



Board of Behavioral Sciences



1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830
www.bbs.ca.gov

Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

BOARD MEETING Notice and Agenda

June 5, 2020

Meeting will be held via Zoom Video Conferencing

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 participate by the options listed below.

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

INSTRUCTIONS TO JOIN THE MEETING:

Join from PC, Mac, Linux, iOS or Android.

- Please log into the following site: <https://zoom.us/j/95710372253>
- Enter the following password: **J*5!BBS**
- You will be placed in a waiting room until admitted to the meeting.

Join by Telephone:

- Dial: USA (636) 651-3128 or USA Toll Free (877) 411-9748
 - Enter conference code: 555916
-

AGENDA
Friday, June 5, 2020
8:00 a.m.

OPEN SESSION

- I. Call to Order and Establishment of Quorum

CLOSED SESSION: Immediately following Agenda Item I. – 10:00 a.m.

- II. 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. The Board Will Also, Pursuant to Section 11126(a)(1) of the Government Code, Meet in Closed Session to Evaluate the Performance of the Executive Officer and to Discuss Possible Salary Level Change

RECONVENE IN OPEN SESSION 10:30 A.M.

OPEN SESSION

- III. Call to Order, Establishment of Quorum, and Introductions*
- IV. Consent Calendar
- a. Possible Approval of the March 5-6, 2020 Board Meeting Minutes
- V. Board Chair Report
- a. Introduction of New Board Members
- b. Board Member Activities
- c. Recognition of Board Staff for Years of Service
- d. Recognition of Departing Board Members
- VI. Executive Officer Report
- a. Budget Report
- b. Operations Report
- c. Personnel Report
- d. Strategic Plan Update
- e. Update on 2019-2020 Sunset Review
- VII. Election of Board Officers
- VIII. Discussion and Possible Action Regarding Assembly Bill 8 (Chu) Pupil Health: Mental Health Professionals

- IX. Discussion and Possible Action Regarding Assembly Bill 1145 (Garcia) Child Abuse: Reportable Conduct
- X. Discussion and Possible Action Regarding Assembly Bill 1616 (Low) Department of Consumer Affairs: Boards: Expunged Convictions
- XI. Discussion and Possible Action Regarding Assembly Bill 1850 (Gonzalez) Worker Classification: Employees and Independent Contractors
- XII. Discussion and Possible Action Regarding Assembly Bill 2028 (Aguiar-Curry) State Agencies: Meetings
- XIII. Discussion and Possible Action Regarding Assembly Bill 2112 (Ramos) Suicide Prevention
- XIV. Discussion and Possible Action Regarding Assembly Bill 2113 (Low) Refugees, Asylees, and Immigrants: Professional Licensing
- XV. Discussion and Possible Action Regarding Assembly Bill 2253 (Low) Professional Licensure
- XVI. Discussion and Possible Action Regarding Assembly Bill 2257 (Gonzalez) Worker Classification: Employees and Independent Contractors: Occupations: Professional Services
- XVII. Discussion and Possible Action Regarding Assembly Bill 3045 (Gray) Department of Consumer Affairs: Boards: Veterans: Military Spouses: Licenses
- XVIII. Discussion and Possible Action Regarding Senate Bill 803 (Beall) Mental Health Services: Peer Support Specialist Certification
- XIX. Discussion and Possible Action Regarding Senate Bill 855 (Wiener) Health Coverage: Mental Health or Substance Abuse Disorders
- XX. Discussion and Possible Action Regarding Senate Bill 878 (Jones) Department of Consumer Affairs Licensing: Applications: Wait Times
- XXI. Discussion and Possible Action Regarding Senate Bill 1168 (Morrell) State Agencies: Licensing Services
- XXII. Discussion and Possible Action Regarding Senate Bill 1474 (Senate Committee on Business, Professions and Economic Development) Business and Professions
- XXIII. Update on Board Sponsored Legislation

- a. Assembly Bill 2142 (Medina) Board of Behavioral Sciences: Licensees: Licensing and Examination Fees
- b. Assembly Bill 2363 (Arambula) Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors
- c. Senate Bill 1474 (Senate Committee on Business, Professions and Economic Development) Business and Professions

XXIV. Discussion and Possible Action Regarding Comments Received Regarding Proposed Supervision Regulations

XXV. Update on Board Rulemaking Proposals

XXVI. 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. [Gov. Code §§ 11125, 1125.7(a)]

XXVII. Suggestions for Future Agenda Items

XXVIII. Adjournment

**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.

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 MINUTES

1
2
3
4 Open sessions of this Board Meeting were webcasted. Records of the webcasts are
5 available at the following links:

6 March 5 (part 1): https://www.youtube.com/watch?v=VX_7PsiGGNs

7 March 5 (part 2): <https://www.youtube.com/watch?v=S0Kyikig5lo>

8 March 6: <https://www.youtube.com/watch?v=LbCmdmdnAsg>

9

10

11 **DATE**

March 5, 2020

12

13 **LOCATION**

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

14

15

16

17

18 **TIME**

8:30 a.m.

19

20 **ATTENDEES**

21

Members Present: Betty Connolly, Chair, LEP Member
Max Disposti, Vice Chair, Public Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Ross Erlich, Public Member
Jonathan Maddox, LMFT Member
John Sovec, LMFT Member
Wendy Strack, Public Member
Christina Wong, LCSW Member

22

23

24

25

26

27

28

29

30

31

Members Absent: Crystal Anthony, LCSW Member

32

33

Staff Present: Kim Madsen, Executive Officer
Steve Sodergren, Assistant Executive Officer
Jonathan Burke, Enforcement Manager
Sabina Knight, Legal Counsel
Christina Kitamura, Administrative Analyst

34

35

36

37

38

39

Other Attendees: Sean Gavin, Administrative Law Judge

5 **OPEN SESSION**
6

7
8 **I. Call to Order and Establishment of Quorum**
9

10 Betty Connolly, Chair of the Board of Behavioral Sciences (Board), called the
11 meeting to order at 8:38 a.m. Roll was called, and a quorum was established.
12 Board members introduced themselves.
13

14 **II. Public Comment for Items Not on the Agenda**
15

16 No comments.
17

18 **III. Suggestions for Future Agenda Items**
19

20 No suggestions.
21
22

23 ***Administrative Law Judge Sean Gavin presided over the following petition***
24 ***hearings. Deputy Attorney General Patricia Heim presented the facts of each***
25 ***case on behalf of the People of the State of California.***
26

27 **IV. Petition for Modification of Probation for Hosson Hooper, LMFT 79118**
28

29 The hearing was opened at 8:45 a.m. Hosson Hooper was present and
30 represented himself. Mr. Hooper stated that he is petitioning for early termination
31 of probation. Mr. Heim presented the background of Mr. Hooper's probation, and
32 referred to the exhibit showing that Mr. Hooper's petition is to modify probation.
33

34 Mr. Hooper was sworn in. He presented his request for modification of probation/
35 early termination of probation and information to support the request and was
36 cross-examined by Ms. Heim and Board members. The record was closed at
37 10:11 a.m.
38

39 **V. Petition for Early Termination of Probation for Chevelle Bourdon, ASW**
40 **76998**
41

42 The hearing was opened at 10:22 a.m. Chevelle Bourdon was present and
43 represented herself. Ms. Heim presented the background of Ms. Bourdon's
44 probation.
45

1 Ms. Bourdon was sworn in. She presented her request for early termination of
2 probation and information to support the request and was cross-examined by
3 Ms. Heim and Board members. The record was closed at 11:02 a.m.
4

5 **VI. Petition for Early Termination of Probation for Jacqueline Gall, AMFT**
6 **102973**
7

8 The hearing was opened at 11:08 p.m. Jacqueline Gall was present and
9 represented herself. Ms. Heim presented the background of Ms. Gall's
10 probation.
11

12 Ms. Gall was sworn in. She presented her request for early termination of
13 probation and information to support the request and was cross-examined by
14 Ms. Heim and Board members. The record was closed at 11:58 a.m.
15

16 **VII. Petition for Early Termination of Probation for Andrew Warren, ASW 79887**
17

18 The hearing was opened at 1:08 p.m. Andrew Warren was present and
19 represented himself. Ms. Heim presented the background of Mr. Warren's
20 probation.
21

22 Mr. Warren was sworn in. He presented his request for early termination of
23 probation and information to support the request and was cross-examined by
24 Ms. Heim and Board members. The record was closed at 2:09 p.m.
25

26 **VIII. Petition for Early Termination of Probation for Katya Webber Mills, AMFT**
27 **102522**
28

29 The hearing was opened at 2:22 p.m. Katya Webber Mills was present and
30 represented herself. Ms. Heim presented the background of Ms. Mill's probation.
31

32 Ms. Miller was sworn in. She presented her request for early termination of
33 probation and information to support the request and was cross-examined by
34 Ms. Heim and Board members. The record was closed at 3:21 p.m.
35
36

37 **CLOSED SESSION**
38
39

40 **IX. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will**
41 **Meet in Closed Session for Discussion and to Take Action on Disciplinary**
42 **Matters, Including the Above Petitions. The Board Will Also, Pursuant to**
43 **Section 11126(a)(1) of the Government Code, Meet in Closed Session to**
44 **Evaluate the Performance of the Executive Officer and to Discuss Possible**
45 **Salary Level Change.**
46

1 The Board met in closed session at 3:32 p.m.

2

3

4 **OPEN SESSION**

5

6

7 **X. Recess Until 8:30 a.m. on Friday, March 6, 2020**

8

9

The Board reconvened in open session and recessed at 5:24 p.m.

1 **DATE** March 6, 2019

2

3 **LOCATION** Department of Consumer Affairs
4 Lou Galiano Hearing Room
5 1625 N. Market Blvd., #S-102
6 Sacramento, CA 95834
7

8 **TIME** 8:30 a.m.
9

10 **ATTENDEES**

11 **Members Present:** Betty Connolly, Chair, LEP Member
12 Max Disposti, Vice Chair, Public Member
13 Dr. Leah Brew, LPCC Member
14 Deborah Brown, Public Member
15 Ross Erlich, Public Member
16 Jonathan Maddox, LMFT Member
17 John Sovec, LMFT Member
18 Wendy Strack, Public Member
19 Christina Wong, LCSW Member
20

21 **Members Absent:** Crystal Anthony, LCSW Member
22

23 **Staff Present:** Kim Madsen, Executive Officer
24 Steve Sodergren, Assistant Executive Officer
25 Rosanne Helms, Legislative Manager
26 Christy Berger, Regulatory Analyst
27 Sabina Knight, Legal Counsel
28 Christina Kitamura, Administrative Analyst
29

30 **Other Attendees:** *See voluntary sign-in sheet (available upon request)*
31

32

33 **OPEN SESSION**
34

35

36 **XI. Call to Order, Establishment of Quorum, and Introductions**
37

38 Meeting called to order at 8:35 a.m. Roll was called, and a quorum was
39 established. Board staff and meeting attendees introduced themselves.
40

41 **XII. Consent Calendar**

- 42 **a. Approval of the May 9-10, 2019 Board Meeting Minutes**
- 43 **b. Approval of November 20-22, 2019 Board Meeting Minutes**
- 44

45 Wong: Noted a correction on May 2019 meeting minutes.

1 **MOTION:** Approve the May 9-10, 2019 Board meeting minutes as amended
2 and the November 20-22, 2019 Board meeting minutes.

3
4 Wong moved. Brew seconded. The motion carried; 8 yea, 0 nay, 1 abstention.

5
6 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Ross Erlich	x				
Jonathan Maddox	x				
John Sovec	x				
Wendy Strack			x		
Christina Wong	x				

7
8
9 **XIII. Budget Presentation by Department of Consumer Affairs Budget Manager**
10 **Brian Skewis and Budget Analyst J.P. Fletes**

11
12 Brian Skewis, Department of Consumer Affairs (DCA) Budget Manager
13 presented an overview of the budget update.

14
15 Fund Condition

16 The fund condition is a “savings account” from which each year’s budget is
17 allocated or drawn. The Board is required to adhere to its annual budget as
18 approved by the governor and legislature.

- 19
20
- 21 • Fiscal year (FY) 19/20 began with approximately \$6.4 million in the fund.
 - 22 • Anticipates collecting approximately \$9.5 million in revenue.
 - 23 • Budget authority of \$13,562,00 of which \$965,000 is directly drawn and
24 \$12.6 is appropriated to the Board directly.
 - 25 • Gap of \$4.1 million causing the fund balance to decline.

26 The Board is spending more than it is collecting. The Board is in the process of
27 pursuing a fee increase. If the proposal is successful, the revenue will be
28 increasing starting mid-year implementation of FY 20/21 and fully actualized in
29 FY 21/22. With these structural changes, the Board’s fund will be in healthy
30 condition with slight growth.

31
32 The Budget Office recently completed building the FY 2021 budget. There are
33 several adjustments that affect the Board’s current year and budget year
34 expenditure authorization. These adjustments are primarily associated with
35 changes in the cost of staffing, benefits and an increase in the rate and

1 utilization of the Attorney General’s Office. The Board further submitted a
2 budget change proposal to fund and authorize a permanent intermittent staff
3 member starting next fiscal year.
4

5 Budget Report

6 The budget report provides information regarding prior year information, which
7 is compared to the budget and year-to-date information. This information is
8 used to create projections. The unencumbered balance is the difference
9 between the amount that the Board is budgeted and the amount that the Board
10 is projected to spend. This year, the Board is within its spending authority of its
11 budget, reverting about 4.7%. Typically, 3-4% is where the budget office is
12 comfortable moving forward with room for unanticipated charges.
13

14 **XIV. Board Chair Report**

15 **a. Introduction to New Board Members**

16
17 Ms. Connolly introduced new Board Members, Ross Erlich, John Sovec,
18 and Wendy Strack.
19

20 **b. Board Member Activities**

21
22 No activities to report.
23

24 **c. Recognition of Board Staff for Years of Service**

25
26 Rosanne Helms was recognized for 10 years of service to BBS:
27

28 **XV. Executive Officer Report**

29 **a. Budget Report**

30
31 2019/2020 Budget

32 The Board’s budget for fiscal year (FY) 2019/2020 is \$12,597,000. As of
33 February 19, 2020, the Board has spent \$6,966,946 (55%) of its budget.
34

35 Current projections indicate that the Board will end the year with nearly
36 \$600,000 in unexpended funds. The projections include additional
37 expenses for a \$175,000 contract to convert all documents on the Board’s
38 website into documents that are compliant with the American Disabilities Act
39 as required by AB 434.
40

41 Fund Condition

42 The Board’s Fund Condition for FY 2019/2020 reflects a 2.1-month reserve.
43 This figure assumes the implementation of the Board’s request to increase
44 fees.
45

1 Fi\$Cal Update

2 The DCA Budget Office reports that it is continuing its work to closeout FY
3 2018/2019. FY 2017/2018 was recently reconciled with the State
4 Controller's Office. Additionally, the Budget Office is collaborating with the
5 Office of Information Services to generate financial reports to provide
6 boards and bureaus with a level of detail that will reflect expenditures on a
7 monthly basis. These reports are in the final review process.

8
9 **b. Operations Report**

10
11 Quarterly performance statistics for the 2nd quarter of FY 2019/2020 were
12 provided.

13
14 Licensing Program Applications

- 15 • Overall licensing application volumes decreased 39%
- 16 • Increased in application processing times due to recent staff vacancies

17
18 Licensing Population

- 19 • 1,348 initial licenses were issued
- 20 • 119,906 licensees and registrants as of February 1, 2020

21
22 Renewal Activity

23 Overall renewal activity decreased by 24%.

24
25 Administrative Applications

26 Overall administrative application volumes decreased by 16%.

27
28 Examination Program

- 29 • 4,387 examinations were administered
- 30 • 12 examination development workshops were conducted.

31
32 The Office of Professional Examination Services (OPES) are in the process
33 of completing the Licensed Marriage and Family Therapist (LMFT)
34 Occupational Analysis. The report will be presented at the May Board
35 meeting.

36
37 Enforcement Program

- 38 • 533 consumer complaints received
- 39 • 245 criminal conviction notifications received
- 40 • 732 cases closed
- 41 • 43 cases referred to the Attorney General's (AG) office for formal
42 discipline
- 43 • 134 cases pending as of December 31, 2019
- 44 • 24 Accusations and 5 Statement of Issues filed
- 45 • 60 final disciplinary orders
- 46 • 35 decisions adopted

- 461 average number of days to complete Formal Discipline. Performance measure is 540 days.
- 357 average number of days a case is with the AG’s Office
- 49 average number of days to complete all Board investigations

Continuing Education Audits for 2019

- 738 audits conducted
- 71% of the licensees passed the audit

Outreach Activity

Board staff engaged in the LMFT consortium meetings and the conferences for the California Association of Marriage and Family Therapists (CAMFT) and the National Association of Social Workers (NASW). Staff was also engaged in the CAMFT Job Fair and the Association of Social Work Boards (ASWB) Annual Delegate Meeting.

New Exam Vendor

Pearson Vue is currently administering the California Law & Ethics Exam, LMFT Clinical Exam, and the Licensed Educational Psychologist (LEP) Standard Written Exam.

Board staff is manually entering all exam scores. Board staff, DCA’s IT staff, and Pearson VUE’s IT staff are working to get the scores to transmit via the interface. This process should be fully implemented by early March.

c. Personnel Report

New Employees/Promotions

There were 4 promotions within the Board and 4 new hires.

Vacancies

There are 6 vacancies. Recruitment efforts are currently underway. The Board will also begin recruitment for a Staff Services Manager in the Licensing Unit.

d. Strategic Plan Update

The Strategic Plan was provided in the meeting materials for review.

XVI. Update on 2019-2020 Sunset Review

The Board submitted its final Sunset Review Report in December 2019 to the Assembly and Senate Business, Professions, and Economic Committees. The report provides a comprehensive review of the Board’s programs and operations since the last review in 2016.

1 Board management and staff from the Assembly and Senate Business,
2 Professions, and Economic Committees have met to discuss the report in
3 preparation for the upcoming hearings. The Board’s hearing date is set for
4 March 24, 2020. Steve Sodergren and Betty Connolly will attend the hearing.
5

6 **XVII. Update on Office of Professional Examination Services Licensed**
7 **Professional Clinical Counselor Occupational Analysis and Review of the**
8 **National Clinical Mental Health Counseling Examination**
9

10 The Board’s contract with the National Board of Certified Counselors (NBCC) to
11 use the National Clinical Mental Health Counseling Examination (NCMHCE) for
12 licensure in California for Licensed Professional Clinical Counselors (LPCCs)
13 allows for periodic reviews of the examination. The purpose of the review is to
14 ensure the examination remains relevant for use in California.
15

16 The Office of Professional Examination Services (OPES) provided results of the
17 review of the NCMHCE. The results indicate that “the procedures used to
18 establish and support the validity and defensibility of the test program
19 components of the NCMHCE appear to meet professional guidelines and
20 technical standards outlined in the *Standards for Educational and Psychological*
21 *Testing* (2104) and California Business and Professions Code (B&P) section
22 139.” The results also indicate that “the NCMHCE assesses general
23 knowledge required for entry-level LPCC practice in California.”
24

25 **XVIII. Discussion and Possible Action Regarding the Policy and Advocacy**
26 **Committee Recommendations**

27 **a. Recommendation #1: Support. Notice to Clients About Filing a**
28 **Complaint: Business and Professions Code Sections 4980.01, 4980.32,**
29 **4989.17, 4996.14, 4996.75, 4999.22, and 4999.71**
30

31 Background

32 Last year, the Board sponsored AB 630. The bill amended the law to
33 require that unlicensed or unregistered individuals providing psychotherapy
34 services in exempt settings provide their clients with a notice about where to
35 file a complaint about the therapist. AB 630 also requires Board licensed or
36 registered therapists in any setting provide their clients with a similar notice
37 stating that a complaint may be filed with the Board. These notices must be
38 provided prior to initiating psychotherapy services.
39

40 The Board was asked to consider two clarifying amendments to the
41 provisions of AB 630.
42

43 **Amendment #1: Additional Information to Clients of Unlicensed or**
44 **Unregistered Therapists (Amend BPC §§4980.01, 4996.14, and 4999.22)**
45

1 In its review of AB 630 last summer, the Senate Committee on Business,
2 Professions, and Economic Development (Committee) suggested the
3 following additional language be included in the notice provided to clients of
4 unlicensed or unregistered practitioners:
5

6 [The Board of Behavioral Sciences receives and responds to](#)
7 [complaints regarding services provided by individuals licensed and](#)
8 [registered by the Board. If you have a complaint and are unsure if](#)
9 [your practitioner is licensed or registered, please contact the Board of](#)
10 [Behavioral Sciences at 916-574-7830 for assistance or utilize the](#)
11 [Board's online license verification feature by visiting \[www.bbs.ca.gov\]\(http://www.bbs.ca.gov\).](#)
12

13 Adding this language would provide a consumer with an additional resource
14 so that they can check if their therapist is licensed or registered.
15

16 At the time, it was too late in the legislative session to take this suggestion
17 back to the Board for consideration without AB 630 becoming a two-year
18 bill. The Committee let the bill proceed, and staff agreed to take the
19 amendment to the next Board meeting for consideration.
20

21 The Board discussed the amendment at its November 2019 meeting and
22 suggested some minor changes. However, during the discussion,
23 stakeholders suggested that an additional clarification to the language in AB
24 630 might be helpful. Therefore, the Board directed staff to consider the
25 new suggestion and bring proposed language back at a later date.
26

27 **Amendment #2: Timing of Providing the Notice to Clients (Amend BPC**
28 **§§4980.01, 4980.32, 4989.17, 4996.14, 4996.75, 4999.22 and 4999.71)**
29

30 As written in AB 630, the law requires the practitioner to provide the notice
31 to clients about where to file a complaint prior to initiating psychotherapy
32 services.
33

34 In most cases when the practitioner is beginning session-based therapy, this
35 requirement would not be difficult to fulfill. However, in crisis situations, it
36 may not be feasible or appropriate to stop the delivery of immediate services
37 to provide and/or discuss the required notice.
38

39 Staff recommended that the Board consider clarifying the notice
40 requirement. The proposed amendment states that the notice must be
41 provided prior to initiating psychotherapy services or as soon as practically
42 possible thereafter.
43

44 Staff suggested that the Board discuss whether or not it would be helpful to
45 include language stating that the delivery of the notice shall be documented.
46

1 Brew: Agreed that language should be included regarding delivery of notice
2 documentation.

3
4 **MOTION:** Direct staff to make any discussed changes, and any non-
5 substantive changes, and pursue as a legislative proposal.

6
7 Brew moved; Wong seconded. The motion carried; 9 yea, 0 nay.

8
9 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Ross Erlich	x				
Jonathan Maddox	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

10
11
12 **b. Recommendation #2: No Action Recommended. Supervisor Work**
13 **Setting Requirements (AB 2363)**

14
15 At its November 2019 meeting, the Board approved language for a bill
16 proposal (later introduced as AB 2363) that provides definitions of the types
17 of settings where its licensees and pre-licensees work.

18
19 The goal of the proposal is to reduce the confusion that often arises of
20 where pre-licensees may or may not work based on how a business is
21 structured. While the Board approved the bill's language and directed staff
22 to pursue a legislative proposal, it determined one aspect should be brought
23 back to Policy and Advocacy Committee (Committee) for further discussion.

24
25 The Committee discussed the bill proposal at its February 2020 meeting.
26 The bill proposal requires that in a private practice or a professional
27 corporation, the supervisor of an associate must be employed or contracted
28 by the associate's employer or be an owner of the practice; and they must
29 also provide psychotherapeutic services to clients at the same site.

30
31 The question discussed was whether it would be appropriate to extend this
32 requirement to supervisors of associates and trainees in all non-exempt
33 settings.
34

1 Due to the uncertainty of how extending this limitation to all non-exempt
2 settings would affect the supply of supervisors available to associates and
3 trainees, staff suggested leaving the proposal as written. If concerns arose
4 in the future, this topic could be reconsidered.

5
6 The Committee agreed with this assessment and found that no further
7 action was needed.

8
9 No Board action was taken.

10
11 **XIX. Discussion and Possible Action Regarding Revisions to the Proposed**
12 **Rulemaking to Implement AB 2138**

13
14 *This agenda item was heard after item XXIV.*

15
16 Background

17 AB 2138 becomes effective on July 1, 2020. The Board approved regulations
18 to implement AB 2138 at its March 2019 meeting. The Board noticed the
19 regulation proposal on August 16, 2019, and the 45-day public comment period
20 ended September 30, 2019.

21
22 One letter was received commenting on the regulatory proposal. The Board
23 approved staff's proposed responses to the letter on November 22, 2019 and
24 directed staff to complete the regulatory process.

25
26 Because the AB 2138 regulations must be completed by each board and
27 bureau under DCA, DCA Legal prepared a basic template of the required
28 amendments for all boards and bureaus to use. DCA Legal recommended
29 boards and bureaus use the template and make modifications as needed to
30 meet each practice act's unique needs.

31
32 The Veterinary Medical Board's (VMB) AB 2138 regulation package was the
33 first to be submitted to the Office of Administrative Law (OAL) for final review.
34 However, upon review of the VMB's package, OAL advised VMB that it would
35 require several text changes for the package to go through. OAL advised that
36 while several of the required changes are likely non-substantive, some changes
37 may be considered substantive (which would require VMB to get their board's
38 approval and hold a 15-day public comment period).

39
40 Because this Board used the original template to write its regulations, DCA
41 Legal has advised staff to consider incorporating the same changes into the
42 Board's AB 2138 regulations moving forward.

43
44 Modifications to the AB 2138 Regulatory Text

- 45 1. Section 1812(a)

- 1 a. References to Sections 4982, 4989.54, 4990.31, 4992.3, and 4999.90
2 of the BPC were added. These sections authorize the Board to deny,
3 suspend, or revoke a license or registration for acts that the Board’s
4 licensing law considers unprofessional conduct.
5
- 6 b. A definition of “license” has been added to clarify that “license” means
7 a license or registration. This provision conforms to BPC §23.7, which
8 defines “license” to mean “license, certificate, registration, or other
9 means to engage in a business or profession regulated by [the BPC].”
10 For professions regulated by the Board, this can mean a license or an
11 associate registration.
12
- 13 2. Section 1812(b)
- 14 a. Insert “all of” before “the following criteria” to reflect the statutory
15 requirement in BPC §481(b).
16
- 17 b. Make a technical revision to use the appropriate term “subsection”
18 instead of “subdivision”.
19
- 20 c. Make a technical correction to replace the semicolon at the end of
21 (b)(1) and (2) with a period.
22
- 23 3. Section 1812(c)
- 24 a. Make a technical revision to use the appropriate term “subsection”
25 instead of “subdivision”.
26
- 27 b. Make technical revisions to use singular nouns throughout the
28 subsection.
29
- 30 4. Section 1812 Authority and Reference
- 31 a. Make minor revision to delete inapplicable authority sections and add
32 to the reference section statutes that relate to the substantial
33 relationship criteria.
34
- 35 5. Section 1813(a)
- 36 a. A definition of “license” has been added to clarify that “license” means
37 a license or registration. This provision conforms to BPC §23.7, which
38 defines “license” to mean “license, certificate, registration, or other
39 means to engage in a business or profession regulated by [the BPC].”
40 For professions regulated by the Board, this can mean a license or an
41 associate registration.
42

- 1 6. Section 1813(b)
- 2 a. Renumber to conform to the addition of subsection (a).
- 3
- 4 b. Make a grammatical correction: change “was” to “has been.”
- 5
- 6 c. Strike “and is presently eligible for a license,” to resolve OAL’s concern
- 7 that this phrase could be misinterpreted.
- 8
- 9 7. Section 1813(c)
- 10 a. Renumber to conform to the addition of subsection (a).
- 11
- 12 b. Remove and restate the subsection to clarify the circumstances under
- 13 which the Board will apply rehabilitation criteria to applicants who have
- 14 not completed a criminal sentence without a violation, the applicant
- 15 with a criminal conviction did not make a showing of rehabilitation
- 16 based on the criteria shown in subsection (b), the denial is based on
- 17 professional misconduct (as that term is used under the new BPC
- 18 §480), or the denial is based on one or more of the grounds specified
- 19 in the Board’s practice acts applicable to denials, suspensions, or
- 20 revocations of a license issued by the Board. This clarifying
- 21 amendment is necessary to inform the public, applicants, and Board
- 22 staff that rehabilitation criteria will be considered for all application
- 23 denials, regardless of whether the grounds for denial stem from BPC
- 24 §480. The clarifications promote equity and fairness to all applicants in
- 25 keeping with the legislative intent of AB 2138.
- 26
- 27 c. Subparagraph (1): Replace the term “severity” with the term “gravity” to
- 28 better align with the language used in the new version of BPC
- 29 §481(b)(1).
- 30
- 31 d. Subparagraphs (1), (2), and (3): Add “professional misconduct” in
- 32 order to include the conduct described under the new BPC §480 as
- 33 grounds for denial.
- 34
- 35 e. Subparagraph (2): Delete “under Section 480 of the Business and
- 36 Professions Code”, as this subparagraph is applicable to all statutory
- 37 grounds for denial, as specified, not just grounds under BPC §480.
- 38
- 39 f. Subparagraph (3): Delete incorrect reference to “subdivision” (1) or (2)
- 40 and make the correct reference to “paragraph” instead.
- 41
- 42 g. Subparagraph (5): Delete incorrect reference to “subdivision” (b) (1)
- 43 through (5) and make the correct reference to “subsection” instead.
- 44

- 1 8. Section 1813 Authority and Reference
- 2 a. Make minor revision to delete one inapplicable authority section and
- 3 add to the reference section statutes that relate to rehabilitation
- 4 criteria.
- 5
- 6 9. Section 1814(a)
- 7 a. A definition of “license” has been added to clarify that “license” means
- 8 a licensee or registrant. This provision conforms to BPC §23.7, which
- 9 defines “license” to mean “license, certificate, registration, or other
- 10 means to engage in a business or profession regulated by [the BPC].”
- 11 For professions regulated by the Board, this can mean a license or an
- 12 associate registration.
- 13
- 14 b. A definition of “licensee” has been added to clarify that “licensee”
- 15 means a licensee or registrant. This provision conforms to BPC §23.8,
- 16 which defines “licensee” to mean “any person authorized by a license,
- 17 certificate, registration, or other means to engage in a business or
- 18 profession regulated by [the BPC].” For professions regulated by the
- 19 Board, this can mean a licensee or an associate registrant.
- 20
- 21 10. Section 1814(b)
- 22 a. Renumber to conform to the addition of subsection (a).
- 23
- 24 b. Clarify that the conditions for applying rehabilitation criteria for
- 25 suspension or revocation of a license for criminal convictions are
- 26 pursuant to BPC §490.
- 27
- 28 11. Section 1814(c)
- 29 a. Renumber to conform to the addition of subsection (a).
- 30
- 31 b. Remove and restate the subsection to clarify the circumstances under
- 32 which the Board will apply rehabilitation criteria to licensees who have
- 33 not completed a criminal sentence without a violation, the licensee with
- 34 a criminal conviction did not make a showing of rehabilitation based on
- 35 the criteria shown in subsection (b), the suspension or revocation is
- 36 based on a disciplinary action as defined in BPC section 141, or the
- 37 suspension or revocation is based on one or more of the grounds
- 38 specified in the Board’s practice acts applicable to denials,
- 39 suspensions, or revocations of a license issued by the Board. This
- 40 clarifying amendment is necessary to inform the public, licensees, and
- 41 Board staff that rehabilitation criteria will be considered for all license
- 42 suspensions and revocations, regardless of whether the grounds for
- 43 discipline stem from BPC §490. The clarifications promote equity and

1 fairness to all licensees in keeping with the legislative intent of AB
2 2138.

- 3
- 4 c. Subparagraph (1): Replace the term “severity” with the term “gravity” to
5 better align with the language used in the new version of BPC
6 §481(b)(1).
7
- 8 d. Subparagraph (2): Delete “under Section 490 of the Code”, as this
9 subparagraph is applicable to all statutory grounds for suspension and
10 revocation, as specified, not just grounds under BPC §490.
11
- 12 e. Subparagraphs (1), (2), and (3): Add “disciplinary action(s)” in order to
13 include the conduct described under BPC §141 as grounds for
14 suspension or revocation.
15
- 16 f. Subparagraph (3): Delete incorrect reference to “subdivision” (1) or (2)
17 and make the correct reference to “paragraph” instead.
18
- 19 g. Subparagraph (4): Replace the term “such person” with the term “the
20 licensee” for clarity.
21
- 22 h. Subparagraph (5): Delete incorrect reference and numbering for
23 “subdivision (a) (1) through (5)” and instead make the correct reference
24 to “subsection (b) (1)-(5)”.
25

26 12. Section 1814(d)

- 27 a. Renumber to conform to the addition of subsection (a).
28
- 29 b. Correct the reference to reinstatement petition evaluations. Currently,
30 Section 11522 of the Government Code (GC) is cited. The last
31 sentence of GC 11522 states that it does not apply if the statutes
32 dealing with the particular agency contain different provisions for
33 reinstatement/reduction of penalty. For the Board’s practice acts, BPC
34 §4990.30 states different provisions, and therefore would override.
35 Therefore, BPC §4990.30 is the correct reference to use.
36

37 13. Section 1813 Authority and Reference:

- 38 a. Make minor revision to delete one inapplicable authority section and
39 add to the reference section statutes that relate to rehabilitation
40 criteria.
41

42 OAL Pre-Review of Regulations

43 After these revisions were made, DCA Legal requested that OAL look at the
44 Board’s regulations. After a quick review, OAL stated that it may have a
45 concern with subsection c; however, OAL did not indicate the specific concern.

1 Board staff believes the concern may be regarding the code articles that are
2 cited, rather than citing individual code sections of those articles. To avoid
3 bringing this back to the Board, staff is requesting to include non-substantive
4 changes in the Board's motion.
5

6 **MOTION:** Approve the proposed text for a 15-day public comment period.
7 Delegate to the Executive Officer the authority to adopt the proposed regulatory
8 changes if there are no adverse comments received during the public comment
9 period, following established procedures and processes in doing so; and to
10 delegate to the Executive Officer the authority to make any technical or non-
11 substantive changes that may be required in completing the rulemaking file.
12 And in addition, to delegate authority to the Executive Officer to make, if
13 requested by OAL, any of the article references in sections 1813(c) and 1814(c)
14 to change them to the subsections within those articles as non-substantive
15 changes.
16

17 Wong moved; Maddox seconded. Motion carried; 9 yea, 0 nay.
18

19 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Ross Erlich	x				
Jonathan Maddox	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

20
21
22 **XX. Discussion and Possible Action Regarding Assembly Bill 1145 (Garcia):**
23 **Child Abuse: Reportable Conduct**
24

25 AB 1145 would specify that voluntary acts of sodomy, oral copulation, and
26 sexual penetration are not considered acts of sexual assault that must be
27 reported by a mandated reporter as child abuse if there are no indicators of
28 abuse, unless it is between a person age 21 or older and a minor under age 16.
29

30 Existing Law:

- 31 1. Establishes the Child Abuse and Neglect Reporting Act (CANRA) which
32 requires a mandated reporter to make a report in instances in which he or
33 she knows or reasonably suspects that a child has been the victim of child
34 abuse or neglect.

- 1 2. Defines “sexual abuse” for the purposes of CANRA as sexual assault or
2 exploitation. It further defines “sexual assault” as consisting of any of the
3 following: rape, statutory rape, rape in concert, incest, sodomy, oral
4 copulation, lewd or lascivious acts upon a child, sexual penetration, or child
5 molestation.
6
- 7 3. Except under certain specified circumstances, declares any person who
8 participates in an act of sodomy or oral copulation with a person under age
9 18 shall be punished by up to one year in state prison or county jail.

10
11 The law goes on to outline age ranges that are reportable for various sexual
12 acts.

13
14 This Bill:

15 Specifies that voluntary acts of sodomy, oral copulation, or sexual penetration
16 are not considered to be mandated reports of sexual assault under CANRA if
17 there are no indicators of abuse, unless the conduct is between a person age
18 21 or older and a minor under age 16.
19

20 **Intent.** To clarify the law due to concerns and feedback that requirements for
21 mandated reporters of child abuse are confusing, inconsistent, and
22 discriminatory.
23

24 Some mandated reporters interpret the law to read that consensual sodomy
25 and oral copulation is illegal with anyone under age 18 and that it requires a
26 mandated report as sexual assault under CANRA. They argue that the same
27 reporting standards do not apply to consensual heterosexual intercourse.
28

29 There are also contradictory opinions that the law does not read this way and
30 that sodomy and oral copulation are not treated differently from other acts in the
31 code. However, lack of a clear answer leads to confusion about what is/is not
32 reportable.
33

34 **Background.** The Board examined this issue in 2013 when stakeholders
35 expressed concern. Staff obtained a legal opinion from the DCA legal office.
36

37 **DCA Legal Opinion.** DCA found that CANRA does not require a mandated
38 reporter to report incidents of consensual sex between minors of a similar age
39 for any actions described in PC Section 11165.1, unless there is reasonable
40 suspicion of force, exploitation, or other abuse. DCA found past court cases to
41 support its opinion.
42

43 **Board of Psychology Action.** The Board of Psychology sought an opinion
44 from the Attorney General’s (AG’s) Office. However, a related case was under
45 review by the California Supreme Court. The Supreme Court heard the case

1 and referred it to a lower court. The AG’s office suspended the opinion until the
2 litigation is concluded.
3

4 **Previous Board Action.** At its April 2019 meeting, the Policy and Advocacy
5 Committee (Committee) discussed the bill and recommended that the Board
6 consider taking a “support” position. In addition, the Committee directed staff to
7 reach out to the author’s office to discuss the possibility of also clarifying the
8 reportability of filming, “sexting”, or similar use of technology between minors,
9 as it noted there is also a lack of clarity in law regarding those activities.
10

11 Staff discussed this concern with the author’s office, and they expressed a
12 willingness to consider including it. They indicated that they would discuss the
13 idea with other members and stakeholders. However, they also noted that the
14 bill, as written, was encountering some challenges in the committee process at
15 the legislature. Therefore, it may be better to address this concern separately.
16

17 At its May 2019 meeting, the Board took an official position of “support” on AB
18 1145.
19

20 AB 1145 is a two-year bill. The Board’s 2019 “support” position technically still
21 stands because the bill has not been amended. Since it has been nearly a year
22 since the position was taken, staff recommends that the Board consider
23 reaffirming its ‘support” position.
24

25 **MOTION:** Support AB 1145.
26

27 Brew moved; Disposti seconded. Motion carried; 9 yea, 0 nay.
28

29 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Ross Erlich	x				
Jonathan Maddox	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

30

1 **XXI. Discussion and Possible Action Regarding Assembly Bill 1616 (Low):**
2 **Department of Consumer Affairs: Boards: Expunged Convictions**

3
4 AB 1616 would require DCA boards, upon a licensee's or former licensee's
5 request and provision of a certified copy of expungement, to update their
6 websites with notification of the expungement order (if the person is relicensed
7 or reapplies for licensure) or to remove the posting of revocation from the
8 website (if the person's license was revoked, they are no longer licensed, and
9 have not reapplied).

10
11 Existing Law:

- 12 1. Permits a defendant who has fulfilled the conditions of their probation, been
13 discharged prior to the termination of their probation, or for whom a court
14 determines in its discretion that such relief should be granted, and who is
15 not serving a sentence or probation for any offense, or charged with
16 commission of any offense, to withdraw their plea of guilty or nolo
17 contendere and instead enter a plea of not guilty. If the defendant has been
18 convicted after a plea of not guilty, the court shall set aside the guilty
19 verdict. For either type of case, the court must dismiss the accusations or
20 information against the defendant and release them from all penalties and
21 disabilities resulting from the offense. Certain convictions are not eligible for
22 this, mainly certain Vehicle Code violations and certain convictions involving
23 sex offenses with minors.
24
- 25 2. Requires specified state entities, including the Board of Behavioral
26 Sciences, to provide information on the internet regarding the status of
27 every license issued.
28
- 29 3. Requires the public information on licensees that must be provided on the
30 Board's website to include information on suspensions and revocations of
31 licensees and other related enforcement action.
32
- 33 4. Requires the Medical Board of California to post information on its website
34 about the current status of the license for all current and former licensees.
35 This includes:
36
- 37 • Whether or not the licensee is presently in good standing;
 - 38 • Active temporary restraining orders or interim suspension orders against
39 the licensee;
 - 40 • Current accusations filed by the Attorney General;
 - 41 • Any final revocations and suspensions taken or the surrender of a
42 license by the licensee in relation to a disciplinary action or investigation;
 - 43 • Any felony convictions;

- Any misdemeanor convictions resulting in a disciplinary action or accusation that is not subsequently withdrawn or dismissed.

5. Requires the Medical Board of California, for any required website postings of a felony or misdemeanor conviction, to post notification of an expungement order and its corresponding date, within six months upon receipt from the licensee of a certified copy of an expungement order.

This Bill:

1. Requires that a DCA board must update their required website posting for a person whose license was revoked because they were convicted of a crime, upon receiving from them a certified copy of an expungement order:
 - a. If the person reapplies for licensure or has been relicensed, the board must post notification of the expungement order and its date on the website.
 - b. If the person is not currently licensed and does not reapply for licensure, the board must remove the initial posting on its website that the person's license was revoked.
2. The website posting must be updated within six months of receiving the expungement order.
3. Requires the person with the expunged conviction to pay the board a fee to cover the costs associated with the above website update.

Comment:

1. **Intent.** To reduce employment barriers for people with previous criminal records who have been rehabilitated and who conviction has been dismissed or expunged.
2. **Medical Board of California.** The Medical Board of California (MBC) already has a provision in its statutes that is similar to this proposal. MBC indicates that one staff person handles this workload and that it is a small portion of that person's duties. Therefore, the fiscal impact of the requirement on their board is minor and absorbable.

MOTION: Support AB 1616 if amended and direct staff to work with author's office to request that the license history, including revocation, remain on the board's website in perpetuity.

Wong moved; Maddox seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Ross Erlich	x				
Jonathan Maddox	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

1
2
3 **XXII. Discussion and Possible Action Regarding Assembly Bill 2028 (Aguiar-Curry): State Agencies: Meetings**
4
5

6 Current law establishes the Bagley-Keene Open Meeting Act (Bagley-Keene
7 Act) that state bodies, including the Board of Behavioral Sciences are subject
8 to. AB 2028 proposes two changes to the Bagley-Keene Act:
9

- 10
- 11 • A change to require state bodies to post all meeting materials online at least
12 10 days in advance of a public meeting.
 - 13 • A change to allow the public to comment on any agenda item of a state
14 body’s meeting, regardless of whether the item had already been
15 considered and public comment allowed, at a committee meeting of the
16 state body.

17
18 Existing Law:

19 Requires a state body to provide a meeting notice to anyone who requests it in
20 writing, and also to post the notice on the internet at least 10 days in advance
21 of a meeting.
22

- 23
- 24 1. Provides that agendas of public meetings and other writings distributed to
25 the majority of members of a state body in connection with a matter
26 discussed at its public meeting are disclosable public records, unless
27 otherwise exempt by law from public disclosure.
 - 28 2. Provides that writings that are public records that are distributed to
29 members of the state body pertaining to an agenda item prior to or during a
30 meeting must be made available for public inspection at the meeting (if
31 prepared by the state body or one of its members), or after the meeting (if
32 prepared by some other person).
33

- 1 3. Under certain circumstances, permits a state body to take action on items of
2 business not on the posted agenda, including if the state body determines
3 by a two-thirds vote that there is a need to take immediate action and that
4 the need for action came to the state body's attention after the agenda
5 being posted. Notice must be made to all national press wire services.
6
7 4. Permits a state body to call a special meeting in certain defined
8 circumstances when compliance with the 10-day notice would impose a
9 substantial hardship on the state body or when immediate action is required
10 to protect the public interest. Allowable circumstances include, but are not
11 limited to, to consider pending litigation, to consider proposed legislation, to
12 consider a legal opinion, and to consider license examinations and
13 applications. Notice must be made to all national press wire services. At
14 the commencement of the meeting the body must establish by a 2/3 vote
15 that the delay caused by providing a 10-day notice would have caused a
16 substantial hardship or that immediate action is required to protect the
17 public interest.

18
19 This Bill:

- 20 1. Requires that, except for closed session meetings, the required meeting
21 notice posted 10 days in advance.
22
23 2. Permits the state body to distribute or discuss writings or materials related
24 to agenda items only if it has complied with this requirement.
25
26 3. Deletes the subdivision of statute permitting a state body to disallow the
27 public to comment on an agenda item if the agenda item has already been
28 considered by a committee composed only of members of the state body at
29 a public meeting where the public could address the committee on the item.
30

31 Comment:

- 32 1. **Intent.** To close loopholes in the Bagley-Keene Act. The author's office
33 notes that although agendas must be posted publicly 10 days in advance of
34 a meeting, there is not a similar requirement for supporting documents.
35
36 2. **Impact on Board Operations.**

37
38 a. Meeting Material Provision

39
40 Most of the Board's meeting materials can be prepared and posted 10
41 days in advance of a meeting. However, this bill could have a chilling
42 effect on the Board's ability to take positions on legislation.
43

44 In a typical year, the Board's staff analyzes between 15 and 20 bills that
45 are identified as affecting Board operations, public protection, and/or its
46 licensees and registrants. These analyses are presented to the Board,

1 which then discusses these bills and determines if there is a need to
2 weigh in, either by taking an official position or by providing technical
3 assistance to the author.
4

5 The legislative process moves fast, particularly in the months of March
6 through June, when the Legislature’s policy committees are in full swing,
7 and bills are continuously being amended to reflect stakeholder
8 feedback and meet policy committee deadlines. During this time, it is
9 very common for several bills which are on the Board’s agenda to be
10 amended during the 10-day timeframe between the posting of the
11 agenda and the scheduled Board meeting date. When this happens,
12 staff must update the bill analysis and the bill version that is included in
13 the meeting materials for the discussion to remain relevant. If meeting
14 materials can no longer be updated when bills are amended, then the
15 Board cannot discuss and consider the most recent available
16 information, and its voice in the legislative process is silenced.
17

18 As cited in Items 3 and 4 above of the “Existing Law”, the Bagley-Keene
19 Act provides state bodies with a process to take action on items not on
20 the posted agenda, for a special meeting if compliance with the 10-day
21 requirement would impose a “substantial hardship” or when “immediate
22 action” is required to protect the public interest. However, there is a high
23 threshold to meet these requirements, including a 2/3 vote and
24 notification of the press on a national level. When coupled with the high
25 costs of calling a special board meeting, calling a special meeting would
26 not be feasible.
27

28 b. Public Comment Provision
29

30 This bill also removes a provision from statute that allows a state body to
31 disallow public comment if the same item has already been considered
32 by a committee of the Board and public comment on the item was
33 allowed. The deletion of this provision would not affect Board
34 operations. The Board always allows public comment on all agenda
35 items regardless of those items being discussed and publicly
36 commented on at a previous committee meeting.
37

- 38 3. **Suggested Amendment.** An amendment allowing an exception to the 10-
39 day posting requirements for legislative amendments and corresponding bill
40 analyses would allow the Board to continue to have a voice in matters that
41 affect its operations and public protection.
42

43 **MOTION:** Oppose AB 2028 unless amended to support the idea to post
44 materials within 10-days prior to the meeting but allow for revisions to the
45 meeting materials so that stakeholders and the Board have access to the most
46 up-to-date information for discussion.

1
2
3

Wong moved; Brew seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Ross Erlich	x				
Jonathan Maddox	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

4
5
6

XXIII. Update on Board-Sponsored and Board-Monitored Legislation

Board staff is currently pursuing the following legislative proposals:

7
8
9

1. AB 2363 (Arambula) Practice Setting Definitions

This bill is moving forward. Staff is working on minor technical amendments

10
11
12

2. AB 2142 (Medina): Board of Behavioral Sciences: Licensees: Licensing and Examination Fees

This bill has been introduced. AB 2142 would increase the licensing, registration, and examination fees charged by the Board.

13
14
15

3. Omnibus Proposal (Senate Business, Professions, and Economic Development Committee)

This has not been introduced yet.

16
17
18

There were some 2-year bills that may or may not move. A full report on 2-year bills on which the Board took positions will be presented at the May Board meeting.

19
20
21

XXIV. Status of Board Rulemaking Proposals

22
23
24

1. Substantial Relationship & Rehabilitation Criteria (AB 2138 Regulations)

Status: DCA Final Review Process

25
26
27
28
29
30
31
32
33
34

1 This proposal would result in changes necessary in order to meet the
2 requirements of AB 2138. This proposal includes modifying the Board's
3 substantial relationship criteria, which helps to evaluate whether a crime or
4 act was substantially related to the profession, as well as criteria to evaluate
5 the rehabilitation of an individual when considering denying, suspending or
6 revoking a license.

7
8 2. Enforcement Process

9
10 Status: On Hold

11
12 This proposal would result in updates to the Board's disciplinary process. It
13 would also make updates to the Board's "Uniform Standards Related to
14 Substance Abuse and Disciplinary Guidelines (Revised October 2015)."

15
16 This regulation package was placed on hold due to the passage of AB 2138
17 and remains on hold pending passage of the AB 2138 regulations.

18
19 3. Examination Rescoring; Application Abandonment; APCC Subsequent
20 Registration Fee

21
22 Status: Submitted to OAL for Final Approval

23
24 This proposal would amend the Board's examination rescoring provisions to
25 clarify that rescoring pertains only to exams taken via paper and pencil,
26 since all other taken electronically are automatically rescored. This proposal
27 would also make clarifying, non-substantive changes to the Board's
28 application abandonment criteria, and clarify the fee required for subsequent
29 Associate Professional Clinical Counselor registrations. The proposal was
30 approved by the Board at its meeting in November 2017.

31
32 4. Supervision-Related Requirements

33
34 Status: Noticed to the Public on February 7, 2020; Public Hearing on March
35 23, 2020

36
37 This proposal would do all of the following:

- 38
- 39 • Revise the qualifications to become supervisor.
 - 40 • Require supervisors to perform a self-assessment of qualifications and
41 submit the self-assessment to the Board.
 - 42 • Strengthen supervisor responsibilities, including provisions pertaining to
43 monitoring and evaluating supervisees.
 - Strengthen requirements pertaining to documentation of supervision.

- 1 • Make supervision requirements consistent across the three licensed
2 professions.
3

4 The proposal was approved by the Board at its meeting in November 2016
5 and was held aside while awaiting passage of AB 93, the Board’s
6 supervision legislation.
7

8 5. Continuing Education and Additional Training Requirements
9

10 Status: Preparation for Initial Review Process
11

12 This proposal would do the following:

- 13 • Update content requirements for human sexuality, child abuse
14 assessment and reporting, and alcoholism and other chemical
15 substance dependency courses and create consistency in the required
16 qualifications for course providers.
- 17 • Strike the 18-hour CE exception for initial renewal periods.
- 18 • Recast CE “exceptions” as “temporary waivers” and modify CE waiver
19 criteria.
- 20 • Require licensees who are granted a waiver to complete six hours of CE
21 in law and ethics.
- 22 • Update CE waiver forms incorporated by reference for consistency with
23 the proposed updated requirements and for clarity.
- 24 • Clarify that a course on law and ethics designed specifically to meet
25 supervisor training requirements cannot be accepted toward meeting the
26 6-hour law and ethics course required of all licensees each renewal
27 period.
- 28 • Specify that a maximum of 18 hours of CE may be met by teaching
29 courses each renewal period, and that the course taught must be for a
30 Board-accepted provider to count.
- 31 • Allow a licensee who completes a Board occupational analysis survey to
32 be credited with six hours of CE.
- 33 • Repeal outdated regulations pertaining to the Board’s former CE
34 program.
- 35 • Clarify that professional associations are the only type of organization
36 that may be recognized by the Board as a CE provider.
37

38 This proposal was approved by the Board at its meeting in November 2019.
39

1 6. Examination Waiting Periods, Professional Corporations, Accrediting
2 Agencies and Equivalent Degrees

3
4 Status: Preparation for Initial Review Process

5
6 This proposal would update examination waiting periods for consistency
7 with current practice, add LPCCs to code sections pertaining to ownership,
8 transfer of shares and naming of professional corporations, delete outdated
9 text pertaining to equivalent accrediting agencies for marriage and family
10 therapist applicants, and specify the accrediting agencies that are
11 acceptable for licensed educational psychologist applicant degree
12 programs.

13
14 **XXV. Public Comment for Items Not on the Agenda**

15
16 Maddox: COVID-19 and convening upcoming meetings in April and May.

17
18 Madsen: Staff has not received any direction regarding meetings/gatherings.

19
20 Curt Widhalm: Concerns regarding the continuing supervisor education
21 through consultation; consultation does not “necessarily hold the same teeth
22 and status of getting continuing education through CE’s.” He stated that
23 consultation groups can often end up being discussions of personal issues and
24 complaints around supervisees rather than furthering supervision skills. He
25 suggested removing the option of consultation from continuing supervisor
26 development and to have stronger regulated requirements.

27
28 **XXVI. Suggestions for Future Agenda Items**

29
30 Brown: Consider a subcommittee to begin working with the DAG as outlined in
31 Strategic Plan 3.3.

32
33 Brew: Discussion of supervision and possibility of consultation.

34
35 Brew: Bilingual individuals sitting in therapy sessions as interpreters; however,
36 they’re not professional interpreters and do not have interpreter training. There
37 are risks involved.

38
39 Wong: Requesting an overview/presentation on legislation, regulation, and
40 board policy.

41
42 **XXVII. Adjournment**

43
44 The Board adjourned at 12:15 p.m.

2019/2020 Budget

The Board's budget for fiscal year (FY) 2019/2020 is now \$12,647,000. As of May 13, 2020, the Board has spent \$8,829,227 (70%) of its budget.

- Personnel \$ 4,521,134 (36%)
- Operating Expenses \$ 3,159,652 (25%)
- Enforcement \$ 1,148,440 (9%)

Current projections indicate that the Board will end the year with \$657,000 in unexpended funds.

Board Fund Condition

The Board's Fund Condition for FY 2019/2020 reflects a 2.1-month reserve.

Budget Fiscal Year 2020/2021

On May 14, 2020, the Governor released a revised budget for fiscal year 2020/2021. The impact of COVID-19 to state revenues, unprecedented unemployment numbers, and cost to continue supporting Californians during the COVID-19 has dramatically affected the State Budget.

California is facing a record deficit estimated at \$54 billion dollars before any revisions to the State Budget are made. Significant program reductions, redirecting funds, utilizing the "Rainy Day" fund, and special fund loans are proposed to balance the State Budget. Currently, there are no plans for the Board to loan money to the General Fund.

The revised budget will impact the Board Operations and Board Staff. Operationally, the Board will only consider essential expenditures that are critical to support its operations. All travel will be reduced by using video conferencing for meetings and trainings where possible.

A 10% reduction to state employee salaries is proposed or the equivalent of 2 furlough days. The way the 10% reduction is achieved (cuts or implementation of furloughs) will be negotiated between the unions and the Governor. The reduction is effective July 1, 2020. Finally, the Board will be asked to reduce its fiscal year 2021/2022 budget by 5%.

Recent projections suggest that California will not recover from the impact of COVID-19 until 2023 or 2024.

Blank Page

0773 - Behavioral Science Analysis of Fund Condition

Prepared 12/23/2019

(Dollars in Thousands)

Governor's Budget 2020-21

	PY 2018-19	CY 2019-20	Governor's Budget BY 2020-21	BY+1 2021-22
BEGINNING BALANCE	\$ 5,165	\$ 6,404	\$ 2,349	\$ 1,820
Prior Year Adjustment	\$ 1,413		\$ -	\$ -
Adjusted Beginning Balance	\$ 6,578	\$ 6,404	\$ 2,349	\$ 1,820
REVENUES AND TRANSFERS				
Revenues:				
4121200 Delinquent fees	\$ 198	\$ 201	\$ 203	\$ 203
4127400 Renewal fees	\$ 5,497	\$ 5,512	\$ 6,700	\$ 7,832
4129200 Other regulatory fees	\$ 196	\$ 225	\$ 232	\$ 232
4129400 Other regulatory licenses and permits	\$ 3,532	\$ 3,486	\$ 5,537	\$ 7,553
4150500 Interest Income - Interfund Loans	\$ 97	\$ -	\$ -	\$ -
4143500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
4163000 Income from surplus money investments	\$ 120	\$ 19	\$ 40	\$ 31
4171400 Escheat of unclaimed checks and warrants	\$ 53	\$ 53	\$ 53	\$ 53
4171500 Escheat of unclaimed property	\$ -	\$ -	\$ -	\$ -
4172500 Miscellaneous revenues	\$ 6	\$ 11	\$ 11	\$ 11
Totals, Revenues	\$ 9,699	\$ 9,507	\$ 12,776	\$ 15,915
Transfers from Other Funds				
F00001 GF loan repayment per item 1110-011-0773 BA of 2008	\$ -	\$ -	\$ -	\$ -
F00001 GF loan repayment per item 1110-011-0773 BA of 2011	\$ 3,300	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 12,999	\$ 9,507	\$ 12,776	\$ 15,915
Totals, Resources	\$ 19,577	\$ 15,911	\$ 15,125	\$ 17,735
EXPENDITURES				
Disbursements:				
8860 FSCU (State Operations)	\$ -	\$ -	\$ -	\$ -
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 12,115	\$ 12,597	\$ 12,550	\$ 12,927
8880 Financial Information System for California (State Operations)	\$ 1	\$ -1	\$ -	\$ -
9892 Supplemental Pension Payment (State Operations)	\$ 100	\$ 212	\$ 212	\$ 212
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 957	\$ 754	\$ 543	\$ 543
Total Disbursements	\$ 13,173	\$ 13,562	\$ 13,305	\$ 13,682
FUND BALANCE				
Reserve for economic uncertainties	\$ 6,404	\$ 2,349	\$ 1,820	\$ 4,054
Months in Reserve	5.7	2.1	1.6	3.5

Blank Page

On March 4, 2020, Governor Newsom declared a State of Emergency that authorized additional resources and formalized the emergency activities to prepare the State of California for the increasing spread of COVID-19. In the days that followed, it became evident that COVID-19 would impact schools, businesses, and the lives of all Californians. Moreover, the fluidity of COVID-19 required flexibility and agility to adapt and respond to the ongoing directions from state and local officials.

During the week of March 16, 2020, the Board of Behavioral Sciences initiated activity to implement components of its Business Continuity Plan. The activities included the following:

- Identify duties/tasks viable for telework
- Assess equipment needs for staff to telework
- Train staff to access BBS data remotely
- Execute new Telecommute Agreements for all staff
- Develop work guidelines for telework – reporting an absence, email and phone message responses, and identifying all activities conducive to telework
- Establish rotating schedule for staff to report to the BBS Office to drop off and pick up work including safety guidelines that aligned with CDC guidelines
- Establish work schedule for employees whose duties/tasks are not viable for telework (e.g mail processing and cashiering) and align with CDC guidelines

Effective March 23, 2020, the Board's building was closed to the public and nearly all Board staff began working remotely. To ensure that essential services continued, staff returned to the office on a rotating schedule that minimized the number of total staff members in the office on a single day.

Prior to COVID-19 and the building closure, Board management initiated an agreement with the DCA Call Center to respond to the Board's phone calls. The DCA Call Center staff were trained to respond to frequently asked questions and can resolve some BreZE account concerns. Inquiries requiring the expertise of Board staff are transferred to the appropriate staff member. The use of the DCA Call Center began in early March.

Daily staff performs the essential services such as cashiering and opening mail while in the office. Other staff members drop off completed work, prepare work to complete remotely, and perform tasks that cannot be completed remotely. Each day the manager on duty disinfects the common areas and shared equipment in the office.

Board Managers held twice weekly meetings to discuss staff concerns, connectivity issues, discuss stakeholder concerns and possible solutions related to the licensing and enforcement process. A full Board staff meeting was held on May 19, 2020.

Board staff responded to this unprecedented situation with creativity, flexibility, and continued dedication to our mission and values. Some of the Board's successful outcomes are listed below.

- Application processing times improved.
- Initiated process to move to paperless file system by scanning all applicant documentation - allows for remote access to all applicant documentation
- Developed creative solutions – electronic submission of school transcripts and program certifications, utilize social media, telephonic conferences, and video conferencing to communicate and engage with stakeholders
- Initiated Microsoft Team for meetings with BBS Units to discuss workload concerns, equipment needs, and modify existing processes to accommodate telework
- Partnered with DCA IT Team to procure additional 10 laptop computers to assign to BBS staff with the greatest need
- Created and initiated “Live Chats” with stakeholders to respond to concerns and convey information.
- Conducted outreach events to students and stakeholders via video conferencing platforms
- Identified areas of law that could be temporarily waived to assist licensees/registrants that would not impact consumer protection.

BOARD OPERATIONS MOVING FORWARD

Board staff will continue to work remotely with an ongoing rotating/staggered schedule for staff to work in the office with at least one Manager onsite each day. The schedule will be slightly modified after the office reopens to the public in order to resume public services during business hours. The schedule will maintain at least 75% of BBS staff working remotely daily.

New office guidelines were developed and shared with all staff. The new guidelines incorporate all social/physical distancing guidance within the office and lobby area. Procedures for interacting with the public at the front counter will be implemented to ensure the health and safety of Board staff and the public. Additionally, disinfecting shared equipment and common areas will occur during the work day and after the office is closed.

Board staff will continue to identify business process that are appropriate for electronic submission and initiate the activity to implement these changes. Additionally, Board

management will continue to seek opportunities to increase its outreach efforts to its stakeholders.

Board Statistics

Attached for your review are the quarterly performance statistics for the third quarter of FY 2019/2020.

Licensing Program Applications Received

Overall, licensing application received volumes increased slightly by 2% in the third quarter of FY 2019/2020.

APPLICATION	3rd QTR FY 19/20 VOLUMES	2nd QTR FY 19/20 VOLUMES	Difference
AMFT Registration	573	484	+18%
AMFT Registration Subsequent Number	183	167	+10%
LMFT Examination	754	720	+5%
ASW Registration	432	487	-11%
ASW Registration Subsequent Number	132	164	-20%
LCSW Examination	596	602	-1%
LEP Examination	34	10	+240%
APCC Registration	214	250	-14%
APCC Registration Subsequent Number	10	12	-17%
LPCC Examination	111	94	+18%
Total Applications	3,039	2990	+2%

APPLICATION	3rd QTR FY 19/20 PROCESSING DAYS	2nd QTR FY 19/20 PROCESSING DAYS	Difference
AMFT Registration	52	84	-32 days
LMFT Examination	140	143	-3 days
ASW Registration	22	21	+1 day
LCSW Examination	124	74	+50 days
LEP Examination	33	22	+11 days
APCC Registration	17	19	-2 days
LPCC Examination	13	34	-21 days

Licensing Population

A total of 1,314 initial licenses were issued in the third quarter. As of April 1, 2020, the Board has 120,220 licensees and registrants which is a 1% gain since the second quarter. This figure includes all licenses that have been issued that are current and/or eligible to renew.

LICENSE POPULATION (As of 4/1/2020)				
LICENSE TYPE	ACTIVE	CURRENT INNACTIVE	DELINQUENT	TOTAL POPULATION
AMFT	12,793	N/A	3,381	16,174
ASW	12,847	N/A	3,708	16,555
APCC	3,155	N/A	1,651	4,806
LMFT	40,281	4,118	3,177	47,576
LCSW	26,605	2,290	1,913	30,808
LEP	1,428	365	292	2,085
LPCC	2,006	137	73	2,216
TOTAL	99,115	6,910	14,195	120,220

Renewal Activity

Overall, renewal activity increased 3% in the third quarter of FY 2019/2020

RENEWALS	3rd QTR FY 19/20	2nd QTR FY 19/20	Difference
AMFT	2,215	2,330	-5%
LMFT	5,195	4,636	12%
ASW	1,497	1,772	-16%
LCSW	3,133	2,907	+8%
LEP	200	174	+15%
APCC	395	523	-24%
LPCC	260	234	11%
TOTAL Renewals	12,895	12,576	+3%

Administrative Applications

Overall, administrative application volumes increased 36% in the third quarter of FY 2019/2020

APPLICATION	3rd QTR FY 19/20 VOLUMES	2nd QTR FY 19/20 VOLUMES	Difference
NAME CHANGE	406	347	17%
ADDRESS CHANGE	3171	2,294	38%
DUPLICATE LICENSE	952	618	54%
LICENSE CERTIFICATION	463	424	9%
TOTAL Admin Applications	4,992	3,683	36%

Examination Program

Attached for your review are the examination statistics by school. A total 4,387 examinations were administered in the third quarter of FY 2019/2020.

	TOTAL 3rd QTR 19/20	PASS % 3rd QTR 19/20	TOTAL FIRST TIME 3rd QTR 19/20	PASS % FIRST TIME 3rd QTR 19/20	TOTAL 2nd QTR 19/20	PASS % 2nd QTR 19/20	TOTAL FIRST TIME 2nd QTR 19/20	PASS % FIRST TIME 2nd QTR 19/20
LMFT L/E	808	71%	392	78%	984	74%	731	80%
LMFT Clinical	729	77%	367	85%	1,120	64%	670	75%
LCSW L/E	724	75%	376	77%	889	68%	648	74%
LCSW ASWB	553	57%	317	77%	929	57%	559	76%
LPCC L/E	216	72%	113	72%	303	62%	227	65%
LPCC NCMHCE	105	62%	74	62%	100	70%	81	73%
LEP	31	71%	16	88%	62	65%	42	81%
TOTAL					4,387			

Nine examination development workshops were conducted from January 1, 2020 to March 31, 2020.

The Office of Professional Examination Services (OPES) completed the LMFT Occupational Analysis. The occupational analysis is a study of the profession and provides the basis for the LMFT Written Clinical licensing examination. Attached is the

Executive Summary detailing the process by which the Occupational Analysis was performed.

Enforcement Program

During the third quarter, the Enforcement staff received 456 consumer complaints and 298 criminal convictions. A total of 677 cases were closed and 37 cases were referred to the Attorney General's office for formal discipline. As of March 31, 2020, there were 142 cases pending at the Attorney General's Office. A total of 33 Accusations and 13 Statement of Issues were filed this quarter. The number of final citations for the third quarter was 83.

There was a total of 31 Final Disciplinary Orders. The average number of days to complete Formal Discipline in the third quarter was 485 days. This statistic is measured by the average number of days to complete the Enforcement process for cases investigated and transmitted to the AG's Office for formal discipline within the reference period. The DCA Performance Measure to complete Formal Discipline is 540 days.

The average number of days the case is with the Attorney General's Office in the third quarter was 365. 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 30 days.

Continuing Education Audits

Continuing Education Audits are currently suspended and will resume once the staff vacancy is filled.

Outreach Activity

Board staff attended the following events via the telephone or a video conference platform.

May 2020

- Social Work Licensing Presentation to CSU Chico Social Work students
- CAMFT Lunch and Learn
- Facebook Fridays with BBS
- Orange County MFT Consortium Meeting
- Sacramento MFT Consortium Meeting
- Central Valley MFT Consortium Meeting
- Social Work Licensing Presentation to UC Berkeley Social Work Students

Exam Vendor

The Board completed the transition to Pearson Vue in January 2020. Approximately 2,300 candidates have examined with Pearson VUE. As of the date of this report the board has not received any complaints concerning Pearson Vue test sites or Pearson Vue test proctors.

Interface between the Board and Pearson VUE

During the transition the board experienced some difficulties with the data interface with Pearson VUE. Most of these issues have been resolved and communication through the interface is working appropriately. The board continues to work diligently with Pearson VUE on any new issues that are discovered. This sometimes requires the board to manually input data to ensure candidate eligibility is transmitted correctly. It is important to note that this has created a few slowdowns or inefficiencies in transferring eligibilities of exam candidates. We believe that all issues will be fully solved in the next few months

The Impact of COVID-19

In mid-April, Pearson Vue reopened some of their testing sites to administer licensing examinations that were deemed essential. The Board's examinations are considered essential. These testing sites are operating at a reduced capacity in order to implement the physical distancing guidelines established by the CDC. The sites have implemented the following health and safety protocols for candidates and staff.

- Make hand sanitizer available in the waiting area and prior to entering the testing room
- Increase our cleaning and disinfecting regimens in between all testing appointments
- Provide tissues to candidates upon arrival at the test center
- Permit candidates to wear disposable gloves if they choose
- Remind candidates to wash their hands or utilize hand sanitizer upon arrival at the test center
- Enforce social distancing recommendations
- All examination candidates must wear a face mask, or they will not be admitted to the exam.

On April 29, 2020, Board management met with Pearson Vue to discuss the possibility of additional testing sites. During the meeting, Pearson Vue provided information regarding its "third party" testing sites. These testing sites are frequently located at colleges, technology schools, and adult education centers. All staff are trained by Pearson Vue and follow the security protocols established by Pearson Vue. Additionally, the sites will implement the health and safety protocols as recommended by the CDC.

Following this discussion Board management agreed to implement the use of “third party” testing sites. The use of “third party” testing sites will increase the Board’s capacity to test all examination candidates. Examination candidates may select either a “third party” testing site or a testing site owned by Pearson Vue at the time they schedule their examination. Board management and Pearson Vue will monitor the “third party” sites to ensure all examination candidates have a positive testing experience. Board management has the discretion to discontinue the use of “third party” sites if the use of these sites is not successful.

COMMUNICATION REPORT

Social Media

Since January 2020 we have continued to successfully increase our reach to applicants and licensees through Twitter, Facebook and Instagram. We have opened a LinkedIn account; however, we have been active on that platform yet. Below is a breakdown on our successes.

Facebook

Since January 2020 the number of people that like our page has increased 57% from 4614 to 7230. Our Wednesday morning processing date posts are our most popular with noticeable spikes when analyzing the data.

