied behavior analysis or behavioral health treatment, which  
15 may include case management and case supervision under the  
16 direction and supervision of a qualified autism service provider.

17 (E) Has training and experience in providing services for  
18 pervasive developmental disorder or autism.

19 (F) Is employed by the qualified autism service provider or an  
20 entity or group that employs qualified autism service providers  
21 responsible for the autism treatment plan.

22 (G) Has completed a background check performed by a  
23 Department of Justice approved agency, with subsequent  
24 notification to his or her employer pursuant to Section 11105.2 of  
25 the Penal Code.

26 (5) “Qualified autism service paraprofessional” means an  
27 individual who meets all of the following criteria:

28 (A) Is supervised by a qualified autism service provider or  
29 qualified autism service professional at a level of clinical  
30 supervision that meets professionally recognized standards of  
31 practice.

32 (B) Provides treatment and implements services pursuant to a  
33 treatment plan developed and approved by the qualified autism  
34 service provider.

35 (C) Meets one of the following:

36 (i) The education and training qualifications described in Section  
37 54342 of Title 17 of the California Code of Regulations.

38 (ii) All of the following qualifications:



1 (I) Possesses an associate’s degree or has completed two years  
2 of study from an accredited college or university with coursework  
3 in a related field of study.

4 (II) Has 40 hours of training in the specific form of behavioral  
5 health treatment developed by a qualified autism service provider  
6 and administered by a qualified autism service provider or qualified  
7 autism service professional competent in the form of behavioral  
8 health treatment to be practiced by the paraprofessional.

9 (III) Has adequate education, training, and experience, as  
10 certified by a qualified autism service provider.

11 (iii) Is credentialed or certified in applied behavior analysis or  
12 behavioral health treatment for paraprofessionals or technicians  
13 by a national entity, including, but not limited to, the Behavior  
14 Analyst Certification Board or another credentialing or certifying  
15 entity that is accredited by the National Commission for Certifying  
16 Agencies, or the American National Standards Institute.

17 ~~(iv) Upon~~

18 *However, upon* successful completion of the training and  
19 education necessary for certification or a credential described in  
20 ~~clause (iii) this clause~~, if the applicant is otherwise qualified under  
21 this section, the applicant may provide treatment and implement  
22 services for up to 180 days while in the process of obtaining the  
23 certification or credential.

24 (D) Has adequate education, training, and experience, as  
25 certified by a qualified autism service provider or an entity or  
26 group that employs qualified autism service providers.

27 (E) Is employed by the qualified autism service provider or an  
28 entity or group that employs qualified autism service providers  
29 responsible for the autism treatment plan.

30 (F) Has completed a background check performed by a  
31 Department of Justice approved agency, with subsequent  
32 notification to his or her employer pursuant to Section 11105.2 of  
33 the Penal Code.

34 (d) This section shall not apply to the following:

35 (1) A specialized health care service plan that does not deliver  
36 mental health or behavioral health services to enrollees.

37 (2) A health care service plan contract in the Medi-Cal program  
38 (Chapter 7 (commencing with Section 14000) of Part 3 of Division  
39 9 of the Welfare and Institutions Code).

1 (e) This section does not limit the obligation to provide services  
2 under Section 1374.72.

3 (f) ~~(1)~~ As provided in Section 1374.72 and in paragraph (1) of  
4 subdivision (a), in the provision of benefits required by this section,  
5 a health care service plan may utilize case management, network  
6 providers, utilization review techniques, prior authorization,  
7 copayments, or other cost sharing.

8 ~~(2) If a health care service plan uses utilization review~~  
9 ~~techniques, they shall not be conducted more frequently than every~~  
10 ~~six months and shall be conducted in accordance with good~~  
11 ~~professional practice and the requirements of Section 1363.5.~~

12 (g) (1) The setting, ~~location~~ location, or time of treatment  
13 recommended by the qualified autism service provider shall not  
14 be used as ~~a~~ *the only* reason to deny or reduce coverage for  
15 medically necessary services. *The setting shall be consistent with*  
16 *the standard of care for behavioral health treatment. This*  
17 *subdivision does not require a health care service plan to provide*  
18 *reimbursement for services delivered by school personnel pursuant*  
19 *to an enrollee’s individualized educational program for the purpose*  
20 *of accessing educational services, as provided by federal and state*  
21 *law. This subdivision does not require a health care service plan*  
22 *to cover services rendered outside of the plan’s service area unless*  
23 *the services are urgently needed services, as described in*  
24 *subdivision (h) of Section 1345, or emergency services, as defined*  
25 *in Section 1317.1, or unless the benefit plan expressly covers*  
26 *out-of-area services.*

27 (2) ~~The~~ Parent or caregiver participation is associated with  
28 greater improvements in functioning should be encouraged.  
29 However, if a hardship interferes with parent or caregiver  
30 participation, the lack of parent or caregiver participation shall  
31 not be used as a basis for denying or reducing coverage of  
32 medically necessary services.

33 (3) ~~The provision of services under this section, including any~~  
34 ~~limits on the scope or duration of these services, shall be in~~  
35 ~~compliance with all of the following:~~

36 (A) ~~The Paul Wellstone and Pete Domenici Mental Health Parity~~  
37 ~~and Addiction Equity Act of 2008 (Public Law 110-343), and all~~  
38 ~~rules, regulations, or guidance issued pursuant to Section 2726 of~~  
39 ~~the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).~~

40 (B) ~~The Americans with Disabilities Act (42 U.S.C. Sec. 12101).~~

1     ~~SEC. 3.~~

2     *SEC. 2.* Section 10144.51 of the Insurance Code, as amended  
3 by Chapter 385 of the Statutes of 2017, is amended to read:

4     10144.51. (a) (1) Every health insurance policy shall also  
5 provide coverage for behavioral health treatment for pervasive  
6 developmental disorder or autism no later than July 1, 2012. The  
7 coverage shall be provided in the same manner and shall be subject  
8 to the same requirements as provided in Section 10144.5.

9     (2) Notwithstanding paragraph (1), as of the date that proposed  
10 final rulemaking for essential health benefits is issued, this section  
11 does not require any benefits to be provided that exceed the  
12 essential health benefits that all health insurers will be required by  
13 federal regulations to provide under Section 1302(b) of the federal  
14 Patient Protection and Affordable Care Act (Public Law 111-148),  
15 as amended by the federal Health Care and Education  
16 Reconciliation Act of 2010 (Public Law 111-152).

17     (3) This section shall not affect services for which an individual  
18 is eligible pursuant to Division 4.5 (commencing with Section  
19 4500) of the Welfare and Institutions Code or Title 14  
20 (commencing with Section 95000) of the Government Code.

21     (4) This section shall not affect or reduce any obligation to  
22 provide services under an individualized education program, as  
23 defined in Section 56032 of the Education Code, or an individual  
24 service plan, as described in Section 5600.4 of the Welfare and  
25 Institutions Code, or under the federal Individuals with Disabilities  
26 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing  
27 regulations.

28     (b) Pursuant to Article 6 (commencing with Section 2240) of  
29 Subchapter 2 of Chapter 5 of Title 10 of the California Code of  
30 Regulations, every health insurer subject to this section shall  
31 maintain an adequate network that includes qualified autism service  
32 providers who supervise or employ qualified autism service  
33 professionals or paraprofessionals who provide and administer  
34 behavioral health treatment. A health insurer is not prevented from  
35 selectively contracting with providers within these requirements.

36     (c) For the purposes of this section, the following definitions  
37 shall apply:

38     (1) “Behavioral health treatment” means professional services  
39 and treatment programs, including applied behavior analysis and  
40 ~~other~~ evidence-based behavior intervention programs, that develop

1 or restore, to the maximum extent practicable, the functioning of  
2 an individual with pervasive developmental disorder or autism,  
3 and that meet all of the following criteria:

4 (A) The treatment is prescribed by a physician and surgeon  
5 licensed pursuant to Chapter 5 (commencing with Section 2000)  
6 of, or is developed by a psychologist licensed pursuant to Chapter  
7 6.6 (commencing with Section 2900) of, Division 2 of the Business  
8 and Professions Code.

9 (B) The treatment is provided under a treatment plan prescribed  
10 by a qualified autism service provider and is administered by one  
11 of the following:

- 12 (i) A qualified autism service provider.
- 13 (ii) A qualified autism service professional supervised by the  
14 qualified autism service provider.
- 15 (iii) A qualified autism service paraprofessional supervised by  
16 a qualified autism service provider or qualified autism service  
17 professional.

18 (C) The treatment plan has measurable goals over a specific  
19 timeline that is developed and approved by the qualified autism  
20 service provider for the specific patient being treated. The treatment  
21 plan shall be reviewed no less than once every six months by the  
22 qualified autism service provider and modified whenever  
23 appropriate, and shall be consistent with Section 4686.2 of the  
24 Welfare and Institutions Code pursuant to which the qualified  
25 autism service provider does all of the following:

- 26 (i) Describes the patient’s behavioral health impairments or  
27 developmental challenges that are to be treated.
- 28 (ii) Designs an intervention plan that includes the service type,  
29 number of hours, and parent participation needed to achieve the  
30 plan’s goal and objectives, and the frequency at which the patient’s  
31 progress is evaluated and reported. The plan shall include parent  
32 or caregiver participation that is individualized to the patient and  
33 that takes into account the ability of the parent or caregiver to  
34 participate in therapy sessions and other recommended activities.
- 35 (iii) Provides intervention plans that utilize evidence-based  
36 practices, with demonstrated clinical efficacy in treating pervasive  
37 developmental disorder or autism.
- 38 (iv) Discontinues intensive behavioral intervention services  
39 when the treatment goals and objectives are achieved or no longer  
40 appropriate.