On May 1, 2020 we started a new feature, Facebook Fridays with the BBS. From 2:00 – 3:00 p.m. each week, we will discuss a new important topic for approximately 30 minutes and then answer questions from the audience. So far, we have discussed the following:

- May 1 – introduction (explained our new ‘normal’ during pandemic), COVID situation, exams
- May 8 – 90-day rule, telehealth and current waivers due to COVID19
- May 15 – 6yr rule
- May 29 – Common deficiency reasons

In the future we will ask staff to participate as we become more proficient using this platform.

Twitter

Twitter analytics do not provide the number of followers; however, the number of times people are seeing our tweets have consistently increased since January 2020. The average number of views per month are as follows:

- January = 453
- February = 566
- March = 794
- April = 767

Department of Consumer Affairs Call Center Update

In January of 2020 Board staff began working with the Department of Consumer Affairs (DCA) on a plan to utilize the services of DCA's Call Center. After several meetings and training sessions with DCA Call Center staff, the Board officially transitioned its phone system to DCA. The Call Center has nine staff members who are trained to answer basic questions and to transfer calls to appropriate units if the questions are too complicated to be answered over the phone.

This transition has dramatically lowered hold wait times. The average wait time for a call to be answered is between thirty seconds and one minute. The highest number of calls received in one day was 151 calls on March 10, 2020, and the lowest number of calls was 58 calls on April 24, 2020. On average the Board receives between 75-100 calls in a day.

Blank Page

OFFICE OF PROFESSIONAL EXAMINATION SERVICES EXECUTIVE SUMMARY OCCUPATIONAL ANALYSIS OF THE LICENSED MARRIAGE AND FAMILY THERAPIST PROFESSION.

The Board of Behavioral Sciences (Board) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an occupational analysis (OA) of the licensed marriage and family therapist (LMFT) profession in California. The purpose of the OA is to define practice in terms of critical tasks that LMFTs must be able to perform safely and competently at the time of licensure. The results of this OA provide a description of practice for the LMFT profession and provide the basis for developing a valid and legally defensible LMFT Written Clinical Examination for licensure.

OPES test specialists began by researching the profession and conducting telephone interviews with LMFTs working in locations throughout California. The purpose of these interviews was to identify the tasks performed by LMFTs and to specify the knowledge required to perform those tasks safely and competently. Using the information gathered from the research and the interviews, OPES test specialists developed a preliminary list of tasks performed by LMFTs in their profession, along with statements representing the knowledge needed to perform those tasks.

In January 2019, OPES convened two workshops to review and refine the preliminary lists of task and knowledge statements describing the practice of LMFTs in California. The workshops were comprised of LMFTs, or subject matter experts (SMEs), with diverse backgrounds in the profession (e.g., location of practice, years licensed, specialty). A third workshop was held in March 2019 to review the results of the initial workshops and finalize the task and knowledge statements.

The SMEs also reviewed the demographic questions for the OA questionnaire, and linked each task statement with the knowledge statements used in performance of that task. Upon completion of the third workshop, OPES test specialists developed a two-part OA questionnaire to be completed by a sample of LMFTs statewide. Development of the OA questionnaire included a pilot study that was conducted using a group of LMFTs who participated in the January and March 2019 workshops, and those who serve as SMEs for other examination processes. The pilot study participants' feedback was incorporated into the final questionnaire, which was administered September 3-30, 2019.

In the first part of the OA questionnaire, LMFTs were asked to provide demographic information relating to their work settings and practice. In the second part, LMFTs were asked to rate specific tasks by frequency (i.e., how often the LMFT performs the task in the LMFT's current practice) and importance (i.e., how important the task is to effective performance of the LMFT's current practice).

In September 2019, on behalf of the Board, OPES sent an email to a sample of 22,000 actively licensed LMFTs with a California address, inviting them to complete the online OA questionnaire. The Board also advertised the survey and provided a link to the survey on its website. Reminder emails were sent weekly after the initial invitation was made.

A total of 5,203 LMFTs, or approximately 23.7% of the LMFTs who received an email invitation, responded to the OA questionnaire. The final number of respondents included in the data analysis was 4,714 (21.4%). This response rate reflects two adjustments. First, OPES excluded data from respondents who indicated they were not currently licensed and practicing in California. Second, OPES removed data from questionnaires that contained a large portion of incomplete responses.

OPES test specialists then performed data analyses of the task ratings obtained from the OA questionnaire respondents. The task frequency and importance ratings were combined to derive an overall criticality index for each task statement.

Once the data were analyzed, OPES conducted additional workshops with SMEs in January and February 2020. The SMEs evaluated the criticality indices and determined whether any task statements should be excluded from the examination outline based on low ratings. The SMEs in these groups also established the

final linkage between tasks and knowledge statements, organized the tasks and knowledge statements into content areas, and defined those content areas. The SMEs then evaluated the preliminary content area weights and determined the final weights for the new LMFT Written Clinical Examination outline.

The examination outline is structured into six content areas weighted relative to the other content areas. The new outline identifies the tasks and knowledge critical to safe and effective LMFT practice in California at the time of licensure.

The examination outline developed as a result of this OA provides a basis for developing the written clinical examination for inclusion in the process of LMFT licensure.

OVERVIEW OF THE EXAMINATION OUTLINE

Content Area	Content Area Description	Weight
1. Clinical Evaluation	This area assesses the candidate's ability to evaluate information about the systems in which clients function, and how these systems relate to the mental health and well-being of individuals, couples, and families across the lifespan. In addition, this area assesses the candidate's ability to identify situations in which referrals to, or consultations with, other treatment providers would assist in developing a more complete assessment of the client's presentation.	27%
2. Developing a Diagnostic Impression	This area assesses the candidate's ability to evaluate mental health disorders and emotional problems that impact the interpersonal and relationship functioning of individuals, couples, and families. The purpose of these evaluations is to guide treatment that leads to more meaningful and productive relationships. This area also assesses the candidate's ability to recognize mental health disorders that require further testing, diagnosis, or treatment with other health care professionals.	11%
3. Managing Crisis Situations	This area assesses the candidate's ability to evaluate and manage situations that require immediate or intensive intervention to address high risk or safety issues. In addition, this area assesses the candidate's ability to address reactions to crisis exposure in order to provide stabilization.	11%
4. Case Conceptualization and Planning	This area assesses the candidate's ability to formulate treatment plans that establish the goals and objectives of therapy at different stages of treatment. This area also assesses the candidate's ability to apply theory in establishing a framework for therapy.	12%
5. Treatment	This area assesses the candidate's ability to implement interventions that improve interpersonal functioning or build more effective relationships with individuals, couples, and families across the lifespan. This area also assesses the candidate's ability to apply theory in the course of treatment, and to utilize groups, consultations, and collaborations in the effective provision of services.	29%
6. Managing Legal and Ethical Obligations within the Therapeutic Relationship	This area assesses the candidate's ability to address the effects of legal and ethical obligations within the therapeutic relationship. This area also assesses the candidate's ability to act in a professional manner that prevents gross harm or negligence.	10%
Total	100%	

Board of Behavioral Sciences

EXAM RESULTS BY SCHOOL

EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

LICENSE TYPE: LCSW

EXAM: LCSW Clinical Exam (ASWB)

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Azusa Pacific University, Azusa	103	9	4	44%	5	56%	5	3	60%	2	40%
California State University, Bakersfield	002	11	7	64%	4	36%	4	4	100%	0	0%
California State University, Chico	003	7	3	43%	4	57%	3	3	100%	0	0%
California State University, Dominguez Hills	004	17	3	18%	14	82%	8	2	25%	6	75%
California State University, Fresno	005	22	9	41%	13	59%	9	6	67%	3	33%
California State University, Fullerton	006	11	7	64%	4	36%	5	5	100%	0	0%
California State University, Hayward	007	26	6	23%	20	77%	14	5	36%	9	64%
California State University, Long Beach	008	57	29	51%	28	49%	26	22	85%	4	15%
California State University, Los Angeles	009	18	9	50%	9	50%	12	7	58%	5	42%
California State University, Northridge	010	28	17	61%	11	39%	14	11	79%	3	21%
California State University, Sacramento	011	21	14	67%	7	33%	12	12	100%	0	0%
California State University, San Bernardino	012	19	7	37%	12	63%	10	5	50%	5	50%
California State University, Stanislaus	013	10	4	40%	6	60%	3	2	67%	1	33%
Humboldt State University, Arcata	014	3	3	100%	0	0%	3	3	100%	0	0%
Loma Linda University, Orinda	125	12	6	50%	6	50%	4	3	75%	1	25%
Monterey Bay State University	018	2	2	100%	0	0%	1	1	100%	0	0%
OUT-OF-COUNTRY	400	3	0	0%	3	100%	1	0	0%	1	100%
Out-of-State	300	77	58	75%	19	25%	60	51	85%	9	15%
San Diego State University	015	18	16	89%	2	11%	15	15	100%	0	0%
San Francisco State	016	10	5	50%	5	50%	5	3	60%	2	40%

Board of Behavioral Sciences

EXAM RESULTS BY SCHOOL

EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
University											
San Jose State University	017	27	15	56%	12	44%	16	14	88%	2	12%
San Marcos University	019	4	4	100%	0	0%	4	4	100%	0	0%
UC, Berkeley	050	7	5	71%	2	29%	5	5	100%	0	0%
UC, Los Angeles	052	8	7	88%	1	12%	7	7	100%	0	0%
University of Southern California, Los Angeles	145	126	76	60%	50	40%	71	52	73%	19	27%

LCSW Clinical Exam (ASWB) TOTAL: 553 316 57% 237 43% 317 245 77% 72 23%

EXAM: LCSW Law and Ethics

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Azusa Pacific University, Azusa	103	8	7	88%	1	12%	5	5	100%	0	0%
California Baptist University	146	3	3	100%	0	0%	2	2	100%	0	0%
California State University, Bakersfield	002	12	6	50%	6	50%	6	3	50%	3	50%
California State University, Chico	003	12	8	67%	4	33%	8	6	75%	2	25%
California State University, Dominguez Hills	004	7	3	43%	4	57%	2	1	50%	1	50%
California State University, Fresno	005	17	15	88%	2	12%	9	8	89%	1	11%
California State University, Fullerton	006	20	16	80%	4	20%	13	10	77%	3	23%
California State University, Hayward	007	11	9	82%	2	18%	5	5	100%	0	0%
California State University, Long Beach	008	33	29	88%	4	12%	20	18	90%	2	10%
California State University, Los Angeles	009	16	15	94%	1	6%	6	6	100%	0	0%
California State University, Northridge	010	20	16	80%	4	20%	12	10	83%	2	17%
California State University, Sacramento	011	23	14	61%	9	39%	9	6	67%	3	33%
California State University, San Bernardino	012	12	9	75%	3	25%	6	4	67%	2	33%

Board of Behavioral Sciences

EXAM RESULTS BY SCHOOL

EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
California State University, Stanislaus	013	13	9	69%	4	31%	9	6	67%	3	33%
Humboldt State University, Arcata	014	4	3	75%	1	25%	3	2	67%	1	33%
Loma Linda University, Orinda	125	8	8	100%	0	0%	4	4	100%	0	0%
Monterey Bay State University	018	5	3	60%	2	40%	3	2	67%	1	33%
OUT-OF-COUNTRY	400	2	0	0%	2	100%	0	0		0	
Out-of-State	300	220	156	71%	64	29%	116	84	72%	32	28%
San Diego State University	015	21	21	100%	0	0%	9	9	100%	0	0%
San Francisco State University	016	19	15	79%	4	21%	10	9	90%	1	10%
San Jose State University	017	22	21	95%	1	5%	10	10	100%	0	0%
San Marcos University	019	6	4	67%	2	33%	3	2	67%	1	33%
UC, Berkeley	050	10	10	100%	0	0%	4	4	100%	0	0%
UC, Los Angeles	052	18	15	83%	3	17%	9	8	89%	1	11%
University of Southern California, Los Angeles	145	182	126	69%	56	31%	93	67	72%	26	28%

LCSW Law and Ethics TOTAL: 724 541 75% 183 25% 376 291 77% 85 23%

LICENSE TYPE: LEP

EXAM: LEP Standard Written Exam

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant International University (aka CSPP)	112	4	3	75%	1	25%	2	2	100%	0	0%
Alliant International University (aka US International)	139	2	1	50%	1	50%	1	1	100%	0	0%
Azusa Pacific University, Azusa	103	1	1	100%	0	0%	1	1	100%	0	0%
California Baptist University, Riverside	105	3	3	100%	0	0%	1	1	100%	0	0%
California State University, Dominguez Hills	004	3	2	67%	1	33%	1	1	100%	0	0%
California State University, Long Beach	008	1	1	100%	0	0%	1	1	100%	0	0%

Board of Behavioral Sciences

EXAM RESULTS BY SCHOOL

EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
California State University, Northridge	010	2	0	0%	2	100%	1	0	0%	1	100%
California State University, Sacramento	011	3	1	33%	2	67%	2	1	50%	1	50%
Chapman University, Orange	113	3	2	67%	1	33%	1	1	100%	0	0%
Fresno Pacific University	153	1	1	100%	0	0%	1	1	100%	0	0%
La Sierra University	252	1	1	100%	0	0%	1	1	100%	0	0%
Loyola Marymount University, Los Angeles	126	2	2	100%	0	0%	1	1	100%	0	0%
Out-of-State	300	2	2	100%	0	0%	1	1	100%	0	0%
San Francisco State University	016	2	2	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	1	0	0%	1	100%	0	0		0	

LEP Standard Written Exam TOTAL: 31 22 71% 9 29% 16 14 88% 2 12%

LICENSE TYPE: LMFT

EXAM: LMFT Clinical Exam

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant International University (aka US International)	139	26	19	73%	7	27%	15	13	87%	2	13%
Antioch University, Los Angeles	241	38	31	82%	7	18%	19	18	95%	1	5%
Antioch University, Santa Barbara	243	4	4	100%	0	0%	2	2	100%	0	0%
Argosy University (aka American School of Prof. Psych.	204	26	17	65%	9	35%	12	10	83%	2	17%
Azusa Pacific University, Azusa	103	21	19	90%	2	10%	11	10	91%	1	9%
Bethany College	157	1	1	100%	0	0%	1	1	100%	0	0%
Bethel Theological Seminary	152	1	0	0%	1	100%	0	0		0	
Brandman University	253	18	9	50%	9	50%	7	5	71%	2	29%
Calif. Polytechnic State University, San Luis Obispo - Cal Poly	001	6	6	100%	0	0%	4	4	100%	0	0%
California Baptist University, Riverside	105	16	12	75%	4	25%	8	6	75%	2	25%
California Institute of Integral Studies, S.F.	107	23	23	100%	0	0%	14	14	100%	0	0%
California Lutheran University,	108	8	4	50%	4	50%	4	3	75%	1	25%

Board of Behavioral Sciences
EXAM RESULTS BY SCHOOL
EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Thousand Oaks											
California Southern University	246	4	3	75%	1	25%	2	2	100%	0	0%
California State University, Bakersfield	002	7	5	71%	2	29%	5	4	80%	1	20%
California State University, Chico	003	1	1	100%	0	0%	1	1	100%	0	0%
California State University, Dominguez Hills	004	3	3	100%	0	0%	2	2	100%	0	0%
California State University, Fresno	005	15	11	73%	4	27%	6	5	83%	1	17%
California State University, Fullerton	006	6	6	100%	0	0%	4	4	100%	0	0%
California State University, Hayward	007	11	9	82%	2	18%	5	5	100%	0	0%
California State University, Long Beach	008	7	6	86%	1	14%	3	3	100%	0	0%
California State University, Los Angeles	009	6	4	67%	2	33%	3	2	67%	1	33%
California State University, Northridge	010	20	17	85%	3	15%	9	9	100%	0	0%
California State University, Sacramento	011	4	4	100%	0	0%	3	3	100%	0	0%
California State University, San Bernardino	012	5	4	80%	1	20%	2	2	100%	0	0%
California State University, Stanislaus	013	2	2	100%	0	0%	1	1	100%	0	0%
Chapman University, Orange	113	3	2	67%	1	33%	2	2	100%	0	0%
Dominican University of California	117	5	3	60%	2	40%	2	2	100%	0	0%
Eisner Institute for Professional Studies	250	2	2	100%	0	0%	1	1	100%	0	0%
Fuller Theological Seminary, Pasadena	119	4	4	100%	0	0%	2	2	100%	0	0%
Golden Gate University	151	4	4	100%	0	0%	2	2	100%	0	0%
Holy Names University, Oakland	122	6	4	67%	2	33%	4	3	75%	1	25%
Hope International University	131	20	17	85%	3	15%	8	7	88%	1	12%
Humboldt State University, Arcata	014	2	2	100%	0	0%	1	1	100%	0	0%
John F. Kennedy University, Orinda	124	24	17	71%	7	29%	13	9	69%	4	31%
Loma Linda University, Orinda	125	6	6	100%	0	0%	3	3	100%	0	0%

Board of Behavioral Sciences
EXAM RESULTS BY SCHOOL
EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Loyola Marymount University, Los Angeles	126	2	2	100%	0	0%	1	1	100%	0	0%
Meridian University	231	1	1	100%	0	0%	0	0		0	
Mount St. Mary's University, Los Angeles	128	11	5	45%	6	55%	4	2	50%	2	50%
National University	129	29	15	52%	14	48%	14	8	57%	6	43%
Northcentral University	256	5	4	80%	1	20%	3	2	67%	1	33%
Notre Dame de Namur University	116	4	4	100%	0	0%	3	3	100%	0	0%
Out-of-State	300	17	13	76%	4	24%	9	7	78%	2	22%
Pacific Oaks College, Pasadena	133	21	16	76%	5	24%	11	8	73%	3	27%
Pacifica Graduate Institute, Carpinteria	154	19	18	95%	1	5%	10	10	100%	0	0%
Palo Alto University	258	18	14	78%	4	22%	10	7	70%	3	30%
Pepperdine University, Malibu	135	46	38	83%	8	17%	24	22	92%	2	8%
Phillips Graduate Institute	106	10	9	90%	1	10%	5	5	100%	0	0%
San Diego State University	015	14	14	100%	0	0%	8	8	100%	0	0%
San Francisco State University	016	9	6	67%	3	33%	4	3	75%	1	25%
San Jose State University	017	3	3	100%	0	0%	2	2	100%	0	0%
Santa Clara University	144	7	7	100%	0	0%	5	5	100%	0	0%
Sofia University, San Jose	155	7	4	57%	3	43%	3	2	67%	1	33%
St. Mary's College of CA, Moraga	136	12	10	83%	2	17%	6	5	83%	1	17%
The Chicago School of Professional Psychology at Los Angeles	251	10	8	80%	2	20%	5	4	80%	1	20%
TOURO UNIVERSITY	262	2	2	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	4	2	50%	2	50%	2	2	100%	0	0%
University of Phoenix, Sacramento	238	1	1	100%	0	0%	0	0		0	
University of Phoenix, San Diego	236	65	26	40%	39	60%	25	13	52%	12	48%
University of San Diego, San Diego	142	7	7	100%	0	0%	4	4	100%	0	0%
University of San Francisco, San Francisco	143	18	18	100%	0	0%	8	8	100%	0	0%
University of Southern California, Los Angeles	145	7	7	100%	0	0%	4	4	100%	0	0%
University of the West	255	1	1	100%	0	0%	0	0		0	
Vanguard University of Southern	156	4	4	100%	0	0%	2	2	100%	0	0%

Board of Behavioral Sciences

EXAM RESULTS BY SCHOOL

EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
California											
Western Seminary (Western Conservative Baptist Seminary)	232	11	11	100%	0	0%	7	7	100%	0	0%
Wright Institute, Berkeley	150	9	9	100%	0	0%	6	6	100%	0	0%

LMFT Clinical Exam TOTAL: 729 560 77% 169 23% 367 312 85% 55 15%

EXAM: LMFT Law and Ethics

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant International University (aka US International)	139	14	11	79%	3	21%	6	5	83%	1	17%
Antioch University, Los Angeles	241	39	31	79%	8	21%	21	17	81%	4	19%
Antioch University, Santa Barbara	243	9	6	67%	3	33%	5	3	60%	2	40%
Argosy University (aka American School of Prof. Psych.)	204	15	12	80%	3	20%	6	6	100%	0	0%
Azusa Pacific University, Azusa	103	30	25	83%	5	17%	17	15	88%	2	12%
Bethel Theological Seminary	152	3	3	100%	0	0%	2	2	100%	0	0%
Brandman University	253	48	27	56%	21	44%	21	14	67%	7	33%
Calif. Polytechnic State University, San Luis Obispo - Cal Poly	001	1	1	100%	0	0%	1	1	100%	0	0%
California Baptist University, Riverside	105	24	13	54%	11	46%	11	7	64%	4	36%
California Institute of Integral Studies, S.F.	107	37	24	65%	13	35%	20	14	70%	6	30%
California Lutheran University, Thousand Oaks	108	8	5	62%	3	38%	4	3	75%	1	25%
California Southern University	246	8	6	75%	2	25%	4	3	75%	1	25%
California State Polytechnic University, Pomona	019	4	4	100%	0	0%	3	3	100%	0	0%
California State University, Bakersfield	002	7	7	100%	0	0%	4	4	100%	0	0%
California State University, Chico	003	1	0	0%	1	100%	1	0	0%	1	100%
California State University, Dominguez Hills	004	8	5	62%	3	38%	5	3	60%	2	40%
California State University, Fresno	005	17	9	53%	8	47%	9	5	56%	4	44%
California State University,	006	31	29	94%	2	6%	18	17	94%	1	6%

Board of Behavioral Sciences
EXAM RESULTS BY SCHOOL
EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Fullerton											
California State University, Hayward	007	3	3	100%	0	0%	2	2	100%	0	0%
California State University, Long Beach	008	20	19	95%	1	5%	10	10	100%	0	0%
California State University, Los Angeles	009	1	1	100%	0	0%	0	0		0	
California State University, Northridge	010	24	21	88%	3	12%	13	12	92%	1	8%
California State University, Sacramento	011	1	0	0%	1	100%	0	0		0	
Chapman University, Orange	113	3	2	67%	1	33%	2	2	100%	0	0%
Dominican University of California	117	7	7	100%	0	0%	4	4	100%	0	0%
Eisner Institute for Professional Studies	250	1	0	0%	1	100%	0	0		0	
Fresno Pacific Biblical Seminary, Fresno	127	3	1	33%	2	67%	1	0	0%	1	100%
Fresno Pacific University	153	2	2	100%	0	0%	1	1	100%	0	0%
Fuller Theological Seminary, Pasadena	119	4	4	100%	0	0%	3	3	100%	0	0%
Golden Gate University	151	1	0	0%	1	100%	0	0		0	
Holy Names University, Oakland	122	6	4	67%	2	33%	2	2	100%	0	0%
Hope International University	131	26	19	73%	7	27%	13	9	69%	4	31%
John F. Kennedy University, Orinda	124	34	26	76%	8	24%	15	13	87%	2	13%
Loma Linda University, Orinda	125	3	3	100%	0	0%	2	2	100%	0	0%
Meridian University	231	1	0	0%	1	100%	0	0		0	
Mount St. Mary's University, Los Angeles	128	6	3	50%	3	50%	3	2	67%	1	33%
National University	129	40	28	70%	12	30%	18	15	83%	3	17%
Northcentral University	256	5	0	0%	5	100%	2	0	0%	2	100%
Notre Dame de Namur University	116	3	2	67%	1	33%	2	2	100%	0	0%
OUT-OF-COUNTRY	400	5	3	60%	2	40%	2	1	50%	1	50%
Out-of-State	300	33	22	67%	11	33%	14	9	64%	5	36%
Pacific Oaks College, Pasadena	133	11	5	45%	6	55%	4	3	75%	1	25%
Pacifica Graduate Institute, Carpinteria	154	17	16	94%	1	6%	9	8	89%	1	11%

Board of Behavioral Sciences

EXAM RESULTS BY SCHOOL

EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Palo Alto University	258	26	24	92%	2	8%	13	12	92%	1	8%
Pepperdine University, Malibu	135	43	34	79%	9	21%	22	17	77%	5	23%
Phillips Graduate Institute	106	30	23	77%	7	23%	13	10	77%	3	23%
POINT LOMA NAZARENE UNIVERSITY	261	6	5	83%	1	17%	5	4	80%	1	20%
Ryokan College, Los Angeles	216	1	1	100%	0	0%	0	0		0	
San Francisco State University	016	3	3	100%	0	0%	1	1	100%	0	0%
Santa Clara University	144	5	5	100%	0	0%	3	3	100%	0	0%
Sonoma State University	018	1	1	100%	0	0%	1	1	100%	0	0%
Southern California Seminary (aka Southern CA Bible College and Seminary)	237	3	2	67%	1	33%	1	1	100%	0	0%
St. Mary's College of CA, Moraga	136	3	2	67%	1	33%	1	1	100%	0	0%
The Chicago School of Professional Psychology at Los Angeles	251	9	7	78%	2	22%	5	4	80%	1	20%
TOURO UNIVERSITY	262	10	7	70%	3	30%	6	4	67%	2	33%
University of La Verne, La Verne	140	8	6	75%	2	25%	4	3	75%	1	25%
University of Phoenix, San Diego	236	55	19	35%	36	65%	15	5	33%	10	67%
University of San Diego, San Diego	142	3	3	100%	0	0%	2	2	100%	0	0%
University of San Francisco, San Francisco	143	15	10	67%	5	33%	5	4	80%	1	20%
University of Santa Monica	240	2	2	100%	0	0%	1	1	100%	0	0%
University of Southern California, Los Angeles	145	4	3	75%	1	25%	3	2	67%	1	33%
University of the West	255	1	0	0%	1	100%	1	0	0%	1	100%
Vanguard University of Southern California	156	5	5	100%	0	0%	3	3	100%	0	0%
Western Seminary (Western Conservative Baptist Seminary)	232	6	1	17%	5	83%	4	1	25%	3	75%
Wright Institute, Berkeley	150	5	5	100%	0	0%	3	3	100%	0	0%

LMFT Law and Ethics TOTAL: 808 577 71% 231 29% 392 304 78% 88 22%

LICENSE TYPE: LPCC

EXAM: LPCC Law and Ethics

Board of Behavioral Sciences
EXAM RESULTS BY SCHOOL
EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant International University (aka US International)	139	1	0	0%	1	100%	1	0	0%	1	100%
Antioch University, Santa Barbara	243	4	4	100%	0	0%	2	2	100%	0	0%
Argosy University (aka American School of Prof. Psych.	204	5	4	80%	1	20%	2	2	100%	0	0%
Azusa Pacific University, Azusa	103	8	4	50%	4	50%	3	1	33%	2	67%
Brandman University	253	5	3	60%	2	40%	2	1	50%	1	50%
California Baptist University, Riverside	105	8	3	38%	5	62%	5	2	40%	3	60%
California Institute of Integral Studies, S.F.	107	5	5	100%	0	0%	3	3	100%	0	0%
California Southern University	246	4	2	50%	2	50%	1	1	100%	0	0%
California State University, Fresno	005	2	0	0%	2	100%	2	0	0%	2	100%
California State University, Fullerton	006	11	11	100%	0	0%	7	7	100%	0	0%
California State University, Hayward	007	1	1	100%	0	0%	1	1	100%	0	0%
California State University, Long Beach	008	2	2	100%	0	0%	1	1	100%	0	0%
California State University, Los Angeles	009	5	3	60%	2	40%	3	2	67%	1	33%
California State University, Northridge	010	4	2	50%	2	50%	2	1	50%	1	50%
California State University, Sacramento	011	3	2	67%	1	33%	1	0	0%	1	100%
California State University, San Bernardino	012	3	3	100%	0	0%	1	1	100%	0	0%
California State University, Stanislaus	013	2	0	0%	2	100%	1	0	0%	1	100%
Chapman University, Orange	113	1	1	100%	0	0%	1	1	100%	0	0%
Concordia University	268	1	1	100%	0	0%	1	1	100%	0	0%
Holy Names University, Oakland	122	1	0	0%	1	100%	1	0	0%	1	100%
Hope International University	131	1	1	100%	0	0%	1	1	100%	0	0%
John F. Kennedy University, Orinda	124	2	0	0%	2	100%	1	0	0%	1	100%
LA SIERRA	252	2	2	100%	0	0%	1	1	100%	0	0%
Loma Linda University, Orinda	125	2	2	100%	0	0%	1	1	100%	0	0%

Board of Behavioral Sciences

EXAM RESULTS BY SCHOOL

EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Loyola Marymount University, Los Angeles	126	5	3	60%	2	40%	3	2	67%	1	33%
National University	129	4	4	100%	0	0%	2	2	100%	0	0%
Notre Dame de Namur University	116	2	2	100%	0	0%	1	1	100%	0	0%
Out-of-State	300	72	48	67%	24	33%	35	24	69%	11	31%
Palo Alto University	258	8	8	100%	0	0%	4	4	100%	0	0%
Pepperdine University, Malibu	135	5	4	80%	1	20%	3	2	67%	1	33%
Phillips Graduate Institute	106	2	2	100%	0	0%	1	1	100%	0	0%
Point Loma Nazarene University	261	2	2	100%	0	0%	1	1	100%	0	0%
San Diego State University	015	3	1	33%	2	67%	1	0	0%	1	100%
San Jose State University	017	3	3	100%	0	0%	2	2	100%	0	0%
Sonoma State University	018	1	1	100%	0	0%	1	1	100%	0	0%
St. Mary's College of CA, Moraga	136	2	2	100%	0	0%	1	1	100%	0	0%
The Chicago School of Professional Psychology at Los Angeles	251	3	3	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	2	2	100%	0	0%	1	1	100%	0	0%
University of Phoenix, San Diego	236	4	4	100%	0	0%	2	2	100%	0	0%
University of Redlands	259	2	2	100%	0	0%	1	1	100%	0	0%
University of San Diego, San Diego	142	1	0	0%	1	100%	1	0	0%	1	100%
University of San Francisco, San Francisco	143	2	1	50%	1	50%	0	0		0	
Vanguard University of Southern California	156	1	1	100%	0	0%	1	1	100%	0	0%
Western Seminary (Western Conservative Baptist Seminary)	232	6	4	67%	2	33%	4	3	75%	1	25%
Wright Institute, Berkeley	150	3	2	67%	1	33%	2	1	50%	1	50%

LPCC Law and Ethics TOTAL: 216 155 72% 61 28% 113 81 72% 32 28%

EXAM: NCMHCE Exam

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Antioch University, Los Angeles	241	1	1	100%	0	0%	1	1	100%	0	0%
Argosy University (aka American School of Prof. Psych.)	204	3	2	67%	1	33%	3	2	67%	1	33%

Board of Behavioral Sciences

EXAM RESULTS BY SCHOOL

EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Azusa Pacific University,	20	1	1	100%	0	0%	1	1	100%	0	0%
Azusa Pacific University, Azusa	103	6	3	50%	3	50%	2	0	0%	2	100%
Brandman University	253	3	1	33%	2	67%	2	1	50%	1	50%
Calif. Polytechnic State University, San Luis Obispo - Cal Poly	001	1	1	100%	0	0%	0	0		0	
California Baptist University, Riverside	105	1	1	100%	0	0%	1	1	100%	0	0%
California Southern University	246	2	0	0%	2	100%	1	0	0%	1	100%
California State University, Fresno	005	3	2	67%	1	33%	2	1	50%	1	50%
California State University, Fullerton	006	3	1	33%	2	67%	3	1	33%	2	67%
California State University, Sacramento	011	4	1	25%	3	75%	3	1	33%	2	67%
California State University, San Bernardino	012	1	1	100%	0	0%	1	1	100%	0	0%
California State University, Stanislaus	013	1	1	100%	0	0%	0	0		0	
Chapman University, Orange	113	1	1	100%	0	0%	0	0		0	
Fuller Theological Seminary, Pasadena	119	1	1	100%	0	0%	1	1	100%	0	0%
John F. Kennedy University, Orinda	124	1	0	0%	1	100%	1	0	0%	1	100%
Loma Linda University, Orinda	125	1	0	0%	1	100%	0	0		0	
Loyola Marymount University, Los Angeles	126	1	1	100%	0	0%	1	1	100%	0	0%
National University	129	3	2	67%	1	33%	3	2	67%	1	33%
Notre Dame de Namur University	116	3	2	67%	1	33%	3	2	67%	1	33%
Out-of-State	300	36	24	67%	12	33%	23	15	65%	8	35%
Pacifica Graduate Institute, Carpenteria	154	1	1	100%	0	0%	1	1	100%	0	0%
Palo Alto University	258	1	1	100%	0	0%	1	1	100%	0	0%
Pepperdine University, Malibu	135	2	2	100%	0	0%	2	2	100%	0	0%
San Diego State University	015	3	1	33%	2	67%	1	0	0%	1	100%
San Jose State University	017	3	2	67%	1	33%	2	2	100%	0	0%
St. Mary's College of CA, Moraga	136	2	0	0%	2	100%	2	0	0%	2	100%
The Chicago School of Professional Psychology at Los	251	4	3	75%	1	25%	2	2	100%	0	0%

Board of Behavioral Sciences
EXAM RESULTS BY SCHOOL
EXAM DATES: Jan 1, 2020 THROUGH Mar 31, 2020

SCHOOL		EXAM RESULTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Angeles											
UC, San Diego	054	1	1	100%	0	0%	1	1	100%	0	0%
UC, San Francisco	055	1	1	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	4	3	75%	1	25%	3	2	67%	1	33%
University of Redlands	259	2	0	0%	2	100%	2	0	0%	2	100%
University of San Diego, San Diego	142	3	2	67%	1	33%	3	2	67%	1	33%
University of San Francisco, San Francisco	143	1	1	100%	0	0%	1	1	100%	0	0%
NCMHCE Exam TOTAL:		105	65	62%	40	38%	74	46	62%	28	38%

Blank Page

Associate Governmental Program Analyst / Consumer Complaint & Investigations Unit / Enforcement – This position is assigned to perform the duties of an Enforcement Analyst. The Board received approval to refill this vacancy. The Board will begin recruitment for this vacancy in the upcoming month.

Staff Services Analyst / Consumer Complaint & Investigations Unit / Enforcement – This position is assigned to perform the duties of a Continuing Education (CE) Compliance Analyst. The Board received approval to refill this vacancy. The Board will begin recruitment for this vacancy in the upcoming month.

Staff Services Analyst / Licensing – This position is assigned to perform the duties of a Licensing and School Analyst. The Board received approval to refill this vacancy. This vacancy has been advertised and the final filing date was May 24, 2020. The hiring manager will begin reviewing the applications once OHR has released the applications to the Board.

Management Services Technician / Licensing – This position is responsible for the evaluation of Licensed Clinical Social Workers (LCSW) applications. The Board received approval to refill this vacancy. The hiring manager is in the process of reviewing the applications.

Office Technician / Criminal Conviction Unit / Enforcement – This position functions as an Enforcement Technician processing fingerprints and supporting the unit. The hiring manager has chosen a candidate and is awaiting final approval from OHR.

Office Technician / Administration – This position functions as the main receptionist for the Board. The request to fill this vacancy will be submitted to OHR to begin the recruitment in the coming month.

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

LICENING GOAL: *Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.*

		DUE DATE	STATUS
1.1	Identify and implement enhanced communication during the application process to respond to stakeholder concerns regarding communication between applicants and the Board.	July 2021	January 2020: Implemented use of social media to communicate application processing times and new examination vendor. April 2020: Initiated Facebook Live events.
1.2	Improve and expand the Board’s virtual online BreEZe functionality to provide applicants with the precise status of their applications and license.	July 2020	
1.3	Research and explore a comprehensive online application process to improve efficiency.	January 2021	March 2018: Request submitted to revise BreEZe to allow L/E exam and Initial Licensure Applications submitted online. March 2019: Online submission for Law and Ethics exam and request for certification of licensure available. April 2020: E-Transcript program initiated to all schools to submit transcripts and program certificates.
1.4	Evaluate and revise current laws and regulations relating to licensure portability to increase consumer access to mental health care.	January 2021 (COMPLETED)	August 2018: License Portability Committee recommendations and draft regulations will be considered during the August 2018 Policy and Advocacy meeting. September 2018: Board members approve recommendations

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

			<p>January 2019: Author for bill obtained</p> <p>March 2019: In the Senate Appropriation committee</p> <p>September 2019: Governor signs bill SB 679.</p>
--	--	--	--

EXAMINATION GOAL:

2.1	Improve the efficiency and reduce processing times to streamline the online exam application.	January 2021	February 2019: Submission of Law and Ethics application via online available March 2019
2.2	Explore methods to improve the candidate’s exam experience to address concerns relating to the quality and customer service.	July 2019 (COMPLETED)	<p>August 2018: Board management initiates process to procure a vendor to administer Board developed examinations.</p> <p>February 2019: Contract submitted to DCA</p> <p>November 2019: New vendor to begin January 2, 2020</p> <p>Completed January 2020</p>
2.3	Improve the Board’s examination study materials to increase access to exam preparation.	July 2019	<p>October 2018: Board management met with OPES to discuss options to assist candidates in examination preparation.</p> <p>November 2019: Candidate handbook will be updated.</p>
2.4	Evaluate the Association of Marriage and Family Therapy Regulatory Board’s (AMFTRB) national examination to	July 2020	September 2018: Executive Officer attended presentation regarding national exam at the AMFTRB annual meeting.

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

	determine if appropriate for use in California.		<p>October 2018: OPES indicates evaluation will occur upon completion of Board’s OA for LMFTs.</p> <p>September 2019: EO attends presentation regarding national exam at the AMFTRB annual meeting.</p>
--	---	--	---

ENFORCEMENT GOAL: *Protect the health and safety of consumers through the enforcement of laws.*

		DUE DATE	STATUS
3.1	Explore the feasibility of additional staff resources to address the increase in number of licensees placed on probation.	July 2020 (Completed)	<p>June 2018 – Restructured the Enforcement Program to establish a manager position to provide oversight of the Probation and Discipline Unit.</p> <p>July 2018 – Request for 1 full time and 1 half time position to monitor probationers was approved. Initiated recruitment for manager. Initiated recruitment for probation monitor positions.</p> <p>August 2018 – Manager hired.</p> <p>July 2019 New staff member hired. Unit is fully staffed. Completed</p>
3.2	Educate registrant and licensees about general legal requirements and consequences to practitioners who fail to adhere to these legal requirements.	July 2019	<p>April 2018- CALPCC Annual Meeting Unprofessional Conduct Presentation</p> <p>May 2019 CALPCC Annual Meeting Unprofessional Conduct Presentation</p>

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

3.3	Educate the Deputy Attorney Generals and Administrative Law Judges regarding the disease of addiction and substance abuse to increase their awareness during the discipline process.	July 2021	
3.4	Establish uniform standards and templates for reports and evaluations submitted to the Board related to disciplinary matters.	July 2020	April 2018, June 2018, October 2018 – Board staff attends Substance Abuse Coordination Committee to discussion possible revisions to Uniform Standard #4.

LEGISLATION AND REGULATION GOAL: *Ensure that statutes, regulations, policies, and procedures strengthen and support the Board’s mandate and mission.*

		DUE DATE	STATUS
4.1	Pursue legislation to implement the recommendations of the License Portability Committee to improve license portability.	January 2020 (Completed)	<p>August 2018 – Recommendations presented at August 24, 2018 Policy and Advocacy Committee meeting.</p> <p>September 2018-Board approves language – directs staff to initiate legislation process.</p> <p>January 2019- Author for bill obtained</p> <p>March 2019 – In the Senate Appropriation committee</p> <p>September 2019 Governor signs bill</p> <p>Completed</p>
4.2	Reorganize the statutes and regulations specific to each Board license type to improve understanding of application statutes and regulations.	January 2021	December 2019 – Management Team and staff met to discuss viable options to improve organization of law book.
4.3	Continue to review statutory parameters for exempt settings and modify, if necessary, to ensure adequate public protection.	January 2021	August 2018 - Final meeting of the Exempt Setting Committee scheduled for September 12, 2018.

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

			<p>October 2018 P&A members recommend approving proposed setting definitions to full board.</p> <p>February 2019 P&A Committee refer definitions back to Exempt Committee for additional revisions.</p> <p>April 2019 Set meeting date for June 7, 2019 to discussion definitions.</p> <p>November 2019 Board considers proposed language for 2020 legislation</p> <p>February 2020 AB 2363 introduced</p> <p>April 2020: Bill withdrawn due COVID-19</p>
4.4	Explore the feasibility of improving the law and ethics renewal requirements to inform licensees about updates in relevant laws.	July 2021	<p>July 2018 – Board’s Continuing Education Analyst attends all major outreach events to educate licensees regarding continuing education requirements.</p> <p>October 2018 & 2019 CE Presentation to LEPs at CASP Conference</p>
4.5	Review and update existing telehealth regulations to improve consumer protection and access to services.	January 2020	<p>May 2018-Board established a Telehealth Committee to begin work after January 1, 2019.</p> <p>October 2019 AEO and Legislative Analyst attend meeting California Telehealth Policy Coalition Briefing</p>

ORGANIZATIONAL EFFECTIVENESS:

Build an excellent organization through proper Board governance, effective leadership, and responsible management.

		DUE DATE	STATUS
--	--	-----------------	---------------

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

5.1	Implement a strategic succession plan of Board staff to ensure continued success of the Board’s operations.	January 2020	October 2018 – Probation unit updates procedure manuals. January 2020 All units directed to update procedure manuals
5.2	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.	July 2020	Spring 2018 – Board management contacts DCA Executive Management offering assistance with the EO survey and process. July 2018 DCA reports requests for bid to conduct EO survey near completion. October 2018 DCA reports some EO’s participated in phone interviews with contractor. Contractor will develop survey for all EO’s to complete. ETA for report early 2019. March 2019 DCA reports study concluded and will share study information with EO’s and Boards at a later date. Report released
5.3	Explore the feasibility of hiring in-house counsel to ensure consistency in the application of law.	July 2021	Winter and Spring 2018 – Board management initiates review of existing laws that allow Board’s to hire in-house counsel. Board management engaged in discussions to seek similar hiring authority. August 2018 - Proposed language to provide the Board with the hiring authority is removed from bill.
5.4	Explore the feasibility of hiring a media and internet technology specialist to increase consistency in messaging to stakeholders.	July 2021	January – March 2019 AEO and EO meet with DCA PIO Officer to establish schedule for consistent messaging in Social Media. May 2019 Initiated use of an APP to load messages for distribution on Social Media.

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

5.5	Improve customer service with stakeholders to expand (or support) effective communication and accessibility to the Board.	July 2019	<p>Spring 2018 – Implemented revised phone system.</p> <p>January and March 2019 - Began working with department to develop and implement instructional videos and social media campaign that will increase engagement of registrants and licensees.</p> <p>December 2019 Contacted DCA Central Communication Team to explore the possibility of using CIC Team’s phone answering service</p> <p>March 2020: CIC begins answering Board calls</p>
-----	---	-----------	---

OUTREACH AND EDUCATION GOAL: *Engage stakeholders through continuous communication about the practice and regulation of the professions, and mental health.*

		DUE DATE	STATUS
6.1	Explore modalities of communication to expand and increase outreach.	January 2020	<p>January and March 2019 Meeting with assigned PIO officer to discuss strategies to enhance social media presence.</p> <p>May 2019 Initiated use of an APP to load messages for distribution on Social Media.</p> <p>November – December 2019 – Actively using social media to communicate important reminders and messages on a scheduled basis.</p> <p>April – May 2020: Video conference presentations to social work students.</p>
6.2	Advocate to increase Board presence at national professional association meetings to enhance awareness of national trends and best practices.	July 2021	<p>May 2018 – Received approval for Board EO to attend ASWB Spring Education Conference</p>

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

			<p>in Halifax, Nova Scotia to present draft license portability plan.</p> <p>July 2018- Received approval for Board EO to attend NBCC, AMFTRB, and ASWB national meetings in Fall 2018.</p> <p>July 2019 EO and Board Members approved to attend NBCC and ASWB national meetings. EO to attend AMFTRB meeting.</p> <p>November 2019 Board EO elected to ASWB Board of Directors</p> <p>February 2020 Board EO participates in AASCB Regulatory Committee meeting to discuss license portability.</p>
6.3	Develop an outreach program to educate the public about the benefits of mental health to reduce barriers and destigmatize mental health care.	July 2020	<p>January and March 2019-Initiated a plan with assigned PIO to develop an instructional video to explain more about our licensees and what they do.</p> <p>October 2019 AEO and EO attend workshop related to suicide prevention.</p>
6.4	Explore opportunities to coordinate with stakeholders to increase diversity of mental health practitioners to better serve California’s diverse population.	July 2021	<p>October 2018- Board staff participates in meeting with various stakeholders to discuss implementation of AB 2105.</p> <p>November 2019 OSHP Workforce and Development presentation.</p>
6.5	Improve outreach activities to educational institutions, students, and applicants to educate incoming registrants of application requirements for licensure.	January 2021	August 2018 – Board management initiates discussions with SOLID to discuss developing video tutorials for Board website.

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE MAY 2020

			<p>January and March 2019-Initiated a plan with PIO to develop an instructional video to guide associates through the registrant process.</p> <p>February 2020 - LMFT unit staff attend CAMFT and MFT Consortium Event for students.</p>
--	--	--	--

Blank Page



Board of Behavioral Sciences

Memo

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members

Date: May 29, 2020

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Sunset Review 2020

The Board submitted its final Sunset Review Report in December 2019 to the Assembly and Senate Business, Professions, and Economic Committees. This report provides a comprehensive review of the Board's programs and operations since the last review in 2016. At that time, the Board received a four-year extension to continue regulating the professions of Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, Licensed Professional Clinical Counselors, and Licensed Educational Psychologists.

As part of the Sunset Review process, public hearings are held to discuss comprehensive report and hear public testimony. The Board was scheduled for its public hearing on March 24, 2020. However, due to COVID-19, the hearing was postponed.

Recently, staff from the Assembly and Senate Business, Professions, and Economic Committees informed the Board that due to COVID-19 the public hearing will not occur this year. Recognizing that the Board's expiration date is at the end of 2020, the Committee Staff also stated a one-year extension for the Board will be included in Senate Bill 1474.

The Committee Staff indicated that a public hearing will likely occur sometime in 2021.

Blank Page



Board of Behavioral Sciences

Memo

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members

Date: May 29, 2020

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: Election of Officers

Business and Professions Code section 4990 requires the Board to elect a Chair and Vice-Chair each year. Currently, Betty Connolly serves as the Board Chair and Massimiliano (Max) Disposti 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 2020-2021.

Below is a list of Board members and the date on which their term will expire. Members who may not be selected for either position are noted below.

Board Member	Type	Authority	Appointment Date	Term Expires	Grace Expires
Massimiliano Disposti	Public	Senate	6/1/2019	6/1/2023	6/1/2024
Ross Erlich	Public	Assembly	2/6/2020	6/1/2023	6/1/2024
Dr. Leah Brew*	LPCC	Governor	8/8/2012	6/1/2020	8/1/2020
Deborah Brown	Public	Governor	8/20/2012	6/1/2021	8/1/2021
Betty Connolly*	LEP	Governor	8/20/2012	6/1/2020	8/1/2020
Wendy Strack	Public	Governor	11/29/2020	6/1/2023	8/1/2023
Susan Friedman	Public	Governor	3/5/2020	6/1/2022	8/1/2022
Crystal Anthony	LCSW	Governor	10/7/2019	6/1/2022	8/1/2022
Jonathan Maddox	LMFT	Governor	9/14/2017	6/1/2021	8/1/2021
John Sovec	LMFT	Governor	12/11/2019	6/1/2022	8/1/2022
Christina Wong	LCSW	Governor	5/10/2011	6/1/2021	8/1/2021
VACANT	Public	Governor		6/1/2021	8/1/2021
VACANT	Public	Governor		6/1/2021	8/1/2021

**These members are not eligible for consideration.*

Blank Page

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 8 **VERSION: AMENDED MAY 16, 2019**

AUTHOR: CHU AND E. GARCIA **SPONSOR: MENTAL HEALTH AMERICA OF CALIFORNIA**

PREVIOUS POSITION: SUPPORT

SUBJECT: PUPIL HEALTH: MENTAL HEALTH PROFESSIONALS

Summary:

This bill would require schools to employ at least one mental health professional for every 600 pupils by December 31, 2024.

Existing Law:

- 1) Specifies minimum requirements for a services credential with a specialization in pupil personnel services are a bachelor’s degree or higher, a fifth year of study, and any specialized professional preparation required by the Commission on Teacher Credentialing. (Education Code (EC) §44266)
- 2) Specifies that a services credential with a specialization in pupil personnel services authorizes that holder to perform the pupil personnel service designated on the credential, which may include, but not be limited to, school counseling, school psychology, child welfare and attendance services, and school social work. (EC §44266)
- 3) Specifies the various types of services credentials with a specialization in pupil personnel services (See **Attachment A**). Permits school districts to utilize other types of service providers, including state licensees, to assist in providing pupil personnel services if they are supervised by an individual with a pupil personnel services authorization. (California Code of Regulations (CCR) Title 5, §80049.1)

This Bill:

- 1) By December 31, 2024 requires schools (including charter schools) to have at least one mental health professional for every 600 pupils generally accessible to pupils on campus during school hours. (EC §49429.5(a))
- 2) Requires schools with less than 600 pupils do at least one of the following (EC §49429.5(a)):

- a) Have at least one mental health professional generally accessible to pupils on campus during school hours; or
 - b) Employ at least one mental health professional to provide services at multiple schools; or
 - c) Enter into an agreement with a county or community-based organization for at least one mental health professional to provide services.
- 3) Outlines the role of the required mental health professional in the school, which includes providing individual and small group counseling. (EC §49429.5(b))
- 4) Requires a school mental health professional who does not hold a services credential with a specialization in either pupil personnel services or in health (for a school nurse) to be under the supervision of an individual with a service credential specialization in pupil personnel services or administrative services in order to work with pupils. (EC §49429.5(c))
- 5) Requires at least one of the mental health professionals at each school to hold a services credential with a specialization in pupil personnel services authorizing them to perform school counseling, school psychology, or school social work. On and after January 1, 2029, requires all mental health professional at each school to hold such a credential. (EC §49429.5(e))
- 6) Requires counties to provide ongoing funding from prevention and early intervention funds under the Mental Health Services Act to fund these positions and services. (EC §49429.5(g))
- 7) Defines a “mental health professional” as including the following (EC §49429.5(i)(2)):
 - a) An individual who holds a services credential with a specialization in pupil personnel services that authorizes the person to perform school counseling, school psychology, or school social work.
 - b) An individual who holds a services credential with a specialization in health for a school nurse.
 - c) A professional licensed in California to provide mental health services, including, but not limited to, psychologists, marriage and family therapists, educational psychologists, social workers, child and adolescent psychiatrists, and clinical counselors.
 - d) An associate clinical social worker.
 - e) A marriage and family therapist intern or trainee.
 - f) A clinical counselor intern or trainee.

- 8) Permits schools to hire community mental health workers, cultural brokers, or peer providers to supplement the services of mental health providers, if they have a current certificate of clearance from the Commission on Teacher Credentialing and are supervised by someone with a services credential specializing in either pupil personnel services or administrative services. (EC §49429.5(d))

Comment:

- 1) **Author's Intent.** The author states that schools have been identified as the best setting for mental health prevention and treatment services, but that in California there are few schools that provide on campus mental health services, and students to pupil support personnel ratios are too high to provide timely access.
- 2) **Reference to Marriage and Family Therapist and Professional Clinical Counselor "Interns".** This bill refers to LMFT and LPCC registrants as "interns," which is an outdated reference. The "intern" references should be changed to "associate" references.
- 3) **Previous Position.** At its May 2019 meeting, the Board took a "support" position on this bill. However, it also directed staff to reach out to the author's office to request they consider changes related to three technical issues:
 - a) **Use of "intern" title.** Staff requested that the author's office amend the bill to correctly refer to marriage and family therapist registrants and professional clinical counselor registrants as "associates" instead of "interns." As noted above, this change has not been made yet.
 - b) **Inclusion of clinical social workers.** Previously, this bill left out clinical social workers in the definition of a "mental health professional." Social workers are now included, although staff believes the reference should be changed to "clinical social workers" instead of "social workers." In addition, although associate clinical social workers are also now included, social worker interns are not included, and the Board may wish to discuss if their inclusion is appropriate.
 - c) **Trainees and the "Mental Health Professional" definition.** The bill includes marriage and family therapist trainees and clinical counselor trainees in its definition of mental health professionals. However last year, the Board had concerns that because trainees are individuals who are still in their master's degree program and have not yet graduated, it may be premature to refer to them as full-fledged mental health professionals. The Board expressed a preference to define them separately, but still allow them to count toward the bill's required ratio. The author has not addressed this request yet.

4) Previous Legislation

AB 2022 (Chu, Chapter 484, Statutes of 2018) requires each school of a school district or county office of education, and charter schools, to notify students and parents or guardians of pupils, at least twice per school year, about how to initiate access to available student mental health services on campus or in the community.

5) Support and Opposition

Support

- Mental Health America of California (Sponsor)
- Association of California School Administrators
- California Association for Health, Physical Education, Recreation & Dance
- California Federation of Teachers
- California State PTA

Opposition

- None at this time.

6) History

2019

- 07/08/19 In committee: Hearing postponed by committee.
- 06/25/19 In committee: Set, first hearing. Hearing canceled at the request of author.
- 06/12/19 From committee: Do pass and re-refer to Com. on HEALTH. (Ayes 7. Noes 0.) (June 12). Re-referred to Com. on HEALTH.
- 06/06/19 Referred to Coms. on ED. and HEALTH.
- 05/24/19 In Senate. Read first time. To Com. on RLS. for assignment.
- 05/23/19 Read third time. Passed. Ordered to the Senate. (Ayes 62. Noes 8. Page 1919.)
- 05/20/19 Read second time. Ordered to third reading.
- 05/16/19 Read second time and amended. Ordered returned to second reading.
- 05/16/19 From committee: Amend, and do pass as amended. (Ayes 13. Noes 2.) (May 16).
- 05/01/19 In committee: Set, first hearing. Referred to APPR. suspense file.
- 04/24/19 From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 1.) (April 23). Re-referred to Com. on APPR.
- 04/02/19 In committee: Set, first hearing. Hearing canceled at the request of author.
- 03/20/19 Re-referred to Com. on HEALTH.
- 03/19/19 Read second time and amended.
- 03/18/19 From committee: Amend, and do pass as amended and re-refer to Com. on HEALTH. (Ayes 5. Noes 0.) (March 13).
- 03/05/19 Re-referred to Com. on ED.

03/04/19 From committee chair, with author's amendments: Amend, and re-refer to Com. on ED. Read second time and amended.
01/17/19 Referred to Coms. on ED. and HEALTH.
12/04/18 From printer. May be heard in committee January 3.
12/03/18 Read first time. To print.

7) Attachments

Attachment A: California Code of Regulations (CCR) Title 5, §80049.1: Types of Services Credentials with a specialization in Pupil Personnel Services

Attachment B: Strauss, Valerie (February 15, 2018) "If Americans really cared about students' mental health, these school ratios would be very different" *The Washington Post*.

Blank Page

ATTACHMENT A

[Home](#) [Table of Contents](#)

§ 80049.1. Authorization for Service.

5 CA ADC § 80049.1

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

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

Title 5. Education

Division 8. Commission on Teacher Credentialing

Chapter 1. Credentials Issued Under the Teacher Preparation and Licensing Law of 1970

Article 2. Credential Types, Authorizations, and Requirements

5 CCR § 80049.1

§ 80049.1. Authorization for Service.

(a) A Services Credential with a specialization in Pupil Personnel Services authorizes the holder to perform pupil personnel services in the specialization(s) named, as described below, in grades 12 and below, including preschool, and in programs organized primarily for adults:

(1) The Pupil Personnel Services: School Counseling Credential authorizes the holder to develop, plan, implement and evaluate a school counseling and guidance program that includes academic, career, personal and social development; advocate for the higher academic achievement and social development of all students; provide school-wide prevention and intervention strategies and counseling services; provide consultation, training and staff development to teachers and parents regarding students' needs; and supervise a district-approved advisory program as described in Education Code Section 49600.

(2) The Pupil Personnel Services: School Social Work Credential authorizes the holder to assess home, school, personal and community factors that may affect a student's learning; identify and provide intervention strategies for children and their families including counseling, case management, and crisis intervention; consult with teachers, administrators and other school staff regarding social and emotional needs of students; and coordinate family, school and community resources on behalf of students.

(3) The Pupil Personnel Services: School Psychology Credential authorizes the holder to provide services that enhance academic performance; design strategies and programs to address problems of adjustment; consult with other educators and parents on issues of social development, behavioral and academic difficulties; conduct psycho-educational assessments for purposes of identifying special needs; provide psychological counseling for individuals, groups and families; and coordinate intervention strategies for management of individual and school-wide crises.

(4) The Pupil Personnel Services: Child Welfare and Attendance Credential authorizes the holder to access appropriate services from both public and private providers, including law enforcement and social services; provide staff development to school personnel regarding state and federal laws pertaining to due process and child welfare and attendance laws; address school policies and procedures that inhibit academic success; implement strategies to improve student attendance; participate in school-wide reform efforts; and promote understanding and appreciation of those factors that affect the attendance of culturally-diverse student populations.

(b) An individual holding any of the authorizations described in this section may serve as an administrator of a pupil personnel services program per Education Code Section 44270.2.

(c) Nothing in this section shall be construed to preclude school districts from utilizing community-based service providers, including volunteers, individuals completing counseling-related internship programs, and state licensed individuals and agencies to assist in providing pupil personnel services, provided that such individuals and agencies are supervised in their school-based activities by an individual holding a pupil personnel services authorization.

Note: Authority cited: Sections 44225 and 44266, Education Code. Reference: Sections 44252 and 44266, Education Code.

HISTORY

1. New section filed 10-27-99; operative 11-26-99 (Register 99, No. 44).

This database is current through 4/5/19 Register 2019, No. 14

5 CCR § 80049.1, 5 CA ADC § 80049.1

Blank Page

Answer Sheet Analysis

If Americans really cared about students' mental health, these school ratios would be very different

By Valerie Strauss

Grief counselors are always made available to help students when there is a traumatic event at a school, such as this week, when a gunman entered a Florida high school and fired a military-style assault weapon, killing 17 people. While health experts say counseling after a tragedy is vital, too many schools don't have anywhere near enough health professionals to help students before the catastrophes.

Consider:

In U.S. public schools today, it's estimated there is one school psychologist for every 1,381 students. The National Association of School Psychologists recommends one psychologist for every 500 to 700 students (which itself makes very busy work days for psychologists).

Let's turn to school counselors.

According to the latest available information from the American School Counselor Association, there was one counselor for every 482 students in 2014-2015. It's nearly twice what the association recommends: one counselor for every 250 students (which makes for very busy days for school counselors.)

And then there are school-based nurses. The National Association of School Nurses and the National Association of State School Nurse Consultants recommend that every student have direct access to a school nurse, though some states have recommended there be one school nurse for every 750 students in the healthy student population (which makes for a busy day for school nurses).

Yet a 2017 survey by the National Association of School Nurses found that only 39 percent of private and public schools in the United States have full-time nurses. In North Carolina, for example, a new legislative study found that the state would need to spend up to \$79 million a year in additional money to meet the 1 to 750 nurse-student ratio in public schools.

School-based psychologists, counselors and nurses do related but different things for students, but they are all professionals who are supposed to be part of the human scaffolding constructed around students to help them do their best in school.

According to the Association for Children's Mental Health, addressing mental health needs in schools is vital because "1 in 5 children and youth have a diagnosable emotional, behavioral or mental health disorder, and 1 in 10 young people have a mental health challenge that is severe enough to impair how they function at home,

school or in the community.” And it says that many estimates show that among kids aged 6 to 17, “at least one-half and many estimate as many as 80 percent” don’t receive the mental health care they require.

“It’s a huge issue,” said Amanda Nickerson, director of the Alberti Center for Bullying Abuse Prevention at the University at Buffalo Graduate School of Education, who is attending the annual convention in Chicago of the National Association of School Psychologists. “We do not have enough mental health professionals to meet the increasingly complex needs of the students that are walking through the door.”

Nickerson said the inevitable calls for immediate action after a shooting often miss the point.

“We are getting better providing, unfortunately in some ways, the crisis intervention, but that’s after something terrible happens,” she said. “As we look toward solutions after something like this happens, people automatically go to highly expensive hardware sorts of solutions. Why don’t we have metal detectors? Where are the cameras? Where are the guards?”

“I’m not saying those things aren’t important,” she said. “But to create a safe and secure environment, we have to address psychological safety and connectedness and how we are resolving conflicts that doesn’t involve more conflict. That is critically important, and our school-based mental health experts are trained to do that. But there aren’t enough people and not enough hours in the day currently with the way our staffing is.”

Though research and common sense say that schools should be properly staffed with health professionals, that has not been the focus of modern school reformers, who have focused not on the health of students but on testing metrics.

That was true in Democratic and Republican presidential administrations, including the current one. President Trump’s statement about the shooting in South Florida, which left 17 people dead, said in part:

Our administration is working closely with local authorities to investigate the shooting and learn everything we can. We are committed to working with state and local leaders to help secure our schools, and tackle the difficult issue of mental health.

Yet on Monday, his administration released a 2019 budget proposal that mental health professionals said does not show a commitment to tackling the many issues affecting mental health.


The National Association of School Psychologists, for example, expressed “deep concern” with specific proposed items, including gutting significant programs in the federal K-12 law. The American Psychological Association said while the budget includes additional resources to address the nation’s opioid epidemic, improve veterans’ health care and fund scientific research, it “would decimate critical education, justice and behavioral health workforce programs if enacted.”

There is something else missing in the United States that affects the mental health of students, as explained in this [Washington Post story](#) about mass shootings at U.S. schools compared with other countries:

There's also another crucial difference with the United States: extensive, mandatory health insurance, which allows schools to have direct and immediate access to psychologists and intervention teams.

If schools are calling in grief counselors, it's already too late to avoid disaster. And if Americans really cared about having the personnel in schools to address mental health needs, then schools would be adequately staffed with the professionals who students need to be healthy and do their best.

Valerie Strauss

Valerie Strauss is an education writer who authors The Answer Sheet blog. She came to The Washington Post as an assistant foreign editor for Asia in 1987 and weekend foreign desk editor after working for Reuters as national security editor and a military/foreign affairs reporter on Capitol Hill. She also previously worked at UPI and the LA Times. [Follow](#) 



The Washington Post

Reporting the facts for over 140 years.

Try 1 month for ~~\$10~~ \$1

Send me this offer

Already a subscriber? [Sign in](#)

Blank Page

AMENDED IN ASSEMBLY MAY 16, 2019
AMENDED IN ASSEMBLY MARCH 19, 2019
AMENDED IN ASSEMBLY MARCH 4, 2019
california legislature—2019–20 regular session

ASSEMBLY BILL

No. 8

Introduced by Assembly Members Chu and Eduardo Garcia
(Coauthors: Assembly Members Carrillo, Cristina Garcia,
Rodriguez, and Blanca Rubio)
(Coauthors: Senators Beall, Portantino, and Wilk)

December 3, 2018

An act to add Section 49429.5 to the Education Code, relating to pupil health.

legislative counsel's digest

AB 8, as amended, Chu. Pupil health: mental health professionals.

Existing

(1) *Existing* law requires the governing board of a school district to give diligent care to the health and physical development of pupils and authorizes the governing board of a school district to employ properly certified persons for the work. Existing law requires a school of a school district or county office of education and a charter school to notify pupils and parents or guardians of pupils no less than twice during the school year on how to initiate access to available pupil mental health services on campus or in the community, or both, as provided. Existing law requires, subject to sufficient funds being provided, the State Department of Education, in consultation with the State Department of Health Care Services and appropriate stakeholders, to, on or before July 1, 2020, develop guidelines for the use of telehealth technology in public

schools, including charter schools, to provide mental health and behavioral health services to pupils on school campuses.

This bill would require, on or before December 31, ~~2022~~, 2024, a school of a school district or county office of education and a charter school to have at least one mental health professional, as defined, for every ~~400~~ 600 pupils generally accessible to pupils on campus during school hours. The bill would require, on or before December 31, ~~2022~~, 2024, a school of a school district or county office of education and a charter school with fewer than ~~400~~ 600 pupils to have at least one mental health professional generally accessible to pupils on campus during school hours, to employ at least one mental health professional to serve multiple schools, or to enter into a memorandum of understanding with a county agency or community-based organization for at least one mental health professional employed by the agency or organization to provide services to pupils. The bill would encourage a school subject to the bill's provisions with pupils who are eligible to receive Medi-Cal benefits to seek reimbursement for costs of implementing the bill's ~~provisions through the Local Educational Agency Medi-Cal Billing Option and the School-Based Medi-Cal Administrative Activities program~~, provisions, as specified. By imposing additional requirements on local educational agencies, the bill would impose a state-mandated local program.

(2) The Mental Health Services Act (MHSA), an initiative statute 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, such as prevention and early intervention programs. Existing law authorizes the act to be amended by a 2/3 vote of the Legislature if the amendments are consistent with, and further the intent of, the act.

This bill would amend the act to require a county to provide ongoing prevention and early intervention funds under MHSA to a school district, county office of education, or charter school, within the county, for purposes of funding positions and services to fulfill the bill's requirements. The bill would declare that this amendment is consistent with, and furthers the purposes of, the act.

~~The~~

(3) 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~~^{2/3}. 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) In 2014, an estimated 22.5 million Americans 12 years of
- 4 age or older reported needing treatment for a substance use
- 5 disorder, and 11.8 million adults reported needing mental health
- 6 treatment.
- 7 (b) Mental health disorders and substance use disorders share
- 8 some underlying causes, including changes in brain composition,
- 9 genetic vulnerabilities, and early exposure to stress or trauma.
- 10 (c) Fifty-seven percent of Californian children have experienced
- 11 trauma.
- 12 (d) Research shows that people with mental health issues are at
- 13 a higher risk of a substance use disorder.
- 14 (e) Early intervention and prevention of mental health and
- 15 substance use disorders are critical to Californians' behavioral and
- 16 physical health.
- 17 (f) Three hundred thousand Californian children 4 to 11 years
- 18 of age, inclusive, have mental health needs, but over 70 percent
- 19 never receive treatment.
- 20 (g) For youth in poverty or with non-English-speaking parents,
- 21 over 80 percent never receive treatment for their mental health
- 22 needs.
- 23 (h) Both mental health issues and substance use disorders in
- 24 pupils can lead to absenteeism, suspensions, and dropping out of
- 25 school at an early age.
- 26 (i) Schools have been identified as the optimal place to provide
- 27 mental health services and improve access to mental health services
- 28 for pupils, especially pupils of color and pupils in historically
- 29 underserved communities.
- 30 (j) Reflecting on incidents of violence on school campuses,
- 31 national educator and school professional organizations recommend

1 in published best practices for creating safe and successful schools
2 improving access to school-based mental health supports by
3 ensuring adequate staffing levels of school-employed mental health
4 professionals.

5 (k) The State of California ranks last or near last in the country
6 for pupil access to mental health care at school. Currently,
7 California has one school nurse for every 2,240 pupils, ranking
8 39th in the country, and one school counselor for every 792 pupils,
9 ranking last in the country. Additionally, the state has only one
10 school psychologist for every 1,265 pupils and one school social
11 worker for every 12,870 pupils.

12 SEC. 2. Section 49429.5 is added to the Education Code, to
13 read:

14 49429.5. (a) On or before December 31, ~~2022~~, 2024, a school
15 of a school district or county office of education and a charter
16 school shall have at least one mental health professional for every
17 ~~400~~ 600 pupils generally accessible to pupils on campus during
18 school hours. On or before December 31, ~~2022~~, 2024, a school of
19 a school district or county office of education and a charter school
20 with fewer than ~~400~~ 600 pupils shall do one of the following:

21 (1) Have at least one mental health professional generally
22 accessible to pupils on campus during school hours.

23 (2) Employ at least one mental health professional to provide
24 services to pupils at multiple schools.

25 (3) Enter into a memorandum of understanding with a county
26 agency or community-based organization for at least one mental
27 health professional employed by the agency or organization to
28 provide services to pupils.

29 (b) The role of a mental health professional required pursuant
30 to this section shall include, but is not limited to, all of the
31 following:

32 (1) Providing individual and small group counseling supports
33 to individual pupils and pupil groups to address social-emotional
34 and mental health concerns.

35 (2) Facilitating collaboration and coordination between school
36 and community providers to support pupils and their families by
37 assisting families in identifying and accessing additional mental
38 health services within the community as needed.

39 (3) Promoting school climate and culture through
40 evidence-informed strategies and programs by collaborating with

1 school staff to develop best practices for behavioral health
2 management and classroom climate.

3 (4) Providing professional development to staff in diverse areas,
4 including, but not limited to, behavior management strategies,
5 mental health support training, trauma-informed practices, and
6 professional self-care.

7 (c) A mental health professional required pursuant to this section
8 who does not hold a services credential with a specialization in
9 pupil personnel services as described in Section 44266 or a services
10 credential with a specialization in health for a school nurse as
11 described in Section 44267.5 shall work with pupils only under
12 the supervision of an individual who holds a services credential
13 with a specialization in pupil personnel services as described in
14 Section 44266 or a services credential with a specialization in
15 administrative services as described in Section 44270.2.

16 (d) A school of a school district or county office of education
17 and a charter school may employ community mental health
18 workers, cultural brokers, or peer providers to supplement the
19 services provided by mental health professionals if they have a
20 current certificate of clearance from the Commission on Teacher
21 Credentialing and are supervised in their school-based activities
22 by an individual who holds a services credential with a
23 specialization in pupil personnel services as described in Section
24 44266 or a services credential with a specialization in
25 administrative services as described in Section 44270.2.