1 (D) The treatment plan is not used for purposes of providing or  
2 for the reimbursement of respite, day care, or educational services  
3 and is not used to reimburse a parent for participating in the  
4 treatment program. The treatment plan shall be made available to  
5 the insurer upon request.

6 (2) “Pervasive developmental disorder or autism” shall have  
7 the same meaning and interpretation as used in Section 10144.5.

8 (3) “Qualified autism service provider” means either of the  
9 following:

10 (A) A person who is certified by a national entity, such as the  
11 Behavior Analyst Certification Board, with a certification that is  
12 accredited by the National Commission for Certifying Agencies  
13 or the American National Standards Institute, and who designs,  
14 supervises, or provides treatment for pervasive developmental  
15 disorder or autism, provided the services are within the experience  
16 and competence of the person who is nationally certified.

17 (B) A person licensed as a physician and surgeon, physical  
18 therapist, occupational therapist, psychologist, marriage and family  
19 therapist, educational psychologist, clinical social worker,  
20 professional clinical counselor, speech-language pathologist, or  
21 audiologist pursuant to Division 2 (commencing with Section 500)  
22 of the Business and Professions Code, who designs, supervises,  
23 or provides treatment for pervasive developmental disorder or  
24 autism, provided the services are within the experience and  
25 competence of the licensee.

26 (4) “Qualified autism service professional” means an individual  
27 who meets all of the following criteria:

28 (A) Provides behavioral health treatment, which may include  
29 clinical case management and case supervision under the direction  
30 and supervision of a qualified autism service provider, provided  
31 that the services are consistent with the experience, training, or  
32 education of the professional.

33 (B) Is supervised by a qualified autism service provider.

34 (C) Provides treatment pursuant to a treatment plan developed  
35 and approved by the qualified autism service provider.

36 (D) Is a behavioral service provider who meets one of the  
37 following criteria:

38 (i) Meets the education and experience qualifications described  
39 in Section 54342 of Title 17 of the California Code of Regulations  
40 for an associate behavior analyst, behavior analyst, behavior

1 management assistant, behavior management consultant, or  
2 behavior management program.

3 (ii) Possesses a bachelor of arts or science degree and meets  
4 one of the following qualifications:

5 (I) One year of experience in designing or implementing  
6 behavioral health treatment supervised by a qualified autism service  
7 provider and 12 semester units from an accredited institution of  
8 higher learning in either applied behavioral analysis or clinical  
9 coursework in behavioral health.

10 (II) Two years of experience in designing or implementing  
11 behavioral health treatment supervised by a qualified autism service  
12 provider.

13 (III) The person is a registered psychological assistant or  
14 registered psychologist pursuant to Chapter 6.6 (commencing with  
15 Section 2900) of Division 2 of the Business and Professions Code.  
16 *A registered psychological assistant or registered psychologist*  
17 *may not supervise a qualified autism service paraprofessional*  
18 *until he or she has obtained at least 500 hours of experience in*  
19 *designing or implementing behavioral health treatment.*

20 (IV) The person is an associate clinical social worker registered  
21 with the Board of Behavioral ~~sciences~~ *Sciences* pursuant to Section  
22 4996.18 of the Business and Professions Code. *An associate*  
23 *clinical social worker may not supervise a qualified autism service*  
24 *paraprofessional until he or she has obtained at least 500 hours*  
25 *of experience in designing or implementing behavioral health*  
26 *treatment.*

27 (V) The person is a registered associate marriage and family  
28 therapist with the Board of Behavioral Sciences pursuant to Section  
29 4980.44 of the Business and Professions Code. *A registered*  
30 *associate marriage and family therapist may not supervise a*  
31 *qualified autism service paraprofessional until he or she has*  
32 *obtained at least 500 hours of experience in designing or*  
33 *implementing behavioral health treatment.*

34 (VI) The person is a registered associate professional clinical  
35 counselor with the Board of Behavioral Sciences pursuant to  
36 Section 4999.42 of the Business and Professions Code. *A registered*  
37 *associate professional clinical counselor may not supervise a*  
38 *qualified autism service paraprofessional until he or she has*  
39 *obtained at least 500 hours of experience in designing or*  
40 *implementing behavioral health treatment.*

1 (VII) The person is credentialed or certified by a national entity,  
2 including, but not limited to, the Behavior Analyst Certification  
3 Board that is accredited by the National Commission for Certifying  
4 Agencies or the American National Standards Institute to provide  
5 applied behavior analysis or behavioral health treatment, which  
6 may include case management and case supervision under the  
7 direction and supervision of a qualified autism service provider.

8 (E) Has training and experience in providing services for  
9 pervasive developmental disorder or autism.

10 (F) Is employed by the qualified autism service provider or an  
11 entity or group that employs qualified autism service providers  
12 responsible for the autism treatment plan.

13 (G) Has completed a background check performed by a  
14 Department of Justice approved agency, with subsequent  
15 notification to his or her employer pursuant to Section 11105.2 of  
16 the Penal Code.

17 (5) “Qualified autism service paraprofessional” means an  
18 individual who meets all of the following criteria:

19 (A) Is supervised by a qualified autism service provider or  
20 qualified autism service professional at a level of clinical  
21 supervision that meets professionally recognized standards of  
22 practice.

23 (B) Provides treatment and implements services pursuant to a  
24 treatment plan developed and approved by the qualified autism  
25 service provider.

26 (C) Meets one of the following:

27 (i) The education and training qualifications described in Section  
28 54342 of Title 17 of the California Code of Regulations.

29 (ii) All of the following qualifications:

30 (I) Possesses an associate’s degree or has completed two years  
31 of study from an accredited college or university with coursework  
32 in a related field of study.

33 (II) Has 40 hours of training in the specific form of behavioral  
34 health treatment developed by a qualified autism service provider  
35 and administered by a qualified autism service provider or qualified  
36 autism service professional competent in the form of behavioral  
37 health treatment to be practiced by the paraprofessional.

38 (III) Has adequate education, training, and experience, as  
39 certified by a qualified autism service provider.

1 (iii) Is credentialed or certified in applied behavior analysis or  
 2 behavioral health treatment for paraprofessionals or technicians  
 3 by a national entity, including, but not limited to, the Behavior  
 4 Analyst Certification Board or another credentialing or certifying  
 5 entity that is accredited by the National Commission for Certifying  
 6 Agencies, or the American National Standards Institute.

7 ~~(iv) Upon~~

8 *However, upon* successful completion of the training and  
 9 education necessary for certification or a credential described in  
 10 ~~clause (iii) this clause~~, if the applicant is otherwise qualified under  
 11 this section, the applicant may provide treatment and implement  
 12 services for up to 180 days while in the process of obtaining the  
 13 certification or credential.

14 (D) Has adequate education, training, and experience, as  
 15 certified by a qualified autism service provider or an entity or  
 16 group that employs qualified autism service providers.

17 (E) Is employed by the qualified autism service provider or an  
 18 entity or group that employs qualified autism service providers  
 19 responsible for the autism treatment plan.

20 (F) Has completed a background check performed by a  
 21 Department of Justice approved agency, with subsequent  
 22 notification to his or her employer pursuant to Section 11105.2 of  
 23 the Penal Code.

24 (d) This section shall not apply to the following:

25 (1) A specialized health insurance policy that does not cover  
 26 mental health or behavioral health services or an accident only,  
 27 specified disease, hospital indemnity, or Medicare supplement  
 28 policy.

29 (2) A health insurance policy in the Medi-Cal program (Chapter  
 30 7 (commencing with Section 14000) of Part 3 of Division 9 of the  
 31 Welfare and Institutions Code).

32 (e) This section does not limit the obligation to provide services  
 33 under Section 10144.5.

34 (f) ~~(1)~~ As provided in Section 10144.5 and in paragraph (1) of  
 35 subdivision (a), in the provision of benefits required by this section,  
 36 a health insurer may utilize case management, network providers,  
 37 utilization review techniques, prior authorization, copayments, or  
 38 other cost sharing.

39 ~~(2) If a health insurance policy uses utilization review~~  
 40 ~~techniques, they shall not be conducted more frequently than every~~



1 ~~six months and shall be conducted in accordance with good~~  
2 ~~professional practice and the requirements of Section 10123.135.~~

3 (g) (1) The setting, location, or time of treatment recommended  
4 by the qualified autism service provider shall not be used as ~~a~~ *the*  
5 *only* reason to deny or reduce coverage for medically necessary  
6 services. *The setting shall be consistent with the standard of care*  
7 *for behavioral health treatment. This subdivision does not require*  
8 *a health insurer to provide reimbursement for services delivered*  
9 *by school personnel pursuant to an enrollee's individualized*  
10 *educational program for the purpose of accessing educational*  
11 *services, as provided by federal and state law. This subdivision*  
12 *does not require a health insurer to cover services rendered outside*  
13 *of the health insurer's service area unless the services are urgently*  
14 *needed services to prevent serious deterioration of a covered*  
15 *person's health resulting from unforeseen illness or injury for*  
16 *which treatment cannot be delayed until the covered person returns*  
17 *to the insurer's service area, or emergency services, as defined in*  
18 *Section 1317.1 of the Health and Safety Code, or unless the benefit*  
19 *plan expressly covers out-of-area services.*

20 (2) ~~Lack~~ *Parent or caregiver participation is associated with*  
21 *greater improvements in functioning and should be encouraged.*  
22 *However, if a hardship interferes with parent or caregiver*  
23 *participation, the lack of parent or caregiver participation shall*  
24 *not be used as a basis for denying or reducing coverage of*  
25 *medically necessary services.*

26 (3) ~~The provision of services under this section, including any~~  
27 ~~limits on the scope or duration of these services, shall be in~~  
28 ~~compliance with all of the following:~~

29 (A) ~~The Paul Wellstone and Pete Domenici Mental Health Parity~~  
30 ~~and Addiction Equity Act of 2008 (Public Law 110-343), and all~~  
31 ~~rules, regulations, or guidance issued pursuant to Section 2726 of~~  
32 ~~the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).~~

33 (B) ~~The Americans with Disabilities Act (42 U.S.C. Sec. 12101).~~  
34 ~~SEC. 4.~~

35 *SEC. 3.* No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution because  
37 the only costs that may be incurred by a local agency or school  
38 district will be incurred because this act creates a new crime or  
39 infraction, eliminates a crime or infraction, or changes the penalty  
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O

## ATTACHMENT A

**§ 54342. Types of Services.**

17 CA ADC § 54342

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 17. Public Health

Division 2. Health and Welfare Agency -Department of Developmental Services Regulations

Chapter 3. Community Services

Subchapter 2. Vendorization

Article 3. Vendor Numbers and Service Codes

17 CCR § 54342

**§ 54342. Types of Services.**

(a) The following service codes shall be assigned to the following types of services:

(1) Activity Center - Service Code 505. Activity Centers shall meet the requirements in Sections 56710 through 56756 of these regulations for the specific service being vendored.

(2) Acute Care Hospitals - Service Code 700. A regional center shall classify a vendor as an acute care hospital if the vendor is either:

(A) An acute care hospital which is validly licensed as such by DHS, and which provides inpatient care 24-hours per day; or

(B) An acute psychiatric hospital which is validly licensed as such by DHS, and which provides care for the mentally disordered, incompetent persons referred to in Welfare and Institutions Code, Sections 5000 to 5550.

(3) Adaptive Skills Trainer - Service Code 605. A regional center shall classify a vendor as an adaptive skills trainer if the vendor possesses the skills, training and education necessary to enhance existing consumer skills. An adaptive skills trainer may also remedy consumer skill deficits in communication, social function or other related skill areas and shall meet the following requirements:

(A) Possess a Master's Degree in one of the following: education, psychology, counseling, nursing, social work, applied behavior analysis, behavioral medicine, speech and language, or rehabilitation; and

(B) Have at least one year of experience in the design and implementation of adaptive skills training plans.

(4) Adult Day Care - Service Code 855.

(A) A regional center shall classify a vendor as an adult day care facility if the vendor:

1. Possesses a valid day care license for adults issued by DSS or an agency authorized by DSS to assume specific licensing responsibilities; and

2. Provides nonmedical care and supervision to adults 18 years of age or older on less than a 24-hour per day basis.

(B) Adult day care does not include adult day programs as identified in (a)(1), (6), (12), (33), and (72).

(5) Adult Day Health Center - Service Code 702. A regional center shall classify a vendor as an adult day health center if the vendor has a signed adult day health care provider agreement with the Department of Health Services to provide the services described in Title 22, Chapter 5 to Medi-Cal beneficiaries who are eligible for and voluntarily elect to participate in an adult day health care program.

(6) Adult Development Center - Service Code 510. Adult Development Centers shall meet the requirements in Sections 56710 through 56756 of these regulations for the specific service being vendored.

(7) Art Therapist - Service Code 691. A regional center shall classify a vendor as an art therapist if the vendor possesses a current registration issued by the American Art Therapy Association and works with an individual using art media as a means of expression and communication to promote the individual's perceptive, intuitive, affective, and expressive experiences which lead to the individual's personal growth or personality reintegration.

(8) Associate Behavior Analyst - Service Code 613. A regional center shall classify a vendor as an Associate Behavior Analyst if the vendor assesses the function of a behavior of a consumer and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the consumer's behavior through skill acquisition and the reduction of behavior, under direct supervision of a Behavior Analyst or Behavior Management Consultant. Associate Behavior Analysts engage in descriptive functional assessments to identify environmental factors of which behavior is a function. Associate Behavior Analysts shall not practice psychology, as defined in Business and Professions Code Section 2903. A regional center shall classify a vendor as an Associate Behavior Analyst if an individual is recognized by the National Behavior Analyst Certification Board as a Board Certified Associate Behavior Analyst.

(9) Attorney - Service Code 610. A regional center shall classify a vendor as an attorney if the vendor:

(A) Is an active member in good standing of the State Bar of California;

(B) Advises individuals of their legal rights; and

(C) Represents them in administrative and judicial proceedings, when necessary.

(10) Audiology - Service Code 706.

(A) A regional center shall classify a vendor as a provider of audiology services if the vendor is:

1. An audiologist who is validly licensed as an audiologist by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board of the California Department of Consumer Affairs; and

2. Uses techniques to identify and evaluate hearing disorders and to develop methods of improving hearing disorders involving speech, language, auditory behavior, and other aberrant behavior related to hearing loss.

(B) A vendored audiologist shall not dispense hearing aids to consumers, or be additionally vendored as an audiology center or hearing aid dispenser.

(11) Behavior Analyst - Service Code 612. Behavior Analyst means an individual who assesses the function of a behavior of a consumer and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the consumer's behavior through skill acquisition and the reduction of behavior. Behavior Analysts engage in functional assessments or functional analyses to identify environmental factors of which behavior is a function. A Behavior Analyst shall not practice psychology, as defined in Business and Professions Code section 2903. A regional center shall classify a vendor as a Behavior Analyst if an individual is recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst.

(12) Behavior Management Assistant - Service Code 615. A regional center shall classify a vendor as a behavior management assistant if the vendor designs and/or implements behavior modification intervention services under the direct supervision of a behavior management consultant; or if the vendor assesses the function of a behavior of a consumer and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the consumer's behavior through skill acquisition and the reduction of behavior, under direct supervision of a Behavior Analyst or Behavior

Management Consultant, and meets either of the following requirements:

(A) Possesses a Bachelor of Arts or Science Degree and has either:

1. Twelve semester units in applied behavior analysis and one year of experience in designing and/or implementing behavior modification intervention services; or
2. Two years of experience in designing and/or implementing behavior modification intervention services.

(B) Is registered as either:

1. A psychological assistant of a psychologist by the Medical Board of California or Psychology Examining Board; or
2. An Associate Licensed Clinical Social Worker pursuant to Business and Professions Code, Section 4996.18.

(13) Behavior Management Consultant - Service Code 620.

(A) A regional center shall classify a vendor as a behavior management consultant if the vendor designs and/or implements behavior modification intervention services and meets the following requirements:

1. Individuals vendored as a behavior management consultant prior to, or as of, December 31, 2006, that have not previously completed twelve semester units in applied behavior analysis, shall have until December 31, 2008 to complete twelve semester units in applied behavior analysis and possess a license and experience as specified in 3. through 7. below.
2. Individuals vendored as a behavior management consultant on, or after, January 1, 2007, shall, prior to being vendored, have completed twelve semester units in applied behavior analysis and possess a license and experience as specified in 3. through 7. below.
3. Possesses a valid license as a psychologist from the Medical Board of California or Psychology Examining Board; or
4. Is a Licensed Clinical Social Worker pursuant to Business and Professions Code, Sections 4996 through 4998.7; or
5. Is a Licensed Marriage and Family Therapist pursuant to Business and Professions Code, Sections 4980 through 4984.7; or
6. Is any other licensed professional whose California licensure permits the design and/or implementation of behavior modification intervention services.
7. Have two years experience designing and implementing behavior modification intervention services.

(B) Behavior management consultants shall follow the requirements of Title 17, Sections 50800 through 50823, when using planned behavior modification interventions that cause pain or trauma.

(14) Behavior Management Program - Service Code 515. Behavior Management Programs shall meet the requirements in Sections 56710 through 56756 of these regulations for the specific service being vendored.

(15) Camping Services - Service Code 850. A regional center shall classify a vendor as a provider of camping services if the vendor has staff that possesses demonstrated competence to supervise safety of camp activities and is:

(A) A day camp which:

1. Provides a creative experience in outdoor living for a limited period of hours per day and days per year; and
2. Contributes to the individual's mental, physical, and social growth by using the resources of the natural surroundings;

(B) A residential camp which:

1. Possesses a valid fire clearance issued by the California State Fire Marshal, city fire department, or local fire district;
2. Complies with the requirements of Title 17, Sections 30700 through 30753;
3. Has a registered nurse on staff at all hours of operation; or
4. Has received a waiver issued by the appropriate agency if any of the requirements specified in 1. through 3. above are not met; and
5. Provides:
  - a. A creative experience in outdoor living on a 24-hour per day basis for a limited period of time;
  - b. Services which use the resources of the natural surroundings to contribute to the individual's mental, physical, and social growth; and
  - c. Other consistent services; or

(C) A traveling camp which provides camping or vacation experiences by traveling to various campgrounds or other tourist areas.