26 (e) (1) *At least one of the mental health professionals a school*
27 *of a school district or county office of education or a charter school*
28 *is required to have pursuant to subdivision (a) shall hold a services*
29 *credential with a specialization in pupil personnel services as*
30 *described in Section 44266 that authorizes the individual to*
31 *perform school counseling, school psychology, or school social*
32 *work.*

33 (2) *On and after January 1, 2029, all mental health professionals*
34 *providing services pursuant to this section shall, notwithstanding*
35 *any other provision of this section, hold a services credential with*
36 *a specialization in pupil personnel services as described in Section*
37 *44266 that authorizes the individual to perform school counseling,*
38 *school psychology, or school social work.*

39 (e)

1 (f) A school of a school district or county office of education
 2 and a charter school with pupils who are eligible to receive
 3 Medi-Cal benefits is encouraged to do ~~both~~ all of the following:

4 (1) Seek reimbursement, to the extent applicable, through the
 5 Local Educational Agency Medi-Cal Billing Option for services
 6 provided pursuant to this section.

7 (2) Seek reimbursement, to the extent applicable, through the
 8 School-Based Medi-Cal Administrative Activities program for
 9 administrative costs related to providing services pursuant to this
 10 section.

11 (3) *Seek reimbursement, to the extent applicable, through the*
 12 *Early and Periodic Screening, Diagnostic, and Treatment Program.*

13 (g) *A county shall provide ongoing funding from prevention*
 14 *and early intervention funds under the Mental Health Services*
 15 *Act, enacted by the voters at the November 2, 2004, statewide*
 16 *general election as Proposition 63, to a school district, county*
 17 *office of education, or charter school, within the county, for*
 18 *purposes of funding positions and services to fulfill the*
 19 *requirements of this section.*

20 ~~(h)~~

21 (h) (1) This section does not alter the scope of practice for any
 22 mental health professional in a manner that is not authorized
 23 pursuant to existing law.

24 (2) This section does not authorize the delivery of mental health
 25 services in a setting or in a manner that is not authorized pursuant
 26 to existing law.

27 ~~(g)~~

28 (i) For purposes of this section, the following terms have the
 29 following meanings:

30 (1) “Community mental health worker” or “cultural broker”
 31 means a frontline public health worker with behavioral health
 32 training who works for pay or as a volunteer in association with
 33 the local health care systems and usually shares ethnicity, language,
 34 socioeconomic status, or life experiences with the pupils served.
 35 A community mental health worker sometimes offers interpretation
 36 and translation services and culturally appropriate health education
 37 and information, assists pupils and family members in receiving
 38 the care they need, and gives, to the extent permitted by law,
 39 informal counseling and guidance.

40 (2) “Mental health professional” includes any of the following:

1 (A) An individual who holds a services credential with a
2 specialization in pupil personnel services as described in Section
3 44266 that authorizes the individual to perform school counseling,
4 school psychology, or school social work.

5 (B) An individual who holds a services credential with a
6 specialization in health for a school nurse as described in Section
7 44267.5.

8 (C) A professional licensed by the State of California to provide
9 mental health services, including, but not limited to, psychologists,
10 marriage and family therapists, *educational psychologists*, *social*
11 *workers*, *child and adolescent psychiatrists*, and clinical counselors.

12 (D) *An associate clinical social worker as described in Section*
13 *4996.18 of the Business and Professions Code.*

14 ~~(D)~~

15 (E) A marriage and family therapist intern as described in
16 subdivision (b) of Section 4980.03 of the Business and Professions
17 Code.

18 ~~(E)~~

19 (F) A marriage and family therapist trainee as described in
20 subdivision (c) of Section 4980.03 of the Business and Professions
21 Code.

22 ~~(F)~~

23 (G) A clinical counselor intern as described in subdivision (f)
24 of Section 4999.12 of the Business and Professions Code.

25 ~~(G)~~

26 (H) A clinical counselor trainee as described in subdivision (g)
27 of Section 4999.12 of the Business and Professions Code.

28 (3) “Peer provider” means a person who draws on lived
29 experience with mental illness or a substance use disorder and
30 recovery, bolstered by specialized training, to deliver valuable
31 support services in a mental health setting. Peer providers may
32 include people who have lived experience as clients, family
33 members, or caretakers of individuals living with mental illness.
34 Peer providers offer culturally competent services that promote
35 engagement, socialization, recovery, self-sufficiency,
36 self-advocacy, development of natural supports, identification of
37 strengths, and maintenance of skills learned in other support
38 services. Services provided by peer providers include, but are not
39 limited to, support, coaching, facilitation, or education that is
40 individualized to the pupil.

1 SEC. 3. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

6 *SEC. 4. The Legislature finds and declares that this act is*
7 *consistent with, and furthers the intent of, the Mental Health*
8 *Services Act within the meaning of Section 18 of the Mental Health*
9 *Services Act.*

O

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 1145 **VERSION: INTRODUCED FEBRUARY 21, 2019**

AUTHOR: GARCIA **SPONSOR: EQUALITY CALIFORNIA**

CURRENT POSITION: SUPPORT

SUBJECT: CHILD ABUSE: REPORTABLE CONDUCT

Summary:

This bill would specify that voluntary acts of sodomy, oral copulation, and sexual penetration are not considered acts of sexual assault that must be reported by a mandated reporter as child abuse if there are no indicators of abuse, unless it is between a person age 21 or older and a minor under age 16.

Status:

The Board took a “support” position on this bill at its March 6, 2020 meeting. The bill has not been amended since its consideration at that meeting. Therefore, no further action is needed at this time.

Blank Page

Introduced by Assembly Member Cristina Garcia

February 21, 2019

An act to amend Section 11165.1 of the Penal Code, relating to crimes.

legislative counsel's digest

AB 1145, as introduced, Cristina Garcia. Child abuse: reportable conduct.

The Child Abuse and Neglect Reporting Act requires a mandated reporter, as defined, to make a report to a specified agency 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. Existing law provides that “child abuse or neglect” for these purposes includes “sexual assault,” that includes, among other things, the crimes of sodomy, oral copulation, and sexual penetration.

This bill would provide that “sexual assault” for these purposes does not include voluntary sodomy, oral copulation, or sexual penetration, if there are no indicators of abuse, unless that conduct is between a person who is 21 years of age or older and a minor who is under 16 years of age.

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 11165.1 of the Penal Code is amended
 2 to read:
 3 11165.1. As used in this article, “sexual abuse” means sexual
 4 assault or sexual exploitation as defined by the following:
 5 (a) “Sexual assault” means conduct in violation of one or more
 6 of the following sections: Section 261 (rape), subdivision (d) of
 7 Section 261.5 (statutory rape), Section 264.1 (rape in concert),
 8 Section 285 (incest), Section 286 (sodomy), Section 287 or former
 9 Section 288a (oral copulation), subdivision (a) or ~~(b)~~, (b) of,
 10 paragraph (1) of subdivision (c) ~~of~~ of, Section 288 (lewd or
 11 lascivious acts upon a child), Section 289 (sexual penetration), or
 12 Section 647.6 (child molestation). *“Sexual assault” for the*
 13 *purposes of this article does not include voluntary conduct in*
 14 *violation of Section 286, 287, or 289, or former Section 288a, if*
 15 *there are no indicators of abuse, unless the conduct is between a*
 16 *person 21 years of age or older and a minor who is under 16 years*
 17 *of age.*
 18 (b) Conduct described as “sexual assault” includes, but is not
 19 limited to, all of the following:
 20 (1) Penetration, however slight, of the vagina or anal opening
 21 of one person by the penis of another person, whether or not there
 22 is the emission of semen.
 23 (2) Sexual contact between the genitals or anal opening of one
 24 person and the mouth or tongue of another person.
 25 (3) Intrusion by one person into the genitals or anal opening of
 26 another person, including the use of an object for this purpose,
 27 except that, it does not include acts performed for a valid medical
 28 purpose.
 29 (4) The intentional touching of the genitals or intimate parts,
 30 including the breasts, genital area, groin, inner thighs, and buttocks,
 31 or the clothing covering them, of a child, or of the perpetrator by
 32 a child, for purposes of sexual arousal or gratification, except that
 33 it does not include acts which may reasonably be construed to be
 34 normal caretaker responsibilities; interactions with, or
 35 demonstrations of affection for, the child; or acts performed for a
 36 valid medical purpose.
 37 (5) The intentional masturbation of the perpetrator’s genitals in
 38 the presence of a child.

1 (c) “Sexual exploitation” refers to any of the following:

2 (1) Conduct involving matter depicting a minor engaged in
3 obscene acts in violation of Section 311.2 (preparing, selling, or
4 distributing obscene matter) or subdivision (a) of Section 311.4
5 (employment of minor to perform obscene acts).

6 (2) A person who knowingly promotes, aids, or assists, employs,
7 uses, persuades, induces, or coerces a child, or a person responsible
8 for a child’s welfare, who knowingly permits or encourages a child
9 to engage in, or assist others to engage in, prostitution or a live
10 performance involving obscene sexual conduct, or to either pose
11 or model alone or with others for purposes of preparing a film,
12 photograph, negative, slide, drawing, painting, or other pictorial
13 depiction, involving obscene sexual conduct. For the purpose of
14 this section, “person responsible for a child’s welfare” means a
15 parent, guardian, foster parent, or a licensed administrator or
16 employee of a public or private residential home, residential school,
17 or other residential institution.

18 (3) A person who depicts a child in, or who knowingly develops,
19 duplicates, prints, downloads, streams, accesses through any
20 electronic or digital media, or exchanges, a film, photograph,
21 videotape, video recording, negative, or slide in which a child is
22 engaged in an act of obscene sexual conduct, except for those
23 activities by law enforcement and prosecution agencies and other
24 persons described in subdivisions (c) and (e) of Section 311.3.

25 (d) “Commercial sexual exploitation” refers to either of the
26 following:

27 (1) The sexual trafficking of a child, as described in subdivision
28 (c) of Section 236.1.

29 (2) The provision of food, shelter, or payment to a child in
30 exchange for the performance of any sexual act described in this
31 section or subdivision (c) of Section 236.1.

O

Blank Page

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 1616 **VERSION: AMENDED JANUARY 6, 2020**

AUTHOR: LOW **SPONSOR: AUTHOR**

CURRENT POSITION: SUPPORT IF AMENDED

SUBJECT: DEPARTMENT OF CONSUMER AFFAIRS: BOARDS: EXPUNGED CONVICTIONS

Summary:

This bill would require DCA boards, upon a licensee’s or former licensee’s request and provision of a certified copy of expungement, to update their websites with notification of the expungement order (if the person is relicensed or reapplies for licensure) or to remove the posting of revocation from the website (if the person’s license was revoked, they are no longer licensed, and have not reapplied).

Status:

The Board took a “support if amended” position on this bill at its March 6, 2020 meeting. The bill has not been amended since its consideration at that meeting. Therefore, no further action is needed at this time.

Blank Page

AMENDED IN ASSEMBLY JANUARY 6, 2020

AMENDED IN ASSEMBLY APRIL 1, 2019

california legislature—2019–20 regular session

ASSEMBLY BILL

No. 1616

Introduced by Assembly Member Low

February 22, 2019

An act to ~~amend Section 10295.6 of the Insurance Code, relating to insurance.~~ *add Section 493.5 to the Business and Professions Code, relating to professions and vocations.*

legislative counsel's digest

AB 1616, as amended, Low. ~~Accelerated death benefits.~~ *Department of Consumer Affairs: boards: expunged convictions.*

Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the

person was convicted of a crime to, within 6 months of receiving the expungement order for the underlying offense from the person, post notification of the expungement order and the date thereof on the board's internet website if the person applies for licensure or is relicensed, or remove the initial posting on its internet website that the person's license was revoked if the person is not currently licensed and does not reapply for licensure, as specified. The bill would require a person to pay a fee, to be determined by the department, to the board for the cost of administering the bill's provisions.

~~Existing law regulates classes of insurance, including life insurance, and prescribes certain requirements governing the payment of an accelerated death benefit under a life insurance policy. Existing law authorizes an accelerated death benefit to be added to a life insurance policy to provide for the advance payment of a part of the death proceeds if a qualifying event, including a terminal or chronic illness, occurs. Existing law prohibits an accelerated death benefit from being effective more than 30 days following the effective date of the policy provision, rider, endorsement, or certificate.~~

~~This bill would authorize the effective period of an accelerated death benefit to be extended to not more than 60 days following the effective date of the policy provision, rider, endorsement, or certificate.~~

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 493.5 is added to the Business and
- 2 Professions Code, to read:
- 3 493.5. (a) A board within the department that has posted on
- 4 its internet website that a person's license was revoked because
- 5 the person was convicted of a crime, upon receiving from the
- 6 person a certified copy of an expungement order granted pursuant
- 7 to Section 1203.4 of the Penal Code for the underlying offense,
- 8 shall, within six months of receiving the expungement order, unless
- 9 it is otherwise prohibited by law, or by other terms or conditions,
- 10 do either of the following:
- 11 (1) If the person reapplies for licensure or has been relicensed,
- 12 post notification of the expungement order and the date thereof
- 13 on its internet website.

1 (2) If the person is not currently licensed and does not reapply
2 for licensure, remove the initial posting on its internet website that
3 the person's license was revoked.

4 (b) A person described in subdivision (a) shall pay to the board
5 a fee in an amount to be determined by the department that does
6 not exceed the reasonable cost of administering this section. The
7 fee shall be deposited by the board into the appropriate fund and
8 shall be available only upon appropriation by the Legislature.

9 (c) For purposes of this section "board" means an entity listed
10 in Section 101.

11 (d) If any provision in this section conflicts with Section 2027,
12 Section 2027 shall prevail.

13 ~~SECTION 1. Section 10295.6 of the Insurance Code is~~
14 ~~amended to read:~~

15 ~~10295.6. (a) If a policyholder or certificate holder requests an~~
16 ~~acceleration of death benefits, the insurer shall send a statement~~
17 ~~to the policyholder or certificate holder and irrevocable beneficiary~~
18 ~~showing any effect that the payment of the accelerated death benefit~~
19 ~~would have on the policy's cash value, accumulation account,~~
20 ~~death benefit, premium, policy loans, and policy liens. The~~
21 ~~statement shall disclose that receipt of accelerated death benefit~~
22 ~~payments may adversely affect the recipient's eligibility for~~
23 ~~Medicaid or other government benefits or entitlements. In addition,~~
24 ~~receipt of an accelerated death benefit payment may be taxable~~
25 ~~and assistance should be sought from a personal tax adviser. If a~~
26 ~~previous disclosure statement becomes invalid as a result of an~~
27 ~~acceleration of the death benefit, the insurer shall send a revised~~
28 ~~disclosure statement to the policyholder or certificate holder and~~
29 ~~irrevocable beneficiary.~~

30 ~~(b) The accelerated death benefit shall be effective not more~~
31 ~~than 60 days following the effective date of the policy provision,~~
32 ~~rider, endorsement, or certificate.~~

33 ~~(c) If the insurer charges a separate premium for the accelerated~~
34 ~~death benefit, then the insurer may also offer a waiver of premium~~
35 ~~benefit as defined in subdivision (a) of Section 10271.1. At the~~
36 ~~time the waiver of the accelerated death benefit premium benefit~~
37 ~~is claimed, the insurer shall explain any continuing premium~~
38 ~~requirement to keep the underlying policy in force.~~

39 ~~(d) An insurer shall not unfairly discriminate among insureds~~
40 ~~with different qualifying events covered under the policy or among~~

1 insureds with similar qualifying events covered under the policy.
2 An insurer shall not apply further conditions on the payment of
3 the accelerated death benefits other than those conditions specified
4 in the accelerated death benefit.

5 (e) No later than one month after payment of an accelerated
6 death benefit, the insurer shall provide the policyholder or
7 certificate holder with a report of any accelerated death benefits
8 paid out during the prior month, an explanation of any changes to
9 the policy or certificate, death benefits, and cash values on account
10 of the benefits being paid out, and the amount of the remaining
11 benefits that may be accelerated at the end of the prior month. The
12 insurer may use a calendar month or policy or certificate month.

13 (f) The conversion benefit available to group certificate holders
14 on termination of employment pursuant to paragraph (2) of
15 subdivision (a) of Section 10209 shall include a benefit comparable
16 to the accelerated death benefit. This requirement may be satisfied
17 by an individual policy or certificate. This requirement, subject to
18 the approval of the commissioner, may be satisfied by arrangement
19 with another insurer to provide the required coverage.

20 (g) If payment of an accelerated death benefit results in a pro
21 rata reduction in cash value, the payment may be applied toward
22 repaying a portion of the loan equal to a pro rata portion of any
23 outstanding policy loans if disclosure of the effect of acceleration
24 upon any remaining death benefit, cash value or accumulation
25 account, policy loan, and premium payments, including a statement
26 of the possibility of termination of any remaining death benefit,
27 is provided to the policyholder or certificate holder. The
28 policyholder or certificate holder shall provide written consent
29 authorizing any other arrangement for the repayment of outstanding
30 policy loans.

O

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 2028 **VERSION:** INTRODUCED JANUARY 30, 2020
AUTHOR: AGUIAR-CURRY **SPONSOR:** CALIFORNIA NURSES ASSOCIATION
CURRENT POSITION: OPPOSE UNLESS AMENDED
SUBJECT: STATE AGENCIES: MEETINGS

Summary:

Current law establishes the Bagley-Keene Open Meeting Act (Bagley-Keene Act) that state bodies, including the Board of Behavioral Sciences (Board) are subject to. This bill proposes two changes to the Bagley-Keene Act:

- A change to require state bodies to post all meeting materials online at least 10 days in advance of a public meeting.
- A change to allow the public to comment on any agenda item of a state body's meeting, regardless of whether the item had already been considered, and public comment allowed, at a committee meeting of the state body.

Status:

The Board took an "oppose unless amended" position on this bill at its March 6, 2020 meeting. The bill has not been amended since its consideration at that meeting. No further action is needed at this time.

Blank Page

Introduced by Assembly Member Aguiar-Curry

January 30, 2020

An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.

legislative counsel's digest

AB 2028, as introduced, Aguiar-Curry. State agencies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require these writings and materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item.

Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

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 the following:
- 2 (a) The Bagley-Keene Open Meeting Act (Article 9
- 3 (commencing with Section 11120) of Chapter 1 of Part 1 of
- 4 Division 3 of Title 2 of the Government Code) (hereafter
- 5 “Bagley-Keene”) was intended to implement Section 3 of Article
- 6 I of the California Constitution, which states in part, “The people
- 7 have the right of access to information concerning the conduct of
- 8 the people’s business, and, therefore, the meetings of public bodies
- 9 and the writings of public officials and agencies shall be open to
- 10 public scrutiny.”
- 11 (b) Bagley-Keene was written to protect public meetings and
- 12 public notice and to ensure the transparency of actions taken by
- 13 state agencies, boards, and commissions.
- 14 (c) Californians have the right to participate in state body
- 15 deliberations. This includes the public’s ability to comment on all
- 16 agenda items discussed at a meeting of the state body, regardless
- 17 of whether an item has been discussed previously in a committee
- 18 of the state body.
- 19 (d) The purpose of public notice is so that state bodies give the
- 20 public adequate time for review of the substance of a state body
- 21 meeting and for comment.
- 22 (e) Public notice must also include any writings or materials
- 23 provided by a state body’s staff or by a member of the state body
- 24 to other members of the state body for a noticed meeting of the
- 25 body held at least 10 days prior to the meeting.

1 (f) Bagley-Keene affirms these rights by stating in Section 11120
2 of the Government Code, “The people of this state do not yield
3 their sovereignty to the agencies which serve them. The people,
4 in delegating authority, do not give their public servants the right
5 to decide what is good for the people to know and what is not good
6 for them to know. The people insist on remaining informed so that
7 they may retain control over the instruments they have created.”

8 SEC. 2. Section 11125 of the Government Code is amended
9 to read:

10 11125. (a) The state body shall provide notice of its meeting
11 to any person who requests that notice in writing. Notice shall be
12 given and also made available on the ~~Internet~~ *internet* at least 10
13 days in advance of the meeting, and shall include the name,
14 address, and telephone number of any person who can provide
15 further information prior to the meeting, but need not include a
16 list of witnesses expected to appear at the meeting. The written
17 notice shall additionally include the address of the ~~Internet site~~
18 *internet website* where notices required by this article are made
19 available.

20 (b) The notice of a meeting of a body that is a state body shall
21 include a specific agenda for the meeting, containing a brief
22 description of the items of business to be transacted or discussed
23 in either open or closed session. A brief general description of an
24 item generally need not exceed 20 words. A description of an item
25 to be transacted or discussed in closed session shall include a
26 citation of the specific statutory authority under which a closed
27 session is being held. No item shall be added to the agenda
28 subsequent to the provision of this notice, unless otherwise
29 permitted by this article.

30 (c) (1) *Except as otherwise provided in paragraph (4), any*
31 *notice provided pursuant to subdivision (a) shall include all*
32 *writings or materials provided for the noticed meeting to a member*
33 *of the state body by the staff of a state agency, board, or*
34 *commission, or another member of the state body, that are in*
35 *connection with a matter subject to discussion or consideration*
36 *at the meeting.*

37 (2) *The writings or materials described in paragraph (1) shall*
38 *be made available on the internet at least 10 days in advance of*
39 *the meeting, and to any person who requests that notice in writing.*

1 (3) A state body may distribute or discuss writings or materials
2 described in paragraph (1) at a meeting of the state body only if
3 it has complied with this subdivision.

4 (4) This subdivision does not apply to writings or materials
5 prepared for a matter to be discussed in a closed session of the
6 state body.

7 ~~(e)~~

8 (d) Notice of a meeting of a state body that complies with this
9 section shall also constitute notice of a meeting of an advisory
10 body of that state body, provided that the business to be discussed
11 by the advisory body is covered by the notice of the meeting of
12 the state body, provided that the specific time and place of the
13 advisory body’s meeting is announced during the open and public
14 state body’s meeting, and provided that the advisory body’s
15 meeting is conducted within a reasonable time of, and nearby, the
16 meeting of the state body.

17 ~~(d)~~

18 (e) A person may request, and shall be provided, notice pursuant
19 to subdivision (a) for all meetings of a state body or for a specific
20 meeting or meetings. In addition, at the state body’s discretion, a
21 person may request, and may be provided, notice of only those
22 meetings of a state body at which a particular subject or subjects
23 specified in the request will be discussed.

24 ~~(e)~~

25 (f) A request for notice of more than one meeting of a state body
26 shall be subject to the provisions of Section 14911.

27 ~~(f)~~

28 (g) The notice shall be made available in appropriate alternative
29 formats, as required by Section 202 of the Americans with
30 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
31 rules and regulations adopted in implementation thereof, upon
32 request by any person with a disability. The notice shall include
33 information regarding how, to whom, and by when a request for
34 any disability-related modification or accommodation, including
35 auxiliary aids or services may be made by a person with a disability
36 who requires these aids or services in order to participate in the
37 public meeting.

38 SEC. 3. Section 11125.7 of the Government Code is amended
39 to read:

1 11125.7. (a) Except as otherwise provided in this section, the
 2 state body shall provide an opportunity for members of the public
 3 to directly address the state body on each agenda item before or
 4 during the state body’s discussion or consideration of the item.
 5 ~~This section is not applicable if the agenda item has already been~~
 6 ~~considered by a committee composed exclusively of members of~~
 7 ~~the state body at a public meeting where interested members of~~
 8 ~~the public were afforded the opportunity to address the committee~~
 9 ~~on the item, before or during the committee’s consideration of the~~
 10 ~~item, unless the item has been substantially changed since the~~
 11 ~~committee heard the item, as determined by the state body.~~ Every
 12 notice for a special meeting at which action is proposed to be taken
 13 on an item shall provide an opportunity for members of the public
 14 to directly address the state body concerning that item prior to
 15 action on the item. In addition, the notice requirement of Section
 16 11125 shall not preclude the acceptance of testimony at meetings,
 17 other than emergency meetings, from members of the public if no
 18 action is taken by the state body at the same meeting on matters
 19 brought before the body by members of the public.

20 (b) The state body may adopt reasonable regulations to ensure
 21 that the intent of subdivision (a) is carried out, including, but not
 22 limited to, regulations limiting the total amount of time allocated
 23 for public comment on particular issues and for each individual
 24 speaker.

25 (c) (1) Notwithstanding subdivision (b), when a state body
 26 limits time for public comment the state body shall provide at least
 27 twice the allotted time to a member of the public who utilizes a
 28 translator to ensure that non-English speakers receive the same
 29 opportunity to directly address the state body.

30 (2) Paragraph (1) shall not apply if the state body utilizes
 31 simultaneous translation equipment in a manner that allows the
 32 state body to hear the translated public testimony simultaneously.

33 (d) The state body shall not prohibit public criticism of the
 34 policies, programs, or services of the state body, or of the acts or
 35 omissions of the state body. Nothing in this subdivision shall confer
 36 any privilege or protection for expression beyond that otherwise
 37 provided by law.

38 (e) This section is not applicable to ~~closed~~ *any of the following*:

39 (1) *Closed* sessions held pursuant to Section 11126.

40 (f) ~~This section is not applicable to decisions~~

1 (2) *Decisions* regarding proceedings held pursuant to Chapter
2 5 (commencing with Section 11500), relating to administrative
3 adjudication, or to the conduct of those proceedings.
4 ~~(g) This section is not applicable to hearings~~
5 (3) *Hearings* conducted by the California Victim Compensation
6 Board pursuant to Sections 13963 and 13963.1.
7 ~~(h) This section is not applicable to agenda~~
8 (4) *Agenda* items that involve decisions of the Public Utilities
9 Commission regarding adjudicatory hearings held pursuant to
10 Chapter 9 (commencing with Section 1701) of Part 1 of Division
11 1 of the Public Utilities Code. For all other agenda items, the
12 commission shall provide members of the public, other than those
13 who have already participated in the proceedings underlying the
14 agenda item, an opportunity to directly address the commission
15 before or during the commission’s consideration of the item.

O

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 2112

VERSION: AMENDED MAY 20, 2020

AUTHOR: RAMOS

SPONSOR:

- CALIFORNIA ALLIANCE OF CHILD AND FAMILY SERVICES
- MENTAL HEALTH SERVICES OVERSIGHT & ACCOUNTABILITY COMMISSION

RECOMMENDED POSITION: NONE

SUBJECT: SUICIDE PREVENTION

Summary: This bill would create the Office of Suicide Prevention within the State Department of Public Health.

Existing Law:

- 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, associateship, formal postdoctoral placement, or other qualifying supervised 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))

This Bill:

- 1) Establishes the Office of Suicide Prevention (Office) in the State Department of Public Health. (Health and Safety Code (HSC) §131300(a))
- 2) Outlines the following as responsibilities of the Office (HSC §131300(a)(1)-(6)):
 - Provide strategic guidance to statewide/regional partners regarding best practices on suicide prevention;
 - Conduct state level evaluation of regional/statewide suicide prevention policies and practices;
 - Using data to identify opportunities to reduce suicide;
 - Marshaling the insights and energy of medical professionals with mental health experience, scientists, academic experts, and others to address the suicide crisis;
 - Disseminate information to advance statewide progress, including coordinated, targeted, and culturally appropriate campaigns to reach populations with high rates of suicide; and
 - Report progress to reduce rates of suicide to the Legislature.
- 3) Directs the Office to focus resources on groups with the highest risk, including youth, Native American youth, older adults, veterans, and LGBTQ people. (HSC §131300(b)):
- 4) Allows the Office to share and receive data from state entities with relevant data. (HSC §131305)
- 5) Allows the Office to apply for and utilize federal grants. (HSC §131310)

Comments:

- 1) **Author's Intent.** The purpose of the creation of the Office of Suicide Prevention is to study and address the suicide crisis. The author notes that suicide is the second leading cause of death among young people ages 15-24 in the U.S., with a nationwide survey finding in 2015 that 1 in 6 high school students reported seriously considering suicide in the previous year. In its 2019 report on California's strategic

plan for suicide prevention from 2020 to 2025, the Mental Health Services Oversight and Accountability Commission (MHSOAC) made a variety of recommendations to improve policies and outcomes statewide. One of its recommendations was that the state develop an Office of Suicide Prevention to create visible, state-level leadership on the issue.

- 2) **Related Legislation.** AB 1436 (Levine, Chapter 527, Statutes of 2018) requires, beginning January 1, 2021, applicants for any license with the Board to demonstrate completion of at least 6 hours of coursework or supervised experience in suicide risk assessment and intervention. Current licensees will also be required to demonstrate completion of this coursework or supervised experience in their first renewal period after this date. The Board had a “support” position on this bill.

3) **Support and Opposition**

Support

- California Alliance of Child and Family Services (sponsor)
- American Academy of Pediatrics, California
- American Federation of State, County and Municipal Employees, AFL-CIO
- American Foundation for Suicide Prevention California Children’s Hospital Association
- Bay Area Children's Association
- Cal Voices (formerly Norcal MHA)
- California Association of Marriage and Family Therapists
- California Children's Hospital Association
- California Council of Community Behavioral Health Agencies
- California Federation of Teachers
- California Hospital Association/California Association of Hospitals and Health Systems
- California Institute for Behavioral Health Solutions
- California Professional Firefighters
- California School Nurses Organization
- California State Association of Counties
- California State PTA
- California Teachers Association
- Children Now
- Community Solutions for Children, Families and Individuals
- County Behavioral Health Directors Association
- Disability Rights California
- Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
- Lucile Packard Children's Hospital/Stanford Children's Health Riverside Sheriffs' Association
- Marin County Office of Education

- Mulvaney's B&I
- NAMI Santa Clara County
- National Association of Social Workers, California Chapter
- NextGen
- Racial and Ethnic Mental Health Disparities Coalition
- Riverside Sheriffs' Association
- Steinberg Institute
- The Trevor Project
- Youth Community Service

Opposition

- California Right to Life Committee, Inc.

4) History

05/21/20 Re-referred to Com. on APPR.

05/20/20 Read second time and amended.

05/19/20 From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (May 18).

03/17/20 In committee: Hearing postponed by committee.

03/17/20 Re-referred to Com. on HEALTH.

03/16/20 From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.

03/16/20 In committee: Hearing postponed by committee.

02/20/20 Referred to Com. on HEALTH.

02/07/20 From printer. May be heard in committee March 8.

AMENDED IN ASSEMBLY MAY 20, 2020
AMENDED IN ASSEMBLY MARCH 16, 2020
california legislature—2019–20 regular session

ASSEMBLY BILL

No. 2112

Introduced by Assembly Member Ramos
(Principal coauthor: Assembly Member Arambula) (Coauthors:
Assembly Members *Aguiar-Curry, Bigelow, Burke, Carrillo,*
Flora, Eduardo Garcia, Quirk-Silva, ~~and Wicks~~
***Rodriguez, Waldron, Wicks, and Wood*)**
(Coauthors: Senators Beall and Chang)

February 6, 2020

An act to add Chapter 3 (commencing with Section 131300) to Part 1 of Division 112 of the Health and Safety Code, relating to suicide prevention.

legislative counsel's digest

AB 2112, as amended, Ramos. Suicide prevention.

Existing law establishes the State Department of Public Health within the California Health and Human Services Agency.

This bill would establish the Office of Suicide Prevention within the State Department of Public Health, and make the office responsible for, among other things, providing strategic guidance to statewide and regional partners regarding best practices on suicide prevention and reporting to the Legislature on progress to reduce rates of suicide. The bill would authorize the office to apply for and use federal grants.

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 hereby finds and declares all of
 2 the following:

3 (a) Suicide is a public health crisis that has warranted response
 4 from the state.

5 (b) Suicide risk is a lifespan issue, with a variety of groups at
 6 significant risk of death by suicide. The federal Centers for Disease
 7 Control and Prevention has identified groups with the greatest risk,
 8 including youth, older adults, veterans and LGBTQ people.

9 (c) Suicide risk is especially acute for young people. Suicide is
 10 the second leading cause of death for youth ~~ages 10 to 24~~, *from*
 11 *10 to 24 years of age*, inclusive.

12 (d) The state has sought to address the causes of suicide,
 13 including research and development of a statewide strategic plan
 14 on suicide prevention. The state has further sought to address the
 15 causes of suicide through specific suicide prevention policies and
 16 programs.

17 (e) The state has an obligation to focus resources on combating
 18 the crisis of suicide.

19 SEC. 2. Chapter 3 (commencing with Section 131300) is added
 20 to Part 1 of Division 112 of the Health and Safety Code, to read:

21

22 **Chapter 3. The Office of Suicide Prevention**

23

24 131300. (a) The Office of Suicide Prevention is hereby
 25 established within the State Department of Public Health. The
 26 office shall be responsible for all of the following:

27 (1) Providing strategic guidance to statewide and regional
 28 partners regarding best practices on suicide prevention.

29 (2) Conducting state level evaluation of regional and statewide
 30 suicide prevention policies and practices, including other states’
 31 suicide prevention policies, and including specific metrics and
 32 domains as appropriate.

33 (3) Using data to identify opportunities to reduce suicide,
 34 including utilizing data elements documenting interrupted or
 35 aborted suicide attempts and crisis service interventions.

36 (4) ~~Marshaling~~ *Marshaling* the insights and energy of medical
 37 ~~professionals, scientists, and other academic experts, and~~
 38 *professionals with mental health experience or expertise, scientists,*

1 *and other academic experts, as well as* public health experts, public
2 servants, and everyday Californians to address the crisis of suicide.

3 (5) Disseminating information to advance statewide progress,
4 including coordinated, targeted, and culturally appropriate
5 campaigns to reach populations with high rates of suicide.

6 (6) Reporting to the Legislature on progress to reduce rates of
7 suicide.

8 (b) The office shall focus resources on groups with the highest
9 risk, including youth, Native American youth, older adults,
10 veterans, and LGBTQ people.

11 131305. The Office of Suicide Prevention may share and
12 receive data from state entities with data relevant to the
13 responsibilities and objectives of the office.

14 131310. The Office of Suicide Prevention may apply for and
15 utilize federal grants.

O

Blank Page

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 2113 **VERSION:** AMENDED MAY 4, 2020

AUTHOR: LOW **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: REFUGEES, ASYLEES, AND IMMIGRANTS: PROFESSIONAL LICENSING

Summary: This bill would require the Board to expedite the initial licensure process for certain refugee, asylee, and immigrant applicants.

Existing Law:

- 1) Prohibits a board under the Department of Consumer Affairs (DCA) from denying licensure to an applicant based on citizenship status or immigration status. (Business and Professions Code (BPC) §135.5(b))
- 2) Requires DCA boards to expedite (and also permits them to assist) the initial licensure process for an applicant providing satisfactory evidence that they served as an active duty member of the U.S. Armed Forces and were honorably discharged. (BPC §115.4)
- 3) Requires DCA boards to expedite the licensure process for an applicant who holds a current equivalent license in another state, district, or territory of the U.S. if they can provide satisfactory evidence that they are married to, or on a domestic partnership or legal union with, an active duty member of the U.S. Armed Forces who is assigned to official active duty in this state. (BPC §115.5)
- 4) Sets forth criteria for the number of refugees per year who may be admitted into the United States due to humanitarian concerns. (Section 1157 of Title 8 of the United States Code) (**Attachment A**)
- 5) Sets for the conditions for granting an individual asylum to the United States. (Section 1158 of Title 8 of the United States Code) (**Attachment B**)
- 6) Provides a set of criteria for granting special immigrant status to certain individuals from Iraq. (Section 1244 of Public Law 110-181)

- 7) Sets forth provisions for granting special immigrant status to certain qualifying individuals who have served as a translator for the U.S. Armed Forces. (Section 1059 of Public Law 109-163)
- 8) Provides a set of criteria for granting special immigrant status to certain individuals from Afghanistan. (Section 602(b) of Title VI of Division F of Public Law 111-8)

This Bill:

- 1) Requires boards under the DCA to expedite, and also permits them to assist, the initial licensure process for an applicant who can provide satisfactory evidence of being admitted to the United States as one of the following (BPC §135.4(a)):
 - a. As a refugee under Section 1157 of Title 8 of the United States Code;
 - b. Granted political asylum by the Secretary of Homeland Security or U.S. Attorney General pursuant to Section 1158 of Title 8 of the United States Code; or
 - c. Granted a special immigrant visa with a status under Section 1244 of Public Law 110-181, Public Law 109-163, or Section 602(b) of Title VI of Division F of Public Law 111-8.
- 2) States this section shall not be construed as changing licensure requirements; these applicants for expedited licensure must meet all applicable statutory and regulatory licensure requirements. (BPC §135.4(b))
- 3) Permits a board to adopt regulations as necessary to administer these requirements. (BPC §135.4(c))

Comments:

- 1) **Background and Author's Intent.** The author's office notes that under federal law, refugees may be granted asylum if they are fleeing or unable to return to their home country because of war, violence, or persecution. The federal government also may issue a special immigrant visa to immigrants who have worked for or assisted the U.S. Armed Forces in conflict zones (generally these are Iraqi or Afghan nationals).

The author states that approximately 12,000 refugees were resettled in California in 2017. Of these, 5,000 were refugees from conflict zones, and almost 7,000 were special immigrant visa holders from Iraq and Afghanistan. They point out that finding economic opportunities and stability has become a difficult challenge for these families, and they struggle to find skilled employment. This bill seeks to help these individuals find skilled employment more quickly.

- 2) **Verification.** According to the author's office, status as a refugee or asylee can be verified via an I-94 form issued by the United States Citizenship and Immigration Services. **Attachment C** discusses this process in further detail. The Board may

need to pursue regulations to specify the types of documents that will be accepted as verification.

- 3) Expediting Licenses.** The Board already expedites some applications. Current law requires expedition of applications for honorably discharged military members and for spouses of active military who are currently licensed in another state.

The number of these applicants who have successfully met the criteria for their application to be expedited is as follows:

2015 – 222
2016 – 311
2017 – 357
2018 – 431
2019 – 411
2020 (as of 3/11/2020) – 52

4) Related Legislation.

- SB 1226 (Chapter 657, Statutes of 2014) requires DCA boards to expedite the initial licensure process for an applicant who supplies satisfactory evidence to the board that he or she has served as an active duty member of the Armed Forces of the United States and was honorably discharged.
- AB 1904 (Chapter 399, Statutes of 2012) requires the Board to expedite the licensing process for an applicant who is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, if the applicant holds a current license in the same profession in another state.

5) Support and Opposition.

Support:

- International Rescue Committee
- California Immigrant Policy Center
- National Association of Social Workers, California Chapter
- Santa Barbara Women’s Political Committee
- Service Employees International Union State Council
- Coalition for Humane Immigrant Rights
- California Pan-Ethnic Health Network
- Asian Americans Advancing Justice California
- Asian Americans for Community Involvement

Opposition:

- None at this time.

6) History.

2020

05/22/20 From committee: Do pass and re-refer to Com. on APPR. (Ayes 15. Noes 2.) (May 21). Re-referred to Com. on APPR.

05/05/20 Re-referred to Com. on B. & P.

05/04/20 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.

02/27/20 Referred to Com. on B. & P.

02/07/20 From printer. May be heard in committee March 8.

02/06/20 Read first time. To print.

7) Attachments.

Attachment A: [Section 1157 of Title 8 of the United States Code: Annual admission of refugees and admission of emergency situation refugees](#)

Attachment B: [Section 1158 of Title 8 of the United States Code: Asylum](#)

Attachment C: [U.S. Citizenship and Immigration Services: Discussion of Refugees and Asylees \(from their Handbook for Employers M-274\)](#)

AMENDED IN ASSEMBLY MAY 4, 2020
california legislature—2019–20 regular session

ASSEMBLY BILL

No. 2113

**Introduced by Assembly Member Low (Coauthors: Assembly
Members Carrillo, *Chiu*, Medina, and Blanca Rubio)**

February 6, 2020

An act to add Section 135.4 to the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

AB 2113, as amended, Low. Refugees, asylees, and immigrants: professional licensing.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law prohibits an entity within the department from denying licensure to an applicant based upon their citizenship or immigration status.

This bill, notwithstanding any other law, would require a board within the department to expedite, and authorize it to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they are a refugee, have been granted political asylum, or have a special immigrant visa, as specified. The bill would authorize a board to adopt regulations necessary to administer these provisions.

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 135.4 is added to the Business and
2 Professions Code, to read:

3 135.4. (a) Notwithstanding any other law, a board within the
4 department shall expedite, and may assist, the initial licensure
5 process for an applicant who supplies satisfactory evidence to the
6 board that they have been admitted to the United States as a refugee
7 under Section 1157 of Title 8 of the United States Code, have been
8 granted political asylum by the Secretary of Homeland Security
9 or the Attorney General of the United States pursuant to Section
10 1158 of Title 8 of the United States Code, or they have a special
11 immigrant visa (SIV) that has been granted a status under Section
12 1244 of Public Law 110-181, under Public Law 109-163, or under
13 Section 602(b) of Title VI of Division F of Public Law 111-8.

14 *(b) Nothing in this section shall be construed as changing*
15 *existing licensure requirements. A person applying for expedited*
16 *licensure under subdivision (a) shall meet all applicable statutory*
17 *and regulatory licensure requirements.*

18 ~~(b)~~

19 (c) A board may adopt regulations necessary to administer this
20 section.

O

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 2253 **VERSION:** INTRODUCED FEBRUARY 13, 2020

AUTHOR: LOW **SPONSOR:** AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO (AFSCME)

RECOMMENDED POSITION: NONE

SUBJECT: PROFESSIONAL LICENSURE

Summary. Various mental health professionals working in certain state settings are allowed a waiver from licensure requirements for a specified period of time if they are working toward gaining “qualifying experience” toward licensure. This bill would clarify the definition of “qualifying experience” toward licensure so that it is consistent across state agencies.

Existing Law.

- 1) Requires an applicant for licensure as a psychologist to have at least two years of supervised professional experience under the direction of a licensed psychologist. At least one year shall have been obtained after being awarded the doctorate in psychology. (Business and Professions Code (BPC) §2914(d))
- 2) Requires an applicant for licensure as a marriage and family therapist to obtain at least 3,000 hours of post-degree supervised experience over at least 104 weeks. (BPC §4980.43(c))
- 3) Requires an applicant for licensure as a clinical social worker to obtain at least 3,000 hours of post-degree supervised experience over at least 104 weeks. (BPC §4996.23)
- 4) Requires an applicant for licensure as a professional clinical counselor to obtain at least 3,000 hours of post-degree supervised experience over at least 104 weeks. (BPC §4999.46(c))

For State Health Facilities

- 5) Requires the licensure requirements for professional personnel, including marriage and family therapists, psychologists, clinical social workers, and professional clinical

counselors working in state or other government health facilities licensed by the Department of Public Health must not be less than those requirements for professional personnel working in privately owned health facilities. (Health and Safety Code (HSC) §1277(b)(1))

- 6) Allows the above requirement for licensure to be waived for persons in the professions of psychology, marriage and family therapy, clinical social work, or professional clinical counseling who are in the process of gaining qualifying experience for licensure in this state. The requirement can be waived for up to four years from commencement of employment. At that time, licensure must have been obtained or employment must be terminated. A one-year extension may be granted based on extenuating circumstances. (HSC §1277(b)(3))
- 7) Allows the requirement for licensure to be waived for one year for persons recruited from outside the state if their experience is sufficient to gain admission to a licensing examination. (HSC §1277(b)(5))

For The State Correctional System

- 8) Requires anyone employed in the state correctional system to provide diagnostic, treatment, or other mental health services must be a physician and surgeon, a psychologist, or other health professional who is licensed to practice in the state. (Penal Code (PC) §5068.5(a))
- 9) Permits the above requirement to be waived for persons in the professions of psychology or clinical social work who are gaining qualifying experience for licensure. The waiver shall not exceed four years from commencement of employment, at which time employment shall be terminated. However, a one-year extension may be granted based on extenuating circumstances. (PC §5068.5(c))
- 10) Allows the requirement for licensure to be waived for one year for persons recruited from outside the state if their experience is sufficient to gain admission to a licensing examination. (PC 5068.5(c)(3))

For Local Community Mental Health Programs

- 11) Requires persons employed to provide community mental health services in a local mental health program to be licensed if a license is required to provide those types of services. (Welfare and Institutions Code (WIC) §5751.2(a))
- 12) Allows an exemption from the licensure requirement for persons registered with the Board as an associate clinical social worker, associate marriage and family therapist, or associate professional clinical counselor for the purpose of gaining experience toward licensure. (WIC §5751.2(c))
- 13) Allows an exemption from the requirement for licensure for persons providing mental health services while gaining experience toward licensure as a psychologist, for up to five years. (WIC §5751.2(d))

- 14) Allows the requirement for licensure to be waived for persons recruited from outside the state as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors if their experience is sufficient to gain admission to a licensing examination. Such a waiver may be granted for up to five years. (WIC §5751.2(e))

This Bill.

- 1) Clarifies that to qualify for a waiver of licensure in state health facilities or the state correctional system, the position must include qualifying experience. (HSC §1277(b)(3)(A), PC §5068.5(c)(2))
- 2) Defines “qualifying experience” (or “experience required for licensure,” as applicable) as experience that satisfies the requirements of the specified licensing act regulating the profession. (HSC §1277(b)(3)(B), PC §5068.5(c)(1)(B), WIC §5751.2(c)(2) and (d)(2))

Comments.

- 1) **Author’s Intent.** This bill seeks to clarify the definition of “qualifying experience” for licensure in the professions of psychology, marriage and family therapy, clinical social work, and professional clinical counseling.

The law permits a waiver of licensure requirements for professionals in these fields working in state health facilities, the state correctional system, and local community mental health programs for a specified period of time if the individual is working toward qualifying experience for licensure.

However, the author notes discrepancies in how the overseeing state agencies define “qualifying experience” for licensure. The California Department of Corrections and Rehabilitation (CDCR) recently interpreted existing statute differently than many other state agencies, and changed how they calculated time for purposes of the licensure waiver. As a result, in 2019 CDCR issued dozens of non-punitive terminations of employees who believed they still had time to apply for licensure before losing their jobs.

Therefore, this bill will clarify and make consistent what constitutes “qualifying experience” within applicable sections of the Health and Safety Code (regulating state health facilities), the Penal Code (which regulates the state correctional system), and the Welfare and Institutions Code (regulating local community mental health programs).

- 2) **Related Legislation.** AB 1456 (Low, Chapter 151, Statutes of 2017) created parity between the required licensure timeframes for psychologists and clinical social workers, and other mental health professions.

3) Support and Opposition.

Support:

- American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) (Sponsor)
- California Psychological Association

Opposition:

- None at this time.

4) History

2020

05/22/20 From committee: Do pass. To Consent Calendar. (Ayes 19. Noes 0.) (May 21).

02/27/20 Referred to Coms. on B. & P. and HEALTH.

02/14/20 From printer. May be heard in committee March 15.

Introduced by Assembly Member Low

February 13, 2020

An act to amend Section 1277 of the Health and Safety Code, to amend Section 5068.5 of the Penal Code, and to amend Section 5751.2 of the Welfare and Institutions Code, relating to professional licensure.

legislative counsel's digest

AB 2253, as introduced, Low. Professional licensure.

Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. Existing law prohibits the licensure requirements for professional personnel, including psychologists, marriage and family therapists, clinical social workers, and professional clinical counselors, in the state and other governmental health facilities licensed by the department from being less than for those professional personnel in health facilities under private ownership. Existing law authorizes the department to waive that requirement for persons in the professions of psychology, marriage and family therapy, clinical social work, or professional clinical counseling who are gaining qualifying experience for licensure in that profession in this state.

Existing law requires that a person employed or under contract to provide diagnostic, treatment, or other mental health services, or to supervise or provide consultation on these services, in the state correctional system be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state. Existing law authorizes the Secretary of the Department of Corrections and Rehabilitation to waive that requirement for persons in the professions

of psychology or social work who are gaining qualifying experience for licensure in that profession in this state.

Existing law, the Bronzan-McCorquodale Act, contains provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. The act requires persons employed or under contract to provide mental health services pursuant to these provisions to be subject to all applicable requirements of law regarding professional licensure, and prohibits a person from being employed to provide services for which a license is required unless the person possesses a valid license. The act requires the State Department of Health Care Services to waive these requirements for persons employed or under contract to provide, pursuant to the act, mental health services as psychologists, marriage and family therapists, clinical social workers, or professional clinical counselors who are gaining the experience required for licensure.

This bill would clarify that, in those cases, experience that constitutes qualifying experience for licensure, or experience required for licensure, as applicable, is determined by reference to the act regulating the profession.

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 1277 of the Health and Safety Code is
- 2 amended to read:
- 3 1277. (a) No license shall be issued by the department unless
- 4 it finds that the premises, the management, the bylaws, rules and
- 5 regulations, the equipment, the staffing, both professional and
- 6 nonprofessional, and the standards of care and services are adequate
- 7 and appropriate, and that the health facility is operated in the
- 8 manner required by this chapter and by the rules and regulations
- 9 adopted hereunder.
- 10 (b) (1) Notwithstanding any provision of Part 2 (commencing
- 11 with Section 5600) of Division 5 of, or Division 7 (commencing
- 12 with Section 7100) of, the Welfare and Institutions Code or any
- 13 other law to the contrary, ~~except Sections 2072 and 2073 of the~~
- 14 ~~Business and Professions Code,~~ the licensure requirements for
- 15 professional personnel, including, but not limited to, physicians

1 and surgeons, dentists, podiatrists, psychologists, marriage and
2 family therapists, pharmacists, registered nurses, clinical social
3 workers, and professional clinical counselors in the state and other
4 governmental health facilities licensed by the department shall not
5 be less than for those professional personnel in health facilities
6 under private ownership.

7 (2) Persons employed as psychologists and clinical social
8 workers, while continuing in their employment in the same class
9 as of January 1, 1979, in the same state or other governmental
10 health facility licensed by the department, including those persons
11 on authorized leave, but not including intermittent personnel, shall
12 be exempt from the requirements of paragraph (1).

13 (3) (A) The requirements of paragraph (1) may be waived by
14 the department solely for persons in the professions of psychology,
15 marriage and family therapy, clinical social work, or professional
16 clinical counseling who are gaining qualifying experience for
17 licensure in ~~such~~ that profession in this state. A waiver granted
18 pursuant to this paragraph shall not exceed four years from
19 commencement of the employment in this ~~state~~, *state in a position*
20 *that includes qualifying experience*, at which time licensure shall
21 have been obtained or the employment shall be terminated, except
22 that an extension of a waiver of licensure may be granted for one
23 additional year, based on extenuating circumstances determined
24 by the department pursuant to subdivision (e). For persons
25 employed as psychologists, clinical social workers, marriage and
26 family therapists, or professional clinical counselors less than full
27 time, an extension of a waiver of licensure may be granted for
28 additional years proportional to the extent of part-time employment,
29 as long as the person is employed without interruption in service,
30 but in no case shall the waiver of licensure exceed six years in the
31 case of clinical social workers, marriage and family therapists, or
32 professional clinical counselors, or five years in the case of
33 psychologists.

34 (B) *For the purposes of this paragraph, "qualifying experience"*
35 *means experience that satisfies the requirements of subdivision*
36 *(d) of Section 2914 of, or Section 4980.43, 4996.23, or 4999.46*
37 *of, the Business and Professions Code.*

38 (4) The durational limitation upon waivers pursuant to paragraph
39 (3) shall not apply to any of the following:

1 (A) Active candidates for a doctoral degree in social work, social
2 welfare, or social science, who are enrolled at an accredited
3 university, college, or professional school, but these limitations
4 shall apply following completion of this training.

5 (B) Active candidates for a doctoral degree in marriage and
6 family therapy who are enrolled at a school, college, or university,
7 specified in subdivision (b) of Section 4980.36 of, or subdivision
8 (b) of Section 4980.37 of, the Business and Professions Code, but
9 the limitations shall apply following completion of the training.

10 (C) Active candidates for a doctoral degree in professional
11 clinical counseling who are enrolled at a school, college, or
12 university, specified in subdivision (b) of Section 4999.32 of, or
13 subdivision (b) of Section 4999.33 of, the Business and Professions
14 Code, but the limitations shall apply following the completion of
15 the training.

16 (5) A waiver pursuant to paragraph (3) shall be granted only to
17 the extent necessary to qualify for licensure, except that personnel
18 recruited for employment from outside this state and whose
19 experience is sufficient to gain admission to a licensing
20 examination shall nevertheless have one year from the date of their
21 employment in California to become licensed, at which time
22 licensure shall have been obtained or the employment shall be
23 terminated, provided that the employee shall take the licensure
24 examination at the earliest possible date after the date of ~~his or her~~
25 *the employee's* employment. If the employee does not pass the
26 examination at that time, ~~he or she~~ *the employee* shall have a
27 second opportunity to pass the next possible examination, subject
28 to the one-year limit.

29 (c) A special permit shall be issued by the department when it
30 finds that the staff, both professional and nonprofessional, and the
31 standards of care and services are adequate and appropriate, and
32 that the special services unit is operated in the manner required in
33 this chapter and by the rules and regulations adopted hereunder.

34 (d) The department shall apply the same standards to state and
35 other governmental health facilities that it licenses as it applies to
36 health facilities in private ownership, including standards
37 specifying the level of training and supervision of all unlicensed
38 practitioners. Except for psychologists, the department may grant
39 an extension of a waiver of licensure for personnel recruited from
40 outside this state for one additional year, based upon extenuating

1 circumstances as determined by the department pursuant to
2 subdivision (e).

3 (e) The department shall grant a request for an extension of a
4 waiver based on extenuating circumstances, pursuant to subdivision
5 (b) or (d), if any of the following circumstances exist:

6 (1) The person requesting the extension has experienced a recent
7 catastrophic event that may impair the person's ability to qualify
8 for and pass the license examination. Those events may include,
9 but are not limited to, significant hardship caused by a natural
10 disaster, serious and prolonged illness of the person, serious and
11 prolonged illness or death of a child, spouse, or parent, or other
12 stressful circumstances.

13 (2) The person requesting the extension has difficulty speaking
14 or writing the English language, or other cultural and ethnic factors
15 exist that substantially impair the person's ability to qualify for
16 and pass the license examination.

17 (3) The person requesting the extension has experienced other
18 personal hardship that the department, in its discretion, determines
19 to warrant the extension.

20 SEC. 2. Section 5068.5 of the Penal Code is amended to read:

21 5068.5. (a) Notwithstanding any other law, except as provided
22 in subdivisions (b) and (c), any person employed or under contract
23 to provide diagnostic, treatment, or other mental health services
24 in the state or to supervise or provide consultation on these services
25 in the state correctional system shall be a physician and surgeon,
26 a psychologist, or other health professional, licensed to practice
27 in this state.

28 (b) Notwithstanding Section 5068 or Section 704 of the Welfare
29 and Institutions Code, the following persons are exempt from the
30 requirements of subdivision (a), so long as they continue in
31 employment in the same class and in the same department:

32 (1) Persons employed on January 1, 1985, as psychologists to
33 provide diagnostic or treatment services, including those persons
34 on authorized leave, but not including intermittent personnel.

35 (2) Persons employed on January 1, 1989, to supervise or
36 provide consultation on the diagnostic or treatment services,
37 including persons on authorized leave, but not including
38 intermittent personnel.

39 (c) (1) (A) The requirements of subdivision (a) may be waived
40 by the secretary solely for persons in the professions of psychology

1 or clinical social work who are gaining qualifying experience for
2 licensure in those professions in this state. Providers working in
3 a licensed health care facility operated by the department shall
4 receive a waiver in accordance with Section 1277 of the Health
5 and Safety Code.

6 *(B) For the purposes of this paragraph, “qualifying experience”*
7 *means experience that satisfies the requirements of subdivision*
8 *(d) of Section 2914 of, or Section 4996.23 of, the Business and*
9 *Professions Code.*

10 (2) A waiver granted pursuant to this subdivision shall not
11 exceed four years from commencement of the employment in this
12 ~~state~~, *state in a position that includes qualifying experience*, at
13 which time licensure shall have been obtained or the employment
14 shall be terminated, except that an extension of a waiver of
15 licensure may be granted for one additional year, based on
16 extenuating circumstances determined by the department pursuant
17 to subdivision (d). For persons employed as psychologists or
18 clinical social workers less than full time, an extension of a waiver
19 of licensure may be granted for additional years proportional to
20 the extent of part-time employment, as long as the person is
21 employed without interruption in service, but in no case shall the
22 waiver of licensure exceed six years in the case of clinical social
23 workers or five years in the case of psychologists. However, this
24 durational limitation upon waivers shall not apply to active
25 candidates for a doctoral degree in social work, social welfare, or
26 social science who are enrolled at an accredited university, college,
27 or professional school, but these limitations shall apply following
28 completion of that training.

29 (3) A waiver pursuant to this subdivision shall be granted only
30 to the extent necessary to qualify for licensure, except that
31 personnel recruited for employment from outside this state and
32 whose experience is sufficient to gain admission to a licensure
33 examination shall nevertheless have one year from the date of their
34 employment in California to become licensed, at which time
35 licensure shall have been obtained or the employment shall be
36 terminated, provided that the employee shall take the licensure
37 examination at the earliest possible date after the date of ~~his or her~~
38 *the employee’s* employment, and if the employee does not pass
39 the examination at that time, ~~he or she~~ *the employee* shall have a

1 second opportunity to pass the next possible examination, subject
2 to the one-year limit.

3 (d) The department shall grant a request for an extension of a
4 waiver of licensure pursuant to subdivision (c) based on
5 extenuating circumstances if any of the following circumstances
6 exist:

7 (1) The person requesting the extension has experienced a recent
8 catastrophic event that may impair the person's ability to qualify
9 for and pass the licensure examination. Those events may include,
10 but are not limited to, significant hardship caused by a natural
11 disaster; serious and prolonged illness of the person; serious and
12 prolonged illness or death of a child, spouse, or parent; or other
13 stressful circumstances.

14 (2) The person requesting the extension has difficulty speaking
15 or writing the English language, or other cultural and ethnic factors
16 exist that substantially impair the person's ability to qualify for
17 and pass the license examination.

18 (3) The person requesting the extension has experienced other
19 personal hardship that the department, in its discretion, determines
20 to warrant the extension.

21 SEC. 3. Section 5751.2 of the Welfare and Institutions Code
22 is amended to read:

23 5751.2. (a) Except as provided in this section, persons
24 employed or under contract to provide mental health services
25 pursuant to this part, or pursuant to Article 5 (commencing with
26 Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing
27 with Section 14700) of, Part 3 of Division 9, shall be subject to
28 all applicable requirements of law regarding professional licensure,
29 and no person shall be employed in local mental health programs
30 pursuant to this part to provide services for which a license is
31 required, unless the person possesses a valid license.

32 (b) Persons employed as psychologists and clinical social
33 workers, while continuing in their employment in the same class
34 as of January 1, 1979, in the same program or facility, including
35 those persons on authorized leave, but not including intermittent
36 personnel, shall be exempt from the requirements of subdivision
37 (a).

38 (c) (1) While registered with the licensing board of jurisdiction
39 for the purpose of acquiring the experience required for licensure,
40 persons employed or under contract to provide mental health

1 services pursuant to this part, or pursuant to Article 5 (commencing
2 with Section 14680) of Chapter 8.8 of, or Chapter 8.9
3 (Commencing with Section 14700) of, Part 3 of Division 9, as
4 clinical social workers, marriage and family therapists, or
5 professional clinical counselors shall be exempt from subdivision
6 (a). Registration shall be subject to regulations adopted by the
7 appropriate licensing board.

8 (2) *For the purposes of this paragraph, “experience required*
9 *for licensure” means experience that satisfies the requirements of*
10 *Section 4996.23, 4980.43, or 4999.46 of the Business and*
11 *Professions Code.*

12 (d) (1) The requirements of subdivision (a) shall be waived by
13 the State Department of Health Care Services for persons employed
14 or under contract to provide mental health services as psychologists
15 pursuant to this part, or pursuant to Article 5 (commencing with
16 Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing
17 with Section 14700) of, Part 3 of Division 9, who are gaining the
18 experience required for licensure. A waiver granted under this
19 subdivision shall not exceed five years from the date of
20 employment by, or contract with, a local mental health program
21 for persons in the profession of psychology.

22 (2) *For the purposes of this subdivision, “experience required*
23 *for licensure” means experience that satisfies the requirements of*
24 *subdivision (d) of Section 2914 of the Business and Professions*
25 *Code.*

26 (e) The requirements of subdivision (a) shall be waived by the
27 State Department of Health Care Services for persons employed
28 or under contract to provide mental health services as
29 psychologists, clinical social workers, marriage and family
30 therapists, or professional clinical counselors pursuant to this part,
31 or pursuant to Article 5 (commencing with Section 14680) of
32 Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700)
33 of, Part 3 of Division 9, who have been recruited for employment
34 from outside this state and whose experience is sufficient to gain
35 admission to a licensing examination. A waiver granted under this
36 subdivision shall not exceed five years from the date of
37 employment by, or contract with, a local mental health program
38 for persons in these four professions who are recruited from outside
39 this state.

1 (f) (1) Notwithstanding Chapter 3.5 (commencing with Section
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
3 the department, without taking any further regulatory action, shall
4 implement, interpret, or make specific this section by means of
5 information notices, plan or provider bulletins, or similar
6 instructions until the time that regulations are adopted.
7 (2) The department shall adopt regulations on or before
8 December 31, 2020, in accordance with the requirements of
9 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
10 3 of Title 2 of the Government Code.

O

Blank Page

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 3045 **VERSION:** INTRODUCED FEBRUARY 21, 2020

AUTHOR: GRAY **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: DEPARTMENT OF CONSUMER AFFAIRS: BOARDS: VETERANS: MILITARY
SPOUSES: LICENSES

Summary:

This bill would require certain boards within the Department of Consumer Affairs (DCA) to issue a license to an honorably discharged military member or the spouse of an active duty military member if they meet specified requirements.

Existing Law:

- 1) Requires certain DCA boards including the Board of Registered Nursing, the Veterinary Medical Board, and the Medical Board of California to issue a temporary license to a spouse of an active military member who is licensed in another state if they meet specified criteria. (BPC §115.6)
- 2) Requires a board within DCA to expedite the initial licensing process for an applicant who was honorably discharged from the U.S. military or is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California. (Business and Professions Code (BPC) §§ 115.4, 115.5(a))
- 3) States that in order for the license to be expedited, the military spouse must hold a current license in another state in the same profession for which he or she is seeking a California License. (BPC §115.5(a))
- 4) Sets forth a streamlined “licensure by credential” process for LMFT, LCSW, and LPCC applicants who are licensed in another state if they meet the following criteria (BPC §§4980.72, 4996.17.1, 4999.60):
 - a) The applicant’s license in the other state has been held for at least two years, is the equivalent license held at the highest level for independent clinical practice, and is current, active, and unrestricted.

- b) The qualifying degree is a master's or doctoral degree from an accredited or approved school.
- c) The applicant submits fingerprints.
- d) The applicant completes certain California-specific coursework in law and ethics, California cultures, and child abuse assessment and reporting.
- e) The applicant passes the Board's California law and ethics exam.

This Bill:

- 1) Requires a board within DCA to that is not required to issue temporary licenses pursuant to BPC §115.6, to after appropriate investigation, issue a license to an applicant who meets all of the following (BPC §115.7(a)):
 - The applicant can provide evidence that they are an honorably discharged veteran of the Armed Forces or are married/in a domestic partnership/legal union with an active duty member of the Armed Forces who is assigned to duty in California.
 - The applicant holds a current, active, and unrestricted license in another state for the same profession or vocation.
 - The applicant submits an application to the board that includes a signed affidavit that he or she meets all requirements for the license.
 - The applicant submits written verification from his or her licensing jurisdiction that the license is in good standing.
 - The applicant has not committed an act in any jurisdiction that would be grounds for denial, suspension, or revocation of the license.
 - The applicant has not been disciplined by a licensing entity in another jurisdiction or and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding.
 - Upon request, the applicant submits a full set of fingerprints to the board.
- 2) Allows a board to adopt regulations to administer these provisions of law. (BPC §115.7(b))

Comments:

- 1) **Author's Intent.** The author's office notes that military families are disproportionately affected by occupational licensing barriers related to license portability. They cite statistics stating that the military trains veterans in skills applicable to 962 civilian licensed occupations, and more than a third of military

spouses are employed in a field that requires licensure. However, they state that 70% of veterans report difficulty transitioning back to civilian life, and that 22% of military spouses report their greatest challenge to employment is the inability to transfer their professional license to another location.

The author states that past efforts to reform the licensure process for veterans and military spouses have stopped short of creating license portability, while many other states have licensing laws that are more veteran-friendly than California's.

- 2) **Temporary License Requirements.** This bill applies to boards that are not required to issue temporary licenses as specified in BPC §115.6. This Board is not required to issue temporary licenses; therefore, this bill would apply to the BBS.
- 3) **License Portability and the Board of Behavioral Sciences.** The Board recently successfully implemented license portability legislation for its LMFT, LCSW, and LPCC applicants. SB 679 (Chapter 380, Statutes of 2019) became effective on January 1, 2020 and established what the Board now calls "licensure by credential."

SB 679 was the result of a lengthy deliberation process by the Board's special license portability committee on the best way to balance ease of licensure across state lines with public protection and the need for practitioners to be prepared to practice safely and effectively in California's diverse environment. The bill we are considering today, AB 3045, makes key omissions of requirements that were carefully considered and placed in SB 679:

- It does not require the military applicant to have been licensed for at least the past 2 years.
- It does not specifically state that the out-of-state license must be at the highest level for independent clinical practice. (This is important because while a license may be in the same profession, other states sometimes have varying levels of professional practice.)
- It does not require any California-specific coursework (California law and ethics, California cultures, and child abuse assessment and reporting.)
- It does not contain a requirement for the applicant to take the California law and ethics exam.
- It does not specify that the applicant must pay the required application fees for licensure. (It is unclear if this is an accidental omission, or if it is the intent of the author to waive fees for these applicants.)

Given the care that the Board took with SB 679 to craft a fair process to reduce barriers for all out-of-state applicants for licensure, balanced with the need to ensure practitioners are prepared to practice in California's unique environment, the Board

should discuss whether SB 679 is sufficient to assist military applicants, or if additional accommodations for them such as those proposed by this bill are necessary.

- 4) Effect on LEPs.** This bill would also require the Board to issue a licensed educational psychologist (LEP) license to a qualifying applicant who is licensed in another state.

SB 679 did not establish a licensure by credential option for LEPs, because not many other states license them. The only other state staff found that issues an LEP license is Massachusetts. In checking with the California Association of School Psychologists (CASPs), which is the professional association for LEPs, they also stated that Massachusetts is the only other state that they are aware of with a similar license.

Licensure as an LEP in Massachusetts requires a master's or doctoral degree in school psychology, (including 60 graduate credit hours and 1,200 practicum hours), two years of supervised experience as a school psychologist, and passage of the National School Psychology Examination. See **Attachment A** for the regulatory requirements for LEP licensure in Massachusetts.

- 5) Past Military Applicants.** The Board is currently required to expedite applications for honorably discharged military members and also for spouses of active military who are currently licensed in another state.

The number of these applicants who have successfully met the criteria for their application to be expedited is as follows:

2015 – 222
2016 – 311
2017 – 357
2018 – 431
2019 – 411
2020 (as of 3/11/2020) – 52

Related Legislation

- SB 1226 (Chapter 657, Statutes of 2014) requires boards to expedite the initial licensure process for an applicant who supplies satisfactory evidence to the board that he or she has served as an active duty member of the Armed Forces of the United States and was honorably discharged.
- AB 1057 (Chapter 693, Statutes of 2013), requires each board to inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

- AB 1904 (Chapter 399, Statutes of 2012) requires the Board to expedite the licensing process for an applicant who is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, if the applicant holds a current license in the same profession in another state.

6) Support and Opposition.

Support:

- American Legion – Department of California
- AMVETS – Department of California
- California Association for Health Services at Home
- California State Commanders Veterans Council
- Military Officers Association of America, California Council of Chapters
- San Diego Military Advisory Council

Oppose

None at this time.

7) History.

2020

05/22/20 From committee: Do pass and re-refer to Com. on APPR. (Ayes 19. Noes 0.) (May 21). Re-referred to Com. on APPR.

05/22/20 Coauthors revised.

04/24/20 Referred to Com. on B. & P.

02/24/20 Read first time.

02/22/20 From printer. May be heard in committee March 23.

02/21/20 Introduced. To print.

8) Attachments.

Attachment A: State of Massachusetts Regulations 262 CMR 5.00: Requirements for Licensure as an Educational Psychologist

Blank Page

ATTACHMENT A

262 CMR: BOARD OF ALLIED MENTAL HEALTH AND HUMAN SERVICES PROFESSIONS

262 CMR 5.00: REQUIREMENTS FOR LICENSURE AS AN EDUCATIONAL PSYCHOLOGIST

Section

5.01: Licensure Requirements

5.01: Licensure Requirements

(1) Preface. To qualify for licensure as an educational psychologist, pursuant to the requirements of M.G.L. c. 112, § 165, as amended, an applicant must provide evidence satisfactory to the Board that the professional standards and education experience requirements described in 262 CMR 5.01(3) have been met by the applicant.

All licensed educational psychologists are charged with having knowledge of the existence of 262 CMR and required to practice educational psychology in accordance with them.

(2) Definitions.

Approved Supervisor. A school psychologist who:

- (a) is licensed as an educational psychologist, or meets the qualifications for licensure as an educational psychologist by the Board; and
- (b) has a minimum of five full-time academic years, or equivalent part-time, experience as a certified school psychologist.

Board. Board of Allied Mental Health and Human Services Professions.

CAGS. Certificate of Advanced Graduate Study.

Full-Time Academic Year. A full-time academic year consists of a minimum of 180 days. Two full-time academic years consist of a minimum of 360 days.

Licensure Examination. The examination for licensure as an educational psychologist shall be the National School Psychology Examination (ETS/NTE #40) of the National Association of School Psychologists (NASP) administered by Education Testing Service (ETS). NASP Certification as an NCSP is not required for licensure. The licensure examination is administered three times per year by ETS. For information on sites, dates of administration, and fees, contact ETS.