(16) Child Day Care - Service Code 851. A regional center shall classify a vendor as child day care if the vendor:

(A) Possesses a valid family day care license issued by DSS or by an agency authorized by DSS to assume specified licensing responsibilities, and provides nonmedical care and supervision to children under 18 years of age on a less than 24-hour per day basis in the vendor's own home; or

(B) Possesses a valid day care license for children issued by DSS or by an agency authorized by DSS to assume specific licensing responsibilities, and provides personal care, protection, supervision and assistance to children under 18 years of age with special developmental needs in a nonresidential facility; or

(C) Possesses a preschool license issued by the Department of Education or a valid child care center license issued by DSS or an agency authorized by DSS to assume specified licensing responsibilities, and aids children in developing pre-academic skills, group training, and social skills in a nonresidential facility.

(17) Clinical Psychologist - Service Code 785. A regional center shall classify a vendor as a clinical psychologist if the vendor:

(A) Is validly licensed as a clinical psychologist by the Psychology Examining Committee of the Medical Board of California; and

(B) Provides:

1. Diagnosis and psychotherapy of mental and emotional disorders; or
2. Individual and group testing and counseling in order to assist individuals achieve more effective personal, social, educational, and vocational development and adjustment.

(18) Counseling Services - Service Code 625. The services included within this service code shall be provided by the following persons:

(A) Family Counselor - A regional center shall classify a vendor as a family counselor if the vendor possesses a valid Marriage and Family Therapist license issued by the California Board of Behavioral Science Examiners, and provides support and counseling to help the individual maintain and maximize the use of his or her current functioning patterns; and

(B) Social Worker - A regional center shall classify a vendor as a social worker if the vendor possesses a valid Clinical Social Worker's license issued by the California State Board of Behavioral Science Examiners, and provides the following services:

1. Social assessments;
2. Counseling; and

## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER:** SB 1298                      **VERSION:** AMENDED APRIL 4, 2018  
**AUTHOR:** SKINNER                      **SPONSOR:** CALIFORNIANS FOR SAFETY AND JUSTICE  
**RECOMMENDED POSITION:** NONE  
**SUBJECT:** THE INCREASING ACCESS TO EMPLOYMENT ACT

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**Summary:** This bill would prohibit certain specified expunged convictions from being included in a Department of Justice state summary criminal history information report provided for employment, licensing, or certification purposes.

**Existing Law:**

- 1) Requires the Department of Justice to maintain state summary criminal history information compiled by the Attorney General, including fingerprints, photos, dates of arrest and arresting agencies, charges, dispositions, and sentencing information. (Penal Code (PC) §11105(a))
- 2) Requires the Attorney General to provide this state summary criminal history information to various entities, including a state agency to fulfill licensing duties. (PC §11105(b))
- 3) Requires the Department of Justice to provide the following information when it provides state summary criminal history information is provided (PC §11105(p))
  - Every conviction against the applicant, unless the applicant has been granted relief from certain crimes due to being a victim of human trafficking;
  - Every arrest the applicant is awaiting trial for;
  - The applicant's sex offender registration status; and
  - Any sentencing information for the applicant.
- 4) Provides that whenever state or federal summary criminal history information is furnished by the Department of Justice for use for employment, licensing, or certification purposes, the agency must expeditiously furnish a copy of the information the person if the information is a basis for an adverse employment, licensing, or certification decision (11105(t)).

**This Bill:**

- 1) Would require the department of Justice, in its state summary criminal history information provided for employment, licensing, or certification purposes, to provide every conviction

rendered against the applicant, **except** for the following convictions for which relief has been granted (PC §11105(p)):

- The conviction has been expunged pursuant to PC §1203.4 (**Attachment A**).
  - The person has withdrawn their plea of guilty or no contest after satisfying the terms of a misdemeanor. (PC §1203.4a)
  - The plea has been withdrawn after serving a jail felony. (PC §1203.41)
  - The conviction has been expunged. (PC §1203.42)
  - The person convicted of a criminal offense was a minor at the time of convictions and the juvenile record has been sealed. (PC §1203.45)
  - The crime was a result of human trafficking and the person has been granted relief. (PC §1203.49)
  - The person convicted of a criminal offense alleges that they committed the offense because of sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems stemming from service in the U.S. military. (PC §1170.9)
- 2) Before providing state or federal summary criminal history information, requires the Department of Justice to first provide a copy to the subject of the request, and allow him or her a reasonable opportunity of at least 5 days to challenge its accuracy or completeness. The Department of Justice must then make the necessary corrections before providing the information to the requesting agency. (PC §11105(t))

**Comment:**

1) **Intent.** Supporters of the bill state that licensing boards and public employers hold a lot of power and can deny, suspend, or revoke employment or licensure based on prior convictions. They argue that people with criminal records who have completed their sentence should be able to work in gainful employment again. In addition, allowing them to review their conviction information before it is sent to an employer or licensing board allows them to be prepared to explain it and demonstrate rehabilitation.

2) **Support and Opposition.**

Support:

Californians for Safety and Justice (Sponsor)

Opposition:

None at this time.

3) **History**

**2018**

04/27/18 Set for hearing May 7.

04/25/18 From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 1.)  
(April 25). Re-referred to Com. on APPR.  
04/20/18 Set for hearing April 25.  
04/17/18 From committee: Do pass and re-refer to Com. on L. & I.R. (Ayes 5. Noes 2.)  
(April 17). Re-referred to Com. on L. & I.R.  
04/05/18 Set for hearing April 17.  
04/04/18 From committee with author's amendments. Read second time and amended.  
Re-referred to Com. on PUB. S.  
03/01/18 Referred to Coms. on PUB. S. and L. & I.R.  
02/20/18 From printer. May be acted upon on or after March 22.  
02/16/18 Introduced. Read first time. To Com. on RLS. for assignment. To print.

**4) Attachments.**

**Attachment A:** Penal Code Section 1203.4

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AMENDED IN SENATE APRIL 4, 2018

**SENATE BILL**

**No. 1298**

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**Introduced by Senator Skinner**

February 16, 2018

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An act to amend Sections 11105, 11121, 11126, and 13300 of, to add Section 11128 to, and to repeal and add Section 11122 of, *Section 11105* of the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1298, as amended, Skinner. The Increasing Access to Employment Act.

~~(1) Existing~~

*Existing* law requires the Department of Justice to maintain state summary criminal history information, as defined, and requires the Attorney General to furnish state summary criminal history information to specified entities and ~~individuals if needed in the course of their duties~~; *individuals, including an authorized entity for employment, licensing, or certification relative to community care facilities, residential care facilities, and other specified health facilities. Existing law requires the department to provide the requester with every conviction of an offense rendered against the applicant, except for a conviction for which relief was granted to a victim of human trafficking, as specified.*

~~This bill would limit the information the department provides to specified requesters to more recent misdemeanors and felonies, generally within 5 years, and other information, as specified, including offenses for which registration as a sex offender is required. The bill would, for specified requesters, prohibit the disclosure of a conviction that has been dismissed, an arrest that was subsequently deemed a detention, or~~

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~~an arrest that resulted in the successful completion of a diversion program, exoneration, or an arrest that has been sealed. The bill would specify what information is to be provided to a consumer reporting agency, as defined. *prohibit the department from releasing, for these purposes, the record of convictions that were dismissed pursuant to specified provisions.*~~

*Existing law requires the department to provide an agency, organization, or individual, including, but not limited to, a cable corporation, in-home supportive services recipient, or property security organization, requesting the information for specified employment purposes with every conviction for which registration as a sex offender is required and, except as specified, every conviction that occurred within 10 years of the date of the request or for which the person was incarcerated within 10 years of the request for information.*

*This bill would require that only convictions from the prior 7 years or for which the person was incarcerated or on probation or parole within 7 years of the request be provided.*

*Existing law requires, when state summary criminal history information is furnished as a result of specified requests, and the information is to be used for employment, licensing, or certification purposes, that the requester furnish the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision.*

~~This bill would *instead* require the department to furnish a copy of the Criminal Offender Record Information (CORI) to the subject when a state or federal summary criminal history information is requested and the information is to be used for employment, licensing, or certification purposes of the request and would require the department to allow the subject a reasonable opportunity of not less than five days to challenge the accuracy or completeness of any matter contained in the CORI prior to furnishing a report to a third party. *The bill would require the department to make specified corrections prior to furnishing the information to the requester.*~~

~~Existing law requires a person who wants a copy of the his or her state summary criminal history information to obtain an application form furnished by the department and provide his or her fingerprints, in addition to other information specified by the department.~~

~~This bill would remove the requirement that a person submit fingerprints to obtain his or her state summary criminal history~~

~~information and would require only that information the department deems necessary.~~

~~(2) Existing law authorizes a person who desires to question the accuracy or completeness of any material matter contained in the record to submit a written request to the department and, if the accuracy of the source document is questioned, requires the department to forward it to the person or agency that furnished the questioned information. Existing law gives person or agency 30 days from the receipt of the written request for clarification, to review its information and forward to the department the results of the review. Under existing law, if the person or agency that created the source document concurs in the allegations of inaccuracy or incompleteness in the record, and finds that the error is material, it is required to correct its record and inform the department. Existing law provides the department 30 within which to inform the applicant of its correction of the record.~~