School Psychological Services. Consists of employment by a public school system or private school or agency as a Department of Education certified school psychologist engaged in the role and performing the duties of a school psychologist. Private practice/self-employment as a school psychologist is not acceptable in fulfillment of the post-master's degree work experience in school psychological services requirement.

Supervised Clinical Experience. A minimum of 60 hours of post-master's degree supervision in the practice of school psychological services by an approved supervisor.

Supervision. A regularly scheduled meeting of not more than six school psychologists with an approved supervisor for period of at least one hour. "Peer" supervision will not be considered to be qualifying supervision for these purposes.

(3) Licensure Eligibility Categories. A candidate for licensure as an educational psychologist must meet the requirements set forth in 262 CMR 5.01(3)(a) through (e):

(a) A Master's Degree, CAGS, or Doctoral Degree in School Psychology from an Educational Institution Licensed or Accredited by the State in which it is Located. The applicant's graduate degree must consist of:

- 1. a minimum of 60 credits of approved graduate course work: If an applicant's graduate degree program of study consisted of less than 60 credits of approved graduate course work, evidence of completion of graduate level courses outside of the degree program sufficient to meet the 60 credit approved courses requirement must be submitted to the Board for review

262 CMR: BOARD OF ALLIED MENTAL HEALTH AND
HUMAN SERVICES PROFESSIONS

and approval;

262 CMR: BOARD OF ALLIED MENTAL HEALTH AND
HUMAN SERVICES PROFESSIONS

5.01: continued

2. a Practicum/Internship experience consisting of a minimum of 1200 clock hours of supervised field placement. If an applicant's graduate degree program of study did not include a minimum of 1200 clock hours of supervised field placement, evidence of completion of additional hours of supervised field placement outside of the graduate degree program sufficient to meet the 1200 clock hour requirement must be submitted to the Board for review and approval;
- (b) Current certification (copy of certificate) as a school psychologist by the Department of Education of the Commonwealth of Massachusetts or comparable certification from another state;
- (c) A minimum of two full-time academic years, or equivalent part-time, post-master's degree experience in school psychological services;
- (d) Successful completion of a Supervised Clinical Experience; and
- (e) Achievement of a passing score on the licensure examination.

REGULATORY AUTHORITY

262 CMR 5.00: M.G.L. c. 112, §§ 163 through 172, c. 13, §§ 88 through 90, St. 1987 c. 521, as amended by St. 1989 c. 720 and St. 1990 c. 477.

Blank Page

Introduced by Assembly Member Gray

February 21, 2020

An act to add Section 115.7 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

legislative counsel's digest

AB 3045, as introduced, Gray. Department of Consumer Affairs: boards: veterans: military spouses: licenses.

Under existing law, the Department of Consumer Affairs, under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations. Existing law requires an applicant seeking a license from a board within the department to meet specified requirements and to pay certain licensing fees. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. Existing law requires these temporary licenses to expire 12 months after issuance. Under existing law, some of the funds within

the jurisdiction of a board consist of revenue from fees that are continuously appropriated.

This bill would require boards not subject to the temporary licensing provisions described above to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, as provided. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill’s expansion of the requirement to issue licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.

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: yes. Fiscal committee: yes.
 State-mandated local program: yes.

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

- 1 SECTION 1. Section 115.7 is added to the Business and
- 2 Professions Code, to read:
- 3 115.7. (a) A board not specified in subdivision (a) of Section
- 4 115.6 shall, after appropriate investigation, issue a license to an
- 5 applicant if the applicant meets all of the following requirements:
- 6 (1) The applicant shall supply evidence satisfactory to the board
- 7 that the applicant is an honorably discharged veteran of the Armed
- 8 Forces of the United States or is married to, or in a domestic
- 9 partnership or other legal union with, an active duty member of
- 10 the Armed Forces of the United States who is assigned to a duty
- 11 station in this state under official active duty military orders.
- 12 (2) The applicant shall hold a current, active, and unrestricted
- 13 license that confers upon the applicant the authority to practice,

1 in another state, district, or territory of the United States, the
2 profession or vocation for which the applicant seeks a license from
3 the board.

4 (3) The applicant shall submit an application to the board that
5 shall include a signed affidavit attesting to the fact that the
6 applicant meets all of the requirements for the license and that the
7 information submitted in the application is accurate, to the best of
8 the applicant's knowledge. The application shall also include
9 written verification from the applicant's original licensing
10 jurisdiction stating that the applicant's license is in good standing
11 in that jurisdiction.

12 (4) The applicant shall not have committed an act in any
13 jurisdiction that would have constituted grounds for denial,
14 suspension, or revocation of the license under this code at the time
15 the act was committed. A violation of this paragraph may be
16 grounds for the denial or revocation of a license issued by the
17 board.

18 (5) The applicant shall not have been disciplined by a licensing
19 entity in another jurisdiction and shall not be the subject of an
20 unresolved complaint, review procedure, or disciplinary proceeding
21 conducted by a licensing entity in another jurisdiction.

22 (6) The applicant shall, upon request by a board, furnish a full
23 set of fingerprints for purposes of conducting a criminal
24 background check.

25 (b) A board may adopt regulations necessary to administer this
26 section.

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

O

Blank Page

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 803

VERSION: AMENDED MARCH 26, 2020

AUTHOR: BEALL

SPONSOR:

- California Association of Mental Health Peer Run Organizations (CAMHPRO)
- County Behavioral Health Directors Association of California (CBHDA)
- County of Los Angeles Board of Supervisors
- Steinberg Institute

RECOMMENDED POSITION: NONE

SUBJECT: MENTAL HEALTH SERVICES: PEER SUPPORT SPECIALIST CERTIFICATION

Overview:

This bill requires the State Department of Health Care Services (DHCS) to establish a certification body for peer support specialists. It also requires 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)

This Bill:

- 1) Establishes the Peer Support Specialist Certification Program Act of 2020. (WIC Article 1.4, §§ 14045.10 – 14045.22))
- 2) Outlines the expected achievements of the peer support specialist certification program, including providing increased family support, providing a continuum of services in conjunction with other community mental health and substance use disorder treatment, and collaborating with others providing care or support. (BPC §14045.11)

- 3) Defines “peer support specialist” as a person 18 or older who self-identifies as having lived experience with the process of recovery from mental illness, substance use disorder, or both, either as a consumer of services or as the parent or family member of the consumer. (WIC §14045.12(g))
- 4) 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 include support, coaching, facilitation, or education to Medi-Cal beneficiaries that is individualized to the beneficiary and is conducted by a certified peer support specialist. (WIC§14045.12(h))
- 5) By July 1, 2021, requires the State Department of Health Care Services (DHCS) to establish a certification body, either through contract or through interagency agreement, to provide for peer support specialist certification. (WIC §14045.13(a))
- 6) Requires DHCS to define responsibilities, practice guidelines, and supervision standards for peer support specialists using best practice materials, and to determine curriculum and core competencies for certification, including, at a minimum, the following (WIC §14045.13(c) and (d)):
 - 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
 - Preparation for employment opportunities
 - Safety and crisis planning
 - Navigation of and referral to other services
 - Documenting skills and standards
 - Confidentiality
- 7) Requires the DHCS to specify training requirements, including core competency based training and specialized training. (WIC §14045.13(e))
- 8) Requires DHCS to establish a code of ethics, continuing education requirements, a process for biennial certification renewal, a process for investigating complaints

and corrective action, and a process for an individual employed as a peer support specialist on January 1, 2021 to obtain certification. (WIC §14045.13(f)-(j))

- 9)** Provides minimum requirements for applicants for certification as a peer support specialist to include the following (WIC §§14045.14):
 - Is at least age 18 with a high school diploma or equivalent;
 - Self-identify as having experience with the process of recovery from mental illness or substance abuse as a consumer of services or as a parent or family member of the consumer.
 - Is willing to share their experience
 - Demonstrates leadership/advocacy skills
 - Is strongly dedicated to recovery
 - Agrees in writing to adhere to a code of ethics
 - Successfully completes the required curriculum and training
 - Passes a certification exam approved by DHCS
 - Signs an affirmation of the code of ethics biennially
 - Completes any required continuing education, training, and recertification requirements to maintain certification

- 10)** Provides 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 a health care professional or authorize delivery of health care services in a setting or manner not authorized under the Business and Professions Code or Health and Safety Code. (WIC §14045.15)

- 11)** Requires DHCS to consult with the Office of Statewide Health Planning and Development (OSHPD), peer support and family organizations, mental health services and substance use disorder treatment providers, the County Behavioral Health Directors Association of California, and the California Behavioral Health Planning Council to implement this program. This includes holding stakeholder meetings at least quarterly. (WIC §14045.16)

- 12)** Allows community health workers to partner with peer support specialists to improve linkage to services and facilitate early intervention for mental health services. (WIC §14045.17)

- 13)** Requires DHCS to amend its Medicaid state plan to include certified peer support specialists 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 §14045.18)

- 14)** Allows DHCS to implement this law via notices, plan letters, bulletins, or similar instructions, without regulations, until regulations are adopted. Regulations must be adopted by January 1, 2022 (WIC §14045.21)

- 15) Subject to appropriation in the Budget act and authorization by the Mental Health Services Act, allows DHCS to use Mental Health Services Act Funds to develop and administer the certification program. (WIC §14045.22)

Comments:

- 1) **Intent of This Bill.** In their fact sheet, the author’s office states the following:

“Studies demonstrate that use of peer support specialists in a comprehensive mental health or substance disorder treatment program helps reduce client hospitalizations, improve client functioning, increase client satisfaction, alleviate depression and other symptoms, and diversify the mental health workforce. Often, peers serve as the first and sustained point of contact for people living with mental illness and assist them with the treatment they need at the earliest moment.”

The author notes that California lags behind the rest of the country in implementing a peer support specialist certification program. Currently, the Department of Veteran’s Affairs and 48 states either have or are developing such a program. They also note that in 2007, the federal Centers for Medicare and Medicaid released guidance for establishing a peer certification program to enable the use of federal Medicaid financial participation with a 50% match (**Attachment C**).

- 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 a 40-hour training program and

75 hours of supervised peer recovery service. They must be supervised by a mental health professional or a qualified alcohol and drug abuse treatment professional.

New Mexico

The State of New Mexico offers peer support specialist certification. Applicants must demonstrate 2 years of recovery, complete a written application, complete 40 hours of supervised experience, complete required training, and pass an examination.

- 3) 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 §§14045.11, and 14045.12(h) (via a definition of “peer support specialist services.”)

The Board may wish to review and discuss §14045.15, which states the following:

(a) This article does not imply that an individual who is certified pursuant to this article is qualified to, or authorized to, diagnose an illness, prescribe medication, or provide clinical services.

(b) This article does not alter the scope of practice for a health care professional or authorize the delivery of health care services in a setting or manner that is not authorized pursuant to the Business and Professions Code or the Health and Safety Code.

For similar bills in the past, the Board has at times recommended more direct language in order to protect its practice acts. Therefore, the Board may wish to discuss whether the above language is sufficient, or if the following previously recommended language is preferred:

“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.”

- 4) **Identification of Supervisors.** The current version of this bill requires DHCS to define supervision standards for peer support specialists by using specified best practice materials. The Board may wish to discuss if this is sufficient.

The last version of this bill (SB 10, 2019) did not discuss supervision requirements for peer support specialists at all. At the time, the Board requested that SB 10 specify allowable supervisors, including (but not limited to) the Board’s marriage and family therapist, educational psychologist, clinical social worker, and professional clinical counselor licensees.

- 5) **Fingerprinting Not Required for Certification.** This bill does not specify fingerprinting as a requirement to obtain certification as a peer support specialist. This had been a concern of the Board in previous versions, although last year the Board decided not to request its inclusion. In previous discussions with the author’s office regarding this issue, the author’s office had indicated that the bill permits DHCS to include a fingerprinting requirement via regulations if it chooses.

- 6) **Previous Legislation.** The Board has considered several similar bill proposals in recent years:

- **SB 10** (2019, Beall) The Board took a “support if amended” position on SB 10, requesting the two amendments discussed above relating to specifying allowable supervisors and scope of practice clarifications.

SB 10 was vetoed by Governor Newsom. The Governor stated the following in his veto message: *“Peer support services can play an important role in meeting individuals' behavioral health care needs by pairing those individuals with trained "peers" who offer assistance with navigating local community behavioral health systems and provide needed support. Currently, counties may opt to use peer support services for the delivery of Medicaid specialty mental health services. As the Administration, in partnership with the Legislature and counties, works to transform the state's behavioral health care delivery system, we have an opportunity to more comprehensively include peer support services in these transformation plans. I look forward to working with you on these transformations efforts in the budget process and future legislation, as improving the state of the state's behavioral health system is a critical priority for me. This proposal comes with significant costs that should be considered in the budget process.”*

- **SB 906** (2018, Beall) The Board took a “support if amended” position on SB 906, requesting the following amendments:
 - An amendment to include LPCCs as acceptable supervisors of peer support specialists (SB 906 included psychologists, LCSWs, and LMFTs as allowable supervisors, but omitted LPCCs); and

- An amendment to require that peer support specialists be fingerprinted.

SB 906 was vetoed by Governor Brown. In his veto message, the Governor stated the following: *“Currently, peer support specialists are used as providers in Medi-Cal without a state certificate. This bill imposes a costly new program which will permit some of these individuals to continue providing services but shut others out. I urge the stakeholders and the department to improve upon the existing framework while allowing all peer support specialists to continue to work.”*

- SB 614 (2015-2016, Leno) proposed a similar 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.

7) Support and Opposition.

Support:

- California Association of Mental Health Peer Run Organizations (CAMHPRO) (Sponsor)
- County Behavioral Health Directors Association of California (CBHDA) (Sponsor)
- County of Los Angeles Board of Supervisors (Sponsor)
- Steinberg Institute (Sponsor)
- ACCESS California
- Alum Rock Counseling Center
- American Foundation for Suicide Prevention
- Cal Voices
- California Alliance of Child and Family Services
- California Association of Local Behavioral Health Boards and Commissions
- California Association of Public Hospitals and Health Systems
- California Association of Veteran Service Agencies
- California Behavioral Health Planning Council
- California Council of Community Behavioral Health Agencies
- California Pan-Ethnic Health Network
- California Psychological Association
- California School Nurses Organization
- Children Now
- County of Santa Clara
- Crestwood Behavioral Health Inc.
- Depression and Bipolar Support Alliance
- Disability Rights California
- District Attorney Nancy E. O’Malley, Alameda County

- Mental Health America of Los Angeles
- Solano County Mental Health Advisory Board
- Western Center on Law and Poverty

Oppose:

None at this time.

8) History.

2020

- 05/13/20 From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 9. Noes 0.) (May 13). Re-referred to Com. on APPR.
- 05/11/20 Set for hearing May 13.
- 03/26/20 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH.
- 01/15/20 Referred to Com. on HEALTH.
- 01/09/20 From printer. May be acted upon on or after February 8.
- 01/08/20 Introduced. Read first time. To Com. on RLS. for assignment. To print.

9) Attachments.

Attachment A: *“Peer Certification: What are we Waiting For?”* by the California Mental Health Planning Council, February 2015.

Attachment B: *“Emerging Roles for Peer Providers in Mental Health and Substance Use Disorders”* by Susan A. Chapman, PhD, RN, Lisel K. Blash, MPA, Kimberly Mayer, MSSW, Joanne Spetz, PhD. American Journal of Preventive Medicine, June 2018.

Attachment C: Letter to State Medicaid Directors, Letter No. 07-011, issued by federal Centers for Medicare and Medicaid Services; August 15, 2007



PEER CERTIFICATION:

CHAIRPERSON
Cindy Clafin

EXECUTIVE OFFICER
Jane Adcock

WHAT ARE WE WAITING FOR?

- **Advocacy**
- **Evaluation**
- **Inclusion**

MS 2706
PO Box 997413
Sacramento, CA 95899-
7413
916.323.4501
fax 916.319.8030

*Examining the Opportunities, Barriers, and Precedents for the Official
Recognition and Certification of Peer Specialists in California.*

February 2015

¹ “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....”

¹ <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”²

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

² 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.³

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.**”⁴*

³ http://www.inspiredatwork.net/uploads/WWT_Peer_Certification_Research_Report_FINAL_6.20.12__1_.pdf

⁴ 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*”⁵.

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

⁵ 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 investment⁶.

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.”⁷

⁶ <http://www.oshpd.ca.gov/HWDD/pdfs/wet/PowerPoint-Peer-Support-Specialist-A-Galvez-S-Kuehn.pdf>

⁷ <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:

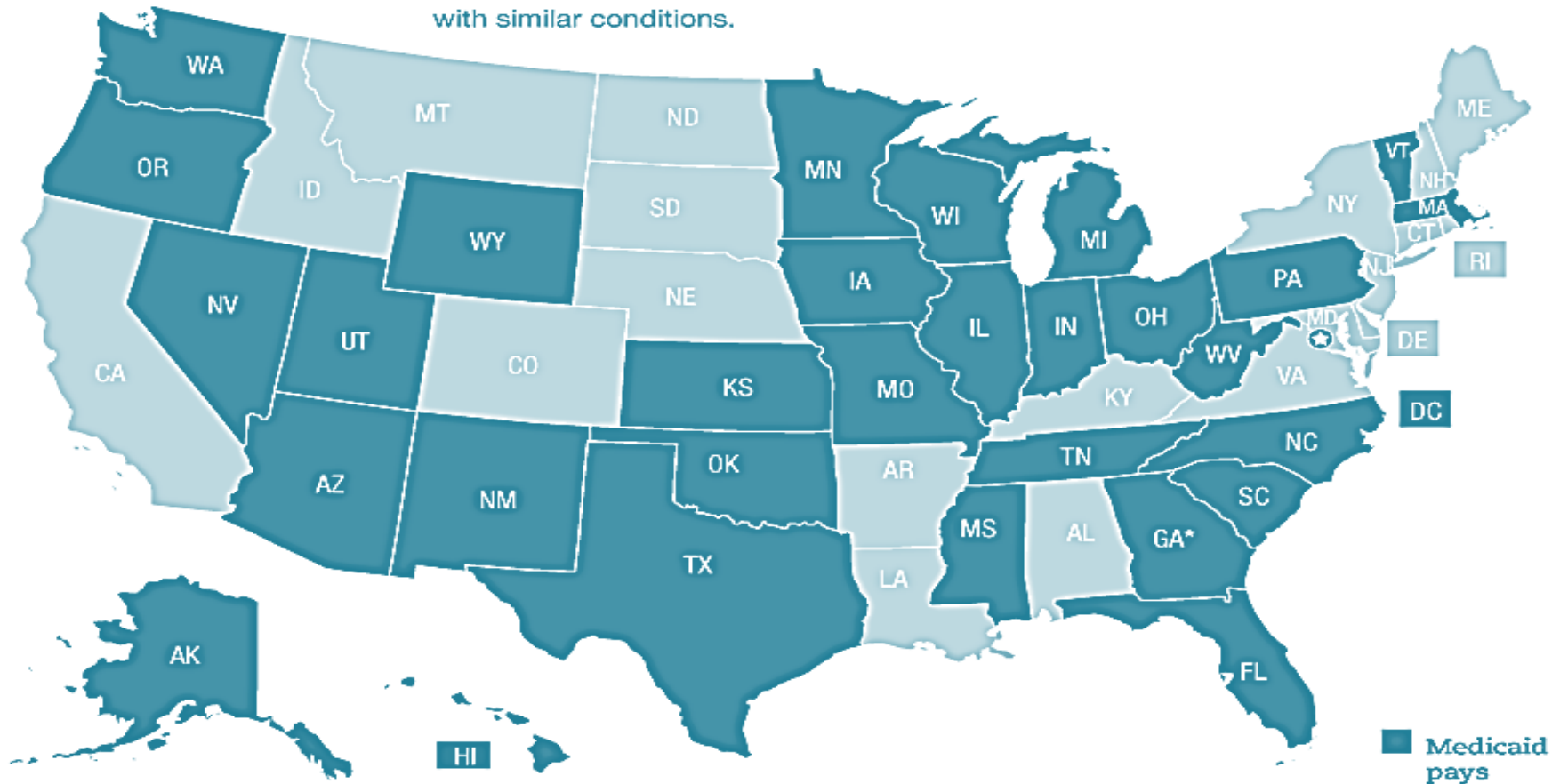
- developing clarifying legislative language that MHSAs and/or other funding may be used to establish an implementation and oversight body for statewide Peer Specialist Certification; and/or
- making Peer Certification a priority of the 2015-16 Legislative Session as a stand-alone issue ; and/or
- requiring 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

Emerging Roles for Peer Providers in Mental Health
and Substance Use DisordersSusan A. Chapman, PhD, RN,¹ Lisel K. Blash, MPA,² Kimberly Mayer, MSSW,³ Joanne Spetz, PhD²

Introduction: The purpose of this study was to identify and assess states with best practices in peer provider workforce development and employment. A growing body of research demonstrates that peer providers with lived experience contribute positively to the treatment and recovery of individuals with behavioral health needs. Increased employment opportunities have led to policy concerns about training, certification, roles, and reimbursement for peer provider services.

Methods: A case study approach included a national panel of subject matter experts who suggested best practice states. Researchers conducted 3- to 5-day site visits in four states: Arizona, Georgia, Texas, and Pennsylvania. Data collection included document review and interviews with state policymakers, directors of training and certification bodies, peer providers, and other staff in mental health and substance use treatment and recovery organizations. Data collection and analysis were performed in 2015.

Results: Peer providers work in a variety of settings, including psychiatric hospitals, clinics, jails and prisons, and supportive housing. A favorable policy environment along with individual champions and consumer advocacy organizations were positively associated with robust programs. Medicaid billing for peer services was an essential source of revenue in both Medicaid expansion and non-expansion states. States' peer provider training and certification requirements varied. Issues of stigma remain. Peer providers are low-wage workers with limited opportunity for career growth and may require workplace accommodations to maintain their recovery.

Conclusions: Peer providers are a rapidly growing workforce with considerable promise to help alleviate behavioral health workforce shortages by supporting consumers in attaining and maintaining long-term recovery.

Supplement information: This article is part of a supplement entitled The Behavioral Health Workforce: Planning, Practice, and Preparation, which is sponsored by the Substance Abuse and Mental Health Services Administration and the Health Resources and Services Administration of the U.S. Department of Health and Human Services.

Am J Prev Med 2018;54(6S3):S267–S274. © 2018 American Journal of Preventive Medicine. Published by Elsevier Inc. This is an open access article under the CC BY-NC-ND license (<http://creativecommons.org/licenses/by-nc-nd/4.0/>).

INTRODUCTION

Peer providers are individuals who provide services in behavioral health settings—both mental health and substance use disorders (SUDs) treatment—based on their own experience of recovery from mental illness or addiction and skills obtained from formal peer provider training.¹ They are part of the transformation of behavioral health care into a “recovery-oriented” model of care. Traditional mental health care focuses on treatment and control of symptoms of mental illness and

From the ¹Department of Social and Behavioral Sciences, School of Nursing, University of California, San Francisco, San Francisco, California; ²Philip R. Lee Institute for Health Policy Studies and Healthforce Center, University of California, San Francisco, San Francisco, California; and ³California Institute for Behavioral Health Solutions, Sacramento, California

Address correspondence to: Susan A. Chapman, PhD, RN, University of California, San Francisco, School of Nursing, Department of Social and Behavioral Sciences, 3333 California Street, Suite 455, San Francisco CA 94118. E-mail: susan.chapman@ucsf.edu.

0749-3797/\$36.00

<https://doi.org/10.1016/j.amepre.2018.02.019>

addiction with services primarily provided by licensed professionals. By contrast, the recovery model focuses on maintaining long-term recovery past acute crises.² Key components of this model include empowering and involving consumers of behavioral health services in shaping their own care and the integration of peer providers into the workforce supporting recovery and resilience.^{3,4}

In 1999, Georgia was the first state in the nation to include mental health peer providers in its Medicaid plan as a billable provider type.⁵ In 2007, the Centers for Medicare & Medicaid Services issued a letter to state Medicaid directors authorizing them to bill Medicaid for peer provider services under particular conditions, including the establishment of statewide training and certification and supervision of peer providers by “competent mental health professional(s).”⁶ By 2016, a total of 42 states and the District of Columbia had adopted statewide certification and training for peer providers and Medicaid reimbursement for mental health peer support.⁷ Only 11 states have provisions for Medicaid billing for SUD peer support.⁸ In 2015, there were an estimated 25,417 certified mental health peer support specialists in the U.S.⁹ There are no similar nationwide numbers available for SUD peer providers.

The Centers for Medicare & Medicaid Services rationale for authorizing Medicaid billing for peer support cited studies that established peer support as “an evidence-based mental health model of care.”⁶ Peer providers are thought to be effective because their lived experience allows them to establish a rapport with consumers. This rapport includes promoting belief in the recovery process and demonstrated success in self-efficacy and management of one’s own recovery.¹⁰ Findings from numerous RCTs suggested the potential for peer providers to improve outcomes, including reducing hospitalizations, enhancing self-efficacy and quality of life, and increasing patient activation.^{10–16}

Despite the spread of peer provider programs, the integration of peer providers into traditional settings still faces challenges of poorly defined roles, client–staff boundary issues, lack of workplace accommodations, variation in training and work experience, and workplace stigma.^{17–23} Peer providers often receive lower pay than comparable non-peer staff and experience limited career mobility.^{24–26}

This paper contributes to the literature on peer providers with in-depth research and identification of best practices in utilization of the peer provider workforce based on 194 interviews conducted in four states. The authors make policy recommendations for future employment of peer providers in behavioral health settings.

METHODS

Researchers used a comparative case study design to examine four states with best practices in peer provider employment, via comprehensive site visits to study peer providers in mental health and SUD settings.

An expert panel was convened telephonically in February 2015 to provide guidance in selecting states for the case studies. The expert panel consensus was that Arizona, Georgia, Texas, and Pennsylvania were among the leading states in the employment and training of peer providers and thus were selected for the case studies. Researchers contacted state officials, certification boards, training organizations, and provider organizations in these four states to gather preliminary information about their peer provider models. Some key informants and provider organizations were suggested by panelists whereas others were suggested by state behavioral health departments and web searches.

Three- to 5-day site visits were scheduled in 2015 with four to nine organizations per state. During site visits, teams of two to four researchers toured facilities and conducted semi-structured interviews with individuals in training and certification bodies, state agencies, and provider organizations. Interviewees included policymakers, training and certification specialists, peer providers, supervisors, and managers in peer-run, recovery-focused, and traditional treatment settings. In-person visits enhanced rapport with interviewees and allowed researchers to observe the sites and communities in which interviewees worked. A total of 194 individuals at 29 organizations were interviewed. At least two researchers attended each interview and took detailed notes. Background information, such as staffing counts, billing and reimbursement information, job descriptions, and program brochures, was also collected.

In 2015, interview notes were coded for key themes by state using Atlas.ti software, version 8. Themes were compared across the four states for similarities and differences. All members of the research team participated in the coding and development of the key themes.

The IRB at the University of California, San Francisco, approved this study. All research participants consented to participation.

RESULTS

Several key themes in the four study states have implications for the growth of peer provider employment nationwide: roles and job descriptions in various employment settings; training and certification approaches; billing and reimbursement for peer providers; workforce and career development; and maintaining recovery, addressing boundaries, and stigma.

Diverse Employment Settings and Roles

Across the four states, peer providers were employed in a variety of settings and sectors, including non- and for-profit organizations and government agencies. Some organizations were peer run and staffed. Clinical settings included mental health clinics, detox and rehabilitation centers, crisis stabilization units, and psychiatric

hospitals. Non-clinical settings included peer-run residences, community centers, supportive housing, and sobering houses. Many peer providers spent most of their time meeting with consumers in the community or at a facility, such as a jail, prison, or probation center; mental health, family, or drug court; or hospital or primary care clinic. Typical job duties included leading wellness groups, teaching classes, case management, and one-on-one services, including referrals to housing, jobs, and other resources; financial counseling; wellness coaching; accompanying consumers to appointments; and emotional support provided in-person or telephonically. Documentation accounted for a significant portion of time for peer providers in Medicaid-billable positions.

Examples from each of the states illustrate the variety of peer provider roles and settings. Pennsylvania had a number of forensic peer provider programs, including one deployed by a private organization providing peer support re-entry services in local Pennsylvania county jails. Texas had a robust peer provider program inside some of its state psychiatric hospitals, including support groups, art activities, and one-on-one peer support. Arizona had peer providers working with tribal organizations and on reservations with a focus on stigma reduction and outreach. Georgia created a certification for Whole Health and Wellness Coaches who assist mental health consumers in setting and maintaining health and wellness goals, accessing resources, and managing stress in coordination with a nurse or primary care provider.

Training and Certification Approaches

In order to include peer providers in a state Medicaid plan, there must be a state-approved training and certification program.⁶ The four states chose different approaches to approving curricula and exams, certification, and selecting training vendors.

Georgia and Texas each selected a single training vendor for mental health peer providers and used a customized version of the Appalachian Consulting Group curriculum. Georgia had a single vendor for training SUD peer providers (Table 1). This approach provided statewide consistency in training and curricula, but sometimes limited access to training. By contrast, Pennsylvania designated two training vendors for mental health; Pennsylvania and Texas designated multiple vendors for SUD peer providers, specifying core competencies (Pennsylvania) or a single curriculum (Texas) for all vendors. Arizona had multiple authorized training vendors and did not distinguish between mental health and SUD peer providers in training and certification. However, each organization's curriculum, competency exam, and exam scoring methodology had to be reviewed and approved by the state. Some interviewees reported

that multiple training vendors fostered healthy competition, innovation, and greater access, whereas others felt it created a lack of consistency in screening and training standards.

Training hours varied across states, ranging from 40 to 75 hours. In Texas, SUD peer provider certification curricula and examinations are aligned with standards developed by the International Certification & Reciprocity Consortium, which provides limited reciprocity across states and greater oversight and accountability within states.

Peer providers were enthusiastic about the training they had received and the networking opportunities it provided, but felt they needed ongoing training in documentation.

Funding Mechanisms for Peer Support

Funding mechanisms for peer support evolved from a reliance on grant funding to increasing use of Medicaid billing and Medicaid managed care contracts. Medicaid reimbursement created a new funding stream to support peer support services and helped expand the workforce in organizations eligible to bill Medicaid for peer providers. In Medicaid expansion states, Medicaid payments were reported to cover much of the cost of employing peer providers. In non-Medicaid expansion states, funding for peer support was more reliant on state general revenues and state and federal grants.

There was state variation in billing for SUD peer provider services. Georgia and Arizona billed Medicaid for SUD peer providers. Neither Pennsylvania nor Texas could do so because SUD peer providers were not included in their state Medicaid plans. Interviewees in Pennsylvania and Texas credited the lack of growth in their SUD peer provider workforce to this non-inclusion, although some Medicaid MCOs in these states contracted with employers of peer providers, providing a payment mechanism for SUD peer support.

Interviewees reported that Medicaid billing requires extensive documentation. Many reported difficulties, with some peer providers' lack of computer experience and knowledge of billing terminology with incorrect documentation leading to negative financial ramifications. Peer providers reported concerns about the impact of time-consuming documentation on their relationships with consumers. Some peer-run organizations chose not to bill Medicaid for peer support because of concerns that documentation and clinical supervision requirements might compromise their philosophy of peer support, which is rooted in mutuality.

Workforce and Career Development

All four states had some type of policy mandating the hiring of peer providers. In Arizona and Georgia, this was

Table 1. State Comparison: Training and Certification

Category	Arizona	Georgia	Pennsylvania	Texas
Mental health				
Title	Peer Support Specialist	Certified Peer Specialist	Certified Peer Support Specialists	Certified Peer Specialist
Year statewide certification instituted	2012	2001	2007	2009–2010
No. of peer providers certified 2016 ^a	2,524 ^b	1,700	4,389	750
No. of authorized training vendors	16 ^{b,c}	1	2	1
Training hours	Varies	40	75	43
Substance use disorders				
Title	Peer Recovery Specialist	Certified Addiction Recovery Empowerment Specialists	Certified Recovery Specialist	Peer Recovery Support Specialists
Year statewide certification instituted	2012	2011	2008	2012
No. of peer providers certified 2015	2,524 ^b	310	535	460
No. of authorized training vendors	21 ^{b,c}	1	6	180
Training hours	Varies	40	54	46

^aBecause accurate data were not available from state sources, authors utilized information from Wolf J, Jones N, Rosen C. The national peer career development project state certification survey results. September 2016.

^bArizona does not differentiate between mental health and substance use disorder in training and certification.

^cArizona now has 21 vendors. Updated information on number of vendors can be found in Kaufman L, Kuhn W, Stevens Manser S. University of Texas at Austin. Peer specialist training and certification programs: a national overview. 2016. No., number.

the result of class action lawsuits; in Texas and Pennsylvania it was a policy developed through a behavioral health care transformation initiative (Table 2). Interviewees reported that hiring mandates increased peer provider employment in traditional behavioral health settings, but that these organizations needed to prepare staff and supervisors to integrate peer support successfully. For example, Pennsylvania's Office of Mental Health and Substance Abuse Services provided outreach and technical assistance in order to help organizations develop a welcoming environment for peer providers.

Peer providers' wages were reported to be low in all of the states. As the demand for peer providers increased, some organizations were adjusting pay and benefits in order to retain staff. Low wages were compounded by the part-time nature of much peer provider employment. Peer providers reported working part-time for the following reasons: (1) out of choice because of their own recovery issues; (2) to not exceed thresholds for disability benefits; (3) the perception that employers did not want to pay benefits available to full-time workers; and (4) lack of available full-time positions.

Career advancement opportunities for peer providers were generally limited to advancement to supervisor. One large Arizona organization and Texas state psychiatric hospitals had multistep career ladders, but these

were exceptions. A few employers supported career advancement by providing tuition support for degree programs. State policies played a role in promoting career advancement for peer providers. Pennsylvania added the certified peer specialist category as a civil service classification, developed a certified peer specialist supervisor category that recognized different combinations of experience and education, and provided supervisor training. Texas's three-tiered peer specialist classification in its state hospital system was expected to be adopted by local Mental Health Authorities in the future. The Arizona Department of Health Services/Division of Behavioral Health funded Arizona State University to develop a Peer Career Advancement Academy to provide additional training to advance certified peer providers' careers.

Maintaining Recovery and Addressing Boundaries and Stigma

A critical component of the peer provider role is having adequate time and resources to maintain one's own recovery. Peer support requires a balance of empathy and self-disclosure while maintaining professional boundaries with consumers. This requires skillful negotiation by individuals who are themselves in recovery and may experience relapse. This component was highly emphasized in all the training programs. Some employers

Table 2. State Comparison: Factors Impacting Billing and Hiring

Category	Arizona	Georgia	Pennsylvania	Texas
Medicaid expansion state	Yes	No	Yes	No
Year CMS authorized billing for MH peer providers	2007	1999	2007	NA
Year CMS authorized billing for SUD peer providers	2007	2012	–	–
Average peer specialist salary by HHS/SAMHSA region 2015 ^a	\$15.27	\$14.83	\$14.72	\$15.69
Common billing codes	H0038 ^b H0038 HQ ^c H2016 ^d	H0038 ^b H0038 HQ ^c H0025 ^e	H0038 ^b H0038 GT ^f	H2017 ^g H2014 ^h
Source of peer hiring mandate	Lawsuit: <i>Arnold v. Sarn</i>	Lawsuit: The Civil Rights of Institutionalized Persons Act (CRIPA) of 1980	Pennsylvania Office of Mental Health and Substance Abuse Services: BH transformation initiatives	Texas State Department of Health Services: Texas Recovery Initiative
Description of hiring mandate	State must provide peer and family support services	Most state-funded behavioral health agencies required to hire at least 2 FTE peer providers	Each county is required to make peer support available as part of its mental health services	22 SUD recovery agencies receiving grants must hire peer providers

^aDaniels A, Ashenden P, Goodale L, Stevens T. National survey of compensation among peer support specialists. www.leaders4health.org. The College for Behavioral Health Leadership. Published January 2016.

^bPeer support, one-on-one.

^cPeer support, group.

^dComprehensive community support services (peer support)—3 or more hours in duration.

^eBehavioral health prevention education service (whole health and wellness coaching).

^fPeer support, telephonic.

^gPsychosocial rehabilitation services.

^hSkills training and development.

BH, behavioral health; FTE, full-time equivalent; CMS, Centers for Medicare & Medicaid Services; FTE, full-time equivalent; HHS, Department of Health and Human Services; MH, mental health; NA, not applicable; SAMHSA, Substance Abuse and Mental Health Services Administration; SUD, substance use disorder.

responded to this need for accommodations in leave of absence policies and the peer supervision process. One-to-one or group supervision was provided to peer providers in all of the sites visited. It included checking in on one's recovery, additional training such as documentation, and client updates. However, several human resources interviewees reported that peer support staff required no more accommodations than any other staff.

The perception of stigma is an important issue in the peer provider role according to many interviewees. Peer providers in peer-run organizations reported less difficulty with stigma. Stigma may include labeling, stereotyping, and discrimination internalized or experienced.²⁷ Problems with acceptance and stigma were reportedly more common when peer providers needed to interact with non-peer staff in clinical and forensic settings. Some non-peer-run organizations required staff and leadership to attend training on the peer provider

role in order to address issues of stigma before introducing peers.

DISCUSSION

The growth of peer provider employment is related to increased acceptance of the recovery model of care and enhanced focus on empowering consumers to manage their own recovery. Job growth in the four case study states was driven by a number of factors, including strong consumer advocacy groups and champions within state government; increased insurance coverage because of Medicaid expansion under the Affordable Care Act (in Pennsylvania and Arizona); behavioral health workforce shortages; Substance Abuse and Mental Health Services Administration grant programs⁸; class action lawsuits; and hiring mandates.

The relationship between certification, training, and employment growth is unclear. Although a recent study estimated that the number of mental health peer provider certifications grew in the U.S.,⁹ there is little research on how many are employed. Better tracking of the employment of peer providers would assist in workforce planning across states. Tracking could be done through licensing boards, by state agencies, or in partnership with external research organizations, such as universities.

Certification encourages standardization and professionalism that may enhance peer provider status and wages and ensure higher quality care. However, some peer provider advocates have concerns that certification and professionalization might harm the essence of peer provision and limit entry into the field. This concern is discussed in previous research.^{19,28}

Differing training and certification standards across states mean that peer providers cannot easily transfer their credentials to another state. Twenty-five states offer reciprocity through the International Certification & Reciprocity Consortium, which is largely used for SUD peer providers. Mental Health America has recently announced a National Certified Peer Specialist Certification designed to exceed standards in public behavioral health and open career pathways in the private sector.²⁹

Medicaid payment plays a large role in peer provider employment. Only three U.S. states have not yet adopted the statewide certification and training protocols necessary to bill Medicaid for peer support.^{7,9} Medicaid expansion was reported as a factor in increasing peer provider employment in Pennsylvania and Arizona. The uncertain future of state Medicaid programs likely has an important impact on the employment of peer providers.

The use of peer support in forensic settings is particularly promising as many incarcerated individuals also have mental illness or SUDs or both. Innovative partnerships like that between Pennsylvania's Office of Mental Health and Substance Abuse Services and the Department of Corrections, in which prison inmates are trained and certified as peer providers eligible for civil service employment on release,³⁰ and the private program visited that utilized peer providers to work with inmates in Pennsylvania county jails, should be explored by other states. State and county regulations barring employment of those with criminal records and that disallow ex-offenders from entering jails and prisons make it difficult to implement forensic programs. States that have found a successful model of hiring individuals with a history of criminal convictions may be helpful to other states that experience barriers.

Although employment is part of recovery for many with lived experience, the quality of peer provider positions is diminished by low wages,³¹ workplace

stigma, and few career advancement opportunities. Some employers are actively addressing these issues by developing career ladders and dedicating resources to staff and leadership training on the role of peer providers. In states that were early adopters of peer provider programs, state-level organizations led trainings on organizational transformation prior to the introduction of peer providers into traditional behavioral healthcare workplaces. Despite these efforts, researchers heard from many interviewees that stigma in the peer provider role continues. This may be partially because of a misunderstanding of the peer provider role and partially fear of encroachment of traditional provider roles. These encroachment concerns are similar to those reported for other growing non-licensed roles, such as community health workers³² and medical assistants.³³

Although there are studies of the efficacy of peer providers, much of this research has been limited by small sample sizes and other methodologic issues.^{34–37} There is even less research on SUD peer providers.⁸ Additional research may be helpful to better understand both workforce issues and peer provider impact on behavioral health outcomes.

Limitations

This study focuses on four states that are frontrunners in peer provider employment. Each state has a different cultural and policy environment and some findings may not be generalizable. Data on states and organizations is self-reported and could not always be independently verified. Peer providers working in states with less developed peer provider policies may have different experiences than those in these four states.

CONCLUSIONS

Peer provision is a rapidly growing occupation with considerable promise to help alleviate the behavioral healthcare workforce shortage by supporting consumers in maintaining long-term recovery. Peer providers can aid organizations in establishing rapport with consumers, sensitizing treatment staff to consumer needs, and encouraging a recovery-oriented culture that allows for self-disclosure and self-care for all staff. Growth of the peer provider profession can be facilitated by continued improvement of training and certification, addressing wages and benefits, tracking of long-term employment outcomes, facilitation of documentation skills, revision of regulations that create barriers to practice, and education of behavioral health leaders in the capacity of peer providers to help those with mental health and SUD treatment needs.

ACKNOWLEDGMENTS

This information or content and conclusions are those of the authors and should not be construed as the official position or policy of, nor should any endorsements be inferred by the Substance Abuse and Mental Health Services Administration, Health Resources and Services Administration, U.S. Department of Health and Human Services or the U.S. Government.

Subject matter expert Victor Kogler, Vice President of the California Institute for Behavioral Health Solutions, was instrumental in the design of this research and in data collection during site visits.

No financial disclosures were reported by the authors of this paper.

SUPPLEMENTAL MATERIAL

Supplemental materials associated with this article can be found in the online version at <https://doi.org/10.1016/j.amepre.2018.02.019>.

SUPPLEMENT NOTE

This article is part of a supplement entitled The Behavioral Health Workforce: Planning, Practice, and Preparation, which is sponsored by the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) under U81HP29300-03-02, Behavioral Health Workforce Research Center.

REFERENCES

1. SAMHSA-HRSA Center for Integrated Health Solutions. Who are peer providers? www.integration.samhsa.gov/workforce/team-members/peer-providers#whoarepeerproviders. Accessed July 26, 2017.
2. Farkas M, Gagne C, Anthony W, Chamberlin J. Implementing recovery oriented evidence based programs: identifying the critical dimensions. *Community Ment Health J*. 2005;41(2):141–158. <https://doi.org/10.1007/s10597-005-2649-6>.
3. Barber ME. Recovery as the new medical model for psychiatry. *Psychiatr Serv*. 2012;63(3):277–279. <https://doi.org/10.1176/appi.ps.201100248>.
4. Compton M. Mental illness in 2010: putting the recovery model into practice. *Medscape*. October 15, 2010.
5. Campbell J, Leaver J, National Association of State Mental Health Program Directors (NASMHPD), National Technical Assistance Center for State Mental Health Planning (NTAC). Emerging new practices in organized peer support. www.nasmhpd.org/sites/default/files/peer%20support%20practices%20final.pdf. Published 2003. Accessed July 27, 2017.
6. Centers for Medicare & Medicaid Services. *CMS State Medicaid Directors Letter: Using Peer Support Services Under Medicaid*. Baltimore, MD: HHS. <http://downloads.cms.gov/cmsgov/archiveddownloads/SMDL/downloads/SMD081507A.pdf>. Published August 15, 2007. Accessed July 26, 2017.
7. Kaufman L, Kuhn W, Stevens Manser S. University of Texas at Austin. Peer specialist training and certification programs: a national overview. <http://sites.utexas.edu/mental-health-institute/files/2017/01/Peer-Specialist-Training-and-Certification-Programs-A-National-Overview-2016-Update-1.5.17.pdf>. Published 2016. Accessed July 26, 2017.
8. Myrick K, del Vecchio P. Peer support services in the behavioral healthcare workforce: state of the field. *Psychiatr Rehabil J*. 2016;39(3):197–203. <https://doi.org/10.1037/prj0000188>.
9. Wolf J, Jones N, Rosen C. The national peer career development project state certification survey results. www.bhpcd.org/state-survey.html. Published September 2016. Accessed July 26, 2017.
10. Repper J, Carter T. A review of the literature on peer support in mental health services. *J Ment Health*. 2011;20(4):392–411. <https://doi.org/10.3109/09638237.2011.583947>.
11. Chinman M, Oberman R, Hanusa B, et al. A cluster randomized trial of adding peer specialists to intensive case management teams in the Veterans Health Administration. *J Behav Health Serv Res*. 2015;42(1):109–121. <https://doi.org/10.1007/s11414-013-9343-1>.
12. Mahlke CI, Priebe S, Heumann K, et al. Effectiveness of one-to-one peer support for patients with severe mental illness—a randomised controlled trial. *Eur Psychiatry*. 2017;42:103–110. <https://doi.org/10.1016/j.eurpsy.2016.12.007>.
13. Lara-Cabrera ML, Salvesen O, Nettet MB, et al. The effect of a brief educational programme added to mental health treatment to improve patient activation: A randomized controlled trial in community mental health centres. *Patient Educ Couns*. 2016;99(5):760–768. <https://doi.org/10.1016/j.pec.2015.11.028>.
14. Sledge WH, Lawless M, Sells D, et al. Effectiveness of peer support in reducing readmissions of persons with multiple psychiatric hospitalizations. *Psychiatr Serv*. 2011;62(5):541–544. https://doi.org/10.1176/ps.62.5.pss6205_0541.
15. Jonikas J, Grey D, Copeland M, et al. Improving propensity for patient self-advocacy through wellness recovery action planning: results of a randomized controlled trial. *Community Ment Health J*. 2013;49(3):260–269. <https://doi.org/10.1007/s10597-011-9475-9>.
16. Cook J, Copeland M, Jonikas J, et al. Results of a randomized controlled trial of mental illness self-management using wellness recovery action planning. *Schizophr Bull*. 2012;38(4):881–891. <https://doi.org/10.1093/schbul/sbr012>.
17. Alberta AJ, Ploski RR, Carlson SL. Addressing challenges to providing peer-based recovery support. *J Behav Health Serv Res*. 2012;39(4):481–491. <https://doi.org/10.1007/s11414-012-9286-y>.
18. Carlson LS, Rapp CA, McDiarmid D. Hiring consumer-providers: barriers and alternative solutions. *Community Ment Health J*. 2001;37(3):199–213. <https://doi.org/10.1023/A:1017569913118>.
19. Rebeiro Gruhl KL, LaCarte S, Calixte S. Authentic peer support work: challenges and opportunities for an evolving occupation. *J Ment Health*. 2016;25(1):78–86. <https://doi.org/10.3109/09638237.2015.1057322>.
20. Fisk D, Rowe M, Brooks R, Gildersleeve D. Integrating consumer staff members into a homeless outreach project: critical issues and strategies. *Psychiatr Rehabil J*. 2000;23(3):244–252. <https://doi.org/10.1037/h0095161>.
21. Gates LB, Mandiberg JM, Akabas SH. Building capacity in social service agencies to employ peer providers. *Psychiatr Rehabil J*. 2010;34(2):145–152. <https://doi.org/10.2975/34.2.2010.145.152>.
22. Gates LB, Akabas SH. Developing strategies to integrate peer providers into the staff of mental health agencies. *Adm Policy Ment Health*. 2007;34(3):293–306. <https://doi.org/10.1007/s10488-006-0109-4>.
23. Hamilton AB, Chinman M, Cohen AN, Oberman RS, Young AS. Implementation of consumer providers into mental health intensive case management teams. *J Behav Health Serv Res*. 2013;42(1):100–108. <https://doi.org/10.1007/s11414-013-9365-8>.
24. Ahmed AO, Hunter KM, Mabe AP, Tucker SJ, Buckley PF. The professional experiences of peer specialists in the Georgia Mental Health Consumer Network. *Community Ment Health J*. 2015;51(4):424–436. <https://doi.org/10.1007/s10597-015-9854-8>.
25. Oh H. Do stereotype threats affect peer providers? *Adm Policy Ment Health*. 2014;41(5):569–571. <https://doi.org/10.1007/s10488-013-0507-3>.
26. Walker L, Perkins R, Repper J. Creating a recovery focused workforce: supporting staff well-being and valuing the expertise of lived experience. *Ment Health Soc Inclusion*. 2014;18(3):133–141. <https://doi.org/10.1108/MHSI-07-2014-0022>.

27. Brohan E, Slade M, Clement S, Thornicroft G. Experiences of mental illness stigma, prejudice and discrimination: a review of measures. *BMC Health Serv Res.* 2010;10:80. <https://doi.org/10.1186/1472-6963-10-80>.
28. Ostrow L, Steinwachs D, Leaf P, Naeger S. Medicaid reimbursement of mental health peer-run organizations: results of a national survey. *Adm Policy Ment Health.* 2017;44(4):501–511. <https://doi.org/10.1007/s10488-015-0675-4>.
29. MHA National Certified Peer Specialist Certification. Mental Health America website. www.mentalhealthamerica.net/mha-national-certified-peer-specialist-certification-get-certified. Accessed October 25, 2017.
30. Jorgensen S, Vitagliano B, Urbany B. First aid for mental health: a new approach in Pennsylvania's prisons. *CNN Health.* September 5, 2016. www.cnn.com/2016/09/05/health/prison-mental-health-first-aid/index.html.
31. Daniels A, Ashenden P, Goodale L, Stevens T. National survey of compensation among peer support specialists. The College for Behavioral Health Leadership. www.leaders4health.org. Published January 2016. Accessed November 2, 2017.
32. Chapman S, Schindel J, Miller J. Healthforce Center at UCSF. Supporting the integration of community health workers into health care teams in California. <https://healthforce.ucsf.edu/publications/supporting-integration-community-health-workers-health-care-teams-california>. Published July 6, 2017. Accessed July 28, 2017.
33. Chapman SA, Blash LK. New roles for medical assistants in innovative primary care practices. *Health Serv Res.* 2017;52(suppl 1):383–406. <https://doi.org/10.1111/1475-6773.12602>.
34. Pitt V, Lowe D, Hill S, et al. Consumer-providers of care for adult clients of statutory mental health services (review). *Cochrane Database Syst Rev.* 2013;3:CD004807. <https://doi.org/10.1002/14651858.CD004807.pub2>.
35. Cabassa L, Camacho D, Vélez-Grau C, Stefancic A. Peer-based health interventions for people with serious mental illness: a systematic literature review. *J Psychiatr Res.* 2017;84:80–89. <https://doi.org/10.1016/j.jpsychires.2016.09.021>.
36. Lloyd-Evans B, Mayo-Wilson E, Harrison B, et al. A systematic review and meta-analysis of randomised controlled trials of peer support for people with severe mental illness. *BMC Psychiatry.* 2014;14:39. <https://doi.org/10.1186/1471-244X-14-39>.
37. Chinman M, George P, Dougherty R, et al. Peer support services for individuals with serious mental illnesses: assessing the evidence. *Psychiatr Serv.* 2014;65(4):429–441. <https://doi.org/10.1176/appi.ps.201300244>.

ATTACHMENT C

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations

SMDL #07-011

August 15, 2007

Dear State Medicaid Director:

The purpose of this letter is to provide guidance to States interested in peer support services under the Medicaid program. The Centers for Medicare & Medicaid Services (CMS) recognizes that the mental health field has seen a big shift in the paradigm of care over the last few years. Now, more than ever, there is great emphasis on recovery from even the most serious mental illnesses when persons have access in their communities to treatment and supports that are tailored to their needs. Recovery refers to the process in which people are able to live, work, learn and participate fully in their communities. For some individuals, recovery is the ability to live a fulfilling and productive life despite a disability. For others, recovery implies the reduction or complete remission of symptoms.

Background on Policy Issue

States are increasingly interested in covering peer support providers as a distinct provider type for the delivery of counseling and other support services to Medicaid eligible adults with mental illnesses and/or substance use disorders. Peer support services are an evidence-based mental health model of care which consists of a qualified peer support provider who assists individuals with their recovery from mental illness and substance use disorders. CMS recognizes that the experiences of peer support providers, as consumers of mental health and substance use services, can be an important component in a State's delivery of effective treatment. CMS is reaffirming its commitment to State flexibility, increased innovation, consumer choice, self-direction, recovery, and consumer protection through approval of these services. The following policy guidance includes requirements for supervision, care-coordination, and minimum training criteria for peer support providers.

As States develop behavioral health models of care under the Medicaid program, they have the option to offer peer support services as a component of a comprehensive mental health and substance use service delivery system. When electing to provide peer support services for Medicaid beneficiaries, State Medicaid agencies may choose to collaborate with State Mental Health Departments. 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.

States may choose to deliver peer support services through several Medicaid funding authorities in the Social Security Act. The following current authorities have been used by States to date:

- Section 1905(a)(13)
- 1915(b) Waiver Authority
- 1915(c) Waiver Authority

Delivery of Peer Support Services

Consistent with all services billed under the Medicaid program, States utilizing peer support services must comply with all Federal Medicaid regulations and policy. In order to be considered for Federal reimbursement, States must identify the Medicaid authority to be used for coverage and payment, describe the service, the provider of the service, and their qualifications in full detail. States must describe utilization review and reimbursement methodologies. Medicaid reimburses for peer support services delivered directly to Medicaid beneficiaries with mental health and/or substance use disorders. Additionally, reimbursement must be based on an identified unit of service and be provided by one peer support provider, based on an approved plan of care. States must provide an assurance that there are mechanisms in place to prevent over-billing for services, such as prior authorization and other utilization management methods.

Peer support providers should be self-identified consumers who are in recovery from mental illness and/or substance use disorders. Supervision and care coordination are core components of peer support services. Additionally, peer support providers must be sufficiently trained to deliver services. The following are the minimum requirements that should be addressed for supervision, care coordination and training when electing to provide peer support services.

1) Supervision

Supervision must be provided by a competent mental health professional (as defined by the State). The amount, duration and scope of supervision will vary depending on State Practice Acts, the demonstrated competency and experience of the peer support provider, as well as the service mix, and may range from direct oversight to periodic care consultation.

2) Care-Coordination

As with many Medicaid funded services, peer support services must be coordinated within the context of a comprehensive, individualized plan of care that includes specific individualized goals. States should use a person-centered planning process to help promote participant ownership of the plan of care. Such methods actively engage and empower the participant, and individuals selected by the participant, in leading and directing the design of the service plan and, thereby, ensure that the plan reflects the needs and preferences of the participant in achieving the specific, individualized goals that have measurable results and are specified in the service plan.

3) Training and Credentialing

Peer support providers must complete training and certification as defined by the State. Training must provide peer support providers with a basic set of competencies necessary to perform the peer support function. The peer must demonstrate the ability to support the recovery of others from mental illness and/or substance use disorders. Similar to other provider types, ongoing continuing educational requirements for peer support providers must be in place.

Please feel free to contact Gale Arden, Director, Disabled and Elderly Health Programs Group, at 410-786-6810, if you have any questions.

Sincerely,

/s/

Dennis G. Smith
Director

cc:

CMS Regional Administrators

CMS Associate Regional Administrators
Division of Medicaid and Children's Health

Martha Roherty
Director, Health Policy Unit
American Public Human Services Association

Joy Wilson
Director, Health Committee
National Conference of State Legislatures

Matt Salo
Director of Health Legislation
National Governors Association

Jacalyn Bryan Carden
Director of Policy and Programs
Association of State and Territorial Health Officials

Christie Raniszewski Herrera
Director, Health and Human Services Task Force
American Legislative Exchange Council

Debra Miller
Director for Health Policy
Council of State Governments

Blank Page

AMENDED IN SENATE MARCH 26, 2020

SENATE BILL

No. 803

Introduced by Senator Beall

(Principal coauthor: Assembly Member Waldron)

(Coauthors: Senators ~~Wiener~~ Mitchell, Wiener, and Wilk)

(Coauthors: Assembly Members Aguiar-Curry, Arambula, Cristina Garcia, Grayson, Ramos, Reyes, ~~and Weber~~ Weber, and Wicks)

January 8, 2020

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 803, as amended, Beall. Mental health services: peer support specialist certification.

~~Existing~~

(1) ~~Existing~~ law establishes 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 establishes a schedule of benefits under the Medi-Cal program and provides for various services, including various behavioral and mental health services. ~~services that are rendered by Medi-Cal enrolled providers.~~

This bill would ~~state the intent of the Legislature to create~~ establish a peer support specialist certification program administered by the ~~Department of Consumer Affairs.~~ department.

~~This bill would also require the State Department of Health Care Services require the department to conduct specified activities relating to the certification of peer support specialists, including establishing a certifying body to provide for a statewide certification for peer support specialists and determining curriculum and core competencies, as specified, required for certification of an individual as a peer support specialist. The bill would require the department to amend the Medicaid state plan to include a certified peer 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 under 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 also would authorize the department to implement, interpret, or make specific its provisions by means of informal notices, various means, including 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, 2021, would require the department to provide semiannual status reports to the Legislature until regulations have been adopted. adopted, and would require the department to adopt regulations by January 1, 2022.~~

(2) 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 provides that it may be amended by the Legislature by a 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 authorize the department to use funding provided through the MHSA, upon appropriation and to the extent authorized by the MHSA, to fund state administrative costs related to developing and administering the peer support certification program, and would require those MHSA funds to be available for purposes of claiming federal financial participation under the Medicaid program. The bill would provide that this provision does not constitute a change in the

MHSA, but is a clarification of a funding purpose that is consistent with the intent of the MHSA.

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. This act shall be known, and may be cited, as the
2 Peer Support Specialist Certification Program Act of 2020.

3 SEC. 2. Article 1.4 (commencing with Section 14045.10) is
4 added to Chapter 7 of Part 3 of Division 9 of the Welfare and
5 Institutions Code, to read:

6
7 Article 1.4. Peer Support Specialist Certification Program

8
9 14045.10. The Legislature finds and declares all of the
10 following:

11 (a) With the enactment of the Mental Health Services Act in
12 2004, support has been on the rise to include peer providers,
13 identified as consumers, parents, and family members, for the
14 provision of services.

15 (b) Peer providers in California provide individualized support,
16 coaching, facilitation, and education to clients with mental health
17 care needs and substance use disorders in a variety of settings, yet
18 no statewide scope of practice, standardized curriculum, training
19 standards, supervision standards, or certification protocol is
20 available.

21 (c) The United States Department of Veterans Affairs and at
22 least 48 states utilize standardized curricula and certification
23 protocols for peer support services.

24 (d) The federal Centers for Medicare and Medicaid Services
25 (CMS) recognizes that the experiences of peer support specialists,
26 as part of an evidence-based model of care, can be an important
27 component in a state's delivery of effective mental health and
28 substance use disorder treatment. The CMS encourages states to
29 offer comprehensive programs.

30 (e) A substantial number of research studies demonstrate that
31 peer supports improve client functioning, increase client
32 satisfaction, reduce family burden, alleviate depression and other
33 symptoms, reduce homelessness, reduce hospitalizations and

1 hospital days, increase client activation, and enhance client
 2 self-advocacy.

3 (f) Certification can increase the diversity and effectiveness of
 4 the behavioral health workforce through the use of peers with lived
 5 experience.

6 ~~14045.12.~~

7 *14045.11.* It is the intent of the Legislature that the peer support
 8 specialist certification program, established by the Department of
 9 Consumer Affairs under this article, achieve all of the following:

10 (a) Support the ongoing provision of services for beneficiaries
 11 experiencing mental health care needs, substance use disorder
 12 needs, or both, by certified peer support specialists.

13 (b) Support coaching, linkage, and skill building of beneficiaries
 14 with mental health needs, substance use disorder needs, or both,
 15 and to families or significant support persons.

16 (c) Increase family support by building on the strengths of
 17 families and helping them achieve a better understanding of mental
 18 illness in order to help beneficiaries achieve desired outcomes.

19 (d) Provide part of a continuum of services, in conjunction with
 20 other community mental health services and other substance use
 21 disorder treatment.

22 (e) Collaborate with others providing care or support to the
 23 beneficiary or family.

24 (f) Assist parents, families, and beneficiaries in developing
 25 coping mechanisms and problem-solving skills in order to help
 26 beneficiaries achieve desired outcomes.

27 (g) Promote skill building for beneficiaries in the areas of
 28 socialization, recovery, self-sufficiency, self-advocacy,
 29 development of natural supports, and maintenance of skills learned
 30 in other support services.

31 (h) Encourage employment under the peer support specialist
 32 certification to reflect the culture, ethnicity, sexual orientation,
 33 gender identity, mental health service experiences, and substance
 34 use disorder experiences of the people whom they serve.

35 ~~14045.13.~~

36 *14045.12.* For purposes of this article, the following definitions
 37 shall apply:

38 (a) “Certification” means the activities of the certifying body
 39 related to the verification that an individual has met all of the
 40 requirements under this article and that the individual may provide

1 mental health services and substance use disorder treatment
2 pursuant to this article.

3 (b) “Certified” means all federal and state requirements have
4 been satisfied by an individual who is seeking designation under
5 this article, including completion of curriculum and training
6 requirements, testing, and agreement to uphold and abide by the
7 code of ethics.

8 (c) “Code of ethics” means the standards to which a peer support
9 specialist is required to adhere.

10 (d) *“Core competencies” means the foundational and essential*
11 *knowledge, skills, and abilities required for peer specialists.*

12 (e) *“Cultural competence” means a set of congruent behaviors,*
13 *attitudes, and policies that come together in a system or agency*
14 *that enables that system or agency to work effectively in*
15 *cross-cultural situations. A culturally competent system of care*
16 *acknowledges and incorporates, at all levels, the importance of*
17 *language and culture, intersecting identities, assessment of*
18 *cross-cultural relations, knowledge and acceptance of dynamics*
19 *of cultural differences, expansion of cultural knowledge, and*
20 *adaptation of services to meet culturally unique needs to provide*
21 *services in a culturally competent manner.*

22 (f) *“Department” means the State Department of Health Care*
23 *Services.*

24 (d)

25 (g) “Peer support specialist” means a person who is 18 years of
26 age or older and who is a person who has self-identified as having
27 lived experience with the process of recovery from mental illness,
28 substance use disorder, or both, either as a consumer of these
29 services or as the parent or family member of the consumer.

30 (e)

31 (h) “Peer support specialist services” means culturally competent
32 services that promote engagement, socialization, recovery,
33 self-sufficiency, self-advocacy, development of natural supports,
34 identification of strengths, and maintenance of skills learned in
35 other support services. Peer support specialist services ~~shall~~
36 include, but are not limited to, support, coaching, facilitation, or
37 education to Medi-Cal beneficiaries that is individualized to the
38 beneficiary and is conducted by a certified peer support specialist.

39 (f)

1 (i) “Recovery” means a process of change through which an
2 individual improves their health and wellness, lives a self-directed
3 life, and strives to reach their full potential. This process of change
4 recognizes cultural diversity and inclusion, and honors the different
5 routes to resilience and recovery based on the individual and their
6 cultural community.

7 14045.13. By July 1, 2021, the department shall do all of the
8 following:

9 (a) Establish a certifying body, either through contract or
10 through an interagency agreement, to provide for the certification
11 activities described in this article.

12 (b) Provide for a statewide certification for peer support
13 specialists, as contained in federal guidance in State Medicaid
14 Director Letter No. 07-011, issued by the federal Centers for
15 Medicare and Medicaid Services on August 15, 2007.

16 (c) Define the range of responsibilities, practice guidelines, and
17 supervision standards for peer support specialists by utilizing best
18 practice materials published by the federal Substance Abuse and
19 Mental Health Services Administration, the United States
20 Department of Veterans Affairs, and related notable experts in the
21 field as a basis for development.

22 (d) Determine curriculum and core competencies required for
23 certification of an individual as a peer support specialist, including
24 curriculum that may be offered in areas of specialization,
25 including, but not limited to, transition-age youth, veterans, gender
26 identity, sexual orientation, and any other areas of specialization
27 identified by the department. Core-competencies-based curriculum
28 shall include, at a minimum, training related to all of the following
29 elements:

30 (1) The concepts of hope, recovery, and wellness.

31 (2) The role of advocacy.

32 (3) The role of consumers and family members.

33 (4) Psychiatric rehabilitation skills and service delivery, and
34 addiction recovery principles, including defined practices.

35 (5) Cultural competence training.

36 (6) Trauma-informed care.

37 (7) Group facilitation skills.

38 (8) Self-awareness and self-care.

39 (9) Cooccurring disorders of mental health and substance use.

40 (10) Conflict resolution.

- 1 (11) *Professional boundaries and ethics.*
- 2 (12) *Preparation for employment opportunities, including study*
- 3 *and test-taking skills, application and résumé preparation,*
- 4 *interviewing, and other potential requirements for employment.*
- 5 (13) *Safety and crisis planning.*
- 6 (14) *Navigation of, and referral to, other services.*
- 7 (15) *Documentation skills and standards.*
- 8 (16) *Confidentiality.*
- 9 (e) *Specify training requirements, including*
- 10 *core-competencies-based training and specialized training*
- 11 *necessary to become certified under this article, allowing for*
- 12 *multiple qualified training entities, and requiring training to*
- 13 *include people with lived experience as consumers and family*
- 14 *members.*
- 15 (f) *Establish a code of ethics.*
- 16 (g) *Determine continuing education requirements for biennial*
- 17 *certification renewal.*
- 18 (h) *Determine the process for biennial certification renewal.*
- 19 (i) *Determine a process for investigation of complaints and*
- 20 *corrective action, including suspension and revocation of*
- 21 *certification.*
- 22 (j) *Determine a process for an individual employed as a peer*
- 23 *support specialist on January 1, 2021, to obtain certification under*
- 24 *this article.*
- 25 14045.14. (a) *An applicant for certification under this article*
- 26 *shall meet all of the following requirements:*
- 27 (1) *Be at least 18 years of age.*
- 28 (2) *Possess a high school diploma or equivalent degree.*
- 29 (3) *Be self-identified as having experience with the process of*
- 30 *recovery from mental illness or substance use disorder treatment*
- 31 *either as a consumer of these services or as the parent or family*
- 32 *member of the consumer.*
- 33 (4) *Be willing to share their experience.*
- 34 (5) *Demonstrate leadership and advocacy skills.*
- 35 (6) *Have a strong dedication to recovery.*
- 36 (7) *Agree, in writing, to adhere to a code of ethics.*
- 37 (8) *Successfully complete the curriculum and training*
- 38 *requirements for a peer support specialist.*
- 39 (9) *Pass a certification examination approved by the department*
- 40 *for a peer support specialist.*

1 (b) To maintain certification under this article, a peer support
2 specialist shall meet both of the following requirements:

3 (1) Adhere to the code of ethics and biennially sign an
4 affirmation.

5 (2) Complete any required continuing education, training, and
6 recertification requirements.

7 14045.15. (a) This article does not imply that an individual
8 who is certified pursuant to this article is qualified to, or authorized
9 to, diagnose an illness, prescribe medication, or provide clinical
10 services.

11 (b) This article does not alter the scope of practice for a health
12 care professional or authorize the delivery of health care services
13 in a setting or manner that is not authorized pursuant to the
14 Business and Professions Code or the Health and Safety Code.

15 14045.16. The department shall consult with the Office of
16 Statewide Health Planning and Development, peer support and
17 family organizations, mental health services and substance use
18 disorder treatment providers and organizations, the County
19 Behavioral Health Directors Association of California, and the
20 California Behavioral Health Planning Council in implementing
21 this article. Consultation shall include, at a minimum, quarterly
22 stakeholder meetings. The department may additionally conduct
23 technical workgroups upon the request of stakeholders.

24 14045.17. To facilitate early intervention for mental health
25 services, community health workers may partner with peer support
26 specialists to improve linkage to services for beneficiaries.

27 ~~14045.19.~~

28 ~~14045.18.~~ (a) ~~The State Department of Health Care Services~~
29 ~~department~~ shall amend its Medicaid state plan to do both of the
30 following:

31 (1) Include a peer support specialist certified pursuant to this
32 article as a provider type for purposes of this chapter.

33 (2) Include peer support specialist services as a distinct service
34 type for purposes of this chapter, which may be provided to eligible
35 Medi-Cal beneficiaries who are enrolled in either a Medi-Cal
36 managed care plan or a mental health plan.

37 (b) ~~The State Department of Health Care Services~~ *department*
38 may seek any federal waivers or other state plan amendments as
39 necessary to implement the certification program provided for
40 under this article.

1 ~~14045.21.~~

2 *14045.19.* Medi-Cal reimbursement for peer support specialist
3 services shall be implemented only if, and to the extent that, federal
4 financial participation under Title XIX of the federal Social
5 Security Act (42 U.S.C. Sec. 1396 et seq.) is available and all
6 necessary federal approvals have been obtained.

7 ~~14045.23.~~

8 *14045.20.* For the purpose of implementing this article, the
9 ~~State Department of Health Care Services~~ *department* may enter
10 into exclusive or nonexclusive contracts on a bid or negotiated
11 basis, including contracts for the purpose of obtaining subject
12 matter expertise or other technical assistance.