~~This bill would authorize an applicant to question the accuracy or completeness of any matter and, if the source document is questioned, would require the department, within 5 days, to verify the accuracy of the source document with the person or agency that furnished the questioned information. The bill would require the department to correct its record, destroy and purge the incorrect information if the department is unable to verify the accuracy or completeness of the source document and would require to destroy and purge the incorrect information. The bill would require the department to inform the applicant of the correction and destruction of the record within 10 days. The bill would also require a person or agency to which the incorrect record has been disseminated to, upon notification, correct the record accordingly and destroy and purge the incorrect information within 30 days. By increasing the requirements on local agencies that supply the source documents, this bill would impose a state-mandated local program.~~

~~(3) This bill would establish the Increasing Access to Employment Fund and would make funds available, upon appropriation, to the California Workforce Investment Board to administer a grant program aimed at improving rehabilitation, reentry, and employment and licensing outcomes for people with criminal convictions, as specified.~~

~~(4) Existing law requires the disclosure of local summary criminal history information by a local criminal justice agency to certain authorized entities and authorizes the disclosure of that information to other entities in specified circumstances.~~

~~The bill would require a local agency to disclose local summary criminal history information to the subject of the request or to an individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation. By increasing the duties of local criminal justice agencies, this bill would impose a state-mandated local program. The bill would also reduce the entities to which local summary criminal history is required to be disclosed and to which that information is authorized to be disclosed, as specified.~~

~~Existing law prohibits a local criminal justice agency from releasing information under specified circumstances, including information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.~~

~~This bill would prohibit a local criminal justice agency from releasing information relating to convictions that were dismissed, arrests subsequently deemed a detention, arrests that resulted in the successful completion of a diversion program, exoneration, or arrests that were sealed. The bill would also limit the information that a local criminal justice agency can disclose to convictions for which registration as a sex offender is required, information concerning misdemeanor convictions that occurred before 2 years of the date of the request for information, and felony convictions that occurred before 5 years of the date of the request for information.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: *yes-no*.

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

- 1 SECTION 1. (a) This act shall be known, and may be cited,
- 2 as the Increasing Access to Employment Act.
- 3 (b) It is the intent of the Legislature that criminal conviction
- 4 records not operate as an automatic bar to employment, licensure,
- 5 and certification. It is the intent of the Legislature not to change

1 or impact in any way the role or authority of a licensing board or  
2 state agency to assess the fitness of applicants seeking licensure,  
3 certification, and employment pursuant to provisions of the  
4 Business and Professions Code, Health and Safety Code, Insurance  
5 Code, and Welfare and Institutions Code, as applicable. This act  
6 supercedes any statute, regulation, rule, or decision directing a  
7 licensing board, state agency, employer, or any other applicable  
8 person or entity, to obtain criminal history records in a manner  
9 that conflicts with the intent of this act.

10 ~~(c) It is the intent of the Legislature to create the Increasing~~  
11 ~~Access to Employment Fund for rehabilitation and reentry services~~  
12 ~~to improve prospects for licensing, certification, and professional~~  
13 ~~employment for people with criminal conviction records.~~  
14 Recidivism is reduced when people with criminal convictions are  
15 given the opportunity to secure employment and engage in a trade,  
16 occupation, or profession. It is in the interest of public safety to  
17 assist in the rehabilitation of criminal offenders by removing  
18 impediments and restrictions on an offenders' ability to obtain  
19 employment or engage in a trade, occupation, or profession when  
20 those impediments and restrictions are based solely upon the  
21 existence of a criminal record. Increasing opportunities for people  
22 with criminal records improves the economic well-being of families  
23 and communities and is a path to full employment in California.

24 *SEC. 2. Section 11105 of the Penal Code is amended to read:*

25 11105. (a) (1) The Department of Justice shall maintain state  
26 summary criminal history information.

27 (2) As used in this section:

28 (A) "State summary criminal history information" means the  
29 master record of information compiled by the Attorney General  
30 pertaining to the identification and criminal history of a person,  
31 ~~such as~~ *including* name, date of birth, physical description,  
32 fingerprints, photographs, dates of arrests, arresting agencies and  
33 booking numbers, charges, dispositions, sentencing information,  
34 and similar data about the person.

35 (B) "State summary criminal history information" does not refer  
36 to records and data compiled by criminal justice agencies other  
37 than the Attorney General, nor does it refer to records of complaints  
38 ~~to or to~~, investigations conducted by, or records of intelligence  
39 information or security procedures of, the office of the Attorney  
40 General and the Department of Justice.

- 1 (b) The Attorney General shall furnish state summary criminal  
 2 history information to the following, if needed in the course of  
 3 their duties, provided that when information is furnished to assist  
 4 an agency, officer, or official of state or local government, a public  
 5 utility, or any other entity, in fulfilling employment, certification,  
 6 or licensing duties, Chapter 1321 of the Statutes of 1974 and  
 7 Section 432.7 of the Labor Code shall apply:
- 8 (1) The courts of the state.
  - 9 (2) Peace officers of the state, as defined in Section 830.1,  
 10 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section  
 11 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and  
 12 (b) of Section 830.5.
  - 13 (3) District attorneys of the state.
  - 14 (4) Prosecuting city attorneys or city prosecutors of a city within  
 15 the state.
  - 16 (5) City attorneys pursuing civil gang injunctions pursuant to  
 17 Section 186.22a, or drug abatement actions pursuant to Section  
 18 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
 19 and Safety Code.
  - 20 (6) Probation officers of the state.
  - 21 (7) Parole officers of the state.
  - 22 (8) A public defender or attorney of record when representing  
 23 a person in proceedings upon a petition for a certificate of  
 24 rehabilitation and pardon pursuant to Section ~~4852.08~~. 4852.01.
  - 25 (9) A public defender or attorney of record when representing  
 26 a person in a criminal case, or a parole, mandatory supervision  
 27 pursuant to paragraph (5) of subdivision (h) of Section 1170, or  
 28 postrelease community supervision revocation or revocation  
 29 extension proceeding, and if authorized access by statutory or  
 30 decisional law.
  - 31 (10) An agency, officer, or official of the state if the state  
 32 summary criminal history information is required to implement a  
 33 statute or regulation that expressly refers to specific criminal  
 34 conduct applicable to the subject person of the state summary  
 35 criminal history information, and contains requirements or  
 36 exclusions, or both, expressly based upon that specified criminal  
 37 conduct. The agency, officer, or official ~~of the state~~ authorized by  
 38 this paragraph to receive state summary criminal history  
 39 information may also transmit fingerprint images and related

1 information to the Department of Justice to be transmitted to the  
2 Federal Bureau of Investigation.

3 (11) ~~A city or~~ city, county, city and county, district, or an officer  
4 or official ~~thereof~~ thereof, if access is needed in order to assist that  
5 agency, officer, or official in fulfilling employment, certification,  
6 or licensing duties, and if the access is specifically authorized by  
7 the city council, board of supervisors, or governing board of the  
8 city, county, or district if the state summary criminal history  
9 information is required to implement a statute, ordinance, or  
10 regulation that expressly refers to specific criminal conduct  
11 applicable to the subject person of the state summary criminal  
12 history information, and contains requirements or exclusions, or  
13 both, expressly based upon that specified criminal conduct. The  
14 ~~city or~~ city, county, city and county, district, or the officer or  
15 official thereof authorized by this paragraph may also transmit  
16 fingerprint images and related information to the Department of  
17 Justice to be transmitted to the Federal Bureau of Investigation.

18 (12) The subject of the state summary criminal history  
19 information under procedures established under Article 5  
20 (commencing with Section 11120).

21 (13) A person or entity when access is expressly authorized by  
22 statute if the criminal history information is required to implement  
23 a statute or regulation that expressly refers to specific criminal  
24 conduct applicable to the subject person of the state summary  
25 criminal history information, and contains requirements or  
26 exclusions, or both, expressly based upon that specified criminal  
27 conduct.

28 (14) Health officers of a city, county, city and county, or district  
29 when in the performance of their official duties enforcing Section  
30 120175 of the Health and Safety Code.

31 (15) A managing or supervising correctional officer of a county  
32 jail or other county correctional facility.

33 (16) A humane society, or society for the prevention of cruelty  
34 to animals, for the specific purpose of complying with Section  
35 14502 of the Corporations Code for the appointment of humane  
36 officers.

37 (17) Local child support agencies established by Section 17304  
38 of the Family Code. When a local child support agency closes a  
39 support enforcement case containing state summary criminal  
40 history information, the agency shall delete or purge from the file

1 and destroy any documents or information concerning or arising  
2 from offenses for or of which the parent has been arrested, charged,  
3 or convicted, other than for offenses related to the parent’s having  
4 failed to provide support for minor children, consistent with the  
5 requirements of Section 17531 of the Family Code.

6 (18) County child welfare agency personnel who have been  
7 delegated the authority of county probation officers to access state  
8 summary criminal history information pursuant to Section 272 of  
9 the Welfare and Institutions Code for the purposes specified in  
10 Section 16504.5 of the Welfare and Institutions Code. Information  
11 from criminal history records provided pursuant to this subdivision  
12 shall not be used for a purpose other than those specified in this  
13 section and Section 16504.5 of the Welfare and Institutions Code.  
14 When an agency obtains records both on the basis of name checks  
15 and fingerprint checks, final placement decisions shall be based  
16 only on the records obtained pursuant to the fingerprint check.