13 ~~14045.24.~~

14 *14045.21.* Notwithstanding Chapter 3.5 (commencing with
15 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
16 Code, the ~~State Department of Health Care Services~~ *department*
17 may implement, interpret, or make specific Section 14045.19 by
18 means of informal notices, plan letters, plan or provider bulletins,
19 or similar instructions, without taking regulatory action, until the
20 time regulations are adopted. The ~~State Department of Health Care~~
21 ~~Services~~ *department* shall adopt regulations by ~~July 1, 2021,~~
22 *January 1, 2022*, in accordance with the requirements of Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2 of the Government Code. ~~Commencing July 1, 2021, the~~
25 ~~State Department of Health Care Services shall provide semiannual~~
26 ~~status reports to the Legislature, in compliance with Section 9795~~
27 ~~of the Government Code, until regulations have been adopted.~~

28 *14045.22.* *Subject to an express appropriation in the annual*
29 *Budget Act, and to the extent authorized by the Mental Health*
30 *Services Act pursuant to subdivision (d) of Section 5892, the*
31 *department may fund state administrative costs related to*
32 *developing and administering the Peer Support Certification*
33 *Program, as described under Section 14045.13. To the extent*
34 *permissible, those funds shall be available for purposes of claiming*
35 *federal financial participation under Title XIX of the federal Social*
36 *Security Act (42 U.S.C. Sec. 1396 et seq.).*

37 *SEC. 3. Section 14045.22 of the Welfare and Institutions Code,*
38 *as added by Section 2 of this measure, does not constitute a change*
39 *in the Mental Health Services Act, but is a clarification of a funding*

1 *purpose under existing law that is consistent with the intent of the*
2 *act.*

O

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 855

VERSION: AMENDED MAY 19, 2020

AUTHOR: WIENER

SPONSOR:

- THE KENNEDY FORUM
- STEINBERG INSTITUTE

RECOMMENDED POSITION: NONE

SUBJECT: HEALTH COVERAGE: MENTAL HEALTH OR SUBSTANCE ABUSE DISORDERS

Summary: This bill expands California’s 1999 Mental Health Parity Act. That act required health plans and insurers to provide coverage for the diagnosis and medically necessary treatment of severe mental illness (for persons of any age), and for serious emotional disturbances of a child under the same terms and conditions applied to other medical conditions. Instead, this bill requires health plans and insurers to cover all medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions.

Existing Law:

- 1) Requires every health care service plan or disability insurance policy that provides hospital, medical or surgical coverage to also provide coverage for the diagnosis and medically necessary treatment of severe mental illness (for persons of any age), and for serious emotional disturbances of a child under the same terms and conditions applied to other medical conditions. (Health and Safety Code (HSC) §1374.72(a), Insurance Code (IC) §10144.5(a))
- 2) Requires the covered benefits to include outpatient services, inpatient hospital services, partial hospital services, and prescription drugs (if the plan includes prescription drug coverage). (HSC §1374.72(b), IC §10144.5(b))
- 3) Requires the terms and conditions for benefits that must be applied equally include maximum lifetime benefits, copayments/coinsurance, and individual and family deductibles. (HSC §1374.72(c), IC §10144.5(c))
- 4) Defines “severe mental illness” as including schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorders, panic disorder, obsessive compulsive disorder, pervasive developmental disorder or autism, anorexia nervosa, and bulimia nervosa. (HSC §1374.72(d), IC §10144.5(d))
- 5) Defines “serious emotional disturbances of a child” as meeting both of the following (HSC §1374.72(e), IC §10144.5(e)):

- a) The child has one or more mental disorders as identified in the most recent Diagnostic and Statistical Manual of Mental Disorders (other than a primary substance use disorder or developmental disorder) that result in inappropriate behavior to the child's age according to expected developmental norms; and
- b) The child meets the criteria specified in Welfare and Institutions Code (WIC) §5600.3(a)(2) as follows:
 - The child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either the child is at risk of removal from home or has already been removed from the home, or the mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment; and/or
 - The child displays psychotic features, risk of suicide, and/or risk of violence due to a mental disorder; and/or
 - The child has been assessed and determined to have an emotional disturbance, as defined in specified sections of the Education code or Federal regulations.
- 6) Exempts certain Medi-Cal plans from the above requirements. Also exempts accident only, specified disease, hospital indemnity, Medicare supplement, dental only or vision only insurance policies from the requirements. (HSC §1374.72(f), IC §10144.5(g))
- 7) Allows a plan to comply with the above requirements by providing coverage for all or part of the required mental health services through a separate specialized health care service plan or mental health plan. (HSC §1374.72(g)(1), IC §10144.5(f)(1))
- 8) Requires a plan or insurer to provide the required mental health coverage in its entire service area and in emergency situations as required in law and regulations. However, if they provide benefits through preferred provider contract arrangements, they may require enrollees who live or work in geographic areas to secure all or part of their mental health services within those geographic areas. (HSC §1374.72(g)(2), IC §10144.5(f)(2))
- 9) Permits a health care service plan or disability insurer to utilize specified tools such as case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing. (HSC §1374.72(g)(3), IC §10144.5(f)(3))

10) The Pall Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), known as MHPAEA, is a federal law that requires group health plans that offer mental health or substance use disorder benefits to ensure financial requirements (i.e. copays and deductibles) and treatment limitations (i.e. visit limits) for mental health or substance use disorders are not more restrictive than the requirements on all other covered medical benefits. The federal MHPAEA applies to insurance plans with more than 50 employees.

This Bill:

- 1) States that any provision in a health care service plan that reserves discretionary authority to the plan to determine eligibility for benefits/coverage, to interpret terms of the contract, or provide standards of interpretation or review that are inconsistent with California law is void and unenforceable. This applies to plans offered, issued, delivered, amended, or renewed on or after January 1, 2021. (HSC §1367.045(a))
- 2) Defines “discretionary authority” as a contract provision that confers discretion on a health plan or other claims administrator to determine entitlement to benefits or interpret contract language that could lead to a deferential standard of review by a reviewing court. (HSC §1367.045(b))
- 3) States that a health care service plan is not prohibited from including a provision in a contract that informs an enrollee that the plan applies the terms of its contracts for making decisions, including determinations regarding eligibility, receipt of benefits and claims, or explaining policies, procedures and processes, as long as the provision could not give rise to a deferential standard of review by a reviewing court. (HSC §1367.045(c))
- 4) Requires every health care service plan contract or disability insurance policy issued, amended or renewed on or after January 1, 2021 to also provide coverage for medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions. (Health and Safety Code (HSC) §1374.72(a)(1), Insurance Code (IC) §10144.5(a)(1))
- 5) States that “mental health and substance use disorders” means a mental health condition or substance use disorder that falls under any of the diagnostic categories listed in the mental and behavioral disorders chapter of the most recent edition of the World Health Organization’s International Statistical Classification of Diseases and Related Health Problems, or listed in the most recent version of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders. (HSC §1374.72(a)(2), IC §10144.5(a)(2))
- 6) States that “medically necessary treatment of a mental health or substance use disorder” means a service or product prescribed, ordered or provided by a treating physician or other health care provider for the patient’s specific needs, for the purpose of preventing, diagnosing, or treating an illness, injury, condition, or its

symptoms - including minimizing its progression – in a manner that is all of the following (HSC §1374.72((a)(3), IC §10144.5(a)(3)):

- a) In accordance with generally accepted standards of practice;
- b) Clinically appropriate in terms of type, frequency, extent, site, and duration; and
- c) Not primarily for the economic benefit of the health care service plan or disability insurance policy and its subscribers/insureds or for the convenience of the patient, treating physician, or other health care provider.

7) Defines a “health care provider” as any of the following (HSC §1374.72(a)(4), IC §10144.5(a)(4)):

- a) A person licensed under Division 2 of the Business and Professions Code. (This includes LMFTs and AMFTs, LEPs, LCSWs and ASWs, and LPCCs and APCCs.)
- b) An AMFT or marriage and family therapist trainee functioning pursuant to BPC §4980.43.3.
- c) A qualified autism service provider or professional certified by a national entity pursuant to HSC §1374.73 and IC §10144.51.

8) Prohibits a health care service plan or disability insurer from limiting benefits or coverage for mental health and substance use disorders to short term or acute treatment. (HSC §1374.72(a)(5), IC §10144.5(a)(5))

9) Requires all medical necessity determinations by the health care service plan or disability insurer concerning the following for enrollees/insureds diagnosed with mental health and substance use disorders to be conducted in accordance with the requirements specified in HSC 1374.75 and 10144.52. (HSC §1374.72(a)(6), IC: §10144.5(a)(6))

- a) Service intensity;
- b) Level of care placement;
- c) Continued stay; and
- d) Transfer or discharge of enrollees/insureds

10) Prohibits a health care service plan or disability insurer that authorizes a specific type of treatment from rescinding or modifying the authorization after care is rendered for any reason. (HSC §1374.72(a)(7), IC §10144.5(a)(7))

- 11)** Requires the covered benefits to include basic health care services, intermediate services (including residential treatment, partial hospitalization, and intensive outpatient treatment), and prescription drugs (if the plan includes coverage for prescription drugs). (HSC §1374.72(b), IC §10144.5(b))
- 12)** Requires the terms and conditions for benefits that must be applied equally include maximum and annual lifetime benefits, copayments and coinsurance, individual and family deductibles, and out-of-pocket maximums. (HSC §1374.72(c), IC §10144.5(c))
- 13)** Requires the health care service plan or disability insurer to cover out-of-network services if the medically necessary services are not available in-network within geographic and timeliness standards. The enrollee or insured shall pay no more than the same cost-sharing that they would pay for the same services received in-network. (HSC §1374.72(d), IC §10144.5(d))
- 14)** Exempts certain Medi-Cal plans from the above requirements. Also exempts accident only, specified disease, hospital indemnity, Medicare supplement, dental only or vision only insurance plans/policies from the requirements. (HSC §1374.72(e), IC §10144.5(e))
- 15)** Allows a plan or insurer to comply with the above requirements by providing coverage for all or part of the required mental health and substance use disorder services through a separate specialized health care service plan or health insurance policy or mental health plan or policy. (HSC §1374.72(f)(1), IC §10144.5(f)(1))
- 16)** Requires a plan or disability insurer to provide the required mental health and substance use disorder coverage in its entire service area and in emergency situations as required in law and regulations. However, if they provide benefits through preferred provider contract arrangements, they may require enrollees who live or work in geographic areas to secure all or part of their mental health services within those geographic areas, if the appropriate mental health or substance use disorder services are available in those geographic areas within timeliness standards. (HSC §1374.72(f)(2), IC §10144.5(f)(2))
- 17)** Permits a health care service plan or disability insurer to utilize specified tools such as case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing. (HSC §1374.72(f)(3), IC §10144.5(f)(3))
- 18)** Prohibits a health care service plan or disability insurer from limiting benefits or coverage for medically necessary services on the basis that it should or could be covered by a public entitlement program. (HSC §1374.72(h), IC §10144.5(h))
- 19)** Requires health care service plans and disability insurers that that provide hospital, medical or surgical coverage, to base medical necessity determinations or utilization review criteria on current generally accepted standards of medical and behavioral

health care practice. These are defined as evidence-based and must be generally accepted by health care providers practicing in relevant clinical specialties, including the following (HSC §1374.75(a), IC §10144.52(a)):

- a) Peer reviewed scientific studies and medical literature;
- b) Clinical practice guidelines/recommendations of health care provider professional associations;
- c) Specialty societies and federal government agencies;
- d) Drug labelling approved by the U.S. Food and Drug Administration.

20) Sets specific standards and requirements for conducting utilization review. (HSC §1374.75(b)-(e), IC §10144.52(b)-(e)):

21) Defines “generally accepted standards of medical and behavioral health care practice” as those that are generally recognized by health care providers practicing in relevant clinical specialties such as psychiatry, psychology, clinical sociology, and addiction medicine and counseling. (HSC §1374.75(f), IC §10144.52(f))

Comments:

1) Author’s Intent. The author’s office provided the following statement for the Legislature’s analysis of this bill:

“California should require insurers to cover all medically necessary mental health and addiction treatment. It is unacceptable that insured individuals cannot access the health services they desperately need. Currently, California law only requires commercial health plans to cover all medically necessary treatment for a limited number of mental health (but no substance use) disorders. By updating the California Mental Health Parity Act, we can treat mental health and substance use disorders early on – combating overdose deaths, suicides, and saving lives. It is time to update the California Mental Health Parity Act to cover all mental health and substance use disorders. Additionally, for covered mental health and substance use services, insurers should be required to evaluate medical necessity (e.g., the appropriate level of care) using criteria that are fully consistent with generally accepted standards of mental health and addiction care.”

2) Definition of “Health Care Provider.” HSC section 1374.72(a)(4) and IC section 10144.5(a)(4) specifically include associate marriage and family therapists and marriage and family therapist trainees in the definition of a “health care provider” for purposes of the bill.

If marriage and family therapist associates and trainees are going to be specifically included, then for parity purposes the Board may also wish to discuss requesting that the author include associate clinical social workers, social work interns, associate professional clinical counselors, and clinical counselor trainees in the definition.

3) Previous Legislation. AB 88 (Chapter 534, Statutes of 1999) required health plans and insurers to provide coverage for the diagnosis and medically necessary treatment of severe mental illness (for persons of any age), and for serious emotional disturbances of a child under the same terms and conditions applied to other medical conditions.

Support and Opposition.

Support

- Steinberg Institute (Co-Sponsor)
- The Kennedy Forum (Co-Sponsor)
- Alkermes
- American Foundation for Suicide Prevention
- Anaheim Lighthouse California
- California Access Coalition
- California Alliance of Child and Family Services
- California Association of Local Behavioral Health Boards and Commissions
- California Association of Marriage and Family Therapists
- California Association of Veteran Service Agencies
- California Consortium of Addiction Programs and Professionals
- California Council of Community Behavioral Health Agencies
- California Psychiatric Association
- California Psychological Association
- California State PTA
- Children Now
- Congress of California Seniors
- County of Los Angeles
- Crestwood Behavioral Health Inc.
- Depression and Bipolar Support Alliance
- Drug Policy Alliance
- GLIDE
- Health Access California (Support if Amended)
- Kennedy Forum
- Latina Coalition for A Healthy California
- Mental Health & Autism Insurance Project
- National Alliance on Mental Illness- (NAMI-California)
- National Center for Youth Law
- National Health Law Program
- Orange County Recovery Collaboration

Oppose

- Association of California Life and Health Insurance Companies
- California Association of Health Plans
- Chamber of Commerce

History

2020

05/19/20 Read second time and amended. Re-referred to Com. on APPR.
05/18/20 From committee: Do pass as amended and re-refer to Com. on APPR.
(Ayes 7. Noes 2.) (May 13).
05/12/20 Referral to Com. on JUD. rescinded due to the shortened 2020 Legislative
Calendar.
05/11/20 Set for hearing May 13.
05/05/20 From committee with author's amendments. Read second time and
amended. Re-referred to Com. on HEALTH.
01/22/20 Referred to Coms. on HEALTH and JUD.
01/15/20 From printer. May be acted upon on or after February 14.
01/14/20 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE MAY 19, 2020

AMENDED IN SENATE MAY 5, 2020

SENATE BILL

No. 855

**Introduced by Senator Wiener
(Principal coauthor: Senator Beall)**

(Principal coauthors: Assembly Members Aguiar-Curry and Chiu)

(Coauthors: ~~Senators Glazer and Hill~~ *Glazer, Hill, and Hurtado*)

(Coauthors: Assembly Members Maienschein and Wicks)

January 14, 2020

An act to add Sections 1367.045 and 1374.75 to, and to repeal and add Section 1374.72 of, the Health and Safety Code, and to add Section 10144.52 to, and to repeal and add Section 10144.5 of, the Insurance Code, relating to health coverage.

legislative counsel's digest

SB 855, as amended, Wiener. Health coverage: mental health or substance abuse disorders.

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 disability insurers by the Department of Insurance.

Existing law, known as the California Mental Health Parity Act, requires every health care service plan contract or disability insurance policy issued, amended, or renewed on or after July 1, 2000, that provides hospital, medical, or surgical coverage to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and of serious emotional disturbances of a child under the same terms and conditions applied to other medical

conditions, as specified. Existing law requires those benefits to include, among other things, outpatient services, inpatient hospital services, partial hospital services, and prescription drugs, if the plan contract or policy includes coverage for prescription drugs.

This bill would revise and recast those provisions, and would instead require a health care service plan contract or disability insurance policy issued, amended, or renewed on or after January 1, 2021, to provide coverage for medically necessary treatment of mental health and substance use disorders, as defined, under the same terms and conditions applied to other medical conditions. The bill would prohibit a health care service plan or disability insurer from limiting benefits or coverage for mental health and substance use disorders to short-term or acute treatment. The bill would revise the covered benefits to include basic health care services, as defined, intermediate services, and prescription drugs.

~~This bill would authorize certain individuals or entities to pursue a civil action against a health care service plan or disability insurer for a violation of the above described provisions either independently or through a class action lawsuit, and would authorize the imposition of penalties in a civil action under these provisions, including attorney's fees. The bill would require a health care service plan or disability insurer that provides hospital, medical, or surgical coverage to base medical necessity determinations and the utilization review criteria the plan or insurer, and any entity acting on the plan's or insurer's behalf, applies to determine the medical necessity of health care services and benefits for the diagnosis, prevention, and treatment of mental health and substance use disorders, on current generally accepted standards of medical and behavioral health care practice. The bill would require the health care service plan or insurer to apply specified clinical criteria and guidelines in conducting utilization review of the covered health care services and benefits and would prohibit the plan or insurer from applying different, additional, or conflicting criteria than the criteria and guidelines in the specified sources. The bill would authorize the Director of the Department of Managed Health Care or the Insurance Commissioner, as applicable, to assess administrative penalties for violation of the requirements relating to utilization review. The bill would also authorize certain individuals or entities to pursue a civil cause of action against a health care service plan or disability insurer for a violation of those requirements, as specified. The bill would make any provision in a health care service plan issued, delivered, amended,~~

or renewed on or after January 1, 2021, that reserves discretionary authority to the plan, or an agent of the plan, to determine eligibility for benefits or coverage, interprets the terms of the contract, or provides standards of interpretation or review that are inconsistent with California law, void and unenforceable, as specified. The bill would declare that its provisions are severable.

Because a willful violation of these requirements with respect to health care service plans would be a crime, this 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.

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) The California Mental Health Parity Act (Section 1374.72
4 of the Health and Safety Code and Section 10144.5 of the Insurance
5 Code) was enacted in 1999 to require coverage of all diagnosis
6 and medically necessary treatment of nine listed severe mental
7 illnesses, as well as serious emotional disturbances of a child.
8 However, this list of nine severe mental illnesses is not only
9 incomplete and out-of-date, but also fails to encompass the range
10 of mental health and substance use disorders whose complex
11 interactions are contributing to overdose deaths from opioids and
12 methamphetamines, the increase in suicides, and other so-called
13 deaths of despair.

14 (b) Following the California Mental Health Parity Act, the
15 federal Paul Wellstone and Pete Domenici Mental Health Parity
16 and Addiction Equity Act of 2008 put in place even more robust
17 mental health parity protections, which also applied to substance
18 use disorders, making the most important provision of the
19 California Mental Health Parity Act its coverage requirement for
20 medically necessary treatment for severe mental illnesses and
21 serious emotional disturbances of a child.

1 (c) The federal Affordable Care Act (ACA) includes mental
2 health and addiction coverage as one of the 10 essential health
3 benefits, but it does not contain a definition for medical necessity,
4 and despite the ACA, needed mental health and addiction coverage
5 can be denied through overly restrictive medical necessity
6 determinations.

7 (d) With one in five adults in the United States experiencing a
8 mental health disorder and 1 in 13 individuals 12 years of age or
9 older experiencing a substance use disorder, it is critical for the
10 California Mental Health Parity Act to be expanded to apply to all
11 mental health and substance use disorders, as defined by
12 preeminent national and international bodies. ~~Exclusion of~~
13 ~~substance use disorders and many mental health conditions from~~
14 ~~the scope of the California Mental Health Parity Act is inconsistent~~
15 ~~with the ACA's prohibition against benefit designs that~~
16 ~~discriminate based on an individual's expected length of life,~~
17 ~~present or predicted disability, degree of medical dependency,~~
18 ~~quality of life, or other health conditions. Expanding the California~~
19 ~~Mental Health Parity Act to apply to all mental health conditions~~
20 ~~and substance use disorders will resolve this inconsistency with~~
21 ~~the ACA.~~

22 (e) The conditions currently listed in the California Mental
23 Health Parity Act, including autism, are all included in the broader
24 definition of mental health and substance use disorders.

25 ~~(f) If the California Mental Health Parity Act is so expanded,~~
26 ~~coverage of medically necessary treatment would increase for the~~
27 ~~fewer than one-half of adults with a mental health disorder who~~
28 ~~now receive treatment and the fewer than 1 in 10 individuals 12~~
29 ~~years of age or older with a substance use disorder who now receive~~
30 ~~treatment.~~

31 ~~(g)~~

32 (f) When medically necessary mental health and substance use
33 disorder care is not covered, individuals with mental health and
34 substance use disorders often have their conditions worsen, ending
35 up on Medicaid, in the criminal justice system, or on the streets,
36 resulting in harm to individuals and communities, and higher costs
37 to taxpayers.

38 ~~(h)~~

39 (g) In 2016, approximately 6,000,000 veterans in the United
40 States had private health care coverage, making it critical to ensure

1 that the veterans' private health plans cover all medically necessary
2 treatment for the invisible wounds of war.

3 ~~(i)~~

4 *(h)* Expansion of the California Mental Health Parity Act will
5 help address the following manifestations of the ongoing mental
6 health and addiction crises in California:

7 (1) Between 2012 and 2017, California's rate of fatal overdoses
8 for all opioids increased 22 percent, while fatal overdose rates
9 increased 85 percent for heroin and 425 percent for fentanyl.

10 (2) Suicide rates in California increased by 14.8 percent between
11 1999 and 2016, with the suicide rate from 1991 to 2017, inclusive,
12 for children 10 to 14 years of age, inclusive, increasing by 225
13 percent.

14 (3) Thirty-seven percent of students with a mental health
15 condition 14 years of age and older drop out of school, and mental
16 illness has the highest dropout rate of any disability group.

17 (4) The correlation between untreated mental illness, substance
18 use disorders, and incarceration is substantial, as three in four
19 individuals in jail have been diagnosed with both a mental illness
20 and a substance use disorder.

21 (5) Untreated mental health and substance use disorders are an
22 enormous problem with incarcerated youth, with 70 percent of
23 youth arrested each year having a mental health disorder.

24 (6) As many as one-third of the 130,000 individuals who are
25 homeless living on the streets in California have a mental health
26 condition.

27 ~~(j)~~

28 *(i)* In two court decisions, *Harlick v. Blue Shield of California*,
29 686 F.3d 699 (9th Cir. 2011), cert. denied, 133 S.Ct. 1492 (2013),
30 and *Rea v. Blue Shield of California*, 226 Cal.App.4th 1209, 1227
31 (2014), the California Mental Health Parity Act was interpreted
32 to require coverage of medically necessary residential treatment.

33 ~~(k)~~

34 *(j)* Coverage of intermediate levels of care such as residential
35 treatment, which are essential components of the level of care
36 continuum called for by nonprofit, and clinical specialty
37 associations such as the American Society of Addiction Medicine
38 (ASAM), are often denied through overly restrictive medical
39 necessity determinations.

40 ~~(l)~~

1 (k) In March 2019, the United States District Court of the
2 Northern District of California ruled in *Wit v. United Behavioral*
3 *Health*, 2019 WL 1033730 (Wit; N.D.CA Mar. 5, 2019), that
4 United Behavioral Health created flawed level of care placement
5 criteria that were inconsistent with generally accepted standards
6 of mental health and substance use disorder care in order to
7 “mitigate” the requirements of the federal Mental Health Parity
8 and Addiction Equity Act of 2008.

9 ~~(m)~~

10 (l) As described by the federal court in *Wit*, the eight generally
11 accepted standards of mental health and substance use disorder
12 care require all of the following:

13 (1) Effective treatment of underlying conditions, rather than
14 mere amelioration of current symptoms, such as suicidality or
15 psychosis.

16 (2) Treatment of cooccurring behavioral health disorders or
17 medical conditions in a coordinated manner.

18 (3) Treatment at the least intensive and restrictive level of care
19 that is safe and effective; a lower level or less intensive care is
20 appropriate only if it safe and just as effective as treatment at a
21 higher level or service intensity.

22 (4) Erring on the side of caution, by placing patients in higher
23 levels of care when there is ambiguity as to the appropriate level
24 of care, or when the recommended level of care is not available.

25 (5) Treatment to maintain functioning or prevent deterioration.

26 (6) Treatment of mental health and substance use disorders for
27 an appropriate duration based on individual patient needs rather
28 than on specific time limits.

29 (7) Accounting for the unique needs of children and adolescents
30 when making level of care decisions.

31 (8) Applying multidimensional assessments of patient needs
32 when making determinations regarding the appropriate level of
33 care.

34 ~~(n)~~

35 (m) The court in *Wit* found that all parties’ expert witnesses
36 regarded the ASAM criteria for substance use disorders and Level
37 of Care Utilization System, Child and Adolescent Level of Care
38 Utilization System, Child and Adolescent Service Intensity
39 Instrument, and Early Childhood Service Intensity Instrument
40 (LOCUS/CALOCUS and CASII/ECSII) criteria for mental health

1 disorders as prime examples of level of care criteria that are fully
2 consistent with generally accepted standards of mental health and
3 substance use care.

4 SEC. 2. Section 1367.045 is added to the Health and Safety
5 Code, to read:

6 1367.045. (a) If a health care service plan contract offered,
7 issued, delivered, amended, or renewed on or after January 1, 2021,
8 contains a provision that reserves discretionary authority to the
9 plan, or an agent of the plan, to determine eligibility for benefits
10 or coverage, to interpret the terms of the contract, or to provide
11 standards of interpretation or review that are inconsistent with the
12 laws of this state, that provision is void and unenforceable.

13 (b) For purposes of this section, the term “discretionary
14 authority” means a contract provision that has the effect of
15 conferring discretion on a health care service plan or other claims
16 administrator to determine entitlement to benefits or interpret
17 contract language that, in turn, could lead to a deferential standard
18 of review by a reviewing court.

19 (c) This section does not prohibit a health care service plan from
20 including a provision in a contract that informs an enrollee that,
21 as part of its routine operations, the plan applies the terms of its
22 contracts for making decisions, including making determinations
23 regarding eligibility, receipt of benefits and claims, or explaining
24 policies, procedures, and processes, so long as the provision could
25 not give rise to a deferential standard of review by a reviewing
26 court.

27 (d) This section applies to both group and individual health care
28 service plan contracts.

29 SEC. 3. Section 1374.72 of the Health and Safety Code is
30 repealed.

31 SEC. 4. Section 1374.72 is added to the Health and Safety
32 Code, to read:

33 1374.72. (a) (1) Every health care service plan contract issued,
34 amended, or renewed on or after January 1, 2021, shall provide
35 coverage for medically necessary treatment of mental health and
36 substance use disorders, under the same terms and conditions
37 applied to other medical conditions as specified in subdivision (c).

38 (2) For purposes of this section, “mental health and substance
39 use disorders” means a mental health condition or substance use
40 disorder that falls under any of the diagnostic categories listed in

1 the mental and behavioral disorders chapter of the most recent
 2 edition of the International Classification of Diseases or that is
 3 listed in the most recent version of the Diagnostic and Statistical
 4 Manual of Mental Disorders. Changes in terminology, organization,
 5 or classification of mental health and substance use disorders in
 6 future versions of the American Psychiatric Association’s
 7 Diagnostic and Statistical Manual of Mental Disorders or the World
 8 Health Organization’s International Statistical Classification of
 9 Diseases and Related Health Problems shall not affect the
 10 conditions covered by this section as long as a condition is
 11 commonly understood to be a substance use disorder or mental
 12 and behavioral health condition by health care providers practicing
 13 in relevant clinical specialties.

14 (3) For purposes of this section, “medically necessary treatment
 15 of a mental health or substance use disorder” means a service or
 16 product ~~that a prudent physician or other health care provider~~
 17 ~~would provide to a patient,~~ *prescribed, ordered, or provided by a*
 18 *treating physician or other health care provider* for the specific
 19 needs of that patient, for the purpose of preventing, diagnosing,
 20 or treating an illness, injury, condition, or its symptoms, including
 21 minimizing the progression of that illness, injury, condition, or its
 22 symptoms, in a manner that is all of the following:

23 (A) In accordance with the generally accepted standards of
 24 practice.

25 (B) Clinically appropriate in terms of type, frequency, extent,
 26 site, and duration.

27 (C) Not primarily for the economic benefit of the health care
 28 service plan and subscribers or for the convenience of the patient,
 29 treating physician, or other health care provider.

30 (4) *For purposes of this section, “health care provider” means*
 31 *any of the following:*

32 (A) *A person who is licensed under Division 2 (commencing*
 33 *with Section 500) of the Business and Professions Code.*

34 (B) *An associate marriage and family therapist or marriage*
 35 *and family therapist trainee functioning pursuant to Section*
 36 *4980.43.3 of the Business and Professions Code.*

37 (C) *A qualified autism service provider or qualified autism*
 38 *service professional certified by a national entity pursuant to*
 39 *Section 10144.51 of the Insurance Code and Section 1374.73.*

40 (4)

1 (5) A health care service plan shall not limit benefits or coverage
2 for mental health and substance use disorders to short-term or acute
3 treatment.

4 ~~(5)~~

5 (6) All medical necessity determinations by the health care
6 service plan concerning service intensity, level of care placement,
7 continued stay, and transfer or discharge of enrollees diagnosed
8 with mental health and substance use disorders shall be conducted
9 in accordance with the requirements of Section 1374.75. This
10 paragraph does not deprive an enrollee of the other protections of
11 this article, including, but not limited to, grievances, appeals,
12 independent medical review, discharge, transfer, and continuity
13 of care.

14 ~~(6)~~

15 (7) A health care service plan that authorizes a specific type of
16 treatment by a provider pursuant to this section shall not rescind
17 or modify the authorization after the provider renders the health
18 care service in good faith and pursuant to this authorization for
19 any reason, including, but not limited to, the plan's subsequent
20 rescission, cancellation, or modification of the enrollee's or
21 subscriber's contract, or the plan's subsequent determination that
22 it did not make an accurate determination of the enrollee's or
23 subscriber's eligibility. This section shall not be construed to
24 expand or alter the benefits available to the enrollee or subscriber
25 under a plan.

26 (b) These benefits shall include, but not be limited to, the
27 following:

28 (1) Basic health care services, as defined in subdivision (b) of
29 Section 1345.

30 (2) Intermediate services, including the full range of levels of
31 care, including, but not limited to, residential treatment, partial
32 hospitalization, and intensive outpatient treatment.

33 (3) Prescription drugs, if the plan contract includes coverage
34 for prescription drugs.

35 (c) The terms and conditions applied to the benefits required
36 by this section, that shall be applied equally to all benefits under
37 the plan contract, shall include, but not be limited to, all of the
38 following patient financial responsibilities:

39 (1) Maximum annual and lifetime benefits, if not prohibited by
40 applicable law.

- 1 (2) Copayments and coinsurance.
 2 (3) Individual and family deductibles.
 3 (4) Out-of-pocket maximums.

4 (d) If any of the medically necessary services enumerated in
 5 subdivision (b) are not available in network within the geographic
 6 and timeliness standards set by law or regulation, the health care
 7 service plan shall immediately cover out-of-network services,
 8 whether secured by the patient or the health care service plan, at
 9 ~~an in-network benefit level.~~ *plan. The enrollee shall pay no more*
 10 *than the same cost-sharing that the enrollee would pay for the*
 11 *same covered services received from an in-network provider. A*
 12 health care service plan shall not interrupt a course of treatment
 13 initiated out of network due to network inadequacy if in-network
 14 services subsequently become available, unless the course of
 15 treatment exceeds 24 months and the plan is able to demonstrate,
 16 to the satisfaction of the department, that care may be safely and
 17 appropriately transitioned to an in-network provider.

18 (e) (1) This section shall not apply to contracts entered into
 19 pursuant to Chapter 7 (commencing with Section 14000) or Chapter
 20 8 (commencing with Section 14200) of Part 3 of Division 9 of the
 21 Welfare and Institutions Code, between the State Department of
 22 Health Care Services and a health care service plan for enrolled
 23 Medi-Cal beneficiaries.

24 (2) *This section does not apply to specialized health care service*
 25 *plans that provide only dental or vision services.*

26 (f) (1) For the purpose of compliance with this section, a health
 27 care service plan may provide coverage for all or part of the mental
 28 health and substance use disorder services required by this section
 29 through a separate specialized health care service plan or mental
 30 health plan, and shall not be required to obtain an additional or
 31 specialized license for this purpose. *This paragraph shall not apply*
 32 *to health care service plans that are subject to Section 1367.005.*

33 (2) A health care service plan shall provide the mental health
 34 and substance use disorder coverage required by this section in its
 35 entire service area and in emergency situations as may be required
 36 by applicable laws and regulations. For purposes of this section,
 37 health care service plan contracts that provide benefits to enrollees
 38 through preferred provider contracting arrangements are not
 39 precluded from requiring enrollees who reside or work in
 40 geographic areas served by specialized health care service plans

1 or mental health plans to secure all or part of their mental health
2 services within those geographic areas served by specialized health
3 care service plans or mental health plans, provided that all
4 appropriate mental health or substance use disorder services are
5 actually available within those geographic service areas within
6 timeliness standards.

7 (3) Notwithstanding any other law, in the provision of benefits
8 required by this section, a health care service plan may utilize case
9 management, network providers, utilization review techniques,
10 prior authorization, copayments, or other cost sharing, provided
11 that these practices are consistent with Section 1374.76 of this
12 code, and Section 2052 of the Business and Professions Code.

13 (g) This section shall not be construed to deny or restrict in any
14 way the department’s authority to ensure plan compliance with
15 this chapter when a health care service plan provides coverage for
16 prescription drugs.

17 (h) A health care service plan shall not limit benefits or coverage
18 for medically necessary services on the basis that those services
19 should be or could be covered by a public entitlement program,
20 including, but not limited to, special education or an individualized
21 education program, Medicaid, Medicare, Supplemental Security
22 Income, or Social Security Disability Insurance, and shall not
23 include or enforce a contract term that excludes otherwise covered
24 benefits on the basis that those services should be or could be
25 covered by a public entitlement program.

26 (i) A health care service plan shall not adopt, impose, or enforce
27 additional terms in its plan contracts or provider agreements, in
28 writing or in operation, that undermine, alter, or conflict with the
29 requirements of this section.

30 ~~(j) (1) An enrollee, subscriber, or in-network or out-of-network
31 provider on behalf of an enrollee or subscriber may bring a civil
32 action in a court of competent jurisdiction individually or on behalf
33 of a class against a health care service plan for a violation of this
34 section or Section 1374.73 or 1374.76.~~

35 ~~(2) The remedies in a civil action brought pursuant to this section
36 include, independent of causation or damages, a
37 five-thousand-dollar (\$5,000) statutory penalty per act or offense,
38 general and special damages, which may be trebled for knowing
39 conduct, injunctive relief, restitution of premium, and attorney’s
40 fees and costs, including expert expenses.~~

1 ~~(3) If a claim is litigated on a class basis, the same act or offense~~
2 ~~shall be counted with respect to each class member.~~

3 ~~(4) An administrative action taken or not taken by the~~
4 ~~department with regard to the health care service plan's conduct~~
5 ~~shall not provide an affirmative defense in the court's consideration~~
6 ~~of the claim. A claimant shall be promptly notified in writing by~~
7 ~~the health care service plan and by the department of any~~
8 ~~administrative action, including the final outcome, against a health~~
9 ~~care service plan as a result of the claimant's complaint.~~

10 SEC. 5. Section 1374.75 is added to the Health and Safety
11 Code, to read:

12 1374.75. (a) A health care service plan shall base any medical
13 necessity determination or the utilization review criteria that the
14 plan, and any entity acting on the plan's behalf, applies to
15 determine the medical necessity of health care services and benefits
16 for the diagnosis, prevention, and treatment of mental health and
17 substance use disorders on current generally accepted standards
18 of medical and behavioral health care practice. Current generally
19 accepted standards of medical and behavioral health care practice
20 are evidence-based sources of standards of care and clinical practice
21 that are generally accepted by health care providers practicing in
22 relevant clinical specialties, including peer-reviewed scientific
23 studies and medical literature, clinical practice guidelines and
24 recommendations of health care provider professional associations,
25 and specialty societies and federal government agencies, and drug
26 labeling approved by the United States Food and Drug
27 Administration.

28 (b) In conducting utilization review of all covered health care
29 services and benefits for the diagnosis, prevention, and treatment
30 of substance use disorders and mental and behavioral health
31 conditions in children, adolescents and adults, a health care service
32 plan shall apply the criteria and guidelines set forth in the most
33 recent versions of treatment criteria developed by the nonprofit
34 professional association for the relevant clinical specialty.

35 (c) In conducting utilization review involving level of care
36 placement decisions or any other patient care decisions that are
37 within the scope of the sources specified in subdivision (b), a health
38 care service plan shall not apply different, additional, conflicting,
39 or more restrictive utilization review criteria than the criteria and
40 guidelines set forth in those sources. This subdivision does not

1 prohibit a health care service plan from applying utilization review
2 criteria to health care services and benefits for substance use
3 disorders and mental and behavioral health conditions that meet
4 either of the following criteria:

5 (1) Are outside the scope of the criteria and guidelines set forth
6 in the sources specified in subdivision (b), provided the utilization
7 review criteria were developed in accordance with subdivision (a).

8 (2) Relate to advancements in technology or types of care that
9 are not covered in the most recent versions of the sources specified
10 in subdivision (b), provided that the utilization review criteria were
11 developed in accordance with subdivision (a).

12 (d) If a health care service plan purchases or licenses utilization
13 review criteria pursuant to paragraph (1) or (2) of subdivision (c),
14 the plan shall verify and document before use that the criteria was
15 developed in accordance with subdivision (a).

16 (e) To ensure the proper use of the criteria described in
17 subdivision (b), every health care service plan shall do all of the
18 following:

19 (1) Sponsor a formal education program by nonprofit clinical
20 specialty associations to educate the health care service plan's
21 staff, including any third parties contracted with the health care
22 service plan to review claims, conduct utilization reviews, or make
23 medical necessity determinations about the clinical review criteria.

24 (2) Make the education program available to other stakeholders,
25 including the health care service plan's participating providers and
26 covered lives. Participating providers shall not be required to
27 participate in the education program.

28 (3) Provide the clinical review criteria and any training material
29 or resources to providers and health care service plan patients.

30 (4) Track, identify, and analyze how the clinical review criteria
31 are used to certify care, deny care, and support the appeals process.

32 (5) Conduct interrater reliability testing to ensure consistency
33 in utilization review decisionmaking covering how medical
34 necessity decisions are made. This assessment shall cover all
35 aspects of utilization review as defined in paragraph (3).

36 (6) Run interrater reliability reports about how the clinical
37 guidelines are used in conjunction with the utilization management
38 process and parity compliance activities.

39 (7) Achieve interrater reliability pass rates of at least 90 percent
40 and, if this threshold is not met, immediately provide for the

1 remediation of poor interrater reliability and interrater reliability
2 testing for all new staff before they can conduct utilization review
3 without supervision.

4 (f) The following definitions apply for purposes of this section:

5 (1) “Generally accepted standards of medical and behavioral
6 health care practice” means standards of care and clinical practice
7 that are generally recognized by health care providers practicing
8 in relevant clinical specialties such as psychiatry, psychology,
9 clinical sociology, and addiction medicine and counseling.

10 (2) “Mental health and substance use disorders” has the same
11 meaning as defined in paragraph (2) of subdivision (a) in Section
12 1374.72.

13 (3) “Utilization review” means either of the following:

14 (A) Prospectively, retrospectively, or concurrently reviewing
15 and approving, modifying, delaying, or denying, based in whole
16 or in part on medical necessity, requests by health care providers,
17 enrollees, or their authorized representatives for coverage of health
18 care services prior to, retrospectively or concurrent with the
19 provision of health care services to enrollees.

20 (B) Evaluating the medical necessity, appropriateness, level of
21 care, service intensity, efficacy, or efficiency of health care
22 services, benefits, procedures, or settings, under any circumstances,
23 to determine whether a health care service or benefit subject to a
24 medical necessity coverage requirement in a health care service
25 plan is covered as medically necessary for an enrollee.

26 (4) “Utilization review criteria” means any criteria, standards,
27 protocols, or guidelines used by a health care service plan to
28 conduct utilization review.

29 (g) Changes in terminology, organization, or classification of
30 substance use disorders or mental and behavioral health conditions
31 in future versions of the American Psychiatric Association’s
32 Diagnostic and Statistical Manual of Mental Disorders or the World
33 Health Organization’s International Statistical Classification of
34 Diseases and Related Health Problems shall not affect the
35 conditions covered by this section as long as a condition is
36 commonly understood to be a substance use disorder or mental
37 and behavioral health condition by health care providers practicing
38 in relevant clinical specialties.

39 (h) This section applies to all health care services and benefits
40 for the diagnosis, prevention, and treatment of substance use

1 disorders and mental and behavioral health conditions covered by
2 a health care service plan contract, including prescription drugs.

3 (i) This section applies to a health care service plan that covers
4 hospital, medical, or surgical expenses and conducts utilization
5 review as defined in this section, and any entity or contracting
6 provider that performs utilization review or utilization management
7 functions on an enrollee's behalf.

8 (j) The director may assess administrative penalties for violations
9 of this section as provided for in Section 1368.04, in addition to
10 any other remedies permitted by law.

11 (k) A health care service plan shall not adopt, impose, or enforce
12 additional terms in its plan contracts or provider agreements, in
13 writing or in operation, that undermine, alter, or conflict with the
14 requirements of this section.

15 ~~(l) (1) An enrollee, subscriber, or in-network or out-of-network~~
16 ~~provider acting on behalf of an enrollee or subscriber may bring~~
17 ~~a civil action in a court of competent jurisdiction, individually or~~
18 ~~on behalf of a class, against a health care service plan for a~~
19 ~~violation of this section.~~

20 ~~(2) The remedies in a civil action brought pursuant to this~~
21 ~~subdivision include, independent of causation or damages, a~~
22 ~~five thousand dollar (\$5,000) statutory penalty per act or offense,~~
23 ~~general and special damages, which may be trebled for knowing~~
24 ~~conduct, injunctive relief, restitution of premium, and attorney's~~
25 ~~fees and costs, including expert expenses.~~

26 ~~(3) If a claim is litigated on a class basis, the same act or offense~~
27 ~~shall be counted with respect to each class member.~~

28 ~~(4) An administrative action taken or not taken by the~~
29 ~~department with regard to the health care service plan's conduct~~
30 ~~shall not provide an affirmative defense in the court's consideration~~
31 ~~of the claim. A claimant shall be notified promptly, in writing, by~~
32 ~~the health care service plan and by the department, of any~~
33 ~~administrative action, including the final outcome, against a health~~
34 ~~care service plan as a result of the claimant's complaint.~~

35 ~~(m)~~

36 ~~(l) (1) This section shall not apply to contracts entered into~~
37 ~~pursuant to Chapter 7 (commencing with Section 14000) or Chapter~~
38 ~~8 (commencing with Section 14200) of Part 3 of Division 9 of the~~
39 ~~Welfare and Institutions Code, between the State Department of~~

1 Health Care Services and a health care service plan for enrolled
2 Medi-Cal beneficiaries.

3 (2) *This section does not apply to specialized health care service*
4 *plans that provide only dental or vision services.*

5 SEC. 6. Section 10144.5 of the Insurance Code is repealed.

6 SEC. 7. Section 10144.5 is added to the Insurance Code, to
7 read:

8 10144.5. (a) (1) Every disability insurance policy issued,
9 amended, or renewed on or after January 1, 2021, that provides
10 hospital, medical, or surgical coverage shall provide coverage for
11 medically necessary treatment of mental health and substance use
12 disorders, under the same terms and conditions applied to other
13 medical conditions as specified in subdivision (c).

14 (2) For purposes of this section, “mental health and substance
15 use disorders” means a mental health condition or substance use
16 disorder that falls under any of the diagnostic categories listed in
17 the mental and behavioral disorders chapter of the most recent
18 edition of the World Health Organization’s International Statistical
19 Classification of Diseases and Related Health Problems, or that is
20 listed in the most recent version of the American Psychiatric
21 Association’s Diagnostic and Statistical Manual of Mental
22 Disorders. Changes in terminology, organization, or classification
23 of mental health and substance use disorders in future versions of
24 the American Psychiatric Association’s Diagnostic and Statistical
25 Manual of Mental Disorders or the World Health Organization’s
26 International Statistical Classification of Diseases and Related
27 Health Problems shall not affect the conditions covered by this
28 section as long as a condition is commonly understood to be a
29 substance use disorder or mental and behavioral health condition
30 by health care providers practicing in relevant clinical specialties.

31 (3) For purposes of this section, “medically necessary treatment
32 of a mental health or substance use disorder” means a service or
33 product ~~that a prudent physician or other health care provider~~
34 ~~would provide to a patient, prescribed, ordered, or provided by a~~
35 *treating physician or other health care provider* for the specific
36 needs of that patient, for the purpose of preventing, diagnosing,
37 or treating an illness, injury, condition, or its symptoms, including
38 minimizing the progression of an illness, injury, condition, or its
39 symptoms, in a manner that is all of the following:

1 (A) In accordance with the generally accepted standards of
2 practice.

3 (B) Clinically appropriate in terms of type, frequency, extent,
4 site, and duration.

5 (C) Not primarily for the economic benefit of the disability
6 insurance policy and insureds or for the convenience of the patient,
7 treating physician, or other health care provider.

8 (4) *“Health care provider” means any of the following:*

9 (A) *A person who is licensed under Division 2 (commencing*
10 *with Section 500) of the Business and Professions Code.*

11 (B) *An associate marriage and family therapist or marriage*
12 *and family therapist trainee functioning pursuant to Section*
13 *4980.43.3 of the Business and Professions Code.*

14 (C) *A qualified autism service provider or qualified autism*
15 *service professional certified by a national entity pursuant to*
16 *Section 1374.73 of the Health and Safety Code and Section*
17 *10144.51.*

18 ~~(4)~~

19 (5) A disability insurer shall not limit benefits or coverage for
20 mental health and substance use disorders to short-term or acute
21 treatment.

22 ~~(5)~~

23 (6) All medical necessity determinations made by the disability
24 insurer concerning service intensity, level of care placement,
25 continued stay, and transfer or discharge of insureds diagnosed
26 with mental health and substance use disorders shall be conducted
27 in accordance with the requirements of Section 10144.52.

28 ~~(6)~~

29 (7) A disability insurer that authorizes a specific type of
30 treatment by a provider pursuant to this section shall not rescind
31 or modify the authorization after the provider renders the health
32 care service in good faith and pursuant to this authorization for
33 any reason, including, but not limited to, the insurer’s subsequent
34 rescission, cancellation, or modification of the insured’s or
35 policyholder’s contract, or the insurer’s subsequent determination
36 that it did not make an accurate determination of the insured’s or
37 policyholder’s eligibility. This section shall not be construed to
38 expand or alter the benefits available to the insured or policyholder
39 under an insurance policy.

1 (b) These benefits shall include, but not be limited to, the
2 following:

3 (1) Basic health care services, as defined in subdivision (b) of
4 Section 1345 of the Health and Safety Code.

5 (2) Intermediate services, including the full range of levels of
6 care, including, but not limited to, residential treatment, partial
7 hospitalization, and intensive outpatient treatment.

8 (3) Prescription drugs, if the policy or contract includes coverage
9 for prescription drugs.

10 (c) The terms and conditions applied to the benefits required
11 by this section, that shall be applied equally to all benefits under
12 the disability insurance policy shall include, but not be limited to,
13 all of the following patient financial responsibilities:

14 (1) Maximum and annual lifetime benefits, if not prohibited by
15 applicable law.

16 (2) Copayments and coinsurance.

17 (3) Individual and family deductibles.

18 (4) Out-of-pocket maximums.

19 (d) If any of the medically necessary services enumerated in
20 subdivision (b) are not available in network within the geographic
21 and timeliness standards set by law or regulation, the disability
22 insurer shall immediately cover out-of-network services, whether
23 secured by the patient or the disability insurer, ~~at an in-network~~
24 ~~benefit level.~~ *insurer. The insured shall pay no more than the same*
25 *cost-sharing that the insured would pay for the same covered*
26 *services received from an in-network provider.* A disability insurer
27 shall not interrupt a course of treatment initiated out of network
28 due to network inadequacy if in-network services subsequently
29 become available unless the course of treatment exceeds 24 months
30 and the disability insurer is able to demonstrate, to the satisfaction
31 of the department, that care may be safely and appropriately
32 transitioned to an in-network provider.

33 (e) This section shall not apply to accident-only, specified
34 disease, hospital indemnity, Medicare supplement, dental-only, or
35 vision-only insurance policies.

36 (f) (1) For the purpose of compliance with this section, a
37 disability insurer may provide coverage for all or part of the mental
38 health and substance use disorder services required by this section
39 through a separate specialized ~~disability~~ *health* insurance policy

1 or mental health policy. This paragraph shall not apply to policies
2 that are subject to Section 10112.27.

3 (2) A disability insurer shall provide the mental health and
4 substance use disorder coverage required by this section in its
5 entire service area and in emergency situations as may be required
6 by applicable laws and regulations. For purposes of this section,
7 disability insurance policies that provide benefits to insureds
8 through preferred provider contracting arrangements are not
9 precluded from requiring insureds who reside or work in
10 geographic areas served by specialized ~~disability~~ *health* insurance
11 policies or mental health insurance policies to secure all or part of
12 their mental health services within those geographic areas served
13 by specialized ~~disability~~ *health* insurance policies or mental health
14 insurance policies, provided that all appropriate mental health or
15 substance use disorder services are actually available within those
16 geographic service areas within timeliness standards.

17 (3) Notwithstanding any other law, in the provision of benefits
18 required by this section, a disability insurer may utilize case
19 management, network providers, utilization review techniques,
20 prior authorization, copayments, or other cost sharing, provided
21 that these practices are consistent with Section 10144.4 of this
22 code, and Section 2052 of the Business and Professions Code.

23 (g) This section shall not be construed to deny or restrict in any
24 way the department's authority to ensure a disability insurer's
25 compliance with this code when a disability insurer provides
26 coverage for prescription drugs.

27 (h) A disability insurer shall not limit benefits or coverage for
28 medically necessary services on the basis that those services should
29 be or could be covered by a public entitlement program, including,
30 but not limited to, special education or an individualized education
31 program, Medicaid, Medicare, Supplemental Security Income, or
32 Social Security Disability Insurance, and shall not include or
33 enforce a contract term that excludes otherwise covered benefits
34 on the basis that those services should be or could be covered by
35 a public entitlement program.

36 (i) A disability insurer shall not adopt, impose, or enforce
37 additional terms in its policies or provider agreements, in writing
38 or in operation, that undermine, alter, or conflict with the
39 requirements of this section.

1 ~~(j) (1) An insured, policyholder, or in-network or~~
 2 ~~out-of-network provider on behalf of an insured or policyholder~~
 3 ~~may bring a civil action in a court of competent jurisdiction~~
 4 ~~individually or on behalf of a class against a disability insurer for~~
 5 ~~a violation of this section.~~

6 ~~(2) The remedies in a civil action brought pursuant to this section~~
 7 ~~include, independent of causation or damages, a~~
 8 ~~five thousand dollar (\$5,000) statutory penalty per act or offense,~~
 9 ~~general and special damages, which may be trebled for knowing~~
 10 ~~conduct, injunctive relief, restitution of premium, and attorney's~~
 11 ~~fees and costs, including expert expenses.~~

12 ~~(3) If a claim is litigated on a class basis, the same act or offense~~
 13 ~~shall be counted with respect to each class member.~~

14 ~~(4) An administrative action taken or not taken by the~~
 15 ~~department with regard to the disability insurer's conduct shall not~~
 16 ~~provide an affirmative defense in the court's consideration of the~~
 17 ~~claim. A claimant shall be promptly notified in writing by the~~
 18 ~~disability insurer and by the department of any administrative~~
 19 ~~action, including the final outcome, against a disability insurer as~~
 20 ~~a result of the claimant's complaint.~~

21 ~~(k)~~

22 ~~(j) Compliance with the requirements of this section shall be~~
 23 ~~enforced in the same manner as Section 790.03, including through~~
 24 ~~Sections 790.035 and 790.05.~~

25 SEC. 8. Section 10144.52 is added to the Insurance Code, to
 26 read:

27 10144.52. (a) A disability insurer *that provides hospital,*
 28 *medical, or surgical coverage* shall base any medical necessity
 29 determination or the utilization review criteria that the insurer, and
 30 any entity acting on the insurer's behalf, applies to determine the
 31 medical necessity of health care services and benefits for the
 32 diagnosis, prevention, and treatment of mental health and substance
 33 use disorders on current generally accepted standards of medical
 34 and behavioral health care practice. Current generally accepted
 35 standards of medical and behavioral health care practice are
 36 evidence-based sources of standards of care and clinical practice
 37 that are generally accepted by health care providers practicing in
 38 relevant clinical specialties, including peer-reviewed scientific
 39 studies and medical literature, clinical practice guidelines and
 40 recommendations of health care provider professional associations,

1 and specialty societies and federal government agencies, and drug
2 labeling approved by the United States Food and Drug
3 Administration.

4 (b) In conducting utilization review of all covered health care
5 services and benefits for the diagnosis, prevention, and treatment
6 of substance use disorders and mental and behavioral health
7 conditions in children, adolescents, and adults, a disability insurer
8 shall apply the criteria and guidelines set forth in the most recent
9 versions of the treatment criteria developed by the nonprofit
10 professional association for the relevant clinical specialty.

11 (c) In conducting utilization review involving level of care
12 placement decisions or any other patient care decisions that are
13 within the scope of the sources specified in subdivision (b), a
14 disability insurer shall not apply different, additional, conflicting,
15 or more restrictive utilization review criteria than the criteria and
16 guidelines set forth in those sources. This subdivision does not
17 prohibit a disability insurer from applying utilization review criteria
18 to health care services and benefits for substance use disorders and
19 mental and behavioral health conditions that meet either of the
20 following criteria:

21 (1) Are outside the scope of the criteria and guidelines set forth
22 in the sources specified in subdivision (b), provided the utilization
23 review criteria was developed in accordance with subdivision (a).

24 (2) Relate to advancements in technology or types of care that
25 are not covered in the most recent versions of the sources specified
26 in subdivision (b), provided that the utilization review criteria was
27 developed in accordance with subdivision (a).

28 (d) If a disability insurer purchases or licenses utilization review
29 criteria pursuant to paragraph (1) or (2) of subdivision (c), the ~~plan~~
30 *insurer* shall verify and document before use that the criteria were
31 developed in accordance with subdivision (a).

32 (e) To ensure the proper use of the criteria described in
33 subdivision (b), every disability insurer shall do all of the
34 following:

35 (1) Sponsor a formal education program by nonprofit clinical
36 specialty associations to educate the disability insurer's staff,
37 including any third parties contracted with the disability insurer
38 to review claims, conduct utilization reviews, or make medical
39 necessity determinations about the clinical review criteria.

- 1 (2) Make the education program available to other stakeholders,
2 including the insurer’s participating providers and covered lives.
- 3 (3) Provide the clinical review criteria and any training material
4 or resources to providers and insured patients.
- 5 (4) Track, identify, and analyze how the clinical review criteria
6 are used to certify care, deny care, and support the appeals process.
- 7 (5) Conduct interrater reliability testing to ensure consistency
8 in utilization review decisionmaking covering how medical
9 necessity decisions are made. This assessment shall cover all
10 aspects of utilization review as defined in paragraph (3).
- 11 (6) Run interrater reliability reports about how the clinical
12 guidelines are used in conjunction with the utilization management
13 process and parity compliance activities.
- 14 (7) Achieve interrater reliability pass rates of at least 90 percent
15 and, if this threshold is not met, immediately provide for the
16 remediation of poor interrater reliability and interrater reliability
17 testing for all new staff before they can conduct utilization review
18 without supervision.
- 19 (f) The following definitions apply for purposes of this section:
- 20 (1) “Generally accepted standards of medical and behavioral
21 health care practice” means standards of care and clinical practice
22 that are generally recognized by health care providers practicing
23 in relevant clinical specialties such as psychiatry, psychology,
24 clinical sociology, and addiction medicine and counseling.
- 25 (2) “Mental health and substance use disorders” has the same
26 meaning as defined in paragraph (2) of subdivision (a) of Section
27 10144.5.
- 28 (3) “Utilization review” means either of the following:
- 29 (A) Prospectively, retrospectively, or concurrently reviewing
30 and approving, modifying, delaying, or denying, based in whole
31 or in part on medical necessity, requests by health care providers,
32 insureds, or their authorized representatives for coverage of health
33 care services prior to, retrospectively or concurrent with the
34 provision of health care services to insureds.
- 35 (B) Evaluating the medical necessity, appropriateness, level of
36 care, service intensity, efficacy, or efficiency of health care
37 services, benefits, procedures, or settings, under any circumstances,
38 to determine whether a health care service or benefit subject to a
39 medical necessity coverage requirement in a disability insurance
40 policy is covered as medically necessary for an insured.

1 (4) “Utilization review criteria” means any criteria, standards,
2 protocols, or guidelines used by a disability insurer to conduct
3 utilization review.

4 (g) Changes in terminology, organization, or classification of
5 substance use disorders or mental and behavioral health conditions
6 in future versions of the American Psychiatric Association’s
7 Diagnostic and Statistical Manual of Mental Disorders or the World
8 Health Organization’s International Statistical Classification of
9 Diseases and Related Health Problems shall not affect the
10 conditions covered by this section as long as a condition is
11 commonly understood to be a substance use disorder or mental
12 and behavioral health condition by health care providers practicing
13 in relevant clinical specialties.

14 (h) This section applies to all health care services and benefits
15 for the diagnosis, prevention, and treatment of substance use
16 disorders and mental and behavioral health conditions covered by
17 a disability insurance policy, including prescription drugs.

18 (i) This section applies to a disability insurer that covers hospital,
19 medical, or surgical expenses and conducts utilization review as
20 defined in this section, and any entity or contracting provider that
21 performs utilization review or utilization management functions
22 on an insurer’s behalf.

23 (j) The commissioner may assess administrative penalties for
24 violations of this section as provided for in Section 10123.135, in
25 addition to any other remedies permitted by law.

26 (k) A disability insurer shall not adopt, impose, or enforce
27 additional terms in its policies or provider agreements, in writing
28 or in operation, that undermine, alter, or conflict with the
29 requirements of this section.

30 ~~(l) (1) An insured, policyholder, or in-network or~~
31 ~~out-of-network provider acting on behalf of an insured or~~
32 ~~policyholder may bring a civil action in a court of competent~~
33 ~~jurisdiction, individually or on behalf of a class, against a disability~~
34 ~~insurer for a violation of this section.~~

35 ~~(2) The remedies in a civil action brought pursuant to this~~
36 ~~subdivision include, independent of causation or damages, a~~
37 ~~five thousand dollar (\$5,000) statutory penalty per act or offense,~~
38 ~~general and special damages, which may be trebled for knowing~~
39 ~~conduct, injunctive relief, restitution of premium, and attorney’s~~
40 ~~fees and costs, including expert expenses.~~

1 ~~(3) If a claim is litigated on a class basis, the same act or offense~~
 2 ~~shall be counted with respect to each class member.~~

3 ~~(4) An administrative action taken or not taken by the~~
 4 ~~department with regard to the disability insurer's conduct shall not~~
 5 ~~provide an affirmative defense in the court's consideration of the~~
 6 ~~claim. A claimant shall be notified promptly, in writing, by the~~
 7 ~~disability insurer and by the department, of any administrative~~
 8 ~~action, including the final outcome, against a disability insurer as~~
 9 ~~a result of the claimant's complaint.~~

10 ~~(m)~~

11 *(l)* Compliance with the requirements of this section shall be
 12 enforced in the same manner as Section 790.03, including through
 13 Sections 790.035 and 790.05.

14 ~~(n)~~

15 *(m)* This section does not apply to accident-only, specified
 16 disease, hospital indemnity, Medicare supplement, dental-only, or
 17 vision-only insurance policies.

18 SEC. 9. The provisions of this act are severable. If any
 19 provision of this act or its application is held invalid, that invalidity
 20 shall not affect other provisions or applications that can be given
 21 effect without the invalid provision or application.

22 SEC. 10. No reimbursement is required by this act pursuant to
 23 Section 6 of Article XIII B of the California Constitution because
 24 the only costs that may be incurred by a local agency or school
 25 district will be incurred because this act creates a new crime or
 26 infraction, eliminates a crime or infraction, or changes the penalty
 27 for a crime or infraction, within the meaning of Section 17556 of
 28 the Government Code, or changes the definition of a crime within
 29 the meaning of Section 6 of Article XIII B of the California
 30 Constitution.

O

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 878 **VERSION:** INTRODUCED JANUARY 22, 2020

AUTHOR: JONES **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: DEPARTMENT OF CONSUMER AFFAIRS LICENSING: APPLICATIONS: WAIT TIMES

Summary: This bill would require the Board to post on its website the current processing timeframes for initial license issuance and license renewal applications, as well as average processing timeframes for each license category.

Existing Law:

1. Establishes maximum processing times for the Board's various license types, based on the date the application is received. (California Code of Regulations (CCR) §1805.1)

This Bill:

1. Requires boards under the Department of Consumer Affairs (DCA) to do both of the following (Business and Professions Code (BPC) §139.5):
 - a. Prominently display current timeframes for processing initial and renewal license applications on its website; and
 - b. Specify on the website the average timeframe for each license category.

Comment:

- 1) **Author's Intent.** The author states that it is crucial for DCA licensing entities to process license applications in a timely manner so that businesses can open. They note that some boards provide applicants with average processing timeframes, but not all do. Their goal is to increase transparency by ensuring application processing times are easily available to all applicants.
- 2) **Current Board Practice.** The Board currently posts processing times by application type weekly on its Facebook and Twitter pages. The timeframes are not shown by averages. The Board processes applications based on date received; therefore, for each application type, the Board lists the range of receipt dates of applications currently being worked on.

Staff prefers posting this information on social media rather than the internet web site, because it may be posted directly and is easily accessible to applicants. Posting on the website must go through DCA's IT unit, and that process can take several days.

3) Suggested Amendments. Staff believes the following amendments would be helpful and provide more clarity to the bill:

- An allowance for the posting to be on social media instead of the website, as social media can be updated more rapidly;
- An allowance to post applications being worked on by receipt date rather than "average timeframes." This is more useful to applicants as they are aware of when they sent their application.
- Specification of how often processing timeframes must updated;
- Clarification of what is meant by an "initial" application. The Board has several applications throughout its licensure process, not necessarily one "initial" application. (The Board would likely post all processing timeframes.)

4) Support and Opposition.

Support:

- American Speech-Language-Hearing Association
- California Association for Health Services At Home
- California Association of Licensed Investigators
- California Chiropractic Association
- California Dental Hygienists Association
- California Physical Therapy Association
- California Podiatric Medical Association
- California Society for Respiratory Care
- Occupational Therapy Association of California (OTAC)
- The California Naturopathic Doctors Association

Opposition:

- None at this time.

5) History.

2020

05/18/20 From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (May 18). Re-referred to Com. on APPR.

05/14/20 Set for hearing May 18.

03/18/20 March 23 hearing postponed by committee.

03/11/20 Set for hearing March 23.

01/29/20 Referred to Com. on B., P. & E.D.

01/23/20 From printer. May be acted upon on or after February 22.

01/22/20 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Blank Page

Introduced by Senator Jones

January 22, 2020

An act to add Section 139.5 to the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

SB 878, as introduced, Jones. Department of Consumer Affairs Licensing: applications: wait times.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

This bill would require each board within the department that issues licenses to prominently display the current timeframe for processing initial and renewal license applications on its internet website, as provided.

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 139.5 is added to the Business and
- 2 Professions Code, to read:
- 3 139.5. Each board, as defined in section 22, within the
- 4 department that issues a license shall do both of the following:
- 5 (a) Prominently display the current timeframe for processing
- 6 initial and renewal license applications on its internet website.

- 1 (b) With respect to the information displayed on the website,
- 2 specify the average timeframe for each license category.

O

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 1168 **VERSION:** AMENDED MAY 13, 2020

AUTHOR: MORRELL **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: STATE AGENCIES: LICENSING SERVICES

Summary: This bill does two things:

- Would require the Board to establish a process for a person to defer fees required to obtain a license, renew or activate a license, or replace a physical display license if the person is experiencing economic hardship as a result of a state or federal emergency caused by a virus.
- Would require the Board to establish a process to expedite licensing services for a person who has been displaced by or is experiencing economic hardship directly due to a state or federal emergency.

Existing Law:

1. Defines three types of state emergencies (Government Code (GC) §8558):
 - a. “State of emergency,” which means proclaimed existence of disaster or extremely perilous conditions to safety of persons or property in the state. Examples of causes include fire, flood, storm, epidemic, riot, drought, cyberterrorism, or earthquake, which are of such a great magnitude that they are beyond the control of services, personnel, equipment, and facilities of any single county and city and that instead require combined mutual aid.
 - b. “Local emergency,” which means proclaimed existence of disaster or extremely perilous conditions to safety of persons or property in a county and/or city. Examples of causes include fire, flood, storm, epidemic, riot, drought, cyberterrorism, or earthquake, which are likely are beyond the control of services, personnel, equipment, and facilities of a political subdivision and that instead require combined mutual aid.
 - c. “State of war emergency,” which is a condition in which the state or nation is attacked by an enemy or warned by the federal government that an attack is probable or imminent.

2. Allows state agencies that issue business licenses (including licensing boards under the Department of Consumer Affairs (DCA)) to establish a process to reduce or waive fees for licensure, licensure renewal or activation, or license replacement, for individuals experiencing displacement or economic hardship as a result of a state or federal emergency. (GC§11009.5(b))
3. Requires the Board of Behavioral Sciences (Board) to expedite the initial licensure process for an applicant who has served as an active duty member of the U.S. Armed Forces and was honorably discharged. (Business and Professions Code (BPC) §115.4)
4. Requires the Board to expedite the licensure process for a spouse or domestic partner of an active duty member of the U.S. Armed Forces who is assigned to duty in California. The spouse or domestic partner must have a current license in another state in the same profession for which they are applying for licensure. (BPC §115.5)

This Bill:

1. Requires state agencies that issue any type of business license to establish a process for a person or business to submit an application, that the agency may grant, for deferral of any fees required to obtain a license, renew or activate a license, or replace a physical display license. This only applies to persons or businesses experiencing economic hardship as a result of an emergency caused by a virus. (GC 11009.5(b)(2))
2. Requires state agencies that issue any type of business license to establish a process to expedite licensing services for a person or business that meets either of the following (GC §11009.5(d)):
 - a. The person or business has been displaced by an emergency that was proclaimed or declared within 365 days of the request for licensing services; or
 - b. The person or business is experiencing economic hardship directly resulting from an emergency proclaimed or declared within 365 days of the request for licensing services.
3. Defines “licensing services” as including, but not limited to, replacing a physical copy of a license, applying for or renewing a license, and applying for a waiver or reduction of licensing fees. (GC §11009.5)

Comment:

1. **Author’s Intent.** The author notes that in recent years, California has experienced several costly natural disasters, including the Tubbs Fire, the Southern California mudslides, and the Camp Fire. They state that these disasters affected an estimated 381,700 businesses, and many of these individuals had to replace

licensing documents. The goal of this bill is to help relieve pressure on these individuals and help them get back on their feet.

2. **Previous Legislation.** Last year, this author successfully sponsored a similar bill. SB 601 (Chapter 854, Statutes of 2019) authorizes state agencies that issue any type of business license to establish a process to reduce or waive licensure application, renewal, or replacement fees for a person or business that has been displaced by or who is experiencing economic hardship as a result of a state or federally declared emergency.
3. **Feasibility of Granting Fee Deferrals.** The law already authorizes the Board to establish a procedure to reduce or reduce or waive fees for licensure, for individuals experiencing displacement or economic hardship as a result of a state or federal emergency. This bill would require the Board to create a fee deferral process for cases of economic hardship when the emergency is due to a virus.

Creation of such a process would be feasible through the establishment of regulations. The Board may wish to discuss whether an emergency due to a virus is the only type of emergency where a fee deferral would be appropriate.

4. **Feasibility of Expediting Licenses.** The Board already expedites the licensing process for honorably discharged military veterans and their spouses (if the spouse has an equivalent license in another state). For relatively small-scale declared emergencies such as the Tubbs Fire and the Camp Fire, expediting licenses would be feasible to implement. In these instances, the Board would need to develop a way to flag these applications as ones to expedite.

However, it is unknown how feasible the expedite process would be for larger-scale, statewide emergencies such as the one we are currently experiencing with COVID-19. This emergency affects virtually everyone, and the Board has a limited number of staff. Unless the Board were able to hire additional staff due to a statewide declared emergency, it is unlikely to be able to expedite all applications. In addition, hiring new staff is unlikely to have much effect in the short-term, as the process to hire and train new staff takes time.

5. **Need for Regulation.** If this bill were to pass, the Board would need to run regulations to establish the fee deferral process and the expedited licensing process. It would also need to establish criteria for identifying individuals displaced by or experiencing economic hardship directly from a declared emergency who would be eligible for the fee deferral and expedited license process.
6. **Support and Opposition.**

Support:

- California Professional Association of Specialty Contractors

Opposition:

- None at this time.

7. History

2020

- 05/13/20 Read second time and amended. Re-referred to Com. on APPR.
- 05/12/20 Referral to Com. on B., P. & E.D. rescinded due to the shortened 2020 Legislative Calendar.
- 05/12/20 From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 14. Noes 0.) (May 12).
- 05/08/20 Set for hearing May 12.
- 04/17/20 From committee with author's amendments. Read second time and amended. Re-referred to Com. on G.O.
- 03/25/20 From committee with author's amendments. Read second time and amended. Re-referred to Com. on G.O.
- 03/20/20 March 24 hearing postponed by committee.
- 03/06/20 Set for hearing March 24.
- 03/05/20 Referred to Coms. on G.O. and B., P. & E.D.
- 02/21/20 From printer. May be acted upon on or after March 22.
- 02/20/20 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE MAY 13, 2020
AMENDED IN SENATE APRIL 17, 2020
AMENDED IN SENATE MARCH 25, 2020

SENATE BILL

No. 1168

Introduced by Senator Morrell

February 20, 2020

An act to amend Section 11009.5 of the Government Code, relating to state government.

legislative counsel's digest

SB 1168, as amended, Morrell. State agencies: licensing services.

Existing law authorizes a state agency that issues any business license to establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, as defined, to submit an application for reduction or waiver of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display.

This bill would require a state agency that issues any business license to establish a process for a person or business that is experiencing economic hardship as a result of an emergency caused by a virus to submit an application for deferral of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display. ~~The bill would require the deferral period to end 60 days following the end of the emergency.~~

This bill would also require a state agency that issues any business license to establish a process to expedite licensing services, as defined, for a person or business that meets specified criteria, including that the

person or business has been displaced by an emergency proclaimed or declared within 365 days of the request for licensing services.

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 11009.5 of the Government Code is
 2 amended to read:

3 11009.5. (a) For purposes of this section:

4 (1) “Displaced” means a condition in which the person or
 5 business is unable to return to the address of record or other address
 6 associated with the license before experiencing economic hardship.

7 (2) “Economic hardship” means the inability to pay living or
 8 business expenses, unless otherwise defined by a state agency
 9 pursuant to subdivision (c).

10 (3) “Emergency” means an emergency as defined in Section
 11 8558 or a declared federal emergency.

12 (4) “License” includes, but is not limited to, a certificate,
 13 registration, or other document required to engage in business.

14 (5) “Licensing services” includes, but is not limited to, replacing
 15 a physical copy of a license that is required to be displayed or
 16 carried, applying for or renewing a license, and applying for a
 17 waiver or reduction of licensing fees.

18 (b) (1) Notwithstanding any other law, a state agency that issues
 19 any business license may, in addition to the requirements of
 20 paragraph (2), establish a process for a person or business that has
 21 been displaced or is experiencing economic hardship as a result
 22 of an emergency to submit an application, that the agency may
 23 grant, for a reduction or waiver of any fees required by the agency
 24 to obtain a license, renew or activate a license, or replace a physical
 25 license for display.

26 (2) ~~(A)~~—A state agency that issues any business license shall
 27 establish a process for a person or business that is experiencing
 28 economic hardship as a result of an emergency caused by a virus
 29 to submit an application, that the agency ~~shall~~ *may* grant, for a
 30 deferral of any fees required by the agency to obtain a license,
 31 renew or activate a license, or replace a physical license for display.

32 ~~(B) The deferral period granted pursuant to this paragraph shall~~
 33 ~~end 60 days following the end of the emergency.~~

1 (c) A fee deferral, reduction, or waiver process established
2 pursuant to subdivision (b) shall specify, at a minimum, all of the
3 following:

4 (1) The methodology used by the agency for determining
5 whether a person, as a result of an emergency, has been displaced
6 or is experiencing economic hardship.

7 (2) The procedure for applying for a fee deferral, reduction, or
8 waiver.

9 (3) That the application shall be made within one year of the
10 date on which the emergency was proclaimed or declared.

11 (d) Notwithstanding any other law, a state agency that issues
12 any business license shall establish a process to expedite licensing
13 services for a person or business that meets either of the following
14 criteria:

15 (1) The person or business has been displaced by an emergency
16 proclaimed or declared within 365 days of the request for licensing
17 services.

18 (2) The person or business is experiencing economic hardship
19 directly resulting from an emergency proclaimed or declared within
20 365 days of the request for licensing services.

O

Blank Page

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 1474 **VERSION:** AMENDED MAY 14, 2020

AUTHOR: SENATE COMMITTEE ON **SPONSOR:** AUTHOR
BUSINESS, PROFESSIONS,
AND ECONOMIC
DEVELOPMENT

RECOMMENDED POSITION: NONE

SUBJECT: BUSINESS AND PROFESSIONS

Summary

This bill would extend the Board’s sunset date for one year, until January 1, 2022.

Existing Law

- 1) Provides for the licensure and regulation of educational psychologists, clinical social workers, professional clinical counselors, and marriage and family therapists by the Board of Behavioral Sciences (Board) within the Department of Consumer Affairs until January 1, 2021.
- 2) Specifies the composition of the Board and authorizes the Board to employ an Executive Officer, until January 1, 2021. (Business and Professions Code (BPC) §§4990, 4990.04)

This Bill:

- 1) Extends the operation of the Board until January 1, 2022. (BPC §§4990, 4990.04)

Comment:

- 1) **Background.** In 1994, the legislature enacted the “sunset review” process, which permits the periodic review of the need for licensing and regulation of a profession and the effectiveness of the administration of the law by the licensing board. The Joint Legislative Sunset Review Committee (Joint Committee) was tasked with performing the sunset reviews. The sunset review process was in part built on an assumption in law that if a board is operating poorly and lesser measures have been ineffective in rectifying the problems, the board should be allowed to sunset.

Boards undergo a sunset review after a predetermined number of years. Boards up for sunset review submit a report to the Joint Committee, and a hearing is scheduled

with the Joint Committee to discuss the report and any recommendations of the Joint Committee. If it was determined that a board should not continue to regulate the profession, the board would sunset. Boards within the Department of Consumer Affairs (DCA) that were required to sunset became a bureau under DCA, reporting directly to the DCA director.

The last time the Board underwent sunset review was in 2016. At that time, the Board's sunset date was extended four years, to January 1, 2021.

The Board was scheduled to have its next sunset review hearing in March 2020. However, due to the current state of emergency resulting from COVID-19, all sunset hearings had to be cancelled as the Legislature needed to shift its focus to the pandemic. Therefore, this bill extends programs which otherwise would have been evaluated this year for one year so that the sunset review process can occur next year.

- 2) Recommended Action.** The Board should consider taking a position on BPC sections 4990 and 4990.04 in this bill, which are the sections proposing to extend this board's sunset date until January 1, 2022.

(Note: This bill will also likely be used to carry the Board's omnibus items (technical, non-substantive changes to the Board's licensing law that the Board previously approved.) If those items are amended in, the Board will be considered a sponsor of those portions of the bill.)

3) Previous Legislation.

- AB 2191 (Chapter 458, Statutes of 2016) extended the Board's sunset date from January 1, 2017 until January 1, 2021.
- SB 1236 (Chapter 332, Statutes of 2012) extended the Board's sunset date from January 1, 2013 until January 1, 2017.
- SB 294 (Chapter 695, Statutes of 2010) extended the Board's sunset date from January 1, 2011 until January 1, 2013.

4) Support and Opposition.

Support:

- None at this time.

Opposition:

- None at this time.

5) History.

2020

05/18/20 From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (May 18). Re-referred to Com. on APPR.

05/14/20 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.

05/14/20 Set for hearing May 18.

05/11/20 Referred to Com. on B., P. & E.D.

03/17/20 From printer. May be acted upon on or after April 16.

03/16/20 Introduced. Read first time. To Com. on RLS. for assignment. To print.03/03/16 Referred to Com. on B. & P.

02/19/16 From printer. May be heard in committee March 20.

02/18/16 Read first time. To print.

Blank Page

AMENDED IN SENATE MAY 14, 2020

SENATE BILL

No. 1474

**Introduced by Committee on Business, Professions and Economic
Development (Senators Glazer (Chair), Archuleta, Chang, Dodd,
Galgiani, Hill, Leyva, Pan, and Wilk)**
(Principal coauthor: Assembly Member Low)

March 16, 2020

An act to amend Sections 27, 101, 125.9, 130, 144, 200.1, 205, 494.5, 1913, 1917, 1917.1, 1922, 2065, 2113, 2135.5, 2460, 2841, 2920, 2933, 3504, 3512, 4001, 4003, 4501, 4503, 4621, 4800, 4804.5, 4990, 4990.04, 5600.4, 7000, 7000.5, 7000.6, 7011.4, 7011.5, 7011.8, 7015, 7017.3, 7028.7, 7030, 7031, 7058.7, 7071.4, 7080.5, 7085.5, 7099.2, 7123.5, 7135, 7136, 7137, 7137.5, 7138, 7139.1, 7139.2, 7145.5, 7159, 7170, 7303, 8516, 10050, 11301, 16100, and 19164 of, and to add Sections 5650.5 and 7099.9 to, the Business and Professions Code, *and to amend Section 94950 of the Education Code, relating to ~~professions and vocations,~~ business and professions,* and making an appropriation therefor.

legislative counsel's digest

SB 1474, as amended, Committee on Business, Professions and Economic Development. ~~Professions and vocations.~~ *Business and professions.*

(1) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board in the Department of Consumer Affairs. Existing law requires fees and penalties received pursuant to the law to be deposited in the Contractors' License Fund, a continuously appropriated fund,

except that certain service fees for the deposit of money in lieu of paying a bond are required to be deposited in the Contractors' Deposit Fund.

This bill would rename the Contractors' State license Law as the Contractors State License Law, would rename the Contractors' State License Board as the Contractors State License Board, and would rename the Contractors' License Fund as the Contractors License Fund. The bill would delete the provision establishing the Contractors' Deposit Fund, and would therefore require those service fees to be deposited in the Contractors License Fund. By authorizing a new source of revenue to be deposited into a continuously appropriated fund, the bill would make an appropriation.

Existing law authorizes a licensee who is subject to a bonding provision under the law, in lieu of giving a bond, to deposit money or a cashier's check with the registrar of contractors.

This bill would prohibit the deposit from being released if the board is notified of a civil action against the deposit and, if the amount of the deposit is insufficient to pay all claims, would require the deposit to be distributed to claimants in proportion to the amount of the claims.

(2) Existing law authorizes the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California and any board within the Department of Consumer Affairs to issue a citation that may contain an order of abatement or an order to pay an administrative fine, and provides that a failure to pay a fine within 30 days of the date of assessment may result in disciplinary action.

This bill would also make a failure to comply with the order of abatement within 30 days of the date of the order subject to disciplinary action.

(3) Existing law provides for the licensure and regulation of registered dental hygienists by the Dental Hygiene Board of California. Existing law authorizes a registered dental hygienist to perform a procedure or provide a service within the scope of their practice under the appropriate level of supervision, as specified.

This bill would also require a registered dental hygienist to have completed the appropriate education and training required to perform the procedure or provide the service.

Existing law requires a person to have satisfactorily completed a specified examination within the preceding 2 years as a condition of licensure as a registered dental hygienist.

This bill would instead require completion of the dental hygiene examination within the preceding 3 years.

Existing law requires a person, as a condition for licensure as a registered dental hygienist in alternative practice, to successfully complete a bachelor's degree or its equivalent from an accredited college or institution of higher education, among other requirements.

This bill would specify that the equivalent of a bachelor's degree is recognized as a minimum of 120 semester credit hours or 180 quarter credit hours in postsecondary education.

(4) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, and requires an applicant for a physician's and surgeon's license who has completed 36 months of approved postgraduate training in another state or Canada and who is accepted into an approved postgraduate training in another state or Canada and who is accepted into an approved postgraduate training program in California to obtain their physician's and surgeon's license within 90 days after beginning the postgraduate training program.

This bill would delete the requirement that the person be accepted into an approved postgraduate training in another state or Canada.

Existing law authorizes the Medical Board of California, in its discretion, to waive certain examination and certification requirements for licensure for a graduate of a foreign medical school who holds a certificate of registration issued by the board to practice medicine as a full-time faculty member at a medical school.

This bill would also authorize the board to accept clinical practice in an appointment as qualifying time to meet specified postgraduate training requirements for licensure for those registrants.

Existing law authorizes the Medical Board of California, upon and review and recommendation, to determine that an applicant for a physician and surgeon's certificate has satisfied the medical education and examination requirements for an applicant who holds an unlimited and unrestricted license as a physician and surgeon in another state and has held the license continuously for a minimum of 4 years, subject to satisfaction of specified requirements.

This bill would also require the applicant to meet specified postgraduate training requirements.

(5) Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Existing law requires the board to issue a retired license to an architect who meets specified requirements, and also provides for the restoration of a retired license to active status upon satisfaction of specified

requirements applicable to licenses that are not renewed within 5 years of its expiration.

This bill would also authorize the restoration of a retired license to active status upon satisfaction of specified requirements applicable to licenses that are renewed within 5 years of its expiration.

(6) Existing law provides for the licensure and regulation of landscape architects by the California Architects Board and the Landscape Architects Technical Committee of the California Architects Board.

This bill would authorize the board to obtain and review criminal offender record information and would require an applicant, as a condition of licensure, to furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and criminal offender record information search. The bill would require the applicant to pay the reasonable regulatory costs for furnishing the fingerprints and conducting the searches, and would require the applicant to certify, under penalty of perjury, whether the applicant's fingerprints have been furnished to the Department of Justice. By expanding the crime of perjury, the bill would impose a state-mandated local program.

(7) Existing law provides for the January 1, 2021, repeal of provisions creating the Podiatric Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Board of Psychology, the Physician Assistant Board, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Behavioral Sciences, and the State Board of Barbering and Cosmetology.

This bill would extend the operation of those provisions to January 1, 2022, and make conforming changes relating to the appointment of an executive officer, as applicable.

(8) Existing law, the Massage Therapy Act, until January 1, 2021, provides for the certification and regulation of massage therapists by the California Massage Therapy Council.

This bill would extend the operation of the Massage Therapy Act to January 1, 2022.

(9) Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers by the Real Estate Commissioner, the chief officer of the Department of Real Estate within the Business, Consumer Services, and Housing Agency. The Real Estate Law subjects the powers and duties of the department, under specified provisions of law, to review by the appropriate policy committees of the Legislature,

performed as if those provisions were scheduled to be repealed as of January 1, 2021.

This bill would extend that date to January 1, 2022.

(10) Existing law, the Real Estate Appraisers’ Licensing and Certification Law, creates a Bureau of Real Estate Appraisers within the Department of Consumer Affairs to administer and enforce that law. The Real Estate Appraisers’ Licensing and Certification Law subjects the powers and duties of the bureau to review by the appropriate policy committees of the Legislature, performed as if that law were scheduled to be repealed as of January 1, 2021.

This bill would extend that date to January 1, 2022.

(11) Existing law, the California Private Postsecondary Education Act of 2009, until January 1, 2021, provides, among other things, for student protections and regulatory oversight of private postsecondary institutions in the state, enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs.

This bill would extend the operation of the California Private Postsecondary Education Act of 2009 to January 1, 2022.

~~(7)~~

(12) This bill would make other conforming, technical, and nonsubstantive changes.

~~(8)~~

(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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 27 of the Business and Professions Code
- 2 is amended to read:
- 3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
- 4 shall provide on the internet information regarding the status of
- 5 every license issued by that entity in accordance with the California
- 6 Public Records Act (Chapter 3.5 (commencing with Section 6250)
- 7 of Division 7 of Title 1 of the Government Code) and the
- 8 Information Practices Act of 1977 (Chapter 1 (commencing with

1 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
2 The public information to be provided on the internet shall include
3 information on suspensions and revocations of licenses issued by
4 the entity and other related enforcement action, including
5 accusations filed pursuant to the Administrative Procedure Act
6 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
7 Division 3 of Title 2 of the Government Code) taken by the entity
8 relative to persons, businesses, or facilities subject to licensure or
9 regulation by the entity. The information may not include personal
10 information, including home telephone number, date of birth, or
11 social security number. Each entity shall disclose a licensee's
12 address of record. However, each entity shall allow a licensee to
13 provide a post office box number or other alternate address, instead
14 of the licensee's home address, as the address of record. This
15 section shall not preclude an entity from also requiring a licensee,
16 who has provided a post office box number or other alternative
17 mailing address as the licensee's address of record, to provide a
18 physical business address or residence address only for the entity's
19 internal administrative use and not for disclosure as the licensee's
20 address of record or disclosure on the internet.

21 (b) In providing information on the internet, each entity specified
22 in subdivisions (c) and (d) shall comply with the Department of
23 Consumer Affairs' guidelines for access to public records.

24 (c) Each of the following entities within the Department of
25 Consumer Affairs shall comply with the requirements of this
26 section:

27 (1) The Board for Professional Engineers, Land Surveyors, and
28 Geologists shall disclose information on its registrants and
29 licensees.

30 (2) The Bureau of Automotive Repair shall disclose information
31 on its licensees, including auto repair dealers, smog stations, lamp
32 and brake stations, smog check technicians, and smog inspection
33 certification stations.

34 (3) The Bureau of Household Goods and Services shall disclose
35 information on its licensees and registrants, including major
36 appliance repair dealers, combination dealers (electronic and
37 appliance), electronic repair dealers, service contract sellers, service
38 contract administrators, and household movers.

39 (4) The Cemetery and Funeral Bureau shall disclose information
40 on its licensees, including cemetery brokers, cemetery salespersons,

1 cemetery managers, crematory managers, cemetery authorities,
2 crematories, cremated remains disposers, embalmers, funeral
3 establishments, and funeral directors.

4 (5) The Professional Fiduciaries Bureau shall disclose
5 information on its licensees.

6 (6) The Contractors State License Board shall disclose
7 information on its licensees and registrants in accordance with
8 Chapter 9 (commencing with Section 7000) of Division 3. In
9 addition to information related to licenses as specified in
10 subdivision (a), the board shall also disclose information provided
11 to the board by the Labor Commissioner pursuant to Section 98.9
12 of the Labor Code.

13 (7) The Bureau for Private Postsecondary Education shall
14 disclose information on private postsecondary institutions under
15 its jurisdiction, including disclosure of notices to comply issued
16 pursuant to Section 94935 of the Education Code.

17 (8) The California Board of Accountancy shall disclose
18 information on its licensees and registrants.

19 (9) The California Architects Board shall disclose information
20 on its licensees, including architects and landscape architects.

21 (10) The State Athletic Commission shall disclose information
22 on its licensees and registrants.

23 (11) The State Board of Barbering and Cosmetology shall
24 disclose information on its licensees.

25 (12) The Acupuncture Board shall disclose information on its
26 licensees.

27 (13) The Board of Behavioral Sciences shall disclose
28 information on its licensees and registrants.

29 (14) The Dental Board of California shall disclose information
30 on its licensees.

31 (15) The State Board of Optometry shall disclose information
32 on its licensees and registrants.

33 (16) The Board of Psychology shall disclose information on its
34 licensees, including psychologists, psychological assistants, and
35 registered psychologists.

36 (17) The Veterinary Medical Board shall disclose information
37 on its licensees, registrants, and permit holders.

38 (d) The State Board of Chiropractic Examiners shall disclose
39 information on its licensees.

- 1 (e) The Structural Pest Control Board shall disclose information
- 2 on its licensees, including applicators, field representatives, and
- 3 operators in the areas of fumigation, general pest and wood
- 4 destroying pests and organisms, and wood roof cleaning and
- 5 treatment.
- 6 (f) The Bureau of Cannabis Control shall disclose information
- 7 on its licensees.
- 8 (g) “Internet” for the purposes of this section has the meaning
- 9 set forth in paragraph (6) of subdivision (f) of Section 17538.
- 10 SEC. 2. Section 101 of the Business and Professions Code is
- 11 amended to read:
- 12 101. The department is comprised of the following:
- 13 (a) The Dental Board of California.
- 14 (b) The Medical Board of California.
- 15 (c) The State Board of Optometry.
- 16 (d) The California State Board of Pharmacy.
- 17 (e) The Veterinary Medical Board.
- 18 (f) The California Board of Accountancy.
- 19 (g) The California Architects Board.
- 20 (h) The State Board of Barbering and Cosmetology.
- 21 (i) The Board for Professional Engineers, Land Surveyors, and
- 22 Geologists.
- 23 (j) The Contractors State License Board.
- 24 (k) The Bureau for Private Postsecondary Education.
- 25 (l) The Bureau of Household Goods and Services.
- 26 (m) The Board of Registered Nursing.
- 27 (n) The Board of Behavioral Sciences.
- 28 (o) The State Athletic Commission.
- 29 (p) The Cemetery and Funeral Bureau.
- 30 (q) The Bureau of Security and Investigative Services.
- 31 (r) The Court Reporters Board of California.
- 32 (s) The Board of Vocational Nursing and Psychiatric
- 33 Technicians.
- 34 (t) The Landscape Architects Technical Committee.
- 35 (u) The Division of Investigation.
- 36 (v) The Bureau of Automotive Repair.
- 37 (w) The Respiratory Care Board of California.
- 38 (x) The Acupuncture Board.
- 39 (y) The Board of Psychology.
- 40 (z) The Podiatric Medical Board of California.

- 1 (aa) The Physical Therapy Board of California.
- 2 (ab) The Arbitration Review Program.
- 3 (ac) The Physician Assistant Board.
- 4 (ad) The Speech-Language Pathology and Audiology and
- 5 Hearing Aid Dispensers Board.
- 6 (ae) The California Board of Occupational Therapy.
- 7 (af) The Osteopathic Medical Board of California.
- 8 (ag) The Naturopathic Medicine Committee.
- 9 (ah) The Dental Hygiene Board of California.
- 10 (ai) The Professional Fiduciaries Bureau.
- 11 (aj) The State Board of Chiropractic Examiners.
- 12 (ak) The Bureau of Real Estate Appraisers.
- 13 (al) The Structural Pest Control Board.
- 14 (am) The Bureau of Cannabis Control.
- 15 (an) Any other boards, offices, or officers subject to its
- 16 jurisdiction by law.
- 17 (ao) This section shall become operative on July 1, 2018.

18 SEC. 3. Section 125.9 of the Business and Professions Code
19 is amended to read:

20 125.9. (a) Except with respect to persons regulated under
21 Chapter 11 (commencing with Section 7500), any board, bureau,
22 or commission within the department, the State Board of
23 Chiropractic Examiners, and the Osteopathic Medical Board of
24 California, may establish, by regulation, a system for the issuance
25 to a licensee of a citation which may contain an order of abatement
26 or an order to pay an administrative fine assessed by the board,
27 bureau, or commission where the licensee is in violation of the
28 applicable licensing act or any regulation adopted pursuant thereto.

29 (b) The system shall contain the following provisions:

30 (1) Citations shall be in writing and shall describe with
31 particularity the nature of the violation, including specific reference
32 to the provision of law determined to have been violated.

33 (2) Whenever appropriate, the citation shall contain an order of
34 abatement fixing a reasonable time for abatement of the violation.

35 (3) In no event shall the administrative fine assessed by the
36 board, bureau, or commission exceed five thousand dollars (\$5,000)
37 for each inspection or each investigation made with respect to the
38 violation, or five thousand dollars (\$5,000) for each violation or
39 count if the violation involves fraudulent billing submitted to an
40 insurance company, the Medi-Cal program, or Medicare. In

1 assessing a fine, the board, bureau, or commission shall give due
2 consideration to the appropriateness of the amount of the fine with
3 respect to factors such as the gravity of the violation, the good
4 faith of the licensee, and the history of previous violations.

5 (4) A citation or fine assessment issued pursuant to a citation
6 shall inform the licensee that if the licensee desires a hearing to
7 contest the finding of a violation, that hearing shall be requested
8 by written notice to the board, bureau, or commission within 30
9 days of the date of issuance of the citation or assessment. If a
10 hearing is not requested pursuant to this section, payment of any
11 fine shall not constitute an admission of the violation charged.
12 Hearings shall be held pursuant to Chapter 5 (commencing with
13 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
14 Code.

15 (5) Failure of a licensee to pay a fine or comply with an order
16 of abatement, or both, within 30 days of the date of assessment or
17 order, unless the citation is being appealed, may result in
18 disciplinary action being taken by the board, bureau, or
19 commission. Where a citation is not contested and a fine is not
20 paid, the full amount of the assessed fine shall be added to the fee
21 for renewal of the license. A license shall not be renewed without
22 payment of the renewal fee and fine.

23 (c) The system may contain the following provisions:

24 (1) A citation may be issued without the assessment of an
25 administrative fine.

26 (2) Assessment of administrative fines may be limited to only
27 particular violations of the applicable licensing act.

28 (d) Notwithstanding any other provision of law, if a fine is paid
29 to satisfy an assessment based on the finding of a violation,
30 payment of the fine and compliance with the order of abatement,
31 if applicable, shall be represented as satisfactory resolution of the
32 matter for purposes of public disclosure.

33 (e) Administrative fines collected pursuant to this section shall
34 be deposited in the special fund of the particular board, bureau, or
35 commission.

36 SEC. 4. Section 130 of the Business and Professions Code is
37 amended to read:

38 130. (a) Notwithstanding any other law, the term of office of
39 any member of an agency designated in subdivision (b) shall be
40 for a term of four years expiring on June 1.

1 (b) Subdivision (a) applies to the following boards or
2 committees:

- 3 (1) The Medical Board of California.
- 4 (2) The Podiatric Medical Board of California.
- 5 (3) The Physical Therapy Board of California.
- 6 (4) The Board of Registered Nursing, except as provided in
7 subdivision (c) of Section 2703.
- 8 (5) The Board of Vocational Nursing and Psychiatric
9 Technicians.
- 10 (6) The State Board of Optometry.
- 11 (7) The California State Board of Pharmacy.
- 12 (8) The Veterinary Medical Board.
- 13 (9) The California Architects Board.
- 14 (10) The Landscape Architect Technical Committee.
- 15 (11) The Board for Professional Engineers and Land Surveyors.
- 16 (12) The Contractors State License Board.
- 17 (13) The Board of Behavioral Sciences.
- 18 (14) The Court Reporters Board of California.
- 19 (15) The State Athletic Commission.
- 20 (16) The Osteopathic Medical Board of California.
- 21 (17) The Respiratory Care Board of California.
- 22 (18) The Acupuncture Board.
- 23 (19) The Board of Psychology.
- 24 (20) The Structural Pest Control Board.

25 SEC. 5. Section 144 of the Business and Professions Code is
26 amended to read:

27 144. (a) Notwithstanding any other law, an agency designated
28 in subdivision (b) shall require an applicant to furnish to the agency
29 a full set of fingerprints for purposes of conducting criminal history
30 record checks. Any agency designated in subdivision (b) may
31 obtain and receive, at its discretion, criminal history information
32 from the Department of Justice and the United States Federal
33 Bureau of Investigation.

34 (b) Subdivision (a) applies to the following:

- 35 (1) California Board of Accountancy.
- 36 (2) State Athletic Commission.
- 37 (3) Board of Behavioral Sciences.
- 38 (4) Court Reporters Board of California.
- 39 (5) Dental Board of California.
- 40 (6) California State Board of Pharmacy.

- 1 (7) Board of Registered Nursing.
- 2 (8) Veterinary Medical Board.
- 3 (9) Board of Vocational Nursing and Psychiatric Technicians.
- 4 (10) Respiratory Care Board of California.
- 5 (11) Physical Therapy Board of California.
- 6 (12) Physician Assistant Committee.
- 7 (13) Speech-Language Pathology and Audiology and Hearing
- 8 Aid Dispensers Board.
- 9 (14) Medical Board of California.
- 10 (15) State Board of Optometry.
- 11 (16) Acupuncture Board.
- 12 (17) Cemetery and Funeral Bureau.
- 13 (18) Bureau of Security and Investigative Services.
- 14 (19) Division of Investigation.
- 15 (20) Board of Psychology.
- 16 (21) California Board of Occupational Therapy.
- 17 (22) Structural Pest Control Board.
- 18 (23) Contractors State License Board.
- 19 (24) Naturopathic Medicine Committee.
- 20 (25) Professional Fiduciaries Bureau.
- 21 (26) Board for Professional Engineers, Land Surveyors, and
- 22 Geologists.
- 23 (27) Bureau of Cannabis Control.
- 24 (28) Podiatric Medical Board of California.
- 25 (29) Osteopathic Medical Board of California.
- 26 (30) California Architects Board, beginning January 1, 2021.
- 27 (31) Landscape Architects Technical Committee, beginning
- 28 January 1, 2021.

29 (c) For purposes of paragraph (26) of subdivision (b), the term
 30 “applicant” shall be limited to an initial applicant who has never
 31 been registered or licensed by the board or to an applicant for a
 32 new licensure or registration category.

33 SEC. 6. Section 200.1 of the Business and Professions Code
 34 is amended to read:

35 200.1. (a) Any accruals that occur on or after September 11,
 36 1993, to any funds or accounts within the Professions and
 37 Vocations Fund that realize increased revenues to that fund or
 38 account as a result of legislation enacted on or after September 11,
 39 1993, and that have not been transferred pursuant to Sections 13.50,
 40 13.60, and 13.70 of the Budget Act of 1993 on the effective date

1 of the act that enacted this section, shall be exempt from the
2 transfers contained in Sections 13.50, 13.60, and 13.70 of the
3 Budget Act of 1993. These funds shall include, but not be limited
4 to, all of the following:

- 5 (1) Athletic Commission Fund.
- 6 (2) Bureau of Home Furnishings and Thermal Insulation Fund.
- 7 (3) Contractors License Fund.
- 8 (4) Private Investigator Fund.
- 9 (5) Respiratory Care Fund.
- 10 (6) Vocational Nursing and Psychiatric Technicians Fund.
- 11 (b) Subdivision (a) shall not apply to the Contingent Fund of
12 the Medical Board of California.

13 SEC. 7. Section 205 of the Business and Professions Code, as
14 amended by Section 2 of Chapter 865 of the Statutes of 2019, is
15 amended to read:

16 205. (a) There is in the State Treasury the Professions and
17 Vocations Fund. The fund shall consist of the following special
18 funds:

- 19 (1) Accountancy Fund.
- 20 (2) California Architects Board Fund.
- 21 (3) Athletic Commission Fund.
- 22 (4) Barbering and Cosmetology Contingent Fund.
- 23 (5) Cemetery and Funeral Fund.
- 24 (6) Contractors License Fund.
- 25 (7) State Dentistry Fund.
- 26 (8) Home Furnishings and Thermal Insulation Fund.
- 27 (9) California Architects Board-Landscape Architects Fund.
- 28 (10) Contingent Fund of the Medical Board of California.
- 29 (11) Optometry Fund.
- 30 (12) Pharmacy Board Contingent Fund.
- 31 (13) Physical Therapy Fund.
- 32 (14) Private Investigator Fund.
- 33 (15) Private Security Services Fund.
- 34 (16) Professional Engineer's, Land Surveyor's, and Geologist's
35 Fund.
- 36 (17) Consumer Affairs Fund.
- 37 (18) Behavioral Sciences Fund.
- 38 (19) Licensed Midwifery Fund.
- 39 (20) Court Reporters' Fund.
- 40 (21) Veterinary Medical Board Contingent Fund.

- 1 (22) Vocational Nursing and Psychiatric Technicians Fund.
- 2 (23) Electronic and Appliance Repair Fund.
- 3 (24) Dispensing Opticians Fund.
- 4 (25) Acupuncture Fund.
- 5 (26) Physician Assistant Fund.
- 6 (27) Board of Podiatric Medicine Fund.
- 7 (28) Psychology Fund.
- 8 (29) Respiratory Care Fund.
- 9 (30) Speech-Language Pathology and Audiology and Hearing
- 10 Aid Dispensers Fund.
- 11 (31) Board of Registered Nursing Fund.
- 12 (32) Animal Health Technician Examining Committee Fund.
- 13 (33) State Dental Hygiene Fund.
- 14 (34) State Dental Assistant Fund.
- 15 (35) Structural Pest Control Fund.
- 16 (36) Structural Pest Control Eradication and Enforcement Fund.
- 17 (37) Structural Pest Control Research Fund.
- 18 (38) Household Movers Fund.
- 19 (b) For accounting and recordkeeping purposes, the Professions
- 20 and Vocations Fund shall be deemed to be a single special fund,
- 21 and each of the several special funds therein shall constitute and
- 22 be deemed to be a separate account in the Professions and
- 23 Vocations Fund. Each account or fund shall be available for
- 24 expenditure only for the purposes as are now or may hereafter be
- 25 provided by law.
- 26 (c) This section shall be repealed on July 1, 2022.
- 27 SEC. 8. Section 205 of the Business and Professions Code, as
- 28 added by Section 3 of Chapter 865 of the Statutes of 2019, is
- 29 amended to read:
- 30 205. (a) There is in the State Treasury the Professions and
- 31 Vocations Fund. The fund shall consist of the following special
- 32 funds:
- 33 (1) Accountancy Fund.
- 34 (2) California Architects Board Fund.
- 35 (3) Athletic Commission Fund.
- 36 (4) Barbering and Cosmetology Contingent Fund.
- 37 (5) Cemetery and Funeral Fund.
- 38 (6) Contractors License Fund.
- 39 (7) State Dentistry Fund.
- 40 (8) Home Furnishings and Thermal Insulation Fund.

- 1 (9) California Architects Board-Landscape Architects Fund.
- 2 (10) Contingent Fund of the Medical Board of California.
- 3 (11) Optometry Fund.
- 4 (12) Pharmacy Board Contingent Fund.
- 5 (13) Physical Therapy Fund.
- 6 (14) Private Investigator Fund.
- 7 (15) Private Security Services Fund.
- 8 (16) Professional Engineer's, Land Surveyor's, and Geologist's
- 9 Fund.
- 10 (17) Consumer Affairs Fund.
- 11 (18) Behavioral Sciences Fund.
- 12 (19) Licensed Midwifery Fund.
- 13 (20) Court Reporters' Fund.
- 14 (21) Veterinary Medical Board Contingent Fund.
- 15 (22) Vocational Nursing and Psychiatric Technicians Fund.
- 16 (23) Electronic and Appliance Repair Fund.
- 17 (24) Dispensing Opticians Fund.
- 18 (25) Acupuncture Fund.
- 19 (26) Physician Assistant Fund.
- 20 (27) Board of Podiatric Medicine Fund.
- 21 (28) Psychology Fund.
- 22 (29) Respiratory Care Fund.
- 23 (30) Speech-Language Pathology and Audiology and Hearing
- 24 Aid Dispensers Fund.
- 25 (31) Board of Registered Nursing Fund.
- 26 (32) Animal Health Technician Examining Committee Fund.
- 27 (33) State Dental Hygiene Fund.
- 28 (34) Structural Pest Control Fund.
- 29 (35) Structural Pest Control Eradication and Enforcement Fund.
- 30 (36) Structural Pest Control Research Fund.
- 31 (37) Household Movers Fund.
- 32 (b) For accounting and recordkeeping purposes, the Professions
- 33 and Vocations Fund shall be deemed to be a single special fund,
- 34 and each of the several special funds therein shall constitute and
- 35 be deemed to be a separate account in the Professions and
- 36 Vocations Fund. Each account or fund shall be available for
- 37 expenditure only for the purposes as are now or may hereafter be
- 38 provided by law.
- 39 (c) This section shall become operative on July 1, 2022.

1 SEC. 9. Section 494.5 of the Business and Professions Code
2 is amended to read:

3 494.5. (a) (1) Except as provided in paragraphs (2), (3), and
4 (4), a state governmental licensing entity shall refuse to issue,
5 reactivate, reinstate, or renew a license and shall suspend a license
6 if a licensee's name is included on a certified list.

7 (2) The Department of Motor Vehicles shall suspend a license
8 if a licensee's name is included on a certified list. Any reference
9 in this section to the issuance, reactivation, reinstatement, renewal,
10 or denial of a license shall not apply to the Department of Motor
11 Vehicles.

12 (3) The State Bar of California may recommend to refuse to
13 issue, reactivate, reinstate, or renew a license and may recommend
14 to suspend a license if a licensee's name is included on a certified
15 list. The word "may" shall be substituted for the word "shall"
16 relating to the issuance of a temporary license, refusal to issue,
17 reactivate, reinstate, renew, or suspend a license in this section for
18 licenses under the jurisdiction of the California Supreme Court.

19 (4) The Department of Alcoholic Beverage Control may refuse
20 to issue, reactivate, reinstate, or renew a license, and may suspend
21 a license, if a licensee's name is included on a certified list.

22 (b) For purposes of this section:

23 (1) "Certified list" means either the list provided by the State
24 Board of Equalization or the list provided by the Franchise Tax
25 Board of persons whose names appear on the lists of the 500 largest
26 tax delinquencies pursuant to Section 7063 or 19195 of the
27 Revenue and Taxation Code, as applicable.

28 (2) "License" includes a certificate, registration, or any other
29 authorization to engage in a profession or occupation issued by a
30 state governmental licensing entity. "License" includes a driver's
31 license issued pursuant to Chapter 1 (commencing with Section
32 12500) of Division 6 of the Vehicle Code. "License" excludes a
33 vehicle registration issued pursuant to Division 3 (commencing
34 with Section 4000) of the Vehicle Code.

35 (3) "Licensee" means an individual authorized by a license to
36 drive a motor vehicle or authorized by a license, certificate,
37 registration, or other authorization to engage in a profession or
38 occupation issued by a state governmental licensing entity.

39 (4) "State governmental licensing entity" means any entity listed
40 in Section 101, 1000, or 19420, the office of the Attorney General,

1 the Department of Insurance, the Department of Motor Vehicles,
2 the State Bar of California, the Department of Real Estate, and
3 any other state agency, board, or commission that issues a license,
4 certificate, or registration authorizing an individual to engage in
5 a profession or occupation, including any certificate, business or
6 occupational license, or permit or license issued by the Department
7 of Motor Vehicles or the Department of the California Highway
8 Patrol. “State governmental licensing entity” shall not include the
9 Contractors State License Board.

10 (c) The State Board of Equalization and the Franchise Tax Board
11 shall each submit its respective certified list to every state
12 governmental licensing entity. The certified lists shall include the
13 name, social security number or taxpayer identification number,
14 and the last known address of the persons identified on the certified
15 lists.

16 (d) Notwithstanding any other law, each state governmental
17 licensing entity shall collect the social security number or the
18 federal taxpayer identification number from all applicants for the
19 purposes of matching the names of the certified lists provided by
20 the State Board of Equalization and the Franchise Tax Board to
21 applicants and licensees.

22 (e) (1) Each state governmental licensing entity shall determine
23 whether an applicant or licensee is on the most recent certified list
24 provided by the State Board of Equalization and the Franchise Tax
25 Board.

26 (2) If an applicant or licensee is on either of the certified lists,
27 the state governmental licensing entity shall immediately provide
28 a preliminary notice to the applicant or licensee of the entity’s
29 intent to suspend or withhold issuance or renewal of the license.
30 The preliminary notice shall be delivered personally or by mail to
31 the applicant’s or licensee’s last known mailing address on file
32 with the state governmental licensing entity within 30 days of
33 receipt of the certified list. Service by mail shall be completed in
34 accordance with Section 1013 of the Code of Civil Procedure.

35 (A) The state governmental licensing entity shall issue a
36 temporary license valid for a period of 90 days to any applicant
37 whose name is on a certified list if the applicant is otherwise
38 eligible for a license.

39 (B) The 90-day time period for a temporary license shall not be
40 extended. Only one temporary license shall be issued during a

1 regular license term and the term of the temporary license shall
2 coincide with the first 90 days of the regular license term. A license
3 for the full term or the remainder of the license term may be issued
4 or renewed only upon compliance with this section.

5 (C) In the event that a license is suspended or an application for
6 a license or the renewal of a license is denied pursuant to this
7 section, any funds paid by the applicant or licensee shall not be
8 refunded by the state governmental licensing entity.

9 (f) (1) A state governmental licensing entity shall refuse to
10 issue or shall suspend a license pursuant to this section no sooner
11 than 90 days and no later than 120 days of the mailing of the
12 preliminary notice described in paragraph (2) of subdivision (e),
13 unless the state governmental licensing entity has received a release
14 pursuant to subdivision (h). The procedures in the administrative
15 adjudication provisions of the Administrative Procedure Act
16 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
17 (commencing with Section 11500) of Part 1 of Division 3 of Title
18 2 of the Government Code) shall not apply to the denial or
19 suspension of, or refusal to renew, a license or the issuance of a
20 temporary license pursuant to this section.

21 (2) Notwithstanding any other law, if a board, bureau, or
22 commission listed in Section 101, other than the Contractors State
23 License Board, fails to take action in accordance with this section,
24 the Department of Consumer Affairs shall issue a temporary license
25 or suspend or refuse to issue, reactivate, reinstate, or renew a
26 license, as appropriate.

27 (g) Notices shall be developed by each state governmental
28 licensing entity. For an applicant or licensee on the State Board
29 of Equalization's certified list, the notice shall include the address
30 and telephone number of the State Board of Equalization, and shall
31 emphasize the necessity of obtaining a release from the State Board
32 of Equalization as a condition for the issuance, renewal, or
33 continued valid status of a license or licenses. For an applicant or
34 licensee on the Franchise Tax Board's certified list, the notice shall
35 include the address and telephone number of the Franchise Tax
36 Board, and shall emphasize the necessity of obtaining a release
37 from the Franchise Tax Board as a condition for the issuance,
38 renewal, or continued valid status of a license or licenses.

39 (1) The notice shall inform the applicant that the state
40 governmental licensing entity shall issue a temporary license, as

1 provided in subparagraph (A) of paragraph (2) of subdivision (e),
2 for 90 calendar days if the applicant is otherwise eligible and that
3 upon expiration of that time period, the license will be denied
4 unless the state governmental licensing entity has received a release
5 from the State Board of Equalization or the Franchise Tax Board,
6 whichever is applicable.

7 (2) The notice shall inform the licensee that any license
8 suspended under this section will remain suspended until the state
9 governmental licensing entity receives a release along with
10 applications and fees, if applicable, to reinstate the license.

11 (3) The notice shall also inform the applicant or licensee that if
12 an application is denied or a license is suspended pursuant to this
13 section, any moneys paid by the applicant or licensee shall not be
14 refunded by the state governmental licensing entity. The state
15 governmental licensing entity shall also develop a form that the
16 applicant or licensee shall use to request a release by the State
17 Board of Equalization or the Franchise Tax Board. A copy of this
18 form shall be included with every notice sent pursuant to this
19 subdivision.

20 (h) If the applicant or licensee wishes to challenge the
21 submission of their name on a certified list, the applicant or licensee
22 shall make a timely written request for release to the State Board
23 of Equalization or the Franchise Tax Board, whichever is
24 applicable. The State Board of Equalization or the Franchise Tax
25 Board shall immediately send a release to the appropriate state
26 governmental licensing entity and the applicant or licensee, if any
27 of the following conditions are met:

28 (1) The applicant or licensee has complied with the tax
29 obligation, either by payment of the unpaid taxes or entry into an
30 installment payment agreement, as described in Section 6832 or
31 19008 of the Revenue and Taxation Code, to satisfy the unpaid
32 taxes.

33 (2) The applicant or licensee has submitted a request for release
34 not later than 45 days after the applicant's or licensee's receipt of
35 a preliminary notice described in paragraph (2) of subdivision (e),
36 but the State Board of Equalization or the Franchise Tax Board,
37 whichever is applicable, will be unable to complete the release
38 review and send notice of its findings to the applicant or licensee
39 and state governmental licensing entity within 45 days after the
40 State Board of Equalization's or the Franchise Tax Board's receipt

1 of the applicant's or licensee's request for release. Whenever a
2 release is granted under this paragraph, and, notwithstanding that
3 release, the applicable license or licenses have been suspended
4 erroneously, the state governmental licensing entity shall reinstate
5 the applicable licenses with retroactive effect back to the date of
6 the erroneous suspension and that suspension shall not be reflected
7 on any license record.

8 (3) The applicant or licensee is unable to pay the outstanding
9 tax obligation due to a current financial hardship. "Financial
10 hardship" means financial hardship as determined by the State
11 Board of Equalization or the Franchise Tax Board, whichever is
12 applicable, where the applicant or licensee is unable to pay any
13 part of the outstanding liability and the applicant or licensee is
14 unable to qualify for an installment payment arrangement as
15 provided for by Section 6832 or Section 19008 of the Revenue
16 and Taxation Code. In order to establish the existence of a financial
17 hardship, the applicant or licensee shall submit any information,
18 including information related to reasonable business and personal
19 expenses, requested by the State Board of Equalization or the
20 Franchise Tax Board, whichever is applicable, for purposes of
21 making that determination.

22 (i) An applicant or licensee is required to act with diligence in
23 responding to notices from the state governmental licensing entity
24 and the State Board of Equalization or the Franchise Tax Board
25 with the recognition that the temporary license will lapse or the
26 license suspension will go into effect after 90 days and that the
27 State Board of Equalization or the Franchise Tax Board must have
28 time to act within that period. An applicant's or licensee's delay
29 in acting, without good cause, which directly results in the inability
30 of the State Board of Equalization or the Franchise Tax Board,
31 whichever is applicable, to complete a review of the applicant's
32 or licensee's request for release shall not constitute the diligence
33 required under this section which would justify the issuance of a
34 release. An applicant or licensee shall have the burden of
35 establishing that they diligently responded to notices from the state
36 governmental licensing entity or the State Board of Equalization
37 or the Franchise Tax Board and that any delay was not without
38 good cause.

39 (j) The State Board of Equalization or the Franchise Tax Board
40 shall create release forms for use pursuant to this section. When

1 the applicant or licensee has complied with the tax obligation by
2 payment of the unpaid taxes, or entry into an installment payment
3 agreement, or establishing the existence of a current financial
4 hardship as defined in paragraph (3) of subdivision (h), the State
5 Board of Equalization or the Franchise Tax Board, whichever is
6 applicable, shall mail a release form to the applicant or licensee
7 and provide a release to the appropriate state governmental
8 licensing entity. Any state governmental licensing entity that has
9 received a release from the State Board of Equalization and the
10 Franchise Tax Board pursuant to this subdivision shall process the
11 release within five business days of its receipt. If the State Board
12 of Equalization or the Franchise Tax Board determines subsequent
13 to the issuance of a release that the licensee has not complied with
14 their installment payment agreement, the State Board of
15 Equalization or the Franchise Tax Board, whichever is applicable,
16 shall notify the state governmental licensing entity and the licensee
17 in a format prescribed by the State Board of Equalization or the
18 Franchise Tax Board, whichever is applicable, that the licensee is
19 not in compliance and the release shall be rescinded. The State
20 Board of Equalization and the Franchise Tax Board may, when it
21 is economically feasible for the state governmental licensing entity
22 to develop an automated process for complying with this
23 subdivision, notify the state governmental licensing entity in a
24 manner prescribed by the State Board of Equalization or the
25 Franchise Tax Board, whichever is applicable, that the licensee
26 has not complied with the installment payment agreement. Upon
27 receipt of this notice, the state governmental licensing entity shall
28 immediately notify the licensee on a form prescribed by the state
29 governmental licensing entity that the licensee's license will be
30 suspended on a specific date, and this date shall be no longer than
31 30 days from the date the form is mailed. The licensee shall be
32 further notified that the license will remain suspended until a new
33 release is issued in accordance with this subdivision.

34 (k) The State Board of Equalization and the Franchise Tax Board
35 may enter into interagency agreements with the state governmental
36 licensing entities necessary to implement this section.

37 (l) Notwithstanding any other law, a state governmental
38 licensing entity, with the approval of the appropriate department
39 director or governing body, may impose a fee on a licensee whose
40 license has been suspended pursuant to this section. The fee shall

1 not exceed the amount necessary for the state governmental
2 licensing entity to cover its costs in carrying out the provisions of
3 this section. Fees imposed pursuant to this section shall be
4 deposited in the fund in which other fees imposed by the state
5 governmental licensing entity are deposited and shall be available
6 to that entity upon appropriation in the annual Budget Act.

7 (m) The process described in subdivision (h) shall constitute
8 the sole administrative remedy for contesting the issuance of a
9 temporary license or the denial or suspension of a license under
10 this section.

11 (n) Any state governmental licensing entity receiving an inquiry
12 as to the licensed status of an applicant or licensee who has had a
13 license denied or suspended under this section or who has been
14 granted a temporary license under this section shall respond that
15 the license was denied or suspended or the temporary license was
16 issued only because the licensee appeared on a list of the 500
17 largest tax delinquencies pursuant to Section 7063 or 19195 of the
18 Revenue and Taxation Code. Information collected pursuant to
19 this section by any state agency, board, or department shall be
20 subject to the Information Practices Act of 1977 (Chapter 1
21 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
22 3 of the Civil Code). Any state governmental licensing entity that
23 discloses on its internet website or other publication that the
24 licensee has had a license denied or suspended under this section
25 or has been granted a temporary license under this section shall
26 prominently disclose, in bold and adjacent to the information
27 regarding the status of the license, that the only reason the license
28 was denied, suspended, or temporarily issued is because the
29 licensee failed to pay taxes.

30 (o) Any rules and regulations issued pursuant to this section by
31 any state agency, board, or department may be adopted as
32 emergency regulations in accordance with the rulemaking
33 provisions of the Administrative Procedure Act (Chapter 3.5
34 (commencing with Section 11340) of Part 1 of Division 3 of Title
35 2 of the Government Code). The adoption of these regulations
36 shall be deemed an emergency and necessary for the immediate
37 preservation of the public peace, health, and safety, or general
38 welfare. The regulations shall become effective immediately upon
39 filing with the Secretary of State.

1 (p) The State Board of Equalization, the Franchise Tax Board,
2 and state governmental licensing entities, as appropriate, shall
3 adopt regulations as necessary to implement this section.

4 (q) (1) Neither the state governmental licensing entity, nor any
5 officer, employee, or agent, or former officer, employee, or agent
6 of a state governmental licensing entity, may disclose or use any
7 information obtained from the State Board of Equalization or the
8 Franchise Tax Board, pursuant to this section, except to inform
9 the public of the denial, refusal to renew, or suspension of a license
10 or the issuance of a temporary license pursuant to this section. The
11 release or other use of information received by a state governmental
12 licensing entity pursuant to this section, except as authorized by
13 this section, is punishable as a misdemeanor. This subdivision may
14 not be interpreted to prevent the State Bar of California from filing
15 a request with the Supreme Court of California to suspend a
16 member of the bar pursuant to this section.

17 (2) A suspension of, or refusal to renew, a license or issuance
18 of a temporary license pursuant to this section does not constitute
19 denial or discipline of a licensee for purposes of any reporting
20 requirements to the National Practitioner Data Bank and shall not
21 be reported to the National Practitioner Data Bank or the Healthcare
22 Integrity and Protection Data Bank.

23 (3) Upon release from the certified list, the suspension or
24 revocation of the applicant's or licensee's license shall be purged
25 from the state governmental licensing entity's internet website or
26 other publication within three business days. This paragraph shall
27 not apply to the State Bar of California.

28 (r) If any provision of this section or the application thereof to
29 any person or circumstance is held invalid, that invalidity shall not
30 affect other provisions or applications of this section that can be
31 given effect without the invalid provision or application, and to
32 this end the provisions of this section are severable.

33 (s) All rights to review afforded by this section to an applicant
34 shall also be afforded to a licensee.

35 (t) Unless otherwise provided in this section, the policies,
36 practices, and procedures of a state governmental licensing entity
37 with respect to license suspensions under this section shall be the
38 same as those applicable with respect to suspensions pursuant to
39 Section 17520 of the Family Code.

1 (u) No provision of this section shall be interpreted to allow a
2 court to review and prevent the collection of taxes prior to the
3 payment of those taxes in violation of the California Constitution.

4 (v) This section shall apply to any licensee whose name appears
5 on a list of the 500 largest tax delinquencies pursuant to Section
6 7063 or 19195 of the Revenue and Taxation Code on or after July
7 1, 2012.

8 SEC. 10. Section 1913 of the Business and Professions Code
9 is amended to read:

10 1913. Unless otherwise specified in this chapter, a registered
11 dental hygienist may perform any procedure or provide any service
12 within the scope of their practice in any setting under the
13 appropriate level of supervision required by this article, if the
14 registered dental hygienist has completed the appropriate education
15 and training required to perform the procedure or provide the
16 service.

17 SEC. 11. Section 1917 of the Business and Professions Code
18 is amended to read:

19 1917. The dental hygiene board shall grant initial licensure as
20 a registered dental hygienist to a person who satisfies all of the
21 following requirements:

22 (a) Completion of an educational program for registered dental
23 hygienists, approved by the dental hygiene board, accredited by
24 the Commission on Dental Accreditation, and conducted by a
25 degree-granting, postsecondary institution.

26 (b) Within the preceding three years, satisfactory completion
27 of the dental hygiene examination given by the Western Regional
28 Examining Board or any other clinical or dental hygiene
29 examination approved by the dental hygiene board.

30 (c) Satisfactory completion of the National Board Dental
31 Hygiene Examination.

32 (d) Satisfactory completion of the examination in California
33 law and ethics as prescribed by the dental hygiene board.

34 (e) Submission of a completed application form and all fees
35 required by the dental hygiene board.

36 (f) Satisfactory completion of dental hygiene board-approved
37 instruction in gingival soft-tissue curettage, nitrous oxide-oxygen
38 analgesia, and local anesthesia.

39 SEC. 12. Section 1917.1 of the Business and Professions Code
40 is amended to read:

- 1 1917.1. (a) The dental hygiene board may grant a license as
2 a registered dental hygienist to an applicant who has not taken a
3 clinical examination before the dental hygiene board, if the
4 applicant submits all of the following to the dental hygiene board:
- 5 (1) A completed application form and all fees required by the
6 dental hygiene board.
 - 7 (2) Proof of a current license as a registered dental hygienist
8 issued by another state that is not revoked, suspended, or otherwise
9 restricted.
 - 10 (3) Proof that the applicant has been in clinical practice as a
11 registered dental hygienist or has been a full-time faculty member
12 in an accredited dental hygiene education program for a minimum
13 of 750 hours per year for at least five years immediately preceding
14 the date of application under this section. The clinical practice
15 requirement shall be deemed met if the applicant provides proof
16 of at least three years of clinical practice and commits to
17 completing the remaining two years of clinical practice by filing
18 with the dental hygiene board a copy of a pending contract to
19 practice dental hygiene in any of the following facilities:
 - 20 (A) A primary care clinic licensed under subdivision (a) of
21 Section 1204 of the Health and Safety Code.
 - 22 (B) A primary care clinic exempt from licensure pursuant to
23 subdivision (c) of Section 1206 of the Health and Safety Code.
 - 24 (C) A clinic owned or operated by a public hospital or health
25 system.
 - 26 (D) A clinic owned and operated by a hospital that maintains
27 the primary contract with a county government to fill the county's
28 role under Section 17000 of the Welfare and Institutions Code.
 - 29 (4) Satisfactory performance on a California law and ethics
30 examination and any examination that may be required by the
31 dental hygiene board.
 - 32 (5) Proof that the applicant has not been subject to disciplinary
33 action by any state in which the applicant is or has been previously
34 issued any professional or vocational license. If the applicant has
35 been subject to disciplinary action, the dental hygiene board shall
36 review that action to determine if it warrants refusal to issue a
37 license to the applicant.
 - 38 (6) Proof of graduation from a school of dental hygiene
39 accredited by the Commission on Dental Accreditation.

1 (7) Proof of satisfactory completion of the National Board
2 Dental Hygiene Examination and of a state clinical examination,
3 regional clinical licensure examination, or any other clinical dental
4 hygiene examination approved by the dental hygiene board.

5 (8) Proof that the applicant has not failed the state clinical
6 examination, the examination given by the Western Regional
7 Examining Board, or any other clinical dental hygiene examination
8 approved by the dental hygiene board for licensure to practice
9 dental hygiene under this chapter more than once or once within
10 five years prior to the date of application for a license under this
11 section.

12 (9) Documentation of completion of a minimum of 25 units of
13 continuing education earned in the two years preceding application,
14 including completion of any continuing education requirements
15 imposed by the dental hygiene board on registered dental hygienists
16 licensed in this state at the time of application.

17 (10) Any other information as specified by the dental hygiene
18 board to the extent that it is required of applicants for licensure by
19 examination under this article.

20 (b) The dental hygiene board may periodically request
21 verification of compliance with the requirements of paragraph (3)
22 of subdivision (a) and may revoke the license upon a finding that
23 the employment requirement or any other requirement of paragraph
24 (3) of subdivision (a) has not been met.

25 (c) The dental hygiene board shall provide in the application
26 packet to each out-of-state dental hygienist pursuant to this section
27 the following information:

28 (1) The location of dental manpower shortage areas in the state.

29 (2) Any nonprofit clinics, public hospitals, and accredited dental
30 hygiene education programs seeking to contract with licensees for
31 dental hygiene service delivery or training purposes.

32 SEC. 13. Section 1922 of the Business and Professions Code
33 is amended to read:

34 1922. The dental hygiene board shall license as a registered
35 dental hygienist in alternative practice a person who demonstrates
36 satisfactory performance on an examination in California law and
37 ethics required by the dental hygiene board and who completes an
38 application form and pays all application fees required by the dental
39 hygiene board and meets either of the following requirements:

1 (a) Holds a current California license as a registered dental
2 hygienist and meets the following requirements:

3 (1) Has been engaged in the practice of dental hygiene, as
4 defined in Section 1908, as a registered dental hygienist in any
5 setting, including, but not limited to, educational settings and public
6 health settings, for a minimum of 2,000 hours during the
7 immediately preceding 36 months.

8 (2) Has successfully completed a bachelor's degree or its
9 equivalent, recognized as a minimum of 120 semester credit hours
10 or 180 quarter credit hours in postsecondary education, from a
11 college or institution of higher education that is accredited by a
12 national or regional accrediting agency recognized by the United
13 States Department of Education, and a minimum of 150 hours of
14 additional educational requirements, as prescribed by the dental
15 hygiene board by regulation, that are consistent with good dental
16 and dental hygiene practice, including, but not necessarily limited
17 to, dental hygiene technique and theory including gerontology and
18 medical emergencies, and business administration and practice
19 management.

20 (b) Has received a letter of acceptance into the employment
21 utilization phase of the Health Workforce Pilot Project No. 155
22 established by the Office of Statewide Health Planning and
23 Development pursuant to Article 1 (commencing with Section
24 128125) of Chapter 3 of Part 3 of Division 107 of the Health and
25 Safety Code.

26 SEC. 14. Section 2065 of the Business and Professions Code
27 is amended to read:

28 2065. (a) Unless otherwise provided by law, no postgraduate
29 trainee, intern, resident, postdoctoral fellow, or instructor may
30 engage in the practice of medicine, or receive compensation
31 therefor, or offer to engage in the practice of medicine unless they
32 hold a valid, unrevoked, and unsuspended physician's and
33 surgeon's certificate issued by the board. However, a graduate of
34 an approved medical school may engage in the practice of medicine
35 whenever and wherever required as a part of a postgraduate training
36 program under the following conditions:

37 (1) The medical school graduate has taken and passed the
38 board-approved medical licensing examinations required to qualify
39 the applicant to participate in an approved postgraduate training
40 program.

1 (2) If the medical school graduate graduated from a foreign
2 medical school approved by the board pursuant to Section 2084,
3 the Educational Commission for Foreign Medical Graduates
4 (ECFMG) has submitted an official ECFMG Certification Status
5 Report directly to the board confirming the graduate is ECFMG
6 certified.

7 (3) The medical school graduate is enrolled in a postgraduate
8 training program approved by the board.

9 (4) The board-approved postgraduate training program has
10 submitted the required board-approved form to the board
11 documenting the medical school graduate is enrolled in an
12 approved postgraduate training program.

13 (5) The medical school graduate obtains a physician's and
14 surgeon's postgraduate training license in accordance with Section
15 2064.5.

16 (b) A medical school graduate enrolled in an approved first-year
17 postgraduate training program in accordance with this section may
18 engage in the practice of medicine whenever and wherever required
19 as a part of the training program, and may receive compensation
20 for that practice.

21 (c) A graduate who has completed the first year of postgraduate
22 training may, in an approved residency or fellowship, engage in
23 the practice of medicine whenever and wherever required as part
24 of that residency or fellowship, and may receive compensation for
25 that practice. The resident or fellow shall qualify for, take, and
26 pass the next succeeding written examination for licensure. If the
27 resident or fellow fails to receive a license to practice medicine
28 under this chapter within 27 months from the commencement of
29 the residency or fellowship, except as otherwise allowed under
30 subdivision (g) or (h), or if the board denies their application for
31 licensure, all privileges and exemptions under this section shall
32 automatically cease.

33 (d) All approved postgraduate training the medical school
34 graduate has successfully completed in the United States or Canada
35 shall count toward the 39-month license exemption, except as
36 otherwise allowed under subdivision (h).

37 (e) A medical school graduate from a medical school approved
38 by the board shall have successfully completed a minimum of 36
39 months of approved postgraduate training, which includes

1 successful progression through 24 months in the same program,
2 to be eligible for a California physician’s and surgeon’s certificate.

3 (f) The program director for an approved postgraduate training
4 program in California shall report to the board, on a form approved
5 by the board, and provide any supporting documents as required
6 by the board, the following actions within 30 days of the action:

7 (1) A postgraduate trainee is notified that they have received
8 partial or no credit for a period of postgraduate training, and their
9 postgraduate training period is extended.

10 (2) A postgraduate trainee takes a leave of absence or any break
11 from their postgraduate training, and they are notified that their
12 postgraduate training period is extended.

13 (3) A postgraduate trainee is terminated from the postgraduate
14 training program.

15 (4) A postgraduate trainee resigns, dies, or otherwise leaves the
16 postgraduate training program.

17 (5) A postgraduate trainee has completed a one-year contract
18 approved by the postgraduate training program.

19 (g) Upon review of supporting documentation, the board, in its
20 discretion, may grant an extension beyond 39 months to a
21 postgraduate training licensee to successfully complete the 36
22 months of required approved postgraduate training.

23 (h) An applicant for a physician’s and surgeon’s license who
24 has successfully completed 36 months of approved postgraduate
25 training in another state or in Canada and who is accepted into an
26 approved postgraduate training program in California shall obtain
27 their physician’s and surgeon’s license within 90 days after
28 beginning that postgraduate training program or all privileges and
29 exemptions under this section shall automatically cease.

30 (i) This section shall become operative on January 1, 2020.

31 SEC. 15. Section 2113 of the Business and Professions Code
32 is amended to read:

33 2113. (a) Any person who does not immediately qualify for
34 a physician’s and surgeon’s certificate under this chapter and who
35 is offered by the dean of an approved medical school in this state
36 a full-time faculty position may, after application to and approval
37 by the board, be granted a certificate of registration to engage in
38 the practice of medicine only to the extent that the practice is
39 incident to and a necessary part of their duties as approved by the
40 board in connection with the faculty position. A certificate of

1 registration does not authorize a registrant to admit patients to a
2 nursing or a skilled or assisted living facility unless that facility is
3 formally affiliated with the sponsoring medical school. A clinical
4 fellowship shall not be submitted as a faculty service appointment.

5 (b) Application for a certificate of registration shall be made on
6 a form prescribed by the board and shall be accompanied by a
7 registration fee fixed by the board in an amount necessary to
8 recover the actual application processing costs of the program. To
9 qualify for the certificate, an applicant shall submit all of the
10 following:

11 (1) If the applicant is a graduate of a medical school other than
12 in the United States or Canada, documentary evidence satisfactory
13 to the board that they have been licensed to practice medicine and
14 surgery for not less than four years in another state or country
15 whose requirements for licensure are satisfactory to the board, or
16 has been engaged in the practice of medicine in the United States
17 for at least four years in approved facilities, or has completed a
18 combination of that licensure and training.

19 (2) If the applicant is a graduate of a medical school in the
20 United States or Canada, documentary evidence that the medical
21 school is approved by the board.

22 (3) Written certification by the head of the department in which
23 the applicant is to be appointed of all of the following:

24 (A) The applicant will be under their direction.

25 (B) The applicant will not be permitted to practice medicine
26 unless incident to and a necessary part of their duties as approved
27 by the board in subdivision (a).

28 (C) The applicant will be accountable to the medical school's
29 department chair or division chief for the specialty in which the
30 applicant will practice.

31 (D) The applicant will be proctored in the same manner as other
32 new faculty members, including, as appropriate, review by the
33 medical staff of the school's medical center.

34 (E) The applicant will not be appointed to a supervisory position
35 at the level of a medical school department chair or division chief.

36 (4) Demonstration by the dean of the medical school that the
37 applicant has the requisite qualifications to assume the position to
38 which they are to be appointed and that shall include a written
39 statement of the recruitment procedures followed by the medical
40 school before offering the faculty position to the applicant.

1 (c) A certificate of registration shall be issued only for a faculty
2 position at one approved medical school, and no person shall be
3 issued more than one certificate of registration for the same period
4 of time.

5 (d) (1) A certificate of registration is valid for one year from
6 its date of issuance and may be renewed twice.

7 A request for renewal shall be submitted on a form prescribed
8 by the board and shall be accompanied by a renewal fee fixed by
9 the board in an amount necessary to recover the actual application
10 processing costs of the program.

11 (2) The dean of the medical school may request renewal of the
12 registration by submitting a plan at the beginning of the third year
13 of the registrant's appointment demonstrating the registrant's
14 continued progress toward licensure and, if the registrant is a
15 graduate of a medical school other than in the United States or
16 Canada, that the registrant has been issued a certificate by the
17 Educational Commission for Foreign Medical Graduates. The
18 board may, in its discretion, extend the registration for a two-year
19 period to facilitate the registrant's completion of the licensure
20 process.

21 (e) If the registrant is a graduate of a medical school other than
22 in the United States or Canada, they shall meet the requirements
23 of Section 2065 or 2135, as appropriate, in order to obtain a
24 physician's and surgeon's certificate. Notwithstanding any other
25 provision of law, the board may accept clinical practice in an
26 appointment pursuant to this section as qualifying time to meet
27 the postgraduate training requirements in Section 2065, and, in its
28 discretion, waive the examination and the Educational Commission
29 for Foreign Medical Graduates certification requirements specified
30 in paragraph (3) of subdivision (a) of Section 2065 in the event
31 the registrant applies for a physician's and surgeon's certificate.
32 As a condition to waiving any examination or the Educational
33 Commission for Foreign Medical Graduates certification
34 requirement, the board in its discretion, may require an applicant
35 to pass a clinical competency examination approved by the board.
36 The board shall not waive any examination for an applicant who
37 has not completed at least one year in the faculty position.

38 (f) Except to the extent authorized by this section, the registrant
39 shall not engage in the practice of medicine, bill individually for
40 medical services provided by the registrant, or receive

1 compensation therefor, unless they are issued a physician’s and
2 surgeon’s certificate.

3 (g) When providing clinical services, the registrant shall wear
4 a visible name tag containing the title “visiting professor” or
5 “visiting faculty member,” as appropriate, and the institution at
6 which the services are provided shall obtain a signed statement
7 from each patient to whom the registrant provides services
8 acknowledging that the patient understands that the services are
9 provided by a person who does not hold a physician’s and
10 surgeon’s certificate but who is qualified to participate in a special
11 program as a visiting professor or faculty member.

12 (h) The board shall notify both the registrant and the dean of
13 the medical school of a complaint made about the registrant. The
14 board may terminate a registration for any act that would be
15 grounds for discipline if done by a licensee. The board shall provide
16 both the registrant and the dean of the medical school with written
17 notice of the termination and the basis for that termination. The
18 registrant may, within 30 days after the date of the notice of
19 termination, file a written appeal to the board. The appeal shall
20 include any documentation the registrant wishes to present to the
21 board.

22 (i) This section shall become operative on January 1, 2020.

23 SEC. 16. Section 2135.5 of the Business and Professions Code
24 is amended to read:

25 2135.5. Upon review and recommendation, the board may
26 determine that an applicant for a physician’s and surgeon’s
27 certificate has satisfied the medical education requirements of
28 Sections 2084 and 2135 and the examination requirements of
29 Section 2170 if the applicant meets all of the following criteria:

30 (a) They hold an unlimited and unrestricted license as a
31 physician and surgeon in another state and has held that license
32 continuously for a minimum of four years prior to the date of
33 application.

34 (b) They meet the postgraduate training requirements in Section
35 2096 and are certified by a specialty board that is a member board
36 of the American Board of Medical Specialties.

37 (c) They are not subject to denial of licensure under Division
38 1.5 (commencing with Section 475) or Article 12 (commencing
39 with Section 2220).

1 (d) They have not been the subject of a disciplinary action by
2 a medical licensing authority or of an adverse judgment or
3 settlement resulting from the practice of medicine that, as
4 determined by the board, constitutes a pattern of negligence or
5 incompetence.

6 (e) This section shall become operative on January 1, 2020.

7 *SEC. 17. Section 2460 of the Business and Professions Code*
8 *is amended to read:*

9 2460. (a) There is created in the Department of Consumer
10 Affairs the California Board of Podiatric Medicine. Commencing
11 July 1, 2019, the California Board of Podiatric Medicine is renamed
12 the Podiatric Medical Board of California. Any reference in any
13 provision of law to the California Board of Podiatric Medicine
14 shall, commencing July 1, 2019, be deemed to refer to the Podiatric
15 Medical Board of California.

16 (b) This section shall remain in effect only until January 1, ~~2021,~~
17 ~~2022~~, and as of that date is repealed. Notwithstanding any other
18 law, the repeal of this section renders the California Board of
19 Podiatric Medicine subject to review by the appropriate policy
20 committees of the Legislature.

21 (c) The amendments made by Chapter 775 of the Statutes of
22 2017 relating to podiatrists shall not be construed to change any
23 rights or privileges held by podiatrists prior to the enactment of
24 that act.

25 *SEC. 18. Section 2841 of the Business and Professions Code*
26 *is amended to read:*

27 2841. (a) There is in the Department of Consumer Affairs a
28 Board of Vocational Nursing and Psychiatric Technicians of the
29 State of California, which consists of 11 members.

30 (b) Within the meaning of this chapter, “board,” or “the board,”
31 refers to the Board of Vocational Nursing and Psychiatric
32 Technicians of the State of California.

33 (c) This section shall remain in effect only until January 1, ~~2021,~~
34 ~~2022~~, and as of that date is repealed.

35 *SEC. 19. Section 2920 of the Business and Professions Code*
36 *is amended to read:*

37 2920. (a) The Board of Psychology shall enforce and
38 administer this chapter. The board shall consist of nine members,
39 four of whom shall be public members.

1 (b) This section shall remain in effect only until January 1, ~~2021~~,
2 2022, and as of that date is repealed.

3 (c) Notwithstanding any other law, the repeal of this section
4 renders the board subject to review by the appropriate policy
5 committees of the Legislature.