17 (19) The court of a tribe, or court of a consortium of tribes, that  
18 has entered into an agreement with the state pursuant to Section  
19 10553.1 of the Welfare and Institutions Code. This information  
20 may be used only for the purposes specified in Section 16504.5  
21 of the Welfare and Institutions Code and for tribal approval or  
22 tribal licensing of foster care or adoptive homes. Article 6  
23 (commencing with Section 11140) shall apply to officers, members,  
24 and employees of a tribal court receiving state summary criminal  
25 history information pursuant to this section.

26 (20) Child welfare agency personnel of a tribe or consortium  
27 of tribes that has entered into an agreement with the state pursuant  
28 to Section 10553.1 of the Welfare and Institutions Code and to  
29 whom the state has delegated duties under paragraph (2) of  
30 subdivision (a) of Section 272 of the Welfare and Institutions Code.  
31 The purposes for use of the information shall be for the purposes  
32 specified in Section 16504.5 of the Welfare and Institutions Code  
33 and for tribal approval or tribal licensing of foster care or adoptive  
34 homes. When an agency obtains records on the basis of name  
35 checks and fingerprint checks, final placement decisions shall be  
36 based only on the records obtained pursuant to the fingerprint  
37 check. Article 6 (commencing with Section 11140) shall apply to  
38 child welfare agency personnel receiving criminal record offender  
39 information pursuant to this section.



1 (21) An officer providing conservatorship investigations  
2 pursuant to Sections 5351, 5354, and 5356 of the Welfare and  
3 Institutions Code.

4 (22) A court investigator providing investigations or reviews  
5 in conservatorships pursuant to Section 1826, 1850, 1851, or  
6 2250.6 of the Probate Code.

7 (23) A person authorized to conduct a guardianship investigation  
8 pursuant to Section 1513 of the Probate Code.

9 (24) A humane officer pursuant to Section 14502 of the  
10 Corporations Code for the purposes of performing his or her duties.

11 (25) A public agency described in subdivision (b) of Section  
12 15975 of the Government Code, for the purpose of oversight and  
13 enforcement policies with respect to its contracted providers.

14 (26) (A) A state entity, or its designee, that receives federal tax  
15 information. A state entity or its designee that is authorized by this  
16 paragraph to receive state summary criminal history information  
17 also may transmit fingerprint images and related information to  
18 the Department of Justice to be transmitted to the Federal Bureau  
19 of Investigation for the purpose of the state entity or its designee  
20 obtaining federal level criminal offender record information from  
21 the Department of Justice. This information shall be used only for  
22 the purposes set forth in Section 1044 of the Government Code.

23 (B) For purposes of this paragraph, “federal tax information,”  
24 “state entity” and “designee” are as defined in paragraphs (1), (2),  
25 and (3), respectively, of subdivision (f) of Section 1044 of the  
26 Government Code.

27 (c) The Attorney General may furnish state summary criminal  
28 history information and, when specifically authorized by this  
29 subdivision, federal level criminal history information upon a  
30 showing of a compelling need to any of the following, provided  
31 that when information is furnished to assist an agency, officer, or  
32 official of state or local government, a public utility, or any other  
33 entity in fulfilling employment, certification, or licensing duties,  
34 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the  
35 Labor Code shall apply:

36 (1) A public utility, as defined in Section 216 of the Public  
37 Utilities Code, that operates a nuclear energy facility when access  
38 is needed in order to assist in employing persons to work at the  
39 facility, provided that, if the Attorney General supplies the data,

1 he or she shall furnish a copy of the data to the person to whom  
2 the data relates.

3 (2) To a peace officer of the state other than those included in  
4 subdivision (b).

5 (3) To an illegal dumping enforcement officer as defined in  
6 subdivision (j) of Section 830.7.

7 (4) To a peace officer of another country.

8 (5) To ~~a public officers, officer, other than a peace officers,~~  
9 ~~officer, of the United States, other states, or possessions or~~  
10 ~~territories another state, or a possession or territory of the United~~  
11 ~~States, provided that access to records similar to state summary~~  
12 ~~criminal history information is expressly authorized by a statute~~  
13 ~~of the United States, other states, or possessions or territories the~~  
14 ~~other state, or the possession or territory of the United States if~~  
15 ~~the information is needed for the performance of their official~~  
16 ~~duties.~~

17 (6) To a person ~~when~~ *if* disclosure is requested by a probation,  
18 parole, or peace officer with the consent of the subject of the state  
19 summary criminal history information and for purposes of  
20 furthering the rehabilitation of the subject.

21 (7) The courts of the United States, other states, or territories  
22 or possessions of the United States.

23 (8) Peace officers of the United States, other states, or territories  
24 or possessions of the United States.

25 (9) To an individual who is the subject of the record requested  
26 if needed in conjunction with an application to enter the United  
27 States or a foreign nation.

28 (10) (A) (i) A public utility, as defined in Section 216 of the  
29 Public Utilities Code, or a cable corporation as defined in  
30 subparagraph (B), if receipt of *state summary* criminal history  
31 information is needed in order to assist in employing current or  
32 prospective employees, contract employees, or subcontract  
33 employees who, in the course of their employment, may be seeking  
34 entrance to private residences or adjacent grounds. The information  
35 provided shall be limited to the record of convictions and arrests  
36 for which the person is released on bail or on his or her own  
37 recognizance pending trial.

38 (ii) If the Attorney General supplies the data pursuant to this  
39 paragraph, the Attorney General shall furnish a copy of the data  
40 to the current or prospective employee to whom the data relates.

1 (iii) State summary criminal history information is confidential  
2 and the receiving public utility or cable corporation shall not  
3 disclose its contents, other than for the purpose for which it was  
4 acquired. The state summary criminal history information in the  
5 possession of the public utility or cable corporation and all copies  
6 made from it shall be destroyed not more than 30 days after  
7 employment or promotion or transfer is denied or granted, except  
8 for those cases where a current or prospective employee is out on  
9 bail or on his or her own recognizance pending trial, in which case  
10 the state summary criminal history information and all copies shall  
11 be destroyed not more than 30 days after the case is resolved.

12 (iv) A violation of this paragraph is a misdemeanor, and shall  
13 give the current or prospective employee who is injured by the  
14 violation a cause of action against the public utility or cable  
15 corporation to recover damages proximately caused by the  
16 violations. A public utility's or cable corporation's request for  
17 state summary criminal history information for purposes of  
18 employing current or prospective employees who may be seeking  
19 entrance to private residences or adjacent grounds in the course  
20 of their employment shall be deemed a "compelling need" as  
21 required to be shown in this subdivision.

22 (v) This section shall not be construed as imposing a duty upon  
23 public utilities or cable corporations to request state summary  
24 criminal history information on current or prospective employees.

25 (B) For purposes of this paragraph, "cable corporation" means  
26 a corporation or firm that transmits or provides television,  
27 computer, or telephone services by cable, digital, fiber optic,  
28 satellite, or comparable technology to subscribers for a fee.

29 (C) Requests for federal level criminal history information  
30 received by the Department of Justice from entities authorized  
31 pursuant to subparagraph (A) shall be forwarded to the Federal  
32 Bureau of Investigation by the Department of Justice. Federal level  
33 criminal history information received or compiled by the  
34 Department of Justice may then be disseminated to the entities  
35 referenced in subparagraph (A), as authorized by law.

36 (11) To a campus of the California State University or the  
37 University of California, or a four-year college or university  
38 accredited by a regional accreditation organization approved by  
39 the United States Department of Education, if needed in  
40 conjunction with an application for admission by a convicted felon

1 to a special education program for convicted felons, including, but  
2 not limited to, university alternatives and halfway houses. Only  
3 conviction information shall be furnished. The college or university  
4 may require the convicted felon to be fingerprinted, and any inquiry  
5 to the department under this section shall include the convicted  
6 felon's fingerprints and any other information specified by the  
7 department.

8 (12) To a foreign government, if requested by the individual  
9 who is the subject of the record requested, if needed in conjunction  
10 with the individual's application to adopt a minor child who is a  
11 citizen of that foreign nation. Requests for information pursuant  
12 to this paragraph shall be in accordance with the process described  
13 in Sections 11122 to 11124, inclusive. The response shall be  
14 provided to the foreign government or its designee and to the  
15 individual who requested the information.

16 (d) ~~Whenever~~ *When* an authorized request for state summary  
17 criminal history information pertains to a person whose fingerprints  
18 are on file with the Department of Justice and the department has  
19 no criminal history of that person, and the information is to be  
20 used for employment, licensing, or certification purposes, the  
21 fingerprint card accompanying the request for information, if any,  
22 may be stamped "no criminal record" and returned to the person  
23 or entity making the request.

24 (e) ~~Whenever~~ *When* state summary criminal history information  
25 is furnished as the result of an application and is to be used for  
26 employment, licensing, or certification purposes, the Department  
27 of Justice may charge the person or entity making the request a  
28 fee that it determines to be sufficient to reimburse the department  
29 for the cost of furnishing the information. In addition, the  
30 Department of Justice may add a surcharge to the fee to fund  
31 maintenance and improvements to the systems from which the  
32 information is obtained. Notwithstanding any other law, a person  
33 or entity required to pay a fee to the department for information  
34 received under this section may charge the applicant a fee sufficient  
35 to reimburse the person or entity for this expense. All moneys  
36 received by the department pursuant to this section, Sections  
37 11105.3 and 26190, and former Section 13588 of the Education  
38 Code shall be deposited in a special account in the General Fund  
39 to be available for expenditure by the department to offset costs  
40 incurred pursuant to those sections and for maintenance and

1 improvements to the systems from which the information is  
2 obtained upon appropriation by the Legislature.

3 (f) Whenever there is a conflict, the processing of criminal  
4 fingerprints and fingerprints of applicants for security guard or  
5 alarm agent registrations or firearms qualification permits  
6 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4  
7 of the Business and Professions Code shall take priority over the  
8 processing of other applicant fingerprints.

9 (g) It is not a violation of this section to disseminate statistical  
10 or research information obtained from a record, provided that the  
11 identity of the subject of the record is not disclosed.

12 (h) It is not a violation of this section to include information  
13 obtained from a record in (1) a transcript or record of a judicial or  
14 administrative proceeding or (2) any other public record if the  
15 inclusion of the information in the public record is authorized by  
16 a court, statute, or decisional law.

17 (i) Notwithstanding any other law, the Department of Justice  
18 or a state or local law enforcement agency may require the  
19 submission of fingerprints for the purpose of conducting state  
20 summary criminal history information checks that are authorized  
21 by law.

22 (j) The state summary criminal history information shall include  
23 any finding of mental incompetence pursuant to Chapter 6  
24 (commencing with Section 1367) of Title 10 of Part 2 arising out  
25 of a complaint charging a felony offense specified in Section 290.

26 (k) (1) This subdivision shall apply whenever state or federal  
27 summary criminal history information is furnished by the  
28 Department of Justice as the result of an application by an  
29 authorized agency or organization and the information is to be  
30 used for peace officer employment or certification purposes. As  
31 used in this subdivision, a peace officer is defined in Chapter 4.5  
32 (commencing with Section 830) of Title 3 of Part 2.

33 (2) Notwithstanding any other law, whenever state summary  
34 criminal history information is initially furnished pursuant to  
35 paragraph (1), the Department of Justice shall disseminate the  
36 following information:

37 (A) Every conviction rendered against the applicant.

38 (B) Every arrest for an offense for which the applicant is  
39 presently awaiting trial, whether the applicant is incarcerated or

1 has been released on bail or on his or her own recognizance  
2 pending trial.

3 (C) Every arrest or detention, except for an arrest or detention  
4 resulting in an exoneration, provided, however, that where the  
5 records of the Department of Justice do not contain a disposition  
6 for the arrest, the Department of Justice first makes a genuine effort  
7 to determine the disposition of the arrest.

8 (D) Every successful diversion.

9 (E) Every date and agency name associated with all retained  
10 peace officer or nonsworn law enforcement agency employee  
11 preemployment criminal offender record information search  
12 requests.

13 (F) Sex offender registration status of the applicant.

14 (G) Sentencing information, if present in the department's  
15 records at the time of the response.

16 (I) (1) This subdivision shall apply whenever state or federal  
17 summary criminal history information is furnished by the  
18 Department of Justice as the result of an application by a criminal  
19 justice agency or organization as defined in Section 13101, and  
20 the information is to be used for criminal justice employment,  
21 licensing, or certification purposes.

22 (2) Notwithstanding any other law, whenever state summary  
23 criminal history information is initially furnished pursuant to  
24 paragraph (1), the Department of Justice shall disseminate the  
25 following information:

26 (A) Every conviction rendered against the applicant.

27 (B) Every arrest for an offense for which the applicant is  
28 presently awaiting trial, whether the applicant is incarcerated or  
29 has been released on bail or on his or her own recognizance  
30 pending trial.

31 (C) Every arrest for an offense for which the records of the  
32 Department of Justice do not contain a disposition or ~~which~~ *that*  
33 did not result in a conviction, provided that the Department of  
34 Justice first makes a genuine effort to determine the disposition  
35 of the arrest. However, information concerning an arrest shall not  
36 be disclosed if the records of the Department of Justice ~~indicate~~  
37 *indicate*, or if the genuine effort ~~reveals~~ *reveals*, that the subject  
38 was exonerated, successfully completed a diversion or deferred  
39 entry of judgment program, or the arrest was deemed a detention,  
40 or the subject was granted relief pursuant to Section 851.91.

1 (D) Every date and agency name associated with all retained  
2 peace officer or nonsworn law enforcement agency employee  
3 preemployment criminal offender record information search  
4 requests.

5 (E) Sex offender registration status of the applicant.

6 (F) Sentencing information, if present in the department's  
7 records at the time of the response.

8 (m) (1) This subdivision shall apply whenever state or federal  
9 summary criminal history information is furnished by the  
10 Department of Justice as the result of an application by an  
11 authorized agency or organization pursuant to Section 1522,  
12 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or  
13 a statute that incorporates the criteria of any of those sections or  
14 this subdivision by reference, and the information is to be used for  
15 employment, licensing, or certification purposes.

16 (2) Notwithstanding any other law, whenever state summary  
17 criminal history information is initially furnished pursuant to  
18 paragraph (1), the Department of Justice shall disseminate the  
19 following information:

20 (A) Every conviction of an offense rendered against the  
21 applicant, except a conviction for which relief has been granted  
22 pursuant to Section ~~1203.49~~: *1203.4, 1203.4a, 1203.41, 1203.42,*  
23 *1203.45, 1203.49, or 1170.9.*

24 (B) Every arrest for an offense for which the applicant is  
25 presently awaiting trial, whether the applicant is incarcerated or  
26 has been released on bail or on his or her own recognizance  
27 pending trial.

28 (C) Every arrest for an offense for which the Department of  
29 Social Services is required by paragraph (1) of subdivision (a) of  
30 Section 1522 of the Health and Safety Code to determine if an  
31 applicant has been arrested. However, if the records of the  
32 Department of Justice do not contain a disposition for an arrest,  
33 the Department of Justice shall first make a genuine effort to  
34 determine the disposition of the arrest.

35 (D) Sex offender registration status of the applicant.

36 (E) Sentencing information, if present in the department's  
37 records at the time of the response.

38 (3) Notwithstanding the requirements of the sections referenced  
39 in paragraph ~~(1)~~ of this subdivision, *(1)*, the Department of Justice  
40 shall not disseminate information about an arrest subsequently

1 deemed a detention or an arrest that resulted in the successful  
 2 completion of a diversion program, exoneration, or a grant of relief  
 3 pursuant to Section 851.91.

4 (n) (1) This subdivision shall apply whenever state or federal  
 5 summary criminal history information, to be used for employment,  
 6 licensing, or certification purposes, is furnished by the Department  
 7 of Justice as the result of an application by an authorized agency,  
 8 organization, or individual pursuant to any of the following:

9 (A) Paragraph (10) of subdivision (c), when the information is  
 10 to be used by a cable corporation.

11 (B) Section 11105.3 or 11105.4.

12 (C) Section 15660 of the Welfare and Institutions Code.

13 (D) A statute that incorporates the criteria of any of the statutory  
 14 provisions listed in subparagraph (A), (B), or (C), or of this  
 15 subdivision, by reference.

16 (2) With the exception of applications submitted by  
 17 transportation companies authorized pursuant to Section 11105.3,  
 18 and notwithstanding any other law, whenever state summary  
 19 criminal history information is initially furnished pursuant to  
 20 paragraph (1), the Department of Justice shall disseminate the  
 21 following information:

22 (A) Every conviction, except a conviction for which relief has  
 23 been granted pursuant to Section ~~1203.49~~, 1203.4, 1203.4a,  
 24 1203.41, 1203.42, 1203.45, 1203.49, or 1170.9, rendered against  
 25 the applicant for a violation or attempted violation of an offense  
 26 specified in subdivision (a) of Section 15660 of the Welfare and  
 27 Institutions Code. However, with the exception of those offenses  
 28 for which registration is required pursuant to Section 290, the  
 29 Department of Justice shall not disseminate information pursuant  
 30 to this subdivision unless the conviction occurred within ~~10~~ seven  
 31 years of the date of the agency's request for information or the  
 32 conviction is over ~~10~~ seven years old but the subject of the request  
 33 was incarcerated *or on probation or parole* within ~~10~~ seven years  
 34 of the agency's request for information.

35 (B) Every arrest for a violation or attempted violation of an  
 36 offense specified in subdivision (a) of Section 15660 of the Welfare  
 37 and Institutions Code for which the applicant is presently awaiting  
 38 trial, whether the applicant is incarcerated or has been released on  
 39 bail or on his or her own recognizance pending trial.

40 (C) Sex offender registration status of the applicant.



1 (D) Sentencing information, if present in the department's  
2 records at the time of the response.

3 (o) (1) This subdivision shall apply whenever state or federal  
4 summary criminal history information is furnished by the  
5 Department of Justice as the result of an application by an  
6 authorized agency or organization pursuant to Section 379 or 550  
7 of the Financial Code, or a statute that incorporates the criteria of  
8 either of those sections or this subdivision by reference, and the  
9 information is to be used for employment, licensing, or certification  
10 purposes.

11 (2) Notwithstanding any other law, whenever state summary  
12 criminal history information is initially furnished pursuant to  
13 paragraph (1), the Department of Justice shall disseminate the  
14 following information:

15 (A) Every conviction rendered against the applicant for a  
16 violation or attempted violation of an offense specified in Section  
17 550 of the Financial Code, except a conviction for which relief  
18 has been granted pursuant to Section ~~1203.49~~, *1203.4*, *1203.4a*,  
19 *1203.41*, *1203.42*, *1203.45*, *1203.49*, or *1170.9*.