6 *SEC. 20. Section 2933 of the Business and Professions Code*
7 *is amended to read:*

8 2933. (a) Except as provided by Section 159.5, the board shall
9 employ and shall make available to the board within the limits of
10 the funds received by the board all personnel necessary to carry
11 out this chapter. The board may employ, exempt from the State
12 Civil Service Act, an executive officer to the Board of Psychology.
13 The board shall make all expenditures to carry out this chapter.
14 The board may accept contributions to effectuate the purposes of
15 this chapter.

16 (b) This section shall remain in effect only until January 1, ~~2021~~,
17 2022, and as of that date is repealed.

18 *SEC. 21. Section 3504 of the Business and Professions Code*
19 *is amended to read:*

20 3504. There is established a Physician Assistant Board within
21 the jurisdiction of the Medical Board of California. The board
22 consists of nine members. This section shall remain in effect only
23 until January 1, ~~2021~~, 2022, and as of that date is repealed.
24 Notwithstanding any other law, the repeal of this section renders
25 the board subject to review by the appropriate policy committees
26 of the Legislature.

27 *SEC. 22. Section 3512 of the Business and Professions Code*
28 *is amended to read:*

29 3512. (a) Except as provided in Sections 159.5 and 2020, the
30 board shall employ within the limits of the Physician Assistant
31 Fund all personnel necessary to carry out this chapter including
32 an executive officer who shall be exempt from civil service. The
33 Medical Board of California and board shall make all necessary
34 expenditures to carry out this chapter from the funds established
35 by Section 3520. The board may accept contributions to effect the
36 purposes of this chapter.

37 (b) This section shall remain in effect only until January 1, ~~2021~~,
38 2022, and as of that date is repealed.

39 *SEC. 23. Section 4001 of the Business and Professions Code*
40 *is amended to read:*

1 4001. (a) There is in the Department of Consumer Affairs a
2 California State Board of Pharmacy in which the administration
3 and enforcement of this chapter is vested. The board consists of
4 13 members.

5 (b) The Governor shall appoint seven competent pharmacists
6 who reside in different parts of the state to serve as members of
7 the board. The Governor shall appoint four public members, and
8 the Senate Committee on Rules and the Speaker of the Assembly
9 shall each appoint a public member who shall not be a licensee of
10 the board, any other board under this division, or any board referred
11 to in Section 1000 or 3600.

12 (c) At least five of the seven pharmacist appointees to the board
13 shall be pharmacists who are actively engaged in the practice of
14 pharmacy. Additionally, the membership of the board shall include
15 at least one pharmacist representative from each of the following
16 practice settings: an acute care hospital, an independent community
17 pharmacy, a chain community pharmacy, and a long-term health
18 care or skilled nursing facility. The pharmacist appointees shall
19 also include a pharmacist who is a member of a labor union that
20 represents pharmacists. For the purposes of this subdivision, a
21 “chain community pharmacy” means a chain of 75 or more stores
22 in California under the same ownership, and an “independent
23 community pharmacy” means a pharmacy owned by a person or
24 entity who owns no more than four pharmacies in California.

25 (d) Members of the board shall be appointed for a term of four
26 years. No person shall serve as a member of the board for more
27 than two consecutive terms. Each member shall hold office until
28 the appointment and qualification of ~~his or her~~ *their* successor or
29 until one year shall have elapsed since the expiration of the term
30 for which the member was appointed, whichever first occurs.
31 Vacancies occurring shall be filled by appointment for the
32 unexpired term.

33 (e) Each member of the board shall receive a per diem and
34 expenses as provided in Section 103.

35 (f) This section shall remain in effect only until January 1, ~~2021,~~
36 ~~2022,~~ and as of that date is repealed. Notwithstanding any other
37 law, the repeal of this section renders the board subject to review
38 by the appropriate policy committees of the Legislature.

39 *SEC. 24. Section 4003 of the Business and Professions Code*
40 *is amended to read:*

1 4003. (a) The board, with the approval of the director, may
 2 appoint a person exempt from civil service who shall be designated
 3 as an executive officer and who shall exercise the powers and
 4 perform the duties delegated by the board and vested in ~~him or her~~
 5 *them* by this chapter. The executive officer may or may not be a
 6 member of the board as the board may determine.

7 (b) The executive officer shall receive the compensation as
 8 established by the board with the approval of the Director of
 9 Finance. The executive officer shall also be entitled to travel and
 10 other expenses necessary in the performance of ~~his or her~~ *their*
 11 duties.

12 (c) The executive officer shall maintain and update in a timely
 13 fashion records containing the names, titles, qualifications, and
 14 places of business of all persons subject to this chapter.

15 (d) The executive officer shall give receipts for all money
 16 received by ~~him or her~~ *them* and pay it to the department, taking
 17 its receipt therefor. Besides the duties required by this chapter, the
 18 executive officer shall perform other duties pertaining to the office
 19 as may be required of ~~him or her~~ *them* by the board.

20 (e) This section shall remain in effect only until January 1, ~~2021,~~
 21 ~~2022,~~ and as of that date is repealed.

22 *SEC. 25. Section 4501 of the Business and Professions Code*
 23 *is amended to read:*

24 4501. (a) "Board," as used in this chapter, means the Board
 25 of Vocational Nursing and Psychiatric Technicians of the State of
 26 California.

27 (b) This section shall remain in effect only until January 1, ~~2021,~~
 28 ~~2022,~~ and as of that date is repealed.

29 *SEC. 26. Section 4503 of the Business and Professions Code*
 30 *is amended to read:*

31 4503. (a) The board shall administer and enforce this chapter.

32 (b) This section shall remain in effect only until January 1, ~~2021,~~
 33 ~~2022,~~ and as of that date is repealed.

34 *SEC. 27. Section 4621 of the Business and Professions Code*
 35 *is amended to read:*

36 ~~4621. (a) This chapter shall remain in effect only until January~~
 37 ~~1, 2021, and as of that date is repealed, unless a later enacted~~
 38 ~~statute, that is enacted before January 1, 2021, deletes or extends~~
 39 ~~that date.~~

1 4621. (a) *This chapter shall remain in effect only until January*
2 *1, 2022, and as of that date is repealed.*

3 (b) Notwithstanding any other law, the powers and duties of the
4 council shall be subject to review by the appropriate policy
5 committees of the Legislature.

6 *SEC. 28. Section 4800 of the Business and Professions Code*
7 *is amended to read:*

8 4800. (a) There is in the Department of Consumer Affairs a
9 Veterinary Medical Board in which the administration of this
10 chapter is vested. The board consists of the following members:

- 11 (1) Four licensed veterinarians.
- 12 (2) One registered veterinary technician.
- 13 (3) Three public members.

14 (b) This section shall remain in effect only until January 1, ~~2021,~~
15 ~~2022,~~ and as of that date is repealed.

16 (c) Notwithstanding any other law, the repeal of this section
17 renders the board subject to review by the appropriate policy
18 committees of the Legislature. However, the review of the board
19 shall be limited to those issues identified by the appropriate policy
20 committees of the Legislature and shall not involve the preparation
21 or submission of a sunset review document or evaluative
22 questionnaire.

23 *SEC. 29. Section 4804.5 of the Business and Professions Code*
24 *is amended to read:*

25 4804.5. The board may appoint a person exempt from civil
26 service who shall be designated as an executive officer and who
27 shall exercise the powers and perform the duties delegated by the
28 board and vested in ~~him or her~~ *them* by this chapter.

29 This section shall remain in effect only until January 1, ~~2021,~~
30 ~~2022,~~ and as of that date is repealed.

31 *SEC. 30. Section 4990 of the Business and Professions Code*
32 *is amended to read:*

33 4990. (a) There is in the Department of Consumer Affairs, a
34 Board of Behavioral Sciences that consists of the following
35 members:

- 36 (1) Two state licensed clinical social workers.
- 37 (2) One state licensed educational psychologist.
- 38 (3) Two state licensed marriage and family therapists.
- 39 (4) One state licensed professional clinical counselor.
- 40 (5) Seven public members.

- 1 (b) Each member, except the seven public members, shall have
2 at least two years of experience in ~~her or his~~ *their* profession.
- 3 (c) Each member shall reside in the State of California.
- 4 (d) The Governor shall appoint five of the public members and
5 the six licensed members with the advice and consent of the Senate.
6 The Senate Committee on Rules and the Speaker of the Assembly
7 shall each appoint a public member.
- 8 (e) Each member of the board shall be appointed for a term of
9 four years. A member appointed by the Senate Committee on Rules
10 or the Speaker of the Assembly shall hold office until the
11 appointment and qualification of ~~his or her~~ *their* successor or until
12 one year from the expiration date of the term for which ~~she or he~~
13 ~~was~~ *they were* appointed, whichever first occurs. Pursuant to
14 Section 1774 of the Government Code, a member appointed by
15 the Governor shall hold office until the appointment and
16 qualification of ~~her or his~~ *their* successor or until 60 days from the
17 expiration date of the term for which ~~he or she~~ *was they were*
18 appointed, whichever first occurs.
- 19 (f) A vacancy on the board shall be filled by appointment for
20 the unexpired term by the authority who appointed the member
21 whose membership was vacated.
- 22 (g) Not later than the first of June of each calendar year, the
23 board shall elect a chairperson and a vice chairperson from its
24 membership.
- 25 (h) Each member of the board shall receive a per diem and
26 reimbursement of expenses as provided in Section 103.
- 27 (i) This section shall remain in effect only until January 1, ~~2021,~~
28 ~~2022~~, and as of that date is repealed.
- 29 (j) Notwithstanding any other provision of law, the repeal of
30 this section renders the board subject to review by the appropriate
31 policy committees of the Legislature.
- 32 *SEC. 31. Section 4990.04 of the Business and Professions Code*
33 *is amended to read:*
- 34 4990.04. (a) The board shall appoint an executive officer. This
35 position is designated as a confidential position and is exempt from
36 civil service under subdivision (e) of Section 4 of Article VII of
37 the California Constitution.
- 38 (b) The executive officer serves at the pleasure of the board.

1 (c) The executive officer shall exercise the powers and perform
2 the duties delegated by the board and vested in ~~her or him~~ *them*
3 by this chapter.

4 (d) With the approval of the director, the board shall fix the
5 salary of the executive officer.

6 (e) The chairperson and executive officer may call meetings of
7 the board and any duly appointed committee at a specified time
8 and place. For purposes of this section, “call meetings” means
9 setting the agenda, time, date, or place for any meeting of the board
10 or any committee.

11 (f) This section shall remain in effect only until January 1, ~~2021,~~
12 ~~2022~~, and as of that date is repealed.

13 ~~SEC. 17.~~

14 *SEC. 32.* Section 5600.4 of the Business and Professions Code
15 is amended to read:

16 5600.4. (a) The board shall issue, upon application and
17 payment of the fee fixed by this chapter, a retired license to an
18 architect who holds a license that is current and active or capable
19 of being renewed pursuant to Section 5600.2 and whose license
20 is not suspended, revoked, or otherwise punitively restricted by
21 the board or subject to disciplinary action under this chapter.

22 (b) The holder of a retired license issued pursuant to this section
23 shall not engage in any activity for which an active architect’s
24 license is required. An architect holding a retired license shall be
25 permitted to use the title “architect retired” or “retired architect.”

26 (c) The holder of a retired license shall not be required to renew
27 that license.

28 (d) In order for the holder of a retired license issued pursuant
29 to this section to restore their license to active status, the holder
30 of a retired license shall comply with Section 5600.2 or 5600.3,
31 as applicable.

32 ~~SEC. 18.~~

33 *SEC. 33.* Section 5650.5 is added to the Business and
34 Professions Code, to read:

35 5650.5. (a) Pursuant to Section 144, the board has the authority
36 to obtain and review criminal offender record information. The
37 information obtained as a result of the fingerprinting shall be used
38 in accordance with Section 11105 of the Penal Code to determine
39 whether the applicant is subject to denial of license pursuant to

1 Division 1.5 (commencing with Section 475) or Section 5660,
2 5675, or 5676.

3 (b) As a condition of application for a license, each applicant
4 shall furnish to the Department of Justice a full set of fingerprints
5 for the purpose of conducting a criminal history record check and
6 to undergo a state- and federal- level criminal offender record
7 information search conducted through the Department of Justice.

8 (c) The board shall request from the Department of Justice
9 subsequent arrest notification service, pursuant to subdivision (p)
10 of Section 11105 of the Penal Code.

11 (d) The applicant shall pay the reasonable regulatory costs for
12 furnishing the fingerprints and conducting the searches.

13 (e) The applicant shall certify, under penalty of perjury, when
14 applying for a license whether the applicant's fingerprints have
15 been furnished to the Department of Justice in compliance with
16 this section.

17 (f) Failure to comply with the requirements of this section
18 renders the application for a license incomplete, and the application
19 shall not be considered until the applicant demonstrates compliance
20 with all requirements of this section.

21 (g) Notwithstanding any other law, the results of any criminal
22 offender record information request by either state or federal law
23 enforcement authorities shall not be released by the board except
24 in accordance with state and federal requirements.

25 (h) As used in this section, the term "applicant" shall be limited
26 to an initial applicant who has never been registered or licensed
27 by the board or to an applicant for a new licensure or registration
28 category.

29 (i) As a condition of petitioning the board for reinstatement of
30 a revoked or surrendered license, an applicant shall comply with
31 subdivision (a).

32 ~~SEC. 19.~~

33 *SEC. 34.* Section 7000 of the Business and Professions Code
34 is amended to read:

35 7000. This chapter constitutes, and may be cited as, the
36 Contractors State License Law.

37 ~~SEC. 20.~~

38 *SEC. 35.* Section 7000.5 of the Business and Professions Code
39 is amended to read:

1 7000.5. (a) There is in the Department of Consumer Affairs
2 a Contractors State License Board, which consists of 15 members.

3 (b) Notwithstanding any other provision of law, the repeal of
4 this section renders the board subject to review by the appropriate
5 policy committees of the Legislature.

6 (c) This section shall remain in effect only until January 1, 2024,
7 and as of that date is repealed.

8 ~~SEC. 21.~~

9 *SEC. 36.* Section 7000.6 of the Business and Professions Code
10 is amended to read:

11 7000.6. Protection of the public shall be the highest priority
12 for the Contractors State License Board in exercising its licensing,
13 regulatory, and disciplinary functions. Whenever the protection
14 of the public is inconsistent with other interests sought to be
15 promoted, the protection of the public shall be paramount.

16 ~~SEC. 22.~~

17 *SEC. 37.* Section 7011.4 of the Business and Professions Code
18 is amended to read:

19 7011.4. (a) Notwithstanding Section 7011, there is in the
20 Contractors State License Board, a separate enforcement division
21 that shall rigorously enforce this chapter prohibiting all forms of
22 unlicensed activity and shall enforce the obligation to secure the
23 payment of valid and current workers' compensation insurance in
24 accordance with Section 3700.5 of the Labor Code.

25 (b) Persons employed as enforcement representatives of the
26 Contractors State License Board and designated by the Director
27 of Consumer Affairs shall have the authority to issue a written
28 notice to appear in court pursuant to Chapter 5C (commencing
29 with Section 853.5) of Title 3 of Part 2 of the Penal Code. An
30 employee so designated is not a peace officer and is not entitled
31 to safety member retirement benefits as a result of that designation.
32 They do not have the power of arrest.

33 (c) When participating in the activities of the Joint Enforcement
34 Strike Force on the Underground Economy pursuant to Section
35 329 of the Unemployment Insurance Code, the enforcement
36 division shall have free access to all places of labor.

37 ~~SEC. 23.~~

38 *SEC. 38.* Section 7011.5 of the Business and Professions Code
39 is amended to read:

1 7011.5. Persons employed as investigators of the Special
2 Investigations Unit of the Contractors State License Board and
3 designated by the Director of Consumer Affairs have the authority
4 of peace officers while engaged in exercising the powers granted
5 or performing the duties imposed upon them in investigating the
6 laws administered by the Contractors State License Board or
7 commencing directly or indirectly any criminal prosecution arising
8 from any investigation conducted under these laws. All persons
9 herein referred to shall be deemed to be acting within the scope
10 of employment with respect to all acts and matters in this section
11 set forth.

12 ~~SEC. 24.~~

13 *SEC. 39.* Section 7011.8 of the Business and Professions Code
14 is amended to read:

15 7011.8. (a) Any person subject to licensure under this chapter
16 who reports to, or causes a complaint to be filed with, the
17 Contractors State License Board that a person licensed by that
18 entity has engaged in professional misconduct, knowing the report
19 or complaint to be false, may be issued a citation by the registrar.

20 (b) The board may notify the appropriate district attorney or
21 city attorney that a person subject to licensure under this chapter
22 has made or filed what the entity believes to be a false report or
23 complaint against a licensee.

24 ~~SEC. 25.~~

25 *SEC. 40.* Section 7015 of the Business and Professions Code
26 is amended to read:

27 7015. The board shall adopt a seal for its own use. The seal
28 shall have the words “Contractors State License Board, State of
29 California, Department of Consumer Affairs,” and the care and
30 custody thereof shall be in the hands of the registrar.

31 ~~SEC. 26.~~

32 *SEC. 41.* Section 7017.3 of the Business and Professions Code
33 is amended to read:

34 7017.3. The Contractors State License Board shall report
35 annually to the Legislature, not later than October 1 of each year,
36 the following statistical information for the prior fiscal year. The
37 following data shall be reported on complaints filed with the board
38 against licensed contractors, registered home improvement
39 salespersons, and unlicensed persons acting as licensees or
40 registrants:

- 1 (a) The number of complaints received by the board categorized
2 by source, such as public, trade, profession, government agency,
3 or board-initiated, and by type of complaint, such as licensee or
4 nonlicensee.
- 5 (b) The number of complaints closed prior to referral for field
6 investigation, categorized by the reason for the closure, such as
7 settled, referred for mandatory arbitration, or referred for voluntary
8 arbitration.
- 9 (c) The number of complaints referred for field investigation
10 categorized by the type of complaint, such as licensee or
11 nonlicensee.
- 12 (d) The number of complaints closed after referral for field
13 investigation categorized by the reason for the closure, such as
14 settled, referred for mandatory arbitration, or referred for voluntary
15 arbitration.
- 16 (e) For the board’s Intake/Mediation Center and the board’s
17 Investigation Center closures, respectively, the total number of
18 complaints closed prior to a field investigation per consumer
19 services representative, and the total number of complaints closed
20 after referral for a field investigation per enforcement
21 representative. Additionally, the board shall report the total number
22 of complaints closed by other board staff during the year.
- 23 (f) The number of complaints pending at the end of the fiscal
24 year grouped in 90-day increments, and the percentage of total
25 complaints pending, represented by the number of complaints in
26 each grouping.
- 27 (g) The number of citations issued to licensees categorized by
28 the type of citation such as order of correction only or order of
29 correction and fine, and the number of citations issued to licensees
30 that were vacated or withdrawn.
- 31 (h) The number of citations issued to nonlicensees and the
32 number of these citations that were vacated or withdrawn.
- 33 (i) The number of complaints referred to a local prosecutor for
34 criminal investigation or prosecution, the number of complaints
35 referred to the Attorney General for the filing of an accusation,
36 and the number of complaints referred to both a local prosecutor
37 and the Attorney General, categorized by type of complaint, such
38 as licensee and nonlicensee.
- 39 (j) Actions taken by the board, including, but not limited to, the
40 following:

- 1 (1) The number of disciplinary actions categorized by type, such
2 as revocations or suspensions, categorized by whether the
3 disciplinary action resulted from an accusation, failure to comply
4 with a citation, or failure to comply with an arbitration award.
- 5 (2) The number of accusations dismissed or withdrawn.
- 6 (k) For subdivisions (g) and (j), the number of cases containing
7 violations of Sections 7121 and 7121.5, and paragraph (5) of
8 subdivision (a) of Section 7159.5, categorized by section.
- 9 (l) The number of interim suspension orders sought, the number
10 of interim suspension orders granted, the number of temporary
11 restraining orders sought, and the number of temporary restraining
12 orders granted.
- 13 (m) The amount of cost recovery ordered and the amount
14 collected.
- 15 (n) Case aging data, including data for each major stage of the
16 enforcement process, including the following:
- 17 (1) The average number of days from the filing of a complaint
18 to its closure by the board's Intake/Mediation Center prior to the
19 referral for an investigation categorized by the type of complaint,
20 such as licensee or nonlicensee.
- 21 (2) The average number of days from the referral of a complaint
22 for an investigation to its closure by the Investigation Center
23 categorized by the type of complaint, such as licensee or
24 nonlicensee.
- 25 (3) The average number of days from the filing of a complaint
26 to the referral of the completed investigation to the Attorney
27 General.
- 28 (4) The average number of days from the referral of a completed
29 investigation to the Attorney General to the filing of an accusation
30 by the Attorney General.
- 31 (5) The average number of days from the filing of an accusation
32 to the first hearing date or date of a stipulated settlement.
- 33 (6) The average number of days from the receipt of the
34 Administrative Law Judge's proposed decision to the registrar's
35 final decision.
- 36 ~~SEC. 27.~~
- 37 *SEC. 42.* Section 7028.7 of the Business and Professions Code
38 is amended to read:
- 39 7028.7. (a) If upon inspection or investigation, either upon
40 complaint or otherwise, the registrar has probable cause to believe

1 that a person is acting in the capacity of or engaging in the business
2 of a contractor or salesperson within this state without having a
3 license or registration in good standing to so act or engage, and
4 the person is not otherwise exempted from this chapter, the registrar
5 shall issue a citation to that person.

6 (b) Within 72 hours of receiving notice that a public entity is
7 intending to award, or has awarded, a contract to an unlicensed
8 contractor, the registrar shall give written notice to the public entity
9 that a citation may be issued if a contract is awarded to an
10 unlicensed contractor. If after receiving the written notice from
11 the registrar that the public entity has awarded or awards the
12 contract to an unlicensed contractor, the registrar may issue a
13 citation to the responsible officer or employee of the public entity
14 as specified in Section 7028.15.

15 (c) Each citation shall be in writing and shall describe with
16 particularity the basis of the citation. Notwithstanding Sections
17 125.9 and 148, each citation shall contain an order of abatement
18 and an assessment of a civil penalty in an amount not less than
19 two hundred dollars (\$200) nor more than fifteen thousand dollars
20 (\$15,000).

21 (d) With the approval of the Contractors State License Board,
22 the registrar shall prescribe procedures for the issuance of a citation
23 under this section. The board shall adopt regulations covering the
24 assessment of a civil penalty that shall give due consideration to
25 the gravity of the violation, and any history of previous violations.

26 (e) The sanctions authorized under this section shall be separate
27 from, and in addition to, all other remedies either civil or criminal.

28 ~~SEC. 28.~~

29 *SEC. 43.* Section 7030 of the Business and Professions Code
30 is amended to read:

31 7030. (a) Except for contractors writing home improvement
32 contracts pursuant to Section 7151.2 and contractors writing service
33 and repair contracts pursuant to Section 7159.10, every person
34 licensed pursuant to this chapter shall include the following
35 statement in at least 10-point type on all written contracts with
36 respect to which the person is a prime contractor:

37
38 “Contractors are required by law to be licensed and regulated
39 by the Contractors State License Board which has jurisdiction to
40 investigate complaints against contractors if a complaint regarding

1 a patent act or omission is filed within four years of the date of the
 2 alleged violation. A complaint regarding a latent act or omission
 3 pertaining to structural defects must be filed within 10 years of
 4 the date of the alleged violation. Any questions concerning a
 5 contractor may be referred to the Registrar, Contractors State
 6 License Board, P.O. Box 26000, Sacramento, CA 95826.”

7
 8 (b) Every person licensed pursuant to this chapter shall include
 9 the following statement in at least 12-point type in all home
 10 improvement contracts written pursuant to Section 7151.2 and
 11 service and repair contracts written pursuant to Section 7159.10:

12
 13 “Information about the Contractors State License Board (CSLB):
 14 CSLB is the state consumer protection agency that licenses and
 15 regulates construction contractors.

16 Contact CSLB for information about the licensed contractor you
 17 are considering, including information about disclosable
 18 complaints, disciplinary actions and civil judgments that are
 19 reported to CSLB.

20 Use only licensed contractors. If you file a complaint against a
 21 licensed contractor within the legal deadline (usually four years),
 22 CSLB has authority to investigate the complaint. If you use an
 23 unlicensed contractor, CSLB may not be able to help you resolve
 24 your complaint. Your only remedy may be in civil court, and you
 25 may be liable for damages arising out of any injuries to the
 26 unlicensed contractor or the unlicensed contractor’s employees.

27 For more information:

28 Visit CSLB’s internet website at www.cslb.ca.gov

29 Call CSLB at 800-321-CSLB (2752)

30 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

31
 32 (c) Failure to comply with the notice requirements set forth in
 33 subdivision (a) or (b) of this section is cause for disciplinary action.

34 ~~SEC. 29.~~

35 *SEC. 44.* Section 7031 of the Business and Professions Code
 36 is amended to read:

37 7031. (a) Except as provided in subdivision (e), no person
 38 engaged in the business or acting in the capacity of a contractor,
 39 may bring or maintain any action, or recover in law or equity in
 40 any action, in any court of this state for the collection of

1 compensation for the performance of any act or contract where a
2 license is required by this chapter without alleging that they were
3 a duly licensed contractor at all times during the performance of
4 that act or contract regardless of the merits of the cause of action
5 brought by the person, except that this prohibition shall not apply
6 to contractors who are each individually licensed under this chapter
7 but who fail to comply with Section 7029.

8 (b) Except as provided in subdivision (e), a person who utilizes
9 the services of an unlicensed contractor may bring an action in
10 any court of competent jurisdiction in this state to recover all
11 compensation paid to the unlicensed contractor for performance
12 of any act or contract.

13 (c) A security interest taken to secure any payment for the
14 performance of any act or contract for which a license is required
15 by this chapter is unenforceable if the person performing the act
16 or contract was not a duly licensed contractor at all times during
17 the performance of the act or contract.

18 (d) If licensure or proper licensure is controverted, then proof
19 of licensure pursuant to this section shall be made by production
20 of a verified certificate of licensure from the Contractors State
21 License Board which establishes that the individual or entity
22 bringing the action was duly licensed in the proper classification
23 of contractors at all times during the performance of any act or
24 contract covered by the action. Nothing in this subdivision shall
25 require any person or entity controverting licensure or proper
26 licensure to produce a verified certificate. When licensure or proper
27 licensure is controverted, the burden of proof to establish licensure
28 or proper licensure shall be on the licensee.

29 (e) The judicial doctrine of substantial compliance shall not
30 apply under this section where the person who engaged in the
31 business or acted in the capacity of a contractor has never been a
32 duly licensed contractor in this state. However, notwithstanding
33 subdivision (b) of Section 143, the court may determine that there
34 has been substantial compliance with licensure requirements under
35 this section if it is shown at an evidentiary hearing that the person
36 who engaged in the business or acted in the capacity of a contractor
37 (1) had been duly licensed as a contractor in this state prior to the
38 performance of the act or contract, (2) acted reasonably and in
39 good faith to maintain proper licensure, and (3) acted promptly

1 and in good faith to remedy the failure to comply with the licensure
2 requirements upon learning of the failure.

3 (f) The exceptions to the prohibition against the application of
4 the judicial doctrine of substantial compliance found in subdivision
5 (e) shall apply to all contracts entered into on or after January 1,
6 1992, and to all actions or arbitrations arising therefrom, except
7 that the amendments to subdivisions (e) and (f) enacted during the
8 1994 portion of the 1993–94 Regular Session of the Legislature
9 shall not apply to either of the following:

10 (1) Any legal action or arbitration commenced prior to January
11 1, 1995, regardless of the date on which the parties entered into
12 the contract.

13 (2) Any legal action or arbitration commenced on or after
14 January 1, 1995, if the legal action or arbitration was commenced
15 prior to January 1, 1995, and was subsequently dismissed.

16 ~~SEC. 30.~~

17 *SEC. 45.* Section 7058.7 of the Business and Professions Code
18 is amended to read:

19 7058.7. (a) No contractor may engage in a removal or remedial
20 action, as defined in subdivision (d), unless the qualifier for the
21 license has passed an approved hazardous substance certification
22 examination.

23 (b) (1) The Contractors State License Board, the Division of
24 Occupational Safety and Health of the Department of Industrial
25 Relations, and the Department of Toxic Substances Control shall
26 jointly select an advisory committee, which shall be composed of
27 two representatives of hazardous substance removal workers in
28 California, two general engineering contractors in California, and
29 two representatives of insurance companies in California who shall
30 be selected by the Insurance Commissioner.

31 (2) The Contractors State License Board shall develop a written
32 test for the certification of contractors engaged in hazardous
33 substance removal or remedial action, in consultation with the
34 Division of Occupational Safety and Health, the State Water
35 Resources Control Board, the Department of Toxic Substances
36 Control, and the advisory committee.

37 (c) The Contractors State License Board may require additional
38 updated approved hazardous substance certification examinations
39 of licensees currently certified based on new public or occupational
40 health and safety information. The Contractors State License Board,

1 in consultation with the Department of Toxic Substances Control
2 and the State Water Resources Control Board, shall approve other
3 initial and updated hazardous substance certification examinations
4 and determine whether to require an updated certification
5 examination of all current certificate holders.

6 (d) For purposes of this section “removal or remedial action”
7 has the same meaning as found in Chapter 6.8 (commencing with
8 Section 25300) of Division 20 of the Health and Safety Code, if
9 the action requires the contractor to dig into the surface of the earth
10 and remove the dug material and the action is at a site listed
11 pursuant to Section 25356 of the Health and Safety Code or any
12 other site listed as a hazardous substance release site by the
13 Department of Toxic Substances Control or a site listed on the
14 National Priorities List compiled pursuant to the Comprehensive
15 Environmental Response, Compensation, and Liability Act of 1980
16 (42 U.S.C. Sec. 9601 et seq.). “Removal or remedial action” does
17 not include asbestos-related work, as defined in Section 6501.8 of
18 the Labor Code, or work related to a hazardous substance spill on
19 a highway.

20 (e) (1) A contractor may not install or remove an underground
21 storage tank, unless the contractor has passed the hazardous
22 substance certification examination developed pursuant to this
23 section.

24 (2) A contractor who is not certified may bid on or contract for
25 the installation or removal of an underground tank, if the work is
26 performed by a contractor who is certified pursuant to this section.

27 (3) For purposes of this subdivision, “underground storage tank”
28 has the same meaning as defined in subdivision (y) of Section
29 25281 of the Health and Safety Code.

30 ~~SEC. 31.~~

31 *SEC. 46.* Section 7071.4 of the Business and Professions Code
32 is amended to read:

33 7071.4. (a) Each person licensed under the provisions of this
34 chapter and subject to any of the bonding provisions of this article
35 shall maintain the requisite bond as executed by an admitted surety
36 insurer or as deposited with the registrar pursuant to paragraph (1)
37 of subdivision (a) of Section 995.710 of the Code of Civil
38 Procedure in the appropriate amount. Notwithstanding Article 7
39 (commencing with Section 995.710) of Chapter 2 of Title 14 of
40 Part 2 of the Code of Civil Procedure, no other method of deposit,

1 including, but not limited to, a certificate of deposit, shall satisfy
2 a bond requirement under this article.

3 (b) All existing alternatives in lieu of a bond currently filed with
4 the registrar shall be replaced for a surety bond or the deposit
5 prescribed by paragraph (1) of subdivision (a) of Section 995.710
6 of the Code of Civil Procedure by January 1, 2020.

7 (c) (1) If the board is notified, in writing, of a civil action
8 against the deposit authorized under this section, the deposit or
9 any portion thereof shall not be released for any purpose, except
10 as determined by the court.

11 (2) If any deposit authorized under this section is insufficient
12 to pay, in full, all claims that have been adjudicated under any
13 action filed in accordance with this section, the amount of the
14 deposit shall be distributed to all claimants in proportion to the
15 amount of their respective claims.

16 (d) Notwithstanding subdivision (a), this section shall not apply
17 to the bond equivalents described in Section 7159.5 of this chapter.

18 (e) (1) This section shall be operative on and after January 1,
19 2019, upon which date the registrar shall thereafter no longer accept
20 alternatives in lieu of a bond, other than as provided in this section.

21 (2) Notwithstanding any other law, in order to comply with the
22 bonding provisions of this article, a person shall only be required
23 to provide information consistent with the requirements for an
24 applicant under Section 30.

25 (f) All alternatives in lieu of a bond filed with the registrar before
26 January 1, 2019, and any lawful money or cashier's check
27 deposited pursuant to paragraph (1) of subdivision (a) of Section
28 995.710 of the Code of Civil Procedure after January 1, 2019, shall
29 be subject to the following limitations periods:

30 (1) Any action, other than an action to recover wages or fringe
31 benefits, against a deposit given in lieu of a contractor's bond or
32 bond of a qualifying individual filed by an active licensee shall be
33 brought within three years after the expiration of the license period
34 during which the act or omission occurred, or within three years
35 of the date the license of the active licensee was inactivated,
36 canceled, or revoked by the board, whichever occurs first.

37 (2) Any action, other than an action to recover wages or fringe
38 benefits, against a deposit given in lieu of a disciplinary bond filed
39 by an active licensee pursuant to Section 7071.8 shall be brought
40 within three years after the expiration of the license period during

1 which the act or omission occurred, or within three years of the
2 date the license of the active licensee was inactivated, canceled,
3 or revoked by the board, or within three years after the last date
4 for which a deposit given in lieu of a disciplinary bond filed
5 pursuant to Section 7071.8 was required, whichever date is first.

6 (3) A claim to recover wages or fringe benefits shall be brought
7 within six months from the date that the wage or fringe benefit
8 delinquencies were discovered, but in no event shall a civil action
9 thereon be brought later than two years from the date the wage or
10 fringe benefit contributions were due.

11 (g) In any case in which a claim is filed against an alternative
12 given in lieu of a bond filed with the registrar before January 1,
13 2019, or deposited with the registrar pursuant to subdivision (a),
14 by any employee or by an employee organization on behalf of an
15 employee, concerning wages or fringe benefits based upon the
16 employee's employment, claims for the nonpayment shall be filed
17 with the Labor Commissioner. The Labor Commissioner shall,
18 pursuant to the authority vested by Section 96.5 of the Labor Code,
19 conduct hearings to determine whether or not the wages or fringe
20 benefits should be paid to the complainant. Upon a finding by the
21 commissioner that the wages or fringe benefits should be paid to
22 the complainant, the commissioner shall notify the registrar of the
23 findings. The registrar shall not make payment from the deposit
24 on the basis of findings by the commissioner for a period of 10
25 days following determination of the findings. If, within the period,
26 the complainant or the contractor files written notice with the
27 registrar and the commissioner of an intention to seek judicial
28 review of the findings pursuant to Section 11523 of the
29 Government Code, the registrar shall not make payment if an action
30 is actually filed, except as determined by the court. If, thereafter,
31 no action is filed within 60 days following determination of
32 findings by the commissioner, the registrar shall make payment
33 from the deposit to the complainant.

34 (h) Legal fees may not be charged by the board against any
35 alternative given in lieu of a bond filed with the registrar before
36 January 1, 2019, or deposited with the registrar pursuant to
37 subdivision (a).

38 ~~SEC. 32.~~

39 *SEC. 47.* Section 7080.5 of the Business and Professions Code
40 is amended to read:

1 7080.5. When an application has been accepted by the registrar,
2 the name and address of the applicant, every classification for
3 which the applicant has applied, and the names and titles of all
4 personnel who have signed the application shall be publicly posted
5 by the registrar, on the day following acceptance, in the office of
6 the Contractors State License Board in Sacramento.

7 ~~SEC. 33.~~

8 *SEC. 48.* Section 7085.5 of the Business and Professions Code
9 is amended to read:

10 7085.5. Arbitrations of disputes arising out of cases filed with
11 or by the board shall be conducted in accordance with the following
12 rules:

13 (a) All “agreements to arbitrate” shall include the names,
14 addresses, and telephone numbers of the parties to the dispute, the
15 issue in dispute, and the amount in dollars or any other remedy
16 sought. The appropriate fee shall be paid by the board from the
17 Contractors License Fund.

18 (b) (1) The board or appointed arbitration association shall
19 appoint an arbitrator in the following manner: immediately after
20 the filing of the agreement to arbitrate, the board or appointed
21 arbitration association shall submit simultaneously to each party
22 to the dispute, an identical list of names of persons chosen from
23 the panel. Each party to the dispute shall have seven days from
24 the mailing date in which to cross off any names to which it objects,
25 number the remaining names to indicate the order of preference,
26 and return the list to the board or appointed arbitration association.
27 If a party does not return the list within the time specified, all
28 persons named in the list are acceptable. From among the persons
29 who have been approved on both lists, and in accordance with the
30 designated order of mutual preference, the board or appointed
31 arbitration association shall appoint an arbitrator to serve. If the
32 parties fail to agree on any of the parties named, if acceptable
33 arbitrators are unable to act, or if, for any other reason, the
34 appointment cannot be made from the submitted lists, the board
35 or appointed arbitration association shall have the power to make
36 the appointment from among other members of the panel without
37 the submission of any additional lists. Each dispute shall be heard
38 and determined by one arbitrator unless the board or appointed
39 arbitration association, in its discretion, directs that a greater
40 number of arbitrators be appointed.

1 (2) In all cases in which a complaint has been referred to
2 arbitration pursuant to subdivision (b) of Section 7085, the board
3 or the appointed arbitration association shall have the power to
4 appoint an arbitrator to hear the matter.

5 (3) The board shall adopt regulations setting minimum
6 qualification standards for listed arbitrators based upon relevant
7 training, experience, and performance.

8 (c) No person shall serve as an arbitrator in any arbitration in
9 which that person has any financial or personal interest in the result
10 of the arbitration. Prior to accepting an appointment, the
11 prospective arbitrator shall disclose any circumstances likely to
12 prevent a prompt hearing or to create a presumption of bias. Upon
13 receipt of that information, the board or appointed arbitration
14 association shall immediately replace the arbitrator or communicate
15 the information to the parties for their comments. Thereafter, the
16 board or appointed arbitration association shall determine whether
17 the arbitrator should be disqualified and shall inform the parties
18 of its decision, which shall be conclusive.

19 (d) The board or appointed arbitration association may appoint
20 another arbitrator if a vacancy occurs, or if an appointed arbitrator
21 is unable to serve in a timely manner.

22 (e) (1) The board or appointed arbitration association shall
23 provide the parties with a list of the times and dates, and locations
24 of the hearing to be held. The parties shall notify the arbitrator,
25 within seven calendar days of the mailing of the list, of the times
26 and dates convenient to each party. If the parties fail to respond
27 to the arbitrator within the seven-day period, the arbitrator shall
28 fix the time, place, and location of the hearing. An arbitrator may,
29 at the arbitrator's sole discretion, make an inspection of the
30 construction site which is the subject of the arbitration. The
31 arbitrator shall notify the parties of the time and date set for the
32 inspection. Any party who so desires may be present at the
33 inspection.

34 (2) The board or appointed arbitration association shall fix the
35 time, place, and location of the hearing for all cases referred to
36 arbitration pursuant to subdivision (b) of Section 7085. An
37 arbitrator may, at the arbitrator's sole discretion, make an
38 inspection of the construction site which is the subject of the
39 arbitration. The arbitrator shall notify the parties of the time and

1 date set for the inspection. Any party who desires may be present
2 at the inspection.

3 (f) Any person having a direct interest in the arbitration is
4 entitled to attend the hearing. The arbitrator shall otherwise have
5 the power to require the exclusion of any witness, other than a
6 party or other essential person, during the testimony of any other
7 witness. It shall be discretionary with the arbitrator to determine
8 the propriety of the attendance of any other person.

9 (g) Hearings shall be adjourned by the arbitrator only for good
10 cause.

11 (h) A record is not required to be taken of the proceedings.
12 However, any party to the proceeding may have a record made at
13 its own expense. The parties may make appropriate notes of the
14 proceedings.

15 (i) The hearing shall be conducted by the arbitrator in any
16 manner which will permit full and expeditious presentation of the
17 case by both parties. Consistent with the expedited nature of
18 arbitration, the arbitrator shall establish the extent of, and schedule
19 for, the production of relevant documents and other information,
20 the identification of any witnesses to be called, and a schedule for
21 any hearings to elicit facts solely within the knowledge of one
22 party. The complaining party shall present its claims, proofs, and
23 witnesses, who shall submit to questions or other examination.
24 The defending party shall then present its defenses, proofs, and
25 witnesses, who shall submit to questions or other examination.
26 The arbitrator has discretion to vary this procedure but shall afford
27 full and equal opportunity to the parties for the presentation of any
28 material or relevant proofs.

29 (j) The arbitration may proceed in the absence of any party who,
30 after due notice, fails to be present. The arbitrator shall require the
31 attending party to submit supporting evidence in order to make an
32 award. An award for the attending party shall not be based solely
33 on the fact that the other party has failed to appear at the arbitration
34 hearing.

35 (k) The arbitrator shall be the sole judge of the relevancy and
36 materiality of the evidence offered and conformity to legal rules
37 of evidence shall not be required.

38 (l) The arbitrator may receive and consider documentary
39 evidence. Documents to be considered by the arbitrator may be
40 submitted prior to the hearing. However, a copy shall be

1 simultaneously transmitted to all other parties and to the board or
2 appointed arbitration association for transmittal to the arbitrator
3 or board appointed arbitrator.

4 (m) The arbitrator shall specifically inquire of the parties
5 whether they have any further proofs to offer or witnesses to be
6 heard. Upon receiving negative replies, the arbitrator shall declare
7 the hearing closed and minutes thereof shall be recorded. If briefs
8 are to be filed, the hearing shall be declared closed as of the final
9 date set by the arbitrator for the receipt of briefs. If documents are
10 to be filed as requested by the arbitrator and the date set for their
11 receipt is later than that set for the receipt of briefs, the later date
12 shall be the date of closing the hearings. The time limit within
13 which the arbitrator is required to make the award shall commence
14 to run, in the absence of other agreements by the parties, upon the
15 closing of the hearings.

16 (n) The hearing may be reopened on the arbitrator's own motion.

17 (o) Any party who proceeds with the arbitration after knowledge
18 that any provision or requirement of these rules has not been
19 complied with, and who fails to state their objections to the
20 arbitrator in writing, within 10 calendar days of close of hearing,
21 shall be deemed to have waived their right to object.

22 (p) (1) Except as provided in paragraph (2), any papers or
23 process necessary or proper for the initiation or continuation of an
24 arbitration under these rules and for any court action in connection
25 therewith, or for the entry of judgment on an award made
26 thereunder, may be served upon any party (A) by regular mail
27 addressed to that party or their attorney at the party's last known
28 address, or (B) by personal service.

29 (2) Notwithstanding paragraph (1), in all cases referred to
30 arbitration pursuant to subdivision (b) of Section 7085 in which
31 the contractor fails or refuses to return an executed copy of the
32 notice to arbitrate within the time specified, any papers or process
33 specified in paragraph (1) to be sent to the contractor, including
34 the notice of hearing, shall be mailed by certified mail to the
35 contractor's address of record.

36 (q) The award shall be made promptly by the arbitrator, and
37 unless otherwise agreed by the parties, no later than 30 calendar
38 days from the date of closing the hearing, closing a reopened
39 hearing, or if oral hearing has been waived, from the date of
40 transmitting the final statements and proofs to the arbitrator.

1 The arbitrator may for good cause extend any period of time
2 established by these rules, except the time for making the award.
3 The arbitrator shall notify the parties of any extension and the
4 reason therefor.

5 (r) (1) The arbitrator may grant any remedy or relief that the
6 arbitrator deems just and equitable and within the scope of the
7 board's referral and the requirements of the board. The arbitrator,
8 in their sole discretion, may award costs or expenses.

9 (2) The amendments made in paragraph (1) during the 2003–04
10 Regular Session shall not be interpreted to prevent an arbitrator
11 from awarding a complainant all direct costs and expenses for the
12 completion or repair of the project.

13 (s) The award shall become final 30 calendar days from the date
14 the arbitration award is issued. The arbitrator, upon written
15 application of a party to the arbitration, may correct the award
16 upon the following grounds:

17 (1) There was an evident miscalculation of figures or an evident
18 mistake in the description of any person, things, or property
19 referred to in the award.

20 (2) There is any other clerical error in the award, not affecting
21 the merits of the controversy.

22 An application for correction of the award shall be made within
23 10 calendar days of the date of service of the award by serving a
24 copy of the application on the arbitrator, and all other parties to
25 the arbitration. Any party to the arbitration may make a written
26 objection to the application for correction by serving a copy of the
27 written objection on the arbitrator, the board, and all other parties
28 to the arbitration, within 10 calendar days of the date of service of
29 the application for correction.

30 The arbitrator shall either deny the application or correct the
31 award within 30 calendar days of the date of service of the original
32 award by mailing a copy of the denial or correction to all parties
33 to the arbitration. Any appeal from the denial or correction shall
34 be filed with a court of competent jurisdiction and a true copy
35 thereof shall be filed with the arbitrator or appointed arbitration
36 association within 30 calendar days after the award has become
37 final. The award shall be in writing, and shall be signed by the
38 arbitrator or a majority of them. If no appeal is filed within the
39 30-calendar day period, it shall become a final order of the registrar.

1 (t) Service of the award by certified mail shall be effective if a
2 certified letter containing the award, or a true copy thereof, is
3 mailed by the arbitrator or arbitration association to each party or
4 to a party's attorney of record at their last known address, address
5 of record, or by personally serving any party. Service may be
6 proved in the manner authorized in civil actions.

7 (u) The board shall pay the expenses of one expert witness
8 appointed by the board when the services of an expert witness are
9 requested by either party involved in arbitration pursuant to this
10 article and the case involves workmanship issues that are itemized
11 in the complaint and have not been repaired or replaced. Parties
12 who choose to present the findings of another expert witness as
13 evidence shall pay for those services. Payment for expert witnesses
14 appointed by the board shall be limited to the expert witness costs
15 for inspection of the problem at the construction site, preparation
16 of the expert witness' report, and expert witness fees for appearing
17 or testifying at a hearing. All requests for payment to an expert
18 witness shall be submitted on a form that has been approved by
19 the registrar. All requests for payment to an expert witness shall
20 be reviewed and approved by the board prior to payment. The
21 registrar shall advise the parties that names of industry experts
22 may be obtained by requesting this information from the registrar.

23 (v) The arbitrator shall interpret and apply these rules insofar
24 as they relate to their powers and duties.

25 (w) The following shall apply as to court procedure and
26 exclusion of liability:

27 (1) The board, the appointed arbitration association, or any
28 arbitrator in a proceeding under these rules is not a necessary party
29 in judicial proceedings relating to the arbitration.

30 (2) Parties to these rules shall be deemed to have consented that
31 judgment upon the arbitration award may be entered in any federal
32 or state court having jurisdiction thereof.

33 (3) The board, the appointed arbitration association, or any
34 arbitrator is not liable to any party for any act or omission in
35 connection with any arbitration conducted under these rules.

36 ~~SEC. 34.~~

37 *SEC. 49.* Section 7099.2 of the Business and Professions Code
38 is amended to read:

39 7099.2. (a) The board shall promulgate regulations covering
40 the assessment of civil penalties under this article that give due

1 consideration to the appropriateness of the penalty with respect to
2 the following factors:

3 (1) The gravity of the violation.

4 (2) The good faith of the licensee or applicant for licensure
5 being charged.

6 (3) The history of previous violations.

7 (b) Except as otherwise provided by this chapter, no civil penalty
8 shall be assessed in an amount greater than five thousand dollars
9 (\$5,000). Notwithstanding Section 125.9, a civil penalty not to
10 exceed fifteen thousand dollars (\$15,000) may be assessed for a
11 violation of Section 7114 or 7118.

12 ~~SEC. 35.~~

13 *SEC. 50.* Section 7099.9 is added to the Business and
14 Professions Code, to read:

15 7099.9. (a) If, upon investigation, the registrar has probable
16 cause to believe that a licensee, registrant, or applicant has
17 committed acts or omissions that are grounds for denial,
18 suspension, or revocation of a license or registration, the registrar,
19 or their designee, may issue a letter of admonishment to an
20 applicant, licensee, or registrant in lieu of issuing a citation.
21 Nothing in this article shall in any way limit the registrar's
22 discretionary authority or ability to issue a letter of admonishment
23 as prescribed by this subdivision.

24 (b) The letter of admonishment shall be in writing and shall
25 describe in detail the nature and facts of the violation, including a
26 reference to the statutes or regulations violated. The letter of
27 admonishment shall inform the licensee, registrant, or applicant
28 that within 30 days of service of the letter of admonishment the
29 licensee, registrant, or applicant may do either of the following:

30 (1) Submit a written request for an office conference to the
31 registrar to contest the letter of admonishment. Upon a timely
32 request, the registrar, or their designee, shall hold an office
33 conference with the licensee, registrant, or applicant and, if
34 applicable, their legal counsel or authorized representative.

35 (A) No individual other than the legal counsel or authorized
36 representative of the licensee, registrant, or applicant may
37 accompany the licensee, registrant, or applicant to the office
38 conference.

1 (B) Prior to or at the office conference, the licensee, registrant,
2 or applicant may submit to the registrar declarations and documents
3 pertinent to the subject matter of the letter of admonishment.

4 (C) The office conference is intended to be informal and shall
5 not be subject to the Administrative Procedure Act (Chapter 4.5
6 (commencing with Section 11400) or Chapter 5 (commencing with
7 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
8 Code).

9 (D) After the office conference, the registrar, or their designee,
10 may affirm, modify, or withdraw the letter of admonishment.
11 Within 14 calendar days from the date of the office conference,
12 the registrar, or their designee, shall personally serve or send the
13 written decision by certified mail to the licensee's, registrant's, or
14 applicant's address of record. This decision shall be deemed the
15 final administrative decision concerning the letter of
16 admonishment.

17 (E) Judicial review of the decision may be had by filing a
18 petition for a writ of mandate in accordance with the provisions
19 of Section 1094.5 of the Code of Civil Procedure within 30 days
20 after the date the decision was personally served or sent by certified
21 mail. The judicial review shall extend to the question of whether
22 or not there was a prejudicial abuse of discretion in the issuance
23 of the letter of admonishment or in the decision after the office
24 conference.

25 (2) Comply with the letter of admonishment and, if required,
26 submit a written corrective action plan to the registrar documenting
27 compliance. If an office conference is not requested pursuant to
28 this section, compliance with the letter of admonishment shall not
29 constitute an admission of the violation noted in the letter of
30 admonishment.

31 (c) The letter of admonishment shall be served upon the licensee,
32 registrant, or applicant personally or by certified mail at their
33 address of record with the board. If the licensee, registrant, or
34 applicant is served by certified mail, service shall be effective upon
35 deposit in the United States mail.

36 (d) The licensee, registrant, or applicant shall maintain and have
37 readily available a copy of the letter of admonishment and
38 corrective action plan, if any, for at least one year from the date
39 of issuance of the letter of admonishment.

1 (e) Nothing in this subdivision shall in any way limit the board’s
2 authority or ability to do either of the following:

3 (1) Issue a citation pursuant to Section 125.9, 148, or 7099.

4 (2) Institute disciplinary proceedings pursuant to this article.

5 (f) The issuance of a letter of admonishment shall not be
6 construed as a disciplinary action or discipline for purposes of
7 licensure or the reporting of discipline for licensure.

8 (g) The board shall not issue a letter of admonishment when
9 any one of the following factors is present:

10 (1) The licensee, registrant, or applicant was unlicensed at the
11 time of the violation.

12 (2) Multiple violations have been established.

13 (3) The licensee, registrant, or applicant has a history of the
14 same or similar violations.

15 (4) The violation resulted in financial harm to another.

16 (5) The victim is an elder or dependent adult as defined in
17 Section 368 of the Penal Code.

18 (6) The violation is related to the repair of damage caused by a
19 natural disaster.

20 (h) The board may adopt regulations to further define the
21 circumstances under which a letter of admonishment may be issued.

22 ~~SEC. 36.~~

23 *SEC. 51.* Section 7123.5 of the Business and Professions Code
24 is amended to read:

25 7123.5. If a contractor is convicted of violating Section 396 of
26 the Penal Code or any substantially similar local ordinance in
27 connection with the sale, or offer for sale, of repair or
28 reconstruction services, as defined in Section 396 of the Penal
29 Code, the Contractors State License Board shall take disciplinary
30 action against the contractor, which shall include a suspension of
31 at least six months or the permanent revocation of the contractor’s
32 license.

33 ~~SEC. 37.~~

34 *SEC. 52.* Section 7135 of the Business and Professions Code
35 is amended to read:

36 7135. (a) The fees and civil penalties received under this
37 chapter shall be deposited in the Contractors License Fund. All
38 moneys in the fund are hereby appropriated for the purposes of
39 this chapter.

1 (b) It is the intent of the Legislature that the board shall use
2 moneys appropriated from the fund to improve its administrative
3 and investigative oversight activities and capacity.

4 ~~SEC. 38.~~

5 *SEC. 53.* Section 7136 of the Business and Professions Code
6 is amended to read:

7 7136. The director shall designate a sum not to exceed 10
8 percent of the total income of the Contractors State License Board
9 for each fiscal year to be transferred to the Consumer Affairs Fund
10 as the board's share of the cost of administration of the department.

11 ~~SEC. 39.~~

12 *SEC. 54.* Section 7137 of the Business and Professions Code
13 is amended to read:

14 7137. The board may set fees by regulation. These fees shall
15 be set according to the following schedule:

16 (a) (1) The application fee for an original license in a single
17 classification shall be three hundred thirty dollars (\$330) and may
18 be increased to not more than three hundred seventy-five dollars
19 (\$375).

20 (2) The application fee for each additional classification applied
21 for in connection with an original license shall not be more than
22 eighty-five dollars (\$85).

23 (3) The application fee for each additional classification pursuant
24 to Section 7059 shall be one hundred fifty dollars (\$150) and may
25 be increased to not more than one hundred seventy-five dollars
26 (\$175).

27 (4) The application fee to replace a responsible managing officer,
28 responsible managing manager, responsible managing member,
29 or responsible managing employee pursuant to Section 7068.2
30 shall be one hundred fifty dollars (\$150) and may be increased to
31 not more than one hundred seventy-five dollars (\$175).

32 (5) The application fee to add personnel, other than a qualifying
33 individual, to an existing license shall be one hundred dollars
34 (\$100) and may be increased to not more than one hundred fifteen
35 dollars (\$115).

36 (b) The fee for rescheduling an examination for an applicant
37 who has applied for an original license, additional classification,
38 a change of responsible managing officer, responsible managing
39 manager, responsible managing member, or responsible managing

1 employee, or for an asbestos certification or hazardous substance
2 removal certification, shall not be more than seventy dollars (\$70).

3 (c) The fee for scheduling or rescheduling an examination for
4 a licensee who is required to take the examination as a condition
5 of probation shall not be more than seventy dollars (\$70).

6 (d) The initial license fee for an active or inactive license shall
7 be two hundred dollars (\$200) and may be increased to not more
8 than two hundred twenty-five dollars (\$225).

9 (e) (1) The renewal fee for an active license shall be four
10 hundred dollars (\$400) and may be increased to not more than four
11 hundred fifty dollars (\$450).

12 (2) The renewal fee for an inactive license shall be two hundred
13 dollars (\$200) and may be increased to not more than two hundred
14 twenty-five dollars (\$225).

15 (f) The delinquency fee is an amount equal to 50 percent of the
16 renewal fee, if the license is renewed after its expiration.

17 (g) The registration fee for a home improvement salesperson
18 shall be eighty-three dollars (\$83) and may be increased to not
19 more than ninety-five dollars (\$95).

20 (h) The renewal fee for a home improvement salesperson
21 registration shall be eighty-three dollars (\$83) and may be increased
22 to not more than ninety-five dollars (\$95).

23 (i) The application fee for an asbestos certification examination
24 shall be eighty-three dollars (\$83) and may be increased to not
25 more than ninety-five dollars (\$95).

26 (j) The application fee for a hazardous substance removal or
27 remedial action certification examination shall be eighty-three
28 dollars (\$83) and may be increased to not more than ninety-five
29 dollars (\$95).

30 (k) In addition to any other fees charged to C-10 contractors,
31 the board shall charge a fee of twenty dollars (\$20), to be assessed
32 with the renewal fee for an active license, which shall be used by
33 the board to enforce provisions of the Labor Code related to
34 electrician certification.

35 (l) The service fee to deposit with the registrar lawful money
36 or cashier's check pursuant to paragraph (1) of subdivision (a) of
37 Section 995.710 of the Code of Civil Procedure for purposes of
38 compliance with any provision of Article 5 (commencing with
39 Section 7065) shall be one hundred dollars (\$100), which shall be
40 used by the board only to process each deposit filed with the

1 registrar, to cover the reasonable costs to the registrar for holding
2 money or cashier's checks in trust in interest bearing deposit or
3 share accounts, and to offset the costs of processing payment of
4 lawful claims against a deposit in a civil action.

5 (m) The board shall, by regulation, establish criteria for the
6 approval of expedited processing of applications. Approved
7 expedited processing of applications for licensure or registration,
8 as required by other provisions of law, shall not be subject to this
9 subdivision.

10 ~~SEC. 40.~~

11 *SEC. 55.* Section 7137.5 of the Business and Professions Code
12 is amended to read:

13 7137.5. The sum of ten thousand dollars (\$10,000) shall be
14 transferred from the Contractors License Fund to the Controller
15 for the exclusive use of the California Uniform Construction Cost
16 Accounting Commission.

17 The commission shall prepare a recommendation to the
18 Legislature for a local public agency source to fund the commission
19 beginning July 1, 1991, which will provide revenue supported by
20 the contract activities represented by the commission's authority.

21 Upon adoption of this funding program, the commission shall
22 reimburse the Contractors License Fund in the amount of ten
23 thousand dollars (\$10,000).

24 ~~SEC. 41.~~

25 *SEC. 56.* Section 7138 of the Business and Professions Code
26 is amended to read:

27 7138. Notwithstanding any other provision of law, a fee paid
28 in connection with a service or application covered by Section
29 7137 shall accrue to the Contractors License Fund as an earned
30 fee and shall not be refunded.

31 ~~SEC. 42.~~

32 *SEC. 57.* Section 7139.1 of the Business and Professions Code
33 is amended to read:

34 7139.1. The Legislature hereby finds and declares all of the
35 following:

36 (a) There is a demand and increasing need for construction
37 management education programs and resources within the
38 postsecondary education system that prepare graduates for the
39 management of construction operations and companies regulated

1 by the Contractors State License Law and enforced by the
2 Contractors State License Board.

3 (b) Although construction management programs do exist within
4 the state university system, these programs are woefully
5 underfunded and insufficiently funded to provide training on
6 state-of-the-art management information systems for either
7 graduates or extension programs for continuing education of
8 licensed contractors. Construction industry associations have
9 provided some assistance through direct grants and scholarships,
10 but the industrywide service of these programs and the need for
11 additional assistance mandates broad based industrywide support.

12 (c) It is the intent of the Legislature that by enabling contractors
13 to designate a portion of their licensure fee and providing a format
14 for contractors to contribute funds to construction management
15 education, this article will receive broad based industry support.
16 In addition, this article allows the contractor to demonstrate the
17 importance of construction management education. This assistance
18 will enable greater development of construction management
19 curricula and will improve the overall quality of construction by
20 providing construction management training to California licensed
21 contractors and their current and future management personnel.

22 ~~SEC. 43.~~

23 *SEC. 58.* Section 7139.2 of the Business and Professions Code
24 is amended to read:

25 7139.2. (a) There is hereby created the Construction
26 Management Education Account (CMEA) as a separate account
27 in the Contractors License Fund for the purposes of construction
28 management education. Funds in the account shall be available
29 for the purposes of this article upon appropriation by the
30 Legislature.

31 (b) The Contractors State License Board shall allow a contractor
32 to make a contribution to the Construction Management Education
33 Account at the time of the contractor license fee payment. The
34 license fee form shall clearly display this alternative on its face
35 and shall clearly inform the licensee that this provision is a
36 contribution to the Construction Management Education Account
37 and is in addition to the fees.

38 (c) The board may accept grants from federal, state, or local
39 public agencies, or from private foundations or individuals, in
40 order to assist it in carrying out its duties, functions, and powers

1 under this article. Grant moneys shall be deposited into the
2 Construction Management Education Account.

3 ~~SEC. 44.~~

4 *SEC. 59.* Section 7145.5 of the Business and Professions Code
5 is amended to read:

6 7145.5. (a) The registrar may refuse to issue, reinstate,
7 reactivate, or renew a license or may suspend a license for the
8 failure of a licensee to resolve all outstanding final liabilities, which
9 include taxes, additions to tax, penalties, interest, and any fees that
10 may be assessed by the board, the Department of Industrial
11 Relations, the Employment Development Department, the
12 Franchise Tax Board, or the State Board of Equalization.

13 (1) Until the debts covered by this section are satisfied, the
14 qualifying person and any other personnel of record named on a
15 license that has been suspended under this section shall be
16 prohibited from serving in any capacity that is subject to licensure
17 under this chapter, but shall be permitted to act in the capacity of
18 a nonsupervising bona fide employee.

19 (2) The license of any other renewable licensed entity with any
20 of the same personnel of record that have been assessed an
21 outstanding liability covered by this section shall be suspended
22 until the debt has been satisfied or until the same personnel of
23 record disassociate themselves from the renewable licensed entity.

24 (b) The refusal to issue a license or the suspension of a license
25 as provided by this section shall be applicable only if the registrar
26 has mailed a notice preliminary to the refusal or suspension that
27 indicates that the license will be refused or suspended by a date
28 certain. This preliminary notice shall be mailed to the licensee at
29 least 60 days before the date certain.

30 (c) In the case of outstanding final liabilities assessed by the
31 Franchise Tax Board, this section shall be operative within 60 days
32 after the Contractors State License Board has provided the
33 Franchise Tax Board with the information required under Section
34 30, relating to licensing information that includes the federal
35 employer identification number, individual taxpayer identification
36 number, or social security number.

37 (d) All versions of the application for a contractor's license shall
38 include, as part of the application, an authorization by the applicant,
39 in the form and manner mutually agreeable to the Franchise Tax
40 Board and the board, for the Franchise Tax Board to disclose the

1 tax information that is required for the registrar to administer this
2 section. The Franchise Tax Board may from time to time audit
3 these authorizations.

4 (e) In the case of outstanding final liabilities assessed by the
5 State Board of Equalization, this section shall not apply to any
6 outstanding final liability if the licensee has entered into an
7 installment payment agreement for that liability with the State
8 Board of Equalization and is in compliance with the terms of that
9 agreement.

10 ~~SEC. 45.~~

11 *SEC. 60.* Section 7159 of the Business and Professions Code
12 is amended to read:

13 7159. (a) (1) This section identifies the projects for which a
14 home improvement contract is required, outlines the contract
15 requirements, and lists the items that shall be included in the
16 contract, or may be provided as an attachment.

17 (2) This section does not apply to service and repair contracts
18 that are subject to Section 7159.10, if the contract for the applicable
19 services complies with Sections 7159.10 to 7159.14, inclusive.

20 (3) This section does not apply to the sale, installation, and
21 servicing of a fire alarm sold in conjunction with an alarm system,
22 as defined in Section 7590.1, if all costs attributable to making the
23 fire alarm system operable, including sale and installation costs,
24 do not exceed five hundred dollars (\$500), and the licensee
25 complies with the requirements set forth in Section 7159.9.

26 (4) This section does not apply to any costs associated with
27 monitoring a burglar or fire alarm system.

28 (5) Failure by the licensee, their agent or salesperson, or by a
29 person subject to be licensed under this chapter, to provide the
30 specified information, notices, and disclosures in the contract, or
31 to otherwise fail to comply with any provision of this section, is
32 cause for discipline.

33 (b) For purposes of this section, “home improvement contract”
34 means an agreement, whether oral or written, or contained in one
35 or more documents, between a contractor and an owner or between
36 a contractor and a tenant, regardless of the number of residence
37 or dwelling units contained in the building in which the tenant
38 resides, if the work is to be performed in, to, or upon the residence
39 or dwelling unit of the tenant, for the performance of a home
40 improvement, as defined in Section 7151, and includes all labor,

1 services, and materials to be furnished and performed thereunder,
2 if the aggregate contract price specified in one or more
3 improvement contracts, including all labor, services, and materials
4 to be furnished by the contractor, exceeds five hundred dollars
5 (\$500). “Home improvement contract” also means an agreement,
6 whether oral or written, or contained in one or more documents,
7 between a salesperson, whether or not they are a home
8 improvement salesperson, and an owner or a tenant, regardless of
9 the number of residence or dwelling units contained in the building
10 in which the tenant resides, which provides for the sale, installation,
11 or furnishing of home improvement goods or services.

12 (c) In addition to the specific requirements listed under this
13 section, every home improvement contract and any person subject
14 to licensure under this chapter or their agent or salesperson shall
15 comply with all of the following:

16 (1) The writing shall be legible.

17 (2) Any printed form shall be readable. Unless a larger typeface
18 is specified in this article, text in any printed form shall be in at
19 least 10-point typeface and the headings shall be in at least 10-point
20 boldface type.

21 (3) (A) Before any work is started, the contractor shall give the
22 buyer a copy of the contract signed and dated by both the contractor
23 and the buyer. The buyer’s receipt of the copy of the contract
24 initiates the buyer’s rights to cancel the contract pursuant to
25 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

26 (B) The contract shall contain on the first page, in a typeface
27 no smaller than that generally used in the body of the document,
28 both of the following:

29 (i) The date the buyer signed the contract.

30 (ii) The name and address of the contractor to which the
31 applicable “Notice of Cancellation” is to be mailed, immediately
32 preceded by a statement advising the buyer that the “Notice of
33 Cancellation” may be sent to the contractor at the address noted
34 on the contract.

35 (4) The contract shall include a statement that, upon satisfactory
36 payment being made for any portion of the work performed, the
37 contractor, prior to any further payment being made, shall furnish
38 to the person contracting for the home improvement or swimming
39 pool work a full and unconditional release from any potential lien
40 claimant claim or mechanics lien authorized pursuant to Sections

1 8400 and 8404 of the Civil Code for that portion of the work for
2 which payment has been made.

3 (5) A change-order form for changes or extra work shall be
4 incorporated into the contract and shall become part of the contract
5 only if it is in writing and signed by the parties prior to the
6 commencement of any work covered by a change order.

7 (6) The contract shall contain, in close proximity to the
8 signatures of the owner and contractor, a notice stating that the
9 owner or tenant has the right to require the contractor to have a
10 performance and payment bond.

11 (7) If the contract provides for a contractor to furnish joint
12 control, the contractor shall not have any financial or other interest
13 in the joint control.

14 (8) The provisions of this section are not exclusive and do not
15 relieve the contractor from compliance with any other applicable
16 provision of law.

17 (d) A home improvement contract and any changes to the
18 contract shall be in writing and signed by the parties to the contract
19 prior to the commencement of work covered by the contract or an
20 applicable change order and, except as provided in paragraph (8)
21 of subdivision (a) of Section 7159.5, shall include or comply with
22 all of the following:

23 (1) The name, business address, and license number of the
24 contractor.

25 (2) If applicable, the name and registration number of the home
26 improvement salesperson that solicited or negotiated the contract.

27 (3) The following heading on the contract form that identifies
28 the type of contract in at least 10-point boldface type: “Home
29 Improvement.”

30 (4) The following statement in at least 12-point boldface type:
31 “You are entitled to a completely filled in copy of this agreement,
32 signed by both you and the contractor, before any work may be
33 started.”

34 (5) The heading: “Contract Price,” followed by the amount of
35 the contract in dollars and cents.

36 (6) If a finance charge will be charged, the heading: “Finance
37 Charge,” followed by the amount in dollars and cents. The finance
38 charge is to be set out separately from the contract amount.

39 (7) The heading: “Description of the Project and Description
40 of the Significant Materials to be Used and Equipment to be

1 Installed,” followed by a description of the project and a description
2 of the significant materials to be used and equipment to be installed.
3 For swimming pools, the project description required under this
4 paragraph also shall include a plan and scale drawing showing the
5 shape, size, dimensions, and the construction and equipment
6 specifications.

7 (8) If a downpayment will be charged, the details of the
8 downpayment shall be expressed in substantially the following
9 form, and shall include the text of the notice as specified in
10 subparagraph (C):

11 (A) The heading: “Downpayment.”

12 (B) A space where the actual downpayment appears.

13 (C) The following statement in at least 12-point boldface type:

14
15 “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10
16 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS
17 LESS.”

18
19 (9) If payments, other than the downpayment, are to be made
20 before the project is completed, the details of these payments,
21 known as progress payments, shall be expressed in substantially
22 the following form, and shall include the text of the statement as
23 specified in subparagraph (C):

24 (A) A schedule of progress payments shall be preceded by the
25 heading: “Schedule of Progress Payments.”

26 (B) Each progress payment shall be stated in dollars and cents
27 and specifically reference the amount of work or services to be
28 performed and materials and equipment to be supplied.

29 (C) The section of the contract reserved for the progress
30 payments shall include the following statement in at least 12-point
31 boldface type:

32
33 “The schedule of progress payments must specifically describe
34 each phase of work, including the type and amount of work or
35 services scheduled to be supplied in each phase, along with the
36 amount of each proposed progress payment. IT IS AGAINST THE
37 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR
38 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT
39 YET DELIVERED. HOWEVER, A CONTRACTOR MAY
40 REQUIRE A DOWNPAYMENT.”