20 (B) Every arrest for a violation or attempted violation of an  
21 offense specified in Section 550 of the Financial Code for which  
22 the applicant is presently awaiting trial, whether the applicant is  
23 incarcerated or has been released on bail or on his or her own  
24 recognizance pending trial.

25 (C) Sentencing information, if present in the department's  
26 records at the time of the response.

27 (p) (1) This subdivision shall apply whenever state or federal  
28 criminal history information is furnished by the Department of  
29 Justice as the result of an application by an agency, organization,  
30 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
31 by a transportation company authorized pursuant to Section  
32 11105.3, or a statute that incorporates the criteria of that section  
33 or this subdivision by reference, and the information is to be used  
34 for employment, licensing, or certification purposes.

35 (2) Notwithstanding any other law, whenever state summary  
36 criminal history information is initially furnished pursuant to  
37 paragraph (1), the Department of Justice shall disseminate the  
38 following information:

39 (A) Every conviction rendered against the applicant, except a  
40 conviction for which relief has been granted pursuant to Section

1 ~~1203.49~~. 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.49,  
2 or 1170.9.

3 (B) Every arrest for an offense for which the applicant is  
4 presently awaiting trial, whether the applicant is incarcerated or  
5 has been released on bail or on his or her own recognizance  
6 pending trial.

7 (C) Sex offender registration status of the applicant.

8 (D) Sentencing information, if present in the department’s  
9 records at the time of the response.

10 (q) All agencies, organizations, or individuals defined in  
11 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the  
12 Department of Justice for subsequent notification pursuant to  
13 Section 11105.2. This subdivision shall not supersede sections that  
14 mandate an agency, organization, or individual to contract with  
15 the Department of Justice for subsequent notification pursuant to  
16 Section 11105.2.

17 (r) This section does not require the Department of Justice to  
18 cease compliance with any other statutory notification  
19 requirements.

20 (s) The provisions of Section 50.12 of Title 28 of the Code of  
21 Federal Regulations are to be followed in processing federal  
22 criminal history information.

23 (t) Whenever state or federal summary criminal history  
24 information is furnished by the Department of Justice as the result  
25 of an application by an authorized agency, organization, or  
26 individual defined in subdivisions (k) to (p), inclusive, and the  
27 information is to be used for employment, licensing, or certification  
28 purposes, the authorized agency, organization, or individual shall  
29 expeditiously furnish a copy of the information to the person to  
30 whom the information relates if the information is a basis for an  
31 adverse employment, licensing, or certification decision. When  
32 furnished other than in person, the copy shall be delivered to the  
33 last contact information provided by the applicant. *purposes, the  
34 department shall first furnish a copy of the Criminal Offender  
35 Record Information (CORI) to the subject of the request. After  
36 furnishing a copy to the subject, but prior to furnishing a report  
37 to a third party, the department shall allow the subject a reasonable  
38 opportunity of not less than five days to challenge the accuracy  
39 or completeness of any matter contained in the CORI. The  
40 department shall make the necessary corrections pursuant to*

1 *Section 11126 prior to furnishing the information to the requesting*  
2 *agency, organization, or individual.*

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Senate, February 16, 2018. (JR11)**

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**PENAL CODE - PEN**

**PART 2. OF CRIMINAL PROCEDURE [681 - 1620]** ( Part 2 enacted 1872. )

**TITLE 8. OF JUDGMENT AND EXECUTION [1191 - 1234.5]** ( Title 8 enacted 1872. )

**CHAPTER 1. The Judgment [1191 - 1210.5]** ( Chapter 1 enacted 1872. )

**1203.4.** (a) (1) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

(2) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(3) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(4) This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of Section 42002.1 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, subdivision (j) of Section 289, Section 311.1, 311.2, 311.3, or 311.11, or any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interests of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(g) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

(Amended by Stats. 2013, Ch. 143, Sec. 2. (AB 20) Effective January 1, 2014.)

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**To:** Board Members

**Date:** April 30, 2018

**From:** Rosanne Helms  
Legislative Analyst

**Telephone:** (916) 574-7897

**Subject:** Legislative Update

Board staff is currently pursuing the following legislative proposals:

1. **AB 93 (Medina) Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision**

This bill proposal represents the work of the Board's Supervision Committee. Its amendments focus on strengthening the qualifications of supervisors, supervisor responsibilities, types of supervision that may be provided, and acceptable work settings for supervisees. The bill also strives to make the Board's supervision requirements more consistent across its licensed professions.

*Status: This bill is in the Senate Appropriations Committee.*

2. **AB 2117 (Arambula): Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors**

The Board is proposing a bill to make some amendments to its licensing process. The bill will make amendments to specify how an expired registration may be renewed, and to supervised experience hours required for long term out-of-state license holders. It also makes some corrections to LCSW law regarding the California law and ethics exam and law and ethics coursework.

*Status: This bill has passed through the Assembly and is currently in the Senate Business and Professions Committee.*

3. **SB 1491 (Senate Business, Professions, and Economic Development Committee): Omnibus Legislation**

This bill proposal, approved by the Board at its November 2, 2017 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

*Status: This bill is in the Senate Appropriations Committee.*

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**To:** Board Members

**Date:** April 30, 2018

**From:** Christy Berger  
Regulatory Analyst

**Telephone:** (916) 574-7817

**Subject: Status of Board Rulemaking Proposals**

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**Application Processing Times and Registrant Advertising**

This proposal would amend the Board's advertising regulations in line with SB 1478 (Chapter 489, Statutes of 2016) which changes the term "intern" to "associate" effective January 1, 2018, and makes several technical changes. This proposal would also amend the regulation that sets forth minimum and maximum application processing time frames.

This proposal, which was approved by the Board at its meeting in November 2016, has received final approval and took effect March 14, 2018.

**Enforcement Process**

This proposal would result in updates to the Board's disciplinary process. It would also make updates to the Board's "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015)," which are incorporated by reference into the Board's regulations. The proposed changes fall into three general categories:

1. Amendments seeking to strengthen certain penalties that are available to the Board;
2. Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the Business and Professions Code; and
3. Amendments to clarify language that has been identified as unclear or needing further detail.

The proposal was approved by the Board at its meeting in February 2017, and began the DCA initial review process in July 2017. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

**Contact Information; Application Requirements; Incapacitated Supervisors**

This proposal would:

- Require all registrants and licensees to provide and maintain a current, confidential telephone number and email address with the Board.

- Codify the Board's current practice of requiring applicants for registration or licensure to provide the Board with a public mailing address, and ask applicants for a confidential telephone number and email address.
- Codify the Board's current practice of requiring applicants to provide documentation that demonstrates compliance with legal mandates, such as official transcripts; to submit a current photograph; and for examination candidates to sign a security agreement.
- Require certain applications and forms to be signed under penalty of perjury.
- Provide standard procedures for cases where a registrant's supervisor dies or is incapacitated before the completed hours of experience have been signed off.

The proposal was approved by the Board at its meeting in March 2017, and began the DCA initial review process in August 2017. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

**Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee**

This proposal would amend the Board's examination rescoring provisions to clarify that rescoring pertains only to exams taken via paper and pencil, since all other taken electronically are automatically rescored. This proposal would also make clarifying, non-substantive changes to the Board's application abandonment criteria, and clarify the fee required for subsequent Associate Professional Clinical Counselor registrations. The proposal was approved by the Board at its meeting in November 2017, and began the DCA initial review process in April 2018. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

## BBS REGULATION TIME LINE

Regulation Package Name	Date of Board Approval	Date Submitted to DCA - Initial Review	Date Submitted to Agency- Initial Review	Date Noticed	Public Hearing Date	Date Submitted to DCA - Final Review	Date Submitted to Agency – Final Review	Date Submitted to DOF	Date Submitted to OAL - Approval	Date OAL Approved
Enforcement Update to Disciplinary Guidelines	3/3/17	7/11/17								
Application Processing Times and Registrant Advertising*	11/4/16	12/28/16	Agency completed review 6/6/17	7/7/17	8/22/17	9/13/17	1/22/18	2/8/18	2/8/18	3/14/18
Contact Information; Application Requirements; Incapacitated Supervisors	3/3/17	8/22/17								
Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee	11/2/17	4/6/18								

\*Statute to change “Intern” to “Associate” became effective January 1, 2018

DCA and Agency Initial Review Process: Following review by the Board’s attorney and preparation of the required documentation (Notice, Initial Statement of Reasons, and the Fiscal Impact Std. 399), the package is submitted to DCA’s legislative and policy review division, who routes it through the budget office and legal office for their review and approval. Next, the package is submitted to DCA Executive Office for review/approval. The package is then submitted to Agency for an initial review. Once approved by Agency, the Board is able to submit the package to the Office of Administrative Law to Notice the proposed regulation change.

Notice and Public Hearing: The Notice initiates the 45-day public comment period. Following the 45-day comment period, a public hearing is scheduled. The Board must consider all comments submitted. If any substantive changes are made to the text of the proposal, the Board must approve the language again, and provide the public with a 15-day public comment period. If no changes are made to the proposal, the Board submits the package to DCA for final review.

DCA and Agency Final Review: The initial review process is repeated.

Submission to DOF and OAL for Final Approval: Both the Department of Finance and the Office of Administrative Law must approve the regulation package. The review may occur at the same time. However, OAL is the final approval. Once OAL approves the regulation package, the proposal is adopted and it is assigned an effective date.