1
2 (10) The contract shall address the commencement of work to
3 be performed in substantially the following form:
4 (A) A statement that describes what constitutes substantial
5 commencement of work under the contract.
6 (B) The heading: "Approximate Start Date."
7 (C) The approximate date on which work will be commenced.
8 (11) The estimated completion date of the work shall be
9 referenced in the contract in substantially the following form:
10 (A) The heading: "Approximate Completion Date."
11 (B) The approximate date of completion.
12 (12) If applicable, the heading: "List of Documents to be
13 Incorporated into the Contract," followed by the list of documents
14 incorporated into the contract.
15 (13) The heading: "Note About Extra Work and Change Orders,"
16 followed by the following statement:
17
18 "Extra Work and Change Orders become part of the contract
19 once the order is prepared in writing and signed by the parties prior
20 to the commencement of work covered by the new change order.
21 The order must describe the scope of the extra work or change,
22 the cost to be added or subtracted from the contract, and the effect
23 the order will have on the schedule of progress payments."
24
25 (e) Except as provided in paragraph (8) of subdivision (a) of
26 Section 7159.5, all of the following notices shall be provided to
27 the owner as part of the contract form as specified or, if otherwise
28 authorized under this subdivision, may be provided as an
29 attachment to the contract:
30 (1) A notice concerning commercial general liability insurance.
31 This notice may be provided as an attachment to the contract if
32 the contract includes the following statement: "A notice concerning
33 commercial general liability insurance is attached to this contract."
34 The notice shall include the heading "Commercial General Liability
35 Insurance (CGL)," followed by whichever of the following
36 statements is both relevant and correct:
37 (A) "(The name on the license or 'This contractor') does not
38 carry commercial general liability insurance."
39 (B) "(The name on the license or 'This contractor') carries
40 commercial general liability insurance written by (the insurance

1 company). You may call (the insurance company) at _____
2 to check the contractor’s insurance coverage.”

3 (C) “(The name on the license or ‘This contractor’) is
4 self-insured.”

5 (D) “(The name on the license or ‘This contractor’) is a limited
6 liability company that carries liability insurance or maintains other
7 security as required by law. You may call (the insurance company
8 or trust company or bank) at _____ to check on the contractor’s
9 insurance coverage or security.”

10 (2) A notice concerning workers’ compensation insurance. This
11 notice may be provided as an attachment to the contract if the
12 contract includes the statement: “A notice concerning workers’
13 compensation insurance is attached to this contract.” The notice
14 shall include the heading “Workers’ Compensation Insurance”
15 followed by whichever of the following statements is correct:

16 (A) “(The name on the license or ‘This contractor’) has no
17 employees and is exempt from workers’ compensation
18 requirements.”

19 (B) “(The name on the license or ‘This contractor’) carries
20 workers’ compensation insurance for all employees.”

21 (3) A notice that provides the buyer with the following
22 information about the performance of extra or change-order work:

23 (A) A statement that the buyer may not require a contractor to
24 perform extra or change-order work without providing written
25 authorization prior to the commencement of work covered by the
26 new change order.

27 (B) A statement informing the buyer that extra work or a change
28 order is not enforceable against a buyer unless the change order
29 also identifies all of the following in writing prior to the
30 commencement of work covered by the new change order:

- 31 (i) The scope of work encompassed by the order.
- 32 (ii) The amount to be added or subtracted from the contract.
- 33 (iii) The effect the order will make in the progress payments or
34 the completion date.

35 (C) A statement informing the buyer that the contractor’s failure
36 to comply with the requirements of this paragraph does not
37 preclude the recovery of compensation for work performed based
38 upon legal or equitable remedies designed to prevent unjust
39 enrichment.

1 (4) A notice with the heading “Mechanics Lien Warning” written
2 as follows:

3
4 “MECHANICS LIEN WARNING:

5
6 Anyone who helps improve your property, but who is not paid,
7 may record what is called a mechanics lien on your property. A
8 mechanics lien is a claim, like a mortgage or home equity loan,
9 made against your property and recorded with the county recorder.

10 Even if you pay your contractor in full, unpaid subcontractors,
11 suppliers, and laborers who helped to improve your property may
12 record mechanics liens and sue you in court to foreclose the lien.
13 If a court finds the lien is valid, you could be forced to pay twice
14 or have a court officer sell your home to pay the lien. Liens can
15 also affect your credit.

16 To preserve their right to record a lien, each subcontractor and
17 material supplier must provide you with a document called a
18 ‘Preliminary Notice.’ This notice is not a lien. The purpose of the
19 notice is to let you know that the person who sends you the notice
20 has the right to record a lien on your property if they are not paid.

21 BE CAREFUL. The Preliminary Notice can be sent up to 20
22 days after the subcontractor starts work or the supplier provides
23 material. This can be a big problem if you pay your contractor
24 before you have received the Preliminary Notices.

25 You will not get Preliminary Notices from your prime contractor
26 or from laborers who work on your project. The law assumes that
27 you already know they are improving your property.

28 PROTECT YOURSELF FROM LIENS. You can protect
29 yourself from liens by getting a list from your contractor of all the
30 subcontractors and material suppliers that work on your project.
31 Find out from your contractor when these subcontractors started
32 work and when these suppliers delivered goods or materials. Then
33 wait 20 days, paying attention to the Preliminary Notices you
34 receive.

35 PAY WITH JOINT CHECKS. One way to protect yourself is
36 to pay with a joint check. When your contractor tells you it is time
37 to pay for the work of a subcontractor or supplier who has provided
38 you with a Preliminary Notice, write a joint check payable to both
39 the contractor and the subcontractor or material supplier.

1 For other ways to prevent liens, visit CSLB’s internet website
2 at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

3 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING
4 A LIEN PLACED ON YOUR HOME. This can mean that you
5 may have to pay twice, or face the forced sale of your home to pay
6 what you owe.”
7

8 (5) The following notice shall be provided in at least 12-point
9 typeface:

10
11 “Information about the Contractors State License Board (CSLB):
12 CSLB is the state consumer protection agency that licenses and
13 regulates construction contractors.

14 Contact CSLB for information about the licensed contractor you
15 are considering, including information about disclosable
16 complaints, disciplinary actions, and civil judgments that are
17 reported to CSLB.

18 Use only licensed contractors. If you file a complaint against a
19 licensed contractor within the legal deadline (usually four years),
20 CSLB has authority to investigate the complaint. If you use an
21 unlicensed contractor, CSLB may not be able to help you resolve
22 your complaint. Your only remedy may be in civil court, and you
23 may be liable for damages arising out of any injuries to the
24 unlicensed contractor or the unlicensed contractor’s employees.

25 For more information:

26 Visit CSLB’s internet website at www.cslb.ca.gov

27 Call CSLB at 800-321-CSLB (2752)

28 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”
29

30 (6) (A) The notice set forth in subparagraph (B) and entitled
31 “Three-Day Right to Cancel,” shall be provided to the buyer unless
32 the contract is:

33 (i) Negotiated at the contractor’s place of business.

34 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in
35 paragraph (7).

36 (iii) Subject to licensure under the Alarm Company Act (Chapter
37 11.6 (commencing with Section 7590)), provided the alarm
38 company licensee complies with Sections 1689.5, 1689.6, and
39 1689.7 of the Civil Code, as applicable.
40

1 (B) “Three-Day Right to Cancel

2 You, the buyer, have the right to cancel this contract within three
3 business days. You may cancel by emailing, mailing, faxing, or
4 delivering a written notice to the contractor at the contractor’s
5 place of business by midnight of the third business day after you
6 received a signed and dated copy of the contract that includes this
7 notice. Include your name, your address, and the date you received
8 the signed copy of the contract and this notice.

9 If you cancel, the contractor must return to you anything you
10 paid within 10 days of receiving the notice of cancellation. For
11 your part, you must make available to the contractor at your
12 residence, in substantially as good condition as you received them,
13 goods delivered to you under this contract or sale. Or, you may,
14 if you wish, comply with the contractor’s instructions on how to
15 return the goods at the contractor’s expense and risk. If you do
16 make the goods available to the contractor and the contractor does
17 not pick them up within 20 days of the date of your notice of
18 cancellation, you may keep them without any further obligation.
19 If you fail to make the goods available to the contractor, or if you
20 agree to return the goods to the contractor and fail to do so, then
21 you remain liable for performance of all obligations under the
22 contract.”

23
24 (C) The “Three-Day Right to Cancel” notice required by this
25 paragraph shall comply with all of the following:

- 26 (i) The text of the notice is at least 12-point boldface type.
27 (ii) The notice is in immediate proximity to a space reserved
28 for the owner’s signature.
29 (iii) The owner acknowledges receipt of the notice by signing
30 and dating the notice form in the signature space.
31 (iv) The notice is written in the same language, e.g., Spanish,
32 as that principally used in any oral sales presentation.
33 (v) The notice may be attached to the contract if the contract
34 includes, in at least 12-point boldface type, a checkbox with the
35 following statement: “The law requires that the contractor give
36 you a notice explaining your right to cancel. Initial the checkbox
37 if the contractor has given you a ‘Notice of the Three-Day Right
38 to Cancel.’”
39 (vi) The notice shall be accompanied by a completed form in
40 duplicate, captioned “Notice of Cancellation,” which also shall be

1 attached to the agreement or offer to purchase and be easily
2 detachable, and which shall contain the following statement written
3 in the same language, e.g., Spanish, as used in the contract:

4
5 “Notice of Cancellation”

6 /enter date of transaction/
7 _____

8 (Date)
9

10 “You may cancel this transaction, without any penalty or
11 obligation, within three business days from the above date.

12 If you cancel, any property traded in, any payments made by
13 you under the contract or sale, and any negotiable instrument
14 executed by you will be returned within 10 days following receipt
15 by the seller of your cancellation notice, and any security interest
16 arising out of the transaction will be canceled.

17 If you cancel, you must make available to the seller at your
18 residence, in substantially as good condition as when received,
19 any goods delivered to you under this contract or sale, or you may,
20 if you wish, comply with the instructions of the seller regarding
21 the return shipment of the goods at the seller’s expense and risk.

22 If you do make the goods available to the seller and the seller
23 does not pick them up within 20 days of the date of your notice of
24 cancellation, you may retain or dispose of the goods without any
25 further obligation. If you fail to make the goods available to the
26 seller, or if you agree to return the goods to the seller and fail to
27 do so, then you remain liable for performance of all obligations
28 under the contract.”
29

30 To cancel this transaction, mail or deliver a signed and dated copy of this
31 cancellation notice, or any other written notice, or send a telegram

32 to _____,
33 /name of seller/

34 at _____
35 /address of seller’s place of business/

36 not later than midnight of _____
37 (Date)

38 I hereby cancel this transaction. _____
39 (Date)
40 _____

(Buyer’s signature)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

(7) (A) The following notice entitled “Seven-Day Right to Cancel” shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

“Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by emailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

(B) The “Seven-Day Right to Cancel” notice required by this subdivision shall comply with all of the following:

- (i) The text of the notice is at least 12-point boldface type.
- (ii) The notice is in immediate proximity to a space reserved for the owner’s signature.

1 (iii) The owner acknowledges receipt of the notice by signing
2 and dating the notice form in the signature space.

3 (iv) The notice is written in the same language, e.g., Spanish,
4 as that principally used in any oral sales presentation.

5 (v) The notice may be attached to the contract if the contract
6 includes, in at least 12-point boldface type, a checkbox with the
7 following statement: “The law requires that the contractor give
8 you a notice explaining your right to cancel. Initial the checkbox
9 if the contractor has given you a ‘Notice of the Seven-Day Right
10 to Cancel.’”

11 (vi) The notice shall be accompanied by a completed form in
12 duplicate, captioned “Notice of Cancellation,” which shall also be
13 attached to the agreement or offer to purchase and be easily
14 detachable, and which shall contain the following statement written
15 in the same language, e.g., Spanish, as used in the contract:

16
17 “Notice of Cancellation”

18 /enter date of transaction/
19

20 _____
21 (Date)

22 “You may cancel this transaction, without any penalty or
23 obligation, within seven business days from the above date.

24 If you cancel, any property traded in, any payments made by
25 you under the contract or sale, and any negotiable instrument
26 executed by you will be returned within 10 days following receipt
27 by the seller of your cancellation notice, and any security interest
28 arising out of the transaction will be canceled.

29 If you cancel, you must make available to the seller at your
30 residence, in substantially as good condition as when received,
31 any goods delivered to you under this contract or sale, or you may,
32 if you wish, comply with the instructions of the seller regarding
33 the return shipment of the goods at the seller’s expense and risk.

34 If you do make the goods available to the seller and the seller
35 does not pick them up within 20 days of the date of your notice of
36 cancellation, you may retain or dispose of the goods without any
37 further obligation. If you fail to make the goods available to the
38 seller, or if you agree to return the goods to the seller and fail to
39 do so, then you remain liable for performance of all obligations
40 under the contract.”

1 To cancel this transaction, mail or deliver a signed and dated copy of this
 2 cancellation notice, or any other written notice, or send a telegram
 3 to _____,
 4 /name of seller/
 5 at _____
 6 /address of seller’s place of business/
 7 not later than midnight of _____.
 8 (Date)
 9 I hereby cancel this transaction. _____
 10 (Date)
 11 _____
 12 (Buyer’s signature)

13 ~~SEC. 46.~~

14 *SEC. 61.* Section 7170 of the Business and Professions Code
 15 is amended to read:

16 7170. (a) The Contractors State License Board shall receive
 17 and review complaints and consumer questions regarding solar
 18 energy systems companies and solar contractors. The board shall
 19 also receive complaints received from state agencies regarding
 20 solar energy systems companies and solar contractors.

21 (b) Beginning on July 1, 2019, the board annually shall compile
 22 a report documenting consumer complaints relating to solar
 23 contractors. The report shall be made available publicly on the
 24 board’s and the Public Utilities Commission’s internet websites.
 25 The report shall contain all of the following:

- 26 (1) The number and types of complaints.
- 27 (2) The ZIP Code where the consumer complaint originated.
- 28 (3) The disposition of all complaints received against a solar
 29 contractor.

30 (c) For purposes of this section, “solar energy system” means
 31 a solar energy device to be installed on a residential building that
 32 has the primary purpose of providing for the collection and
 33 distribution of solar energy for the generation of electricity, that
 34 produces at least one kW, and not more than five MW, alternating
 35 current rated peak electricity, and that meets or exceeds the
 36 eligibility criteria established pursuant to Section 25782 of the
 37 Public Resources Code.

38 *SEC. 62.* Section 7303 of the Business and Professions Code
 39 is amended to read:
 40

1 7303. (a) Notwithstanding Article 8 (commencing with Section
 2 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the
 3 Government Code, there is in the Department of Consumer Affairs
 4 the State Board of Barbering and Cosmetology in which the
 5 administration of this chapter is vested.

6 (b) The board shall consist of nine members. Five members
 7 shall be public members, and four members shall represent the
 8 professions. The Governor shall appoint three of the public
 9 members and the four professional members. The Senate
 10 Committee on Rules and the Speaker of the Assembly shall each
 11 appoint one public member. Members of the board shall be
 12 appointed for a term of four years, except that of the members
 13 appointed by the Governor, two of the public members and two
 14 of the professions members shall be appointed for an initial term
 15 of two years. No board member may serve longer than two
 16 consecutive terms.

17 (c) The board may appoint an executive officer who is exempt
 18 from civil service. The executive officer shall exercise the powers
 19 and perform the duties delegated by the board and vested in the
 20 executive officer by this chapter. The appointment of the executive
 21 officer is subject to the approval of the director. In the event that
 22 a newly authorized board replaces an existing or previous bureau,
 23 the director may appoint an interim executive officer for the board
 24 who shall serve temporarily until the new board appoints a
 25 permanent executive officer.

26 (d) The executive officer shall provide examiners, inspectors,
 27 and other personnel necessary to carry out the provisions of this
 28 chapter.

29 (e) This section shall remain in effect only until January 1, ~~2021,~~
 30 ~~2022~~, and as of that date is ~~repealed, unless a later enacted statute,~~
 31 ~~that is enacted before January 1, 2021, deletes or extends that date.~~
 32 *repealed*. Notwithstanding any other law, the repeal of this section
 33 renders the board subject to review by the appropriate policy
 34 committees of the Legislature.

35 ~~SEC. 47.~~

36 *SEC. 63.* Section 8516 of the Business and Professions Code
 37 is amended to read:

38 8516. (a) This section, and Section 8519, apply only to wood
 39 destroying pests or organisms.

1 (b) A registered company or licensee shall not commence work
2 on a contract, or sign, issue, or deliver any documents expressing
3 an opinion or statement relating to the absence or presence of wood
4 destroying pests or organisms until an inspection has been made
5 by a licensed Branch 3 field representative or operator employed
6 by a registered company, except as provided in Section 8519.5.
7 The address of each property inspected or upon which work is
8 completed shall be reported on a form prescribed by the board and
9 shall be filed with the board no later than 10 business days after
10 the commencement of an inspection or upon completed work.

11 Every property inspected pursuant to this subdivision or Section
12 8518 shall be assessed a filing fee pursuant to Section 8674.

13 Failure of a registered company to report and file with the board
14 the address of any property inspected or work completed pursuant
15 to Section 8518 or this section is grounds for disciplinary action
16 and shall subject the registered company to a fine of not more than
17 two thousand five hundred dollars (\$2,500). The address of an
18 inspection report prepared for use by an attorney for litigation
19 purposes shall not be required to be reported to the board and shall
20 not be assessed a filing fee.

21 A written inspection report conforming to this section and a form
22 approved by the board shall be prepared and delivered to the person
23 requesting the inspection and the property owner, or to the property
24 owner's designated agent, within 10 business days from the start
25 of the inspection, except that an inspection report prepared for use
26 by an attorney for litigation purposes is not required to be reported
27 to the board or the property owner. An inspection report may be
28 a complete, limited, supplemental, or reinspection report, as defined
29 by Section 1993 of Title 16 of the California Code of Regulations.
30 The report shall be delivered before work is commenced on any
31 property. The registered company shall retain for three years all
32 inspection reports, field notes, and activity forms.

33 Reports shall be made available for inspection and reproduction
34 to the executive officer of the board or their duly authorized
35 representative during business hours. All inspection reports or
36 copies thereof shall be submitted to the board upon demand within
37 two business days. The following shall be set forth in the report:

38 (1) The start date of the inspection and the name of the licensed
39 field representative or operator making the inspection.

1 (2) The name and address of the person or firm ordering the
2 report.

3 (3) The name and address of the property owner and any person
4 who is a party in interest.

5 (4) The address or location of the property.

6 (5) A general description of the building or premises inspected.

7 (6) A foundation diagram or sketch of the structure or structures
8 or portions of the structure or structures inspected, including the
9 approximate location of any infested or infected areas evident, and
10 the parts of the structure where conditions that would ordinarily
11 subject those parts to attack by wood destroying pests or organisms
12 exist. Reporting of the infested or infected wood members, or parts
13 of the structure identified, shall be listed in the inspection report
14 to clearly identify them, as is typical in standard construction
15 components, including, but not limited to, siding, studs, rafters,
16 floor joists, fascia, subfloor, sheathing, and trim boards.

17 (7) Information regarding the substructure, foundation walls
18 and footings, porches, patios and steps, air vents, abutments, attic
19 spaces, roof framing that includes the eaves, rafters, fascias,
20 exposed timbers, exposed sheathing, ceiling joists, and attic walls,
21 or other parts subject to attack by wood destroying pests or
22 organisms. Conditions usually deemed likely to lead to infestation
23 or infection, such as earth-wood contacts, excessive cellulose
24 debris, faulty grade levels, excessive moisture conditions, evidence
25 of roof leaks, and insufficient ventilation are to be reported.

26 (8) One of the following statements, as appropriate, printed in
27 bold type:

28 (A) The exterior surface of the roof was not inspected. If you
29 want the water tightness of the roof determined, you should contact
30 a roofing contractor who is licensed by the Contractors State
31 License Board.

32 (B) The exterior surface of the roof was inspected to determine
33 whether or not wood destroying pests or organisms are present.

34 (9) Indication or description of any areas that are inaccessible
35 or not inspected with recommendation for further inspection if
36 practicable. If, after the report has been made in compliance with
37 this section, authority is given later to open inaccessible areas, a
38 supplemental report on conditions in these areas shall be made.

39 (10) Recommendations for corrective measures.

1 (11) Information regarding the pesticide or pesticides to be used
2 for their control or prevention as set forth in subdivision (a) of
3 Section 8538.

4 (12) The inspection report shall clearly disclose that if requested
5 by the person ordering the original report, a reinspection of the
6 structure will be performed if an estimate or bid for making repairs
7 was given with the original inspection report, or thereafter.

8 An estimate or bid shall be given separately allocating the costs
9 to perform each and every recommendation for corrective measures
10 as specified in subdivision (c) with the original inspection report
11 if the person who ordered the original inspection report so requests,
12 and if the registered company is regularly in the business of
13 performing each corrective measure.

14 If no estimate or bid was given with the original inspection
15 report, or thereafter, then the registered company shall not be
16 required to perform a reinspection.

17 A reinspection shall be an inspection of those items previously
18 listed on an original report to determine if the recommendations
19 have been completed. Each reinspection shall be reported on an
20 original inspection report form and shall be labeled “Reinspection.”
21 Each reinspection shall also identify the original report by date.

22 After four months from an original inspection, all inspections
23 shall be original inspections and not reinspections.

24 Any reinspection shall be performed for not more than the price
25 of the registered company’s original inspection price and shall be
26 completed within 10 business days after a reinspection has been
27 ordered.

28 (13) The inspection report shall contain the following statement,
29 printed in boldface type:

30
31 “NOTICE: Reports on this structure prepared by various
32 registered companies should list the same findings (i.e. termite
33 infestations, termite damage, fungus damage, etc.). However,
34 recommendations to correct these findings may vary from company
35 to company. You have a right to seek a second opinion from
36 another company.”

37
38 (c) At the time a report is ordered, the registered company or
39 licensee shall inform the person or entity ordering the report, that
40 a separate report is available pursuant to this subdivision. If a

1 separate report is requested at the time the inspection report is
2 ordered, the registered company or licensee shall separately identify
3 on the report each recommendation for corrective measures as
4 follows:

- 5 (1) The infestation or infection that is evident.
- 6 (2) The conditions that are present that are deemed likely to
7 lead to infestation or infection.

8 If a registered company or licensee fails to inform as required
9 by this subdivision and a dispute arises, or if any other dispute
10 arises as to whether this subdivision has been complied with, a
11 separate report shall be provided within 24 hours of the request
12 but, in no event, later than the next business day, and at no
13 additional cost.

14 (d) When a corrective condition is identified, either as paragraph
15 (1) or (2) of subdivision (c), and the property owner or the property
16 owner's designated agent chooses not to correct those conditions,
17 the registered company or licensee shall not be liable for damages
18 resulting from a failure to correct those conditions or subject to
19 any disciplinary action by the board. Nothing in this subdivision,
20 however, shall relieve a registered company or a licensee of any
21 liability resulting from negligence, fraud, dishonest dealing, other
22 violations pursuant to this chapter, or contractual obligations
23 between the registered company or licensee and the responsible
24 parties.

25 (e) The inspection report form prescribed by the board shall
26 separately identify the infestation or infection that is evident and
27 the conditions that are present that are deemed likely to lead to
28 infestation or infection. If a separate form is requested, the form
29 shall explain the infestation or infection that is evident and the
30 conditions that are present that are deemed likely to lead to
31 infestation or infection and the difference between those conditions.
32 In no event, however, shall conditions deemed likely to lead to
33 infestation or infection be characterized as actual "defects" or as
34 actual "active" infestations or infections or in need of correction
35 as a precondition to issuing a certification pursuant to Section
36 8519.

37 (f) The report and any contract entered into shall also state
38 specifically when any guarantee for the work is made, and if so,
39 the specific terms of the guarantee and the period of time for which
40 the guarantee shall be in effect. If a guarantee extends beyond three

1 years, the registered company shall maintain all original inspection
2 reports, field notes, activity forms, and notices of completion for
3 the duration of the guarantee period and for one year after the
4 guarantee expires.

5 (g) For purposes of this section, “control service agreement”
6 means an agreement, including extended warranties, to have a
7 licensee conduct over a period of time regular inspections and
8 other activities related to the control or eradication of wood
9 destroying pests and organisms. Under a control service agreement
10 a registered company shall refer to the original report and contract
11 in a manner as to identify them clearly, and the report shall be
12 assumed to be a true report of conditions as originally issued,
13 except it may be modified after a control service inspection. A
14 registered company is not required to issue a report as outlined in
15 paragraphs (1) to (11), inclusive, of subdivision (b) after each
16 control service inspection. If after control service inspection, no
17 modification of the original report is made in writing, then it will
18 be assumed that conditions are as originally reported. A control
19 service contract shall state specifically the particular wood
20 destroying pests or organisms and the portions of the buildings or
21 structures covered by the contract.

22 (h) A registered company or licensee may enter into and
23 maintain a control service agreement provided the following
24 requirements are met:

25 (1) The control service agreement shall be in writing, signed by
26 both parties, and shall specifically include the following:

27 (A) The wood destroying pests and organisms covered by the
28 control service agreement.

29 (B) Any wood destroying pest or organism that is not covered
30 must be specifically listed.

31 (C) The type and manner of treatment to be used to correct the
32 infestations or infections.

33 (D) The structures or buildings, or portions thereof, covered by
34 the agreement, including a statement specifying whether the
35 coverage for purposes of periodic inspections is limited or full.
36 Any exclusions from those described in the original report must
37 be specifically listed.

38 (E) A reference to the original inspection report.

39 (F) The frequency of the inspections to be provided, the fee to
40 be charged for each renewal, and the duration of the agreement.

- 1 (G) Whether the fee includes structural repairs.
- 2 (H) If the services provided are guaranteed, and, if so, the terms
3 of the guarantee.
- 4 (I) A statement that all corrections of infestations or infections
5 covered by the control service agreement shall be completed within
6 six months of discovery, unless otherwise agreed to in writing by
7 both parties.
- 8 (2) The original inspection report, the control service agreement,
9 and completion report shall be maintained for three years after the
10 cancellation of the control service agreement.
- 11 (3) Inspections made pursuant to a control service agreement
12 shall be conducted by a Branch 3 licensee. Section 8506.1 does
13 not modify this provision.
- 14 (4) A full inspection of the property covered by the control
15 service agreement shall be conducted and a report filed pursuant
16 to subdivision (b) at least once every three years from the date that
17 the agreement was entered into, unless the consumer cancels the
18 contract within three years from the date the agreement was entered
19 into.
- 20 (5) Under a control service agreement, a written report shall be
21 required for the correction of any infestation or infection unless
22 all of the following conditions are met:
- 23 (A) The infestation or infection has been previously reported.
- 24 (B) The infestation or infection is covered by the control service
25 agreement.
- 26 (C) There is no additional charge for correcting the infestation
27 or infection.
- 28 (D) Correction of the infestation or infection takes place within
29 45 days of its discovery.
- 30 (E) Correction of the infestation or infection does not include
31 fumigation.
- 32 (6) All notice requirements pursuant to Section 8538 shall apply
33 to all pesticide treatments conducted under control service
34 agreements.
- 35 (i) All work recommended by a registered company, where an
36 estimate or bid for making repairs was given with the original
37 inspection report, or thereafter, shall be recorded on this report or
38 a separate work agreement and shall specify a price for each
39 recommendation. This information shall be provided to the person

1 requesting the inspection, and shall be retained by the registered
2 company with the inspection report copy for three years.

3 *SEC. 64. Section 10050 of the Business and Professions Code*
4 *is amended to read:*

5 10050. (a) (1) There is in the Business, Consumer Services,
6 and Housing Agency a Department of Real Estate, the chief officer
7 of which department is named the Real Estate Commissioner.

8 (2) Notwithstanding any other law, the powers and duties of the
9 department, as set forth in this part and Chapter 1 (commencing
10 with Section 11000) of Part 2, shall be subject to review by the
11 appropriate policy committees of the Legislature. The review shall
12 be performed as if this part and that chapter were scheduled to be
13 repealed as of January 1, ~~2021~~, 2022.

14 (b) It shall be the principal responsibility of the commissioner
15 to enforce all laws in this part and Chapter 1 (commencing with
16 Section 11000) of Part 2 in a manner that achieves the maximum
17 protection for the buyers of real property and those persons dealing
18 with real estate licensees.

19 (c) Wherever the term “commissioner” is used in this division,
20 it means the Real Estate Commissioner.

21 (d) This section shall become operative on July 1, 2018.

22 *SEC. 65. Section 11301 of the Business and Professions Code*
23 *is amended to read:*

24 11301. (a) (1) There is hereby created within the Department
25 of Consumer Affairs a Bureau of Real Estate Appraisers to
26 administer and enforce this part.

27 (2) Notwithstanding any other law, the powers and duties of the
28 bureau, as set forth in this part, shall be subject to review by the
29 appropriate policy committees of the Legislature. The review shall
30 be performed as if this part were scheduled to be repealed as of
31 January 1, ~~2021~~, 2022.

32 (b) Whenever the term “Office of Real Estate Appraisers”
33 appears in any other law, it means the “Bureau of Real Estate
34 Appraisers.”

35 ~~SEC. 48.~~

36 *SEC. 66. Section 16100 of the Business and Professions Code*
37 *is amended to read:*

38 16100. (a) The board of supervisors may in the exercise of its
39 police powers, and for the purpose of regulation, as herein
40 provided, and not otherwise, license any kind of business not

1 prohibited by law, transacted and carried on within the limits of
2 its jurisdiction, including all shows, exhibitions, and lawful games,
3 and may fix the rate of the license fee and provide for its collection
4 by suit or otherwise.

5 (b) No license fee levied pursuant to subdivision (a) that is
6 measured by the licensee's income or gross receipts, whether levied
7 by a charter or general law county, shall apply to any nonprofit
8 organization that is exempted from taxes by Chapter 4
9 (commencing with Section 23701) of Part 11 of Division 2 of the
10 Revenue and Taxation Code or Subchapter F (commencing with
11 Section 501) of Chapter 1 of Subtitle A of the Internal Revenue
12 Code of 1986, or the successor of either, or to any minister,
13 clergyman, Christian Science practitioner, rabbi, or priest of any
14 religious organization that has been granted an exemption from
15 federal income tax by the United States Commissioner of Internal
16 Revenue as an organization described in Section 501(c)(3) of the
17 Internal Revenue Code or a successor to that section.

18 (c) Before a county issues a business license to a person to
19 conduct business as a contractor, as defined by Section 7026, the
20 county shall verify that the person is licensed by the Contractors
21 State License Board.

22 ~~SEC. 49.~~

23 *SEC. 67.* Section 19164 of the Business and Professions Code
24 is amended to read:

25 19164. The bureau may, by regulation, establish insulation
26 material standards governing the quality of all insulation material
27 sold or installed within this state, including those properties that
28 affect the safety and thermal performance of insulation material
29 during application and in the use intended. The standards shall
30 specify the initial performance of the insulation material and the
31 performance expected during the design life of the insulation
32 material. Until the bureau has adopted these regulations, the
33 regulations of the State Energy Resources Conservation and
34 Development Commission in effect on the effective date of this
35 section relating to those standards shall remain in full force and
36 effect. However, wherever those regulations specify that the
37 commission shall perform an act, the bureau instead shall perform
38 the act.

39 Prior to establishing the standards and procedures required by
40 this chapter, the bureau shall conduct at least two public hearings,

1 and shall invite the State Energy Resources Conservation and
 2 Development Commission, the State Fire Marshal, manufacturers,
 3 distributors, and licensed installers of insulation materials, and
 4 appropriate members of the public to participate in the hearings.
 5 Immediately upon adoption of the standards and procedures, the
 6 bureau shall provide a copy of the standards to the State Energy
 7 Resources Conservation and Development Commission, and the
 8 Contractors State License Board. Within 30 days after receipt of
 9 the bureau's standards, the Contractors State License Board shall
 10 notify all state licensed contractors who install insulation of the
 11 standards.

12 Insulation standards adopted by the bureau, pursuant to this
 13 section, and by the State Energy Resources Conservation and
 14 Development Commission, pursuant to Section 25402 of the Public
 15 Resources Code, which are building standards, as defined in
 16 Section 25488.5 of the Public Resources Code, shall be submitted
 17 to the California Building Standards Commission for approval
 18 pursuant to, and are governed by, the California Building Standards
 19 Law (Part 2.5 (commencing with Section 18901) of Division 13
 20 of the Health and Safety Code). The building standards adopted
 21 by the bureau and published in the California Building Standards
 22 Code shall comply with, and be enforced as provided in, this
 23 section.

24 *SEC. 68. Section 94950 of the Education Code is amended to*
 25 *read:*

26 94950. This chapter shall remain in effect only until January
 27 1, ~~2021, 2022~~, and as of that date is ~~repealed, unless a later enacted~~
 28 ~~statute, that is enacted before January 1, 2021, deletes or extends~~
 29 ~~that date. repealed.~~

30 ~~SEC. 50.~~

31 *SEC. 69.* No reimbursement is required by this act pursuant to
 32 Section 6 of Article XIII B of the California Constitution because
 33 the only costs that may be incurred by a local agency or school
 34 district will be incurred because this act creates a new crime or
 35 infraction, eliminates a crime or infraction, or changes the penalty
 36 for a crime or infraction, within the meaning of Section 17556 of
 37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O

98

Blank Page

22, 2019 meeting, and the Board will be considered a sponsor of these amendments.

In addition, the Senate Committee on Business, Professions, and Economic Development has amended this bill to propose extending the Board's sunset date by one year (until January 1, 2022). The Board was scheduled to undergo sunset review this year, but the sunset hearing was cancelled due to COVID-19. The one-year extension will allow the Board to undergo sunset review next year.

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members

Date: June 3, 2020

From: Christy Berger
Regulatory Analyst

Telephone: (916) 574-7897

Subject: Supervision-Related Regulations – Response to Public Comments

Background

At its November 2019 meeting, the Board approved regulatory language that would change requirements pertaining to supervision of the experience hours required for licensure as a LMFT, LCSW or LPCC. The approved language is provided in **Attachment A**. Key provisions are as follows:

- Create consistency in supervisor requirements and responsibilities among the three substantially equivalent license types.
- Set standards for documentation when a supervisor is deceased or becomes incapacitated prior to signing off on an applicant's supervised experience.
- Require supervisors to notify the Board that they are supervising and that they meet the qualifications to supervise.
- Require supervisors and supervisees to complete and sign a supervision agreement.
- Codify how completed experience hours shall be verified to the Board.
- Require supervisors to monitor for and address dynamics that could lead to ineffective supervision.
- Address requirements pertaining to temporary substitute supervisors.
- Provide for flexibility in supervisor ongoing training requirements by allowing for certain continuing professional development activities to count.
- Set forth parameters for situations where an individual gaining supervised experience has been placed in an agency by a temporary staffing agency.
- Allow licensees who hold an approved supervisor certification from one of several specified entities to be exempt from certain supervisor qualifications.
- Clarify requirements pertaining to supervision of experience gained outside of California and allow for some flexibility in the supervisor's license title.

Status of the Proposal

The regulation proposal was noticed to the public on February 7, 2020, and the 45-day public comment period ended on March 23, 2020. A public hearing was conducted online on March 23, 2020. For the hearing transcript, see **Attachment B**.

Summary of Comments Received and Proposed Responses

Below is a summary of the public comments received and staff's recommended response:

1. Comments from Sheila Addison, Naila Qureshi, Stacey Thacker and Amanda Michelle Jones at Hearing

Summary: The above individuals provided substantially similar comments. Each would like the regulations to be amended to allow for supervision via videoconferencing in a private practice setting. The following reasons were cited:

- It can be a hardship for disabled supervisors and disabled supervisees to provide supervision in person. This is an access issue which leads to inequality for already marginalized supervisors and supervisees.
- Due to the COVID-19 pandemic it is risky to provide in-person supervision, especially for high-risk individuals.
- The restriction may lead to client abandonment, which is a legal and ethical problem. If the supervisor is ill or out of town, or restricted as in this pandemic, and the supervisor directs a private practice supervisee to not work because in-person supervision can't be provided, this can result in client abandonment. Interim supervision can be difficult and expensive and is sometimes not possible in specialty practices. Clients and supervisees are typically more comfortable with therapy and supervision staying with the same person.

Proposed Response: The Board rejects this comment. Per statute¹, supervision via videoconferencing is only allowed in a governmental entity, school, college, university, or an institution that is nonprofit and charitable. Therefore, any change to this provision would need to be pursued via legislation and cannot be pursued via a regulation change.

¹ Business and Professions Code sections 4980.43.2(d), 4996.23(f) and 4999.46.2(d)

2. Comment from May-Ci Xiong at Hearing

Summary: May-Ci Xiong commented that they would like to see telephone conferencing allowed for group and individual supervision, in order to account for a potential lack of access to telehealth equipment.

Proposed Response: The Board rejects this comment. Supervision is required by statute² to be provided face-to-face. Therefore, any change to this provision would need to be pursued via legislation and cannot be pursued via a regulation change.

3. Comment #1 from Curt Widhalm, LMFT at Hearing

Summary: Mr. Widhalm commented on the section regarding deceased or incapacitated supervisors. He would like to see directives included for the handling of supervisory documentation in a professional will in the event of a supervisor's death or incapacitation.

Proposed Response: The Board rejects this comment. This concern would be better addressed in a larger discussion about professional wills for all licensees (not just supervisors), and whether it is appropriate to require them by law.

4. Comment #2 from Curt Widhalm, LMFT via Email (Attachment C)

Summary: Mr. Widhalm's email requests that subsections (c)(4)&(5) of sections 1821.3, 1834 and 1871 be stricken from the proposal. These provisions would allow supervisors to count supervision-related mentorship or consultation, and attendance at supervisor peer discussion groups toward professional development hours. He cited the following reasons:

- The threshold for content and accountability of peer-led groups and consultations may not meet the rigors comparable to continuing education (CE) course content.
- Peer groups without CE may be helpful and provide insight, but can spin into unstructured discussions and "complaint sessions" about supervisees rather than being educative in nature.
- Without the rigors of education, these options are "counter to the Board's removal of participating in psychotherapy as an option for accruing hours for MFT prelicensees."

Proposed Response: The Board rejects this comment. Issues concerning the newly proposed continuing professional development (CPD) activities were discussed at length in the Board's public Supervision Committee meetings and had broad support from stakeholders. Currently, only CE is permitted to meet the

² Business and Professions Code sections 4980.43.2(b), 4996.23(b) and 4999.46.2(b)

requirement, and CE may not meet a supervisor's specific development needs. Quality may vary in any of the proposed CPD activities, including CE. If quality is a problem, the professional can find a new group, mentor, course, etc. In addition, all new supervisors would still need a one-time 15-hour CE course for supervisors, with 6 hours of CPD activities required every two years thereafter. In addition, every licensee must complete 36 hours of CE every two years, so it is likely that many supervisors will continue to meet the CPD requirement by completing CE since it counts toward the 36 hours.

5. Comment #1 from Jerald Shapiro, Director and Professor, School of Social Work at San Francisco State University (SFSU) via Email (Attachment D)

Summary: Add the term "employer" to §1820(a)(2): "The agreement shall contain a statement from the supervisor and employer agreeing to ensure that the extent, kind, and quality of counseling performed by the supervisee is consistent with the supervisee's training, education, and experience, and is appropriate in extent, kind, and quality."

Proposed Response: The Board rejects this comment. While employers have a role to play here, it is the supervisor who has the direct knowledge of the specifics of the client-therapist relationship, and the therapeutic model and techniques being used by the supervisee. The primary purpose of the written oversight agreement, as specified in §1820(a)(3), is to ensure that the employer acts in a manner that ensures the supervisor is able to fulfill the responsibilities mandated in §1821.

6. Comment #2 from Jerald Shapiro, Director and Professor, School of Social Work at SFSU via Email (Attachment D)

Summary: Either delete §1820(a)(3) entirely, as it is repetitive of §1820(a)(2), or change the language of §1820(a)(3)(A),(B) and (C) so that the language from (a)(2) "the extent, kind, and quality of counseling...." is made consistent in all subsections of (3). The letter states, "Added consistency detail provides opportunity for tailoring supervisory process to wider range of settings. Additionally, avoids possible HIPAA complications."

Proposed Response: The Board rejects this comment. §1820(a)(2) does not appear to contain language that is repetitive of §1820(a)(3). §1820(a)(2) pertains to a supervisor's responsibilities, and §1820(a)(3) pertains to an employer's responsibilities and provides important protections for supervisors, supervisees and clients that are not contained elsewhere. The alternative option suggested by Mr. Shapiro is to make the language from §1820(a)(2) pertaining to "the extent, kind, and quality of counseling" consistent in §1820(a)(3)(A),(B) and (C). However, while employers have a role to play here, it is the supervisor who has the direct knowledge of the specifics of the client-therapist relationship, and the therapeutic model and techniques being used by the supervisee.

7. Comment from Melanee Cottrill of the California Association of School Psychologists (CASP) via Email (Attachment E)

Summary: The email states that Licensed Educational Psychologists (LEPs) are missing from the “overview” of the regulation.

Proposed Response: The Board accepts this comment. While LEPs were included throughout the text of the Initial Statement of Reasons (ISOR) and the Notice, their mention was erroneously omitted from the first paragraph under “Background and Identification of the Problem” in the ISOR, and in the first paragraph under “Informative Digest/Policy Statement Overview” in the Notice. Upon receiving this comment, staff immediately responded to Ms. Cottrill’s email and updated its website text in the Pending Regulations section to list all of the affected license types.

Recommendation

Review and conduct an open discussion regarding the public comments received and staff’s proposed responses. Direct staff to make any discussed changes, and any nonsubstantive changes, and complete the regulatory process.

Attachments

Attachment A: Board-Approved Regulatory Language

Attachment B: Public Hearing Transcript

Attachment C: Public Comment Letter from Curt Widhalm, LMFT

Attachment D: Public Comment Letters from Jerry Shapiro of SFSU

Attachment E: Public Comment Letters from Melanee Cottrill of CASP

Attachment A

PROPOSED REGULATORY CHANGES TO
SUPERVISION-RELATED REQUIREMENTS

TITLE 16, CALIFORNIA CODE OF REGULATIONS

Add § 1815.8. DOCUMENTATION OF SUPERVISED EXPERIENCE: DECEASED OR INCAPACITATED SUPERVISOR.

(a) The Board will accept satisfactory proof of completed hours of supervised experience that has not been signed by the supervisor, if the supervisor is deceased or incapacitated. Satisfactory proof includes, but is not limited to, all of the following:

(1) Evidence that the supervisor is deceased or incapacitated.

(2) All supervision documentation which had previously been signed by the supervisor.

(3) Documentation from the employer verifying the employment of the supervisor and supervisee; or, if the supervisor was not employed by the organization, the written oversight agreement executed between the supervisor and the organization.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4980.35, 4980.40, 4980.43, 4980.60, 4996.23, 4999.46 and 4999.48, Business and Professions Code.

Amend § 1820. ~~EXPERIENCE.~~ SUPERVISED EXPERIENCE: REQUIRED DOCUMENTATION.

~~(a) In order for experience to qualify under section 4999.50(a)(2) of the Code, it must have been gained in accordance with sections 4999.44 through 4999.47 of the Code and the regulations contained in this article.~~

~~(b) The term "supervision", as used in this article, includes ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised; reviewing client/patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the associate; monitoring and evaluating the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served; and ensuring compliance with laws and regulations governing the practice of professional clinical counseling. Supervision shall include that amount of direct observation, or review of audio or video tapes of counseling, as deemed appropriate by the supervisor.~~

~~(c) The term "clinical setting," as used in this article means any setting that meets all the following requirements:~~

~~(1) Lawfully and regularly provides mental health counseling or psychotherapy; and,~~

~~(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in Chapter 16 (Commencing with Section 4999.10) of Division 2 of the Business and Professions Code and is within the scope of practice of the profession as specified therein.~~

~~(d) The term "community mental health setting," as used in section 4999.46 of the Code, means a clinical setting that meets all of the following requirements:~~

- ~~(1) Lawfully and regularly provides mental health counseling or psychotherapy;~~
- ~~(2) Clients routinely receive psychopharmacological interventions in conjunction with psychotherapy, counseling, or other psycho-social interventions;~~
- ~~(3) Clients receive coordinated care that includes the collaboration of mental health providers; and,~~
- ~~(4) Is not a private practice owned by a licensed professional clinical counselor, licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician or surgeon, a professional corporation of any of these licensed professions or a corporation of unlicensed individuals.~~

~~(e) Supervision shall be credited only upon the following conditions:~~

~~(1) During each week in which experience is claimed and for each work setting in which experience is gained, an applicant or associate shall have at least one (1) hour of one-on-one, individual, face-to-face supervisor contact or two (2) hours of face-to-face supervisor contact in a group of not more than eight (8) persons receiving supervision. No more than six (6) hours of supervision, whether individual or group, shall be credited during any single week.~~

~~(2) The applicant or associate shall have received at least one (1) hour of one-on-one, individual, face-to-face supervisor contact per week for a minimum of fifty-two (52) weeks.~~

~~(3) In a setting which is not a private practice, the authorized supervisor may be employed by the applicant's employer on either a paid or a voluntary basis. If such employment is on a voluntary basis, a written agreement must be executed between the supervisor and the organization, prior to commencement of supervision, in which the supervisor agrees to ensure that the extent, kind, and quality of counseling performed by the associate is consistent with the associate's training, education, and experience, and is appropriate in extent, kind, and quality. The agreement shall contain an acknowledgment by the employer that the employer:~~

- ~~(A) Is aware of the licensing requirements that must be met by the associate and agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements; and~~
- ~~(B) Agrees to provide the supervisor access to clinical records of the clients counseled by the associate.~~

(a) Pursuant to section 4999.46.4 of the Code, in a setting which is not a private practice, a written oversight agreement shall be executed between the supervisor and the employer when the supervisor is not employed by the supervisee's employer or is a volunteer.

(1) The written oversight agreement shall be executed and signed prior to commencement of supervision and shall be submitted to the Board upon application for licensure.

(2) The agreement shall contain a statement from the supervisor agreeing to ensure that the extent, kind, and quality of counseling performed by the supervisee is consistent with the supervisee's training, education, and experience, and is appropriate in extent, kind, and quality.

(3) The agreement shall contain an acknowledgment by the employer that the employer:

(A) Is aware of the licensing requirements that must be met by the supervisee and that the employer agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements;

(B) Agrees to provide the supervisor access to clinical records of the clients counseled by the supervisee; and

(C) Is aware that the supervisor will be providing clinical guidance and direction to the supervisee in order to ensure compliance with the standards of practice of the profession, which include legal requirements and professional codes of ethics, and agrees not to interfere with this process.

(b) Effective January 1, 2022, supervisors shall complete and submit a self-assessment report pertaining to the licensee's qualifications to be a supervisor, as specified in section 1821.

(c) (1) Within 60 days of the commencement of any supervision, the supervisor and supervisee shall sign a supervision agreement under penalty of perjury. The original signed supervisory agreement shall be retained by the supervisee and submitted to the Board with the supervisee's application for licensure.

(2) A supervisor and a supervisee who are in a supervisory relationship that existed prior to [OAL to insert effective date of regulation] are not required to complete a supervision agreement. The supervisee shall instead submit the previously required signed supervisor responsibility statement with the application for licensure.

(3) The supervision agreement shall include all of the following:

(A) The licensee's qualifications to be a supervisor as specified in section 1821, and in section 4999.12 of the Code.

(B) The supervisor affirms an understanding of the requirements pertaining to registration of the supervisee, acceptable supervision practices, work settings, supervisee employment and oversight of supervisees as specified in sections 4999.46.1, 4999.46.2, 4999.46.3 and 4999.46.4 of the Code.

(C) The supervisor affirms an understanding of the requirements pertaining to direct supervisor contact as specified in section 4999.46.2 of the Code.

(D) The supervisor affirms an understanding of the supervision documentation

required by this section and the Board's right to audit a supervisor's compliance with the requirements specified in this article and in the Code.

(E) The supervisee affirms an understanding of all of the following:

(i) Requirements pertaining to registration as an associate as specified in section 4999.46 of the Code.

(ii) The supervisee's supervisor must hold a current and active California license that is not under suspension or probation while supervising in order for hours to count toward licensure as specified in section 1821, and in section 4999.12 of the Code.

(iii) Requirements pertaining to documentation of completed supervised experience as specified in this section.

(iv) Prohibited practices pertaining to employment and supervisory relationships as specified in section 4999.46.3 of the Code.

(v) The age limit pertaining to experience hours as specified in section 4999.46 of the Code.

(F) A supervisory plan that describes the goals and objectives of supervision, and whereby the supervisor affirms an understanding of the responsibilities pertaining to monitoring and evaluating the supervisee as specified in section 1821, and in section 4999.12 of the Code. This plan shall be developed collaboratively by the supervisor and supervisee.

~~(4)(d) The applicant or associate maintains~~ supervisee shall maintain a record weekly log of all hours of experience gained toward licensure ~~on the weekly summary form specified below.~~ The ~~record log~~ of hours must be signed by the supervisor on a weekly basis. ~~An associate~~ The supervisee shall retain all ~~weekly summary forms~~ the signed logs until such time as the ~~applicant~~ supervisee is licensed by the board. The board shall have the right to require an applicant for licensure to submit all or such portions of the ~~weekly summary forms~~ log as it deems necessary to verify hours of experience. The log shall include all of the following:

~~(A) If the applicant is gaining experience to comply with section 4999.46(a) of the Code, the applicant shall use the "Weekly Summary of Experience Hours for Associate Professional Clinical Counselors Option 1 - Streamlined Method" (Form No. 37A-639, New 08/2018), hereby incorporated by reference.~~

~~(B) If the applicant is gaining experience to comply with section 4999.46(b) of the Code, the applicant shall use the "Weekly Summary of Experience Hours for Associate Professional Clinical Counselors Option 2 - Multiple Category Method" (Form No. 37A-645, Revised 08/2018), hereby incorporated by reference.~~

(1) The name and address of the supervisee's work setting.

(2) Hours of experience gained per category each week.

(3) Total hours gained per week and in each category overall.

(e) Completed hours of experience shall be documented at the completion or termination of supervision. Such documentation shall be submitted to the Board by the supervisee upon application for licensure and shall include all of the following:

- (1) The supervisor's telephone number, and the supervisor's license information.
- (2) The supervisee's employer's name, address and telephone number.
- (3) Whether the supervisee's work setting complies with sections 4999.46.3 and 4999.46.4 of the Code.
- (4) Documentation of employment or volunteer status, as specified in section 4999.46.3 of the Code.
- (5) The applicant's accumulated hours of experience broken down by category.
- (6) The amount and type of supervision provided to the applicant.
- (7) The dates during which the experience was gained.
- (8) The supervisor's signature under penalty of perjury.

~~(f) When an associate employed in private practice is supervised by someone other than the employer, the supervisor must be employed by and practice at the same site(s) as the associate's employer.~~

Note: Authority cited: ~~Sections~~ Section 4990.20, 4999.48 and 4999.50, Business and Professions Code. Reference: Sections 4999.12, 4999.44, 4999.45, 4999.46 and 4999.47, 4999.46, 4999.46.1, 4999.46.2, 4999.46.3, 4999.46.4, 4999.48 and 4999.50, Business and Professions Code.

Add § 1820.3. PLACEMENT BY TEMPORARY STAFFING AGENCIES.

(a) A "temporary staffing agency" is defined as an agency that locates positions for individuals seeking temporary work, and fills vacancies for agencies seeking individuals to perform work on a temporary basis.

(b) A "contracting agency" is defined as an agency where a supervisee has been placed by a temporary staffing agency.

(c) The following provisions apply to a supervisee who has been placed by a temporary staffing agency:

- (1) The supervisee shall only perform mental health and related services at the places where the contracting agency permits business to be conducted.
- (2) Notwithstanding section 1821, the written oversight agreement shall be between the contracting agency and the supervisor; and, in cases where the supervisor is an employee of the contracting agency, no written agreement shall be required.

(d) The employer of a supervisee who has been placed by a temporary staffing agency shall issue a W-2 tax form, or shall provide the employee with a letter verifying volunteer status as required in section 4999.46.3 of the Code.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4999.46.3, 4999.46.4 and 4999.48, Business and Professions Code.

Amend § 1820.5. EXEMPTIONS FOR WORKING WITH COUPLES OR FAMILIES. ASSESSMENT OR TREATMENT OF COUPLES AND FAMILIES: EXEMPTIONS AND SUPERVISED EXPERIENCE.

(a) Clinical counselor trainees, as defined in section 4999.12, shall be exempt from section 4999.20 (a)(3) of the Code if the trainee is gaining supervised practicum experience to comply with sections 4999.32(c)(3)(I), or 4999.33(c)(3)(K) of the Code.

(b) Trainees may not count supervised experience with ~~couples or families~~ couples, families, or children toward the requirements of section 4999.20(a)(3) of the Code.

(c) Associate professional clinical ~~counselors~~ counselors, applicants for associate registration as described in section 4999.46(b) of the Code, and licensees shall be exempt from the scope of practice restrictions set forth in section 4999.20(a)(3) of the Code if the ~~associate or licensee meets~~ individual meets all of the following requirements:

(1) Is gaining supervised experience to comply with section 4999.20(a)(3)(B) or 4999.46(b)(2) of the Code.

(2) The supervised experience is gained under the direct supervision of a licensee who meets the definition of an “~~approved~~-supervisor” as described in section 4999.12(h) of the Code. If the supervisor is a licensed professional clinical counselor, ~~he or she~~ they must also meet all requirements specified in section 4999.20(a)(3) of the Code. A supervisor who is a licensed clinical social worker, licensed psychologist, or licensed physician who is board certified in psychiatry, shall have sufficient education and experience in treating couples and families to competently practice ~~couples~~ couple and family therapy in California.

(d) Professional clinical counselor associates, applicants for associate registration as described in section 4999.46(b) of the Code, and licensees gaining experience with couples, families, or children toward meeting the requirements of section 4999.20(a)(3)(B) of the Code, shall be supervised by a licensee who meets the qualifications of subsection (c)(2).

~~(d)~~(e) Collateral consultation may be provided to a family of an individual who is being treated by an LPCC or associate who does not meet the requirements of section 4999.20(a)(3) of the Code, and who is not working under supervision toward meeting the requirements of section 4999.20(a)(3) of the Code. Collateral contact with the family may include, but is not limited to, treatment planning, recommending resources, monitoring progress, or termination and aftercare planning.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections ~~4999.12, 4999.20, 4999.32 and 4999.33~~, 4999.32, 4999.33 and 4999.46, Business and Professions Code.

Amend § 1821. REQUIREMENTS FOR SUPERVISORS.

(a) Any person supervising an ~~associate~~ associate, or an applicant for ~~associate~~ registration as described in section 4999.46(b) of the Code, (hereinafter "supervisor") within California shall comply with the requirements set forth in this section.

~~(b) Prior to the commencement of any counseling or supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Professional Clinical Counselor" (Form No. 37A-643, Revised 01/2020), hereby incorporated by reference, requiring that:~~

~~(1) The supervisor possesses and maintains a current and active California license as either a licensed professional clinical counselor, licensed marriage and family therapist, licensed clinical social worker, licensed educational psychologist, licensed psychologist, or physician who is certified in psychiatry as specified in section 4999.12(h) of the Code Code, and meets all other qualifications specified in section 4999.12(h) of the Code.~~

~~(2) The supervisor has held an active California or out-of-state license listed in subsection (1) for at least two years within the five-year period immediately preceding any supervision.~~

~~(3)~~(2) A supervisor who is not a licensed as a professional clinical counselor, shall have sufficient experience, training, and education in professional clinical counseling to competently practice professional clinical counseling in California. A supervisor who is a licensed educational psychologist shall only supervise the provision of educationally related mental health services consistent with the scope of practice of an educational psychologist.

~~(4)~~(3) The supervisor shall be competent in the areas of clinical practice and techniques being supervised, and shall keep ~~The supervisor keeps himself or herself~~ informed of developments in professional clinical counseling and in California law governing the practice of professional clinical counseling.

(4) The supervisor shall self-monitor for and address supervision dynamics such as, but not limited to, countertransference, intrapsychic, interpersonal, or trauma-related issues that may affect supervision.

(5) The supervisor ~~has and maintains a current license in good standing and will~~ immediately notify the ~~associate~~ supervisee of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or any lapse in licensure that affects the supervisor's ability or right to practice or supervise.

~~(6) The supervisor has practiced psychotherapy, provided psychological counseling pursuant to subdivision (e) of section 4989.14 of the Code, or provided direct clinical supervision of psychotherapy performed by marriage and family therapist trainees, associate marriage and family therapists, associate professional clinical counselors, or associate clinical social workers for at least two (2) years within the five (5) year period immediately preceding any supervision. Supervision of psychotherapy performed by a social work intern or a professional clinical counselor trainee shall be accepted if the supervision provided is substantially equivalent to the supervision required for registrants.~~

~~(7)~~(6) The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise associates. Persons licensed by the board who provide supervision shall complete the minimum supervision training or coursework specified in section 1821.3.

~~(A) Persons licensed by the board who provide supervision shall complete a minimum of six (6) hours of supervision training or coursework in each renewal period while providing supervision. This training or coursework may apply towards the continuing education requirements set forth in sections 4980.54, 4996.22, and 4999.76 of the Code.~~

~~(B) Persons licensed by the board who provide supervision and who have not met requirements of subsection (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty (60) days of commencement of supervision.~~

~~(8)~~(7) The supervisor knows and understands the laws and regulations pertaining to both the supervision of associates and the experience required for licensure as a professional clinical counselor.

~~(9) The supervisor shall ensure that the extent, kind, and quality of counseling performed by the associate is consistent with the education, training, and experience of the associate.~~

~~(10)~~(8) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the associate supervisee by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor as specified in sections 4999.12(m) and 4999.46.1 of the Code.

(9) The supervisor shall complete an assessment of the ongoing strengths and limitations of the supervisee at least once a year and at the completion or termination of supervision. The supervisor shall provide the supervisee with a copy of all assessments.

~~(11)~~(10) The supervisor shall address with the associate the manner in which emergencies will be handled establish written procedures for supervisees to contact

the supervisor, or, in the supervisor's absence, procedures for contacting an alternative on-call supervisor to assist supervisees in handling crises and emergencies. The supervisor shall provide these procedures to the supervisee prior to the commencement of supervision.

(11) If the supervisor is a licensed professional clinical counselor who is supervising a licensee, an associate professional clinical counselor or an applicant for associate registration as described in section 4999.46(b) of the Code who is seeking experience to assess and treat couples or families in compliance with section 4999.20(a)(3)(B) of the Code, then the supervisor shall meet the additional training and education requirements specified in section 4999.20(a)(3) of the Code.

~~(c) Each supervisor shall provide the associate with the original signed "Responsibility Statement for Supervisors of an Associate Professional Clinical Counselor" (Form No. 37A-643, Revised 01/2020), prior to the commencement of any counseling or supervision. Associates shall provide the board with the signed "Responsibility Statement for Supervisors of an Associate Professional Clinical Counselor" (Form No. 37A-643, Revised 01/2020) from each supervisor upon application for licensure.~~

~~(d)(b) A supervisor shall give at least one (1) week's prior written notice to an associate supervisee of the supervisor's intent not to sign for any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.~~

~~(e)(c) The supervisor shall obtain from each associate supervisee for whom supervision will be provided, the name, address, and telephone number of the associate's supervisee's most recent supervisor and employer.~~

(d) Effective January 1, 2022, a supervisor shall complete and sign under penalty of perjury a self-assessment report which includes all of the following:

(1) The licensee's qualifications to be a supervisor as specified in section 1821, and in section 4999.12 of the Code.

(2) The supervisor's telephone number and email address.

(3) The date the licensee initially began supervising, and for licensees who have previously served as a board-qualified supervisor but have not supervised for the past two (2) years, the date the licensee resumed supervising.

(4) The date the supervisor completed the training required by section 1821.3, and the length of the course(s) taken.

(5) The supervisor affirms an understanding of all of the following:

(A) The supervisor's license must meet the supervisor qualifications set forth in section 1821, and in section 4999.12 of the Code, for a supervisee's experience hours to be credited toward licensure.

(B) The supervisee notification requirement set forth in subsection (a)(5) of this section.

(C) The requirements set forth in section 4999.46.4 of the Code pertaining to the maximum number of registrants.

(D) The Board's right to audit records pertaining to supervisor qualifications in accordance with section 4999.46.5 of the Code.

(E) The requirement to complete a supervision agreement for each supervisee as specified in section 1820.

(e) Licensees who have not previously served as a board-qualified supervisor, or who have previously served as a board-qualified supervisor but are not actively supervising, shall submit a self-assessment report to the Board within 60 days of the commencement of any supervision.

~~(f) In any setting that is not a private practice, a supervisor shall evaluate the site(s) where an associate will be gaining hours of experience toward licensure and shall determine that: (1) the site(s) provides experience which is within the scope of practice of a professional clinical counselor; and (2) the experience is in compliance with the requirements set forth in section 1820 and sections 4999.46 through 4999.46.4 of the Code.~~

(f) Licensees acting as a supervisor prior to January 1, 2022, shall submit a self-assessment report to the Board by December 31, 2022.

(g) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

~~(h) The board shall not deny hours of experience gained towards licensure by any supervisee due to failure of his or her supervisor to complete the training or coursework requirements in subsection (a)(6)(A).~~

*Note: Authority cited: Sections 4990.20 and 4999.48, Business and Professions Code.
Reference: Sections 4989.14, 4999.12, 4999.20, 4999.46, 4999.46.1, 4999.46.2, 4999.46.3, 4999.46.4 4999.46.4, 4999.46.5 and 4999.54, Business and Professions Code.*

Add § 1821.1. SUBSTITUTE SUPERVISORS.

(a) When it becomes necessary for a supervisee to obtain supervision temporarily from a substitute supervisor, the substitute supervisor shall meet all supervisor qualifications required by the Code and in this article.

(b) The substitute supervisor and the supervisee shall sign the supervision agreement required by section 1820, and the substitute supervisor shall sign the weekly log specified in section 1820.

(c) If the substitute supervisor will be supervising for 30 consecutive calendar days or less:

(1) A new supervisory plan, as specified in section 1820(c)(3)(F), is not required. The substitute supervisor shall follow the supervisee's pre-existing supervisory plan.

(2) The experience gained during that 30-day period may be verified, as specified in section 1820(e), by the regular supervisor.

(d) If the substitute supervisor will be supervising for more than 30 consecutive calendar days, a new supervisory plan shall be required, and the substitute supervisor shall verify the supervisee's experience gained during that time.

Note: Authority cited: Sections 4990.20 and 4999.48, Business and Professions Code. Reference: Sections 4999.12, 4999.46 and 4999.46.4, Business and Professions Code.

Add § 1821.2. SUPERVISION OF EXPERIENCE GAINED OUTSIDE OF CALIFORNIA.

Experience gained outside of California must have been supervised in accordance with the following criteria:

At the time of supervision, the supervisor was licensed or certified by the state or jurisdiction in which the supervision occurred, and possessed a current and active license or certification which was not under suspension or probation. The supervisor must have been licensed or certified by that state or jurisdiction for at least two (2) of the past five (5) years immediately prior to acting as a supervisor, as either a professional clinical counselor, clinical social worker, psychologist, physician certified in psychiatry by the American Board of Psychiatry and Neurology, marriage and family therapist or similarly titled marriage and family practitioner, or other equivalent license or certification that allows the practitioner to independently provide clinical mental health services.

Note: Authority cited: Sections 4990.20 and 4999.48, Business and Professions Code. Reference: Sections 4999.12, 4999.60 and 4999.61, Business and Professions Code.

Add § 1821.3. SUPERVISOR TRAINING AND COURSEWORK.

Persons licensed by the board who provide supervision shall complete, at a minimum, supervision training or coursework as follows:

(a) Beginning January 1, 2021, licensees who commence supervision for the first time in California shall obtain fifteen (15) hours in supervision training or coursework obtained from a government agency or from a continuing education provider specified as acceptable by the board in Article 8. If taken from an acceptable continuing education

provider, the training may apply towards the continuing education requirements set forth in sections 4980.54, 4989.34, 4996.22, and 4999.76 of the Code.

(1) The training content shall include, but not be limited to, current best practices and current industry standards, which include legal requirements, professional codes of ethics, and research focused on supervision, regarding the following:

(A) Competencies necessary for new supervisors;

(B) Goal setting and evaluation;

(C) The supervisor-supervisee relationship;

(D) California law and ethics, including legal and ethical issues related to supervision;

(E) Cultural variables, including, but not limited to, race, gender, social class, and religious beliefs;

(F) Contextual variables, such as treatment modality, work settings, and use of technology;

(G) Supervision theories and literature; and

(H) Documentation and record keeping of the supervisee's client files, as well as documentation of supervision.

(2) If taken from a government agency or from an acceptable continuing education provider, this course shall have been taken within two (2) years prior to commencing supervision, or within 60 days after commencing supervision.

(3) If taken at a master's or higher level from an accredited or approved postsecondary institution, this course shall have been taken within four (4) years prior to commencing supervision, or within 60 days after commencing supervision.

(b) A licensee who previously served as a board-qualified supervisor, but has not supervised for the past two (2) years shall take a six (6)-hour supervision training course within 60 days of resuming supervision.

(c) Supervisors shall complete a minimum of six (6) hours of continuing professional development in supervision during each subsequent renewal period while providing supervision. This shall consist of one or more of the following activities and records of completion shall be maintained as specified in section 4999.46.5 of the Code:

(1) Training or coursework specific to the topic of supervision, obtained from a government agency or from an acceptable continuing education provider. If taken from an acceptable continuing education provider, it may apply towards the continuing education requirements set forth in sections 4980.54, 4989.34, 4996.22, and 4999.76 of the Code.

(2) Teaching a supervision course described in subsection (c)(1).

(3) Authoring research directly focused on supervision that has been published professionally. This may include, but is not limited to, quantitative or qualitative research, literature reviews, peer reviewed journals or books, monographs, or other industry or academic published work deemed equivalent by the board. This shall not include personal opinion papers, editorials, or blogs.

(4) Collaboration with another licensee who also serves as a board-qualified supervisor through the use of mentoring or consultation.

(5) Attendance at supervisor peer discussion groups with other licensees who also serve as board-qualified supervisors.

(d)(1) In lieu of subsections (a), (b), and (c), the Board shall accept a valid and active approved supervisor certification from one of the following entities:

(A) The American Association for Marriage and Family Therapy (AAMFT)

(B) The American Board of Examiners in Clinical Social Work (ABECSW)

(C) The California Association of Marriage and Family Therapists (CAMFT)

(D) The Center for Credentialing and Education (CCE)

(2) Licensees who hold one of the above certifications shall maintain a current and active California license, but are not required to have been actively licensed for at least two (2) of the past five (5) years immediately preceding any supervision, and are not required to have practiced psychotherapy or provided direct clinical supervision of psychotherapy performed by supervisees as specified in section 4999.12(h)(3) of the Code for at least two (2) of the past five (5) years immediately preceding any supervision.

(3) The board shall accept an approved supervisor certification from another entity if the licensee can demonstrate that the certification requirements of that entity meet or exceed those of any one of the above entities.

(e) The board shall not deny hours of experience gained towards licensure due to the supervisor's failure to complete the training, coursework, or continuing professional development requirements in this section.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Section 4999.12, Business and Professions Code.

Repeal § 1822. SUPERVISORY PLAN.

~~(a) All licensed mental health professionals acceptable to the board as defined in section 4999.12 of the Code who assume responsibility for providing supervision under section 4999.46 of the Code shall develop a supervisory plan that describes the goals and objectives of supervision and shall complete and sign under penalty of perjury the~~

~~“Supervisory Plan” (Form No. 37A-521, Revised 07/2019), hereby incorporated by reference.~~

~~(b) This supervisory plan shall be completed by each supervisor providing supervision and the original signed plan shall be submitted by the associate professional clinical counselor to the board upon application for licensure.~~

~~Note: Authority cited: Sections 4990.20 and 4999.48, Business and Professions Code. Reference: Sections 4999.12 and 4999.46, Business and Professions Code.~~

Amend § 1833. EXPERIENCE. SUPERVISED EXPERIENCE: REQUIRED DOCUMENTATION.

~~(a) In order for experience to qualify under section 4980.40 of the Code, it must meet the following criteria:~~

~~(1) It must have been gained in accordance with sections 4980.42 through 4980.45 of the Code and the regulations contained in this article.~~

~~(2) Experience shall not be credited for more than forty (40) hours in any week.~~

~~(3) No more than five hundred (500) hours of experience will be credited for providing group therapy or group counseling.~~

~~(4) For any person who enrolls in a qualifying degree program on or after January 1, 1990, not less than five hundred (500) total hours of experience shall have been gained in diagnosing and treating couples, families, and children.~~

~~(b) The term "supervision", as used in this article, includes ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised; reviewing client/patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the associate or trainee; monitoring and evaluating the ability of the associate or trainee to provide services at the site(s) where he or she will be practicing and to the particular clientele being served; and ensuring compliance with laws and regulations governing the practice of marriage and family therapy. Supervision shall include that amount of direct observation, or review of audio or video tapes of therapy, as deemed appropriate by the supervisor. Supervision shall be credited only upon the following conditions:~~

~~(1) During each week in which experience is claimed and for each work setting in which experience is gained, an applicant shall have at least one (1) hour of one-on-one, individual, face-to-face supervisor contact or two (2) hours of face-to-face supervisor contact in a group of not more than eight (8) persons receiving supervision. No more than six (6) hours of supervision, whether individual or group, shall be credited during any single week.~~

~~(2) The applicant shall have received at least one (1) hour of one-on-one, individual, face-to-face supervisor contact per week for a minimum of fifty-two (52) weeks.~~

~~(3) Any experience obtained under the supervision of a spouse, relative, or domestic partner 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 had or currently has a personal or business relationship which undermines the authority or effectiveness of the supervisor shall not be credited toward the required hours of supervised experience.~~

~~(4)(a) Pursuant to section 4980.43.4 of the Code, in a setting which is not a private practice, the authorized supervisor may be employed by the applicant's employer on either a paid or a voluntary basis. If such employment is on a voluntary basis, a written oversight agreement must shall be executed between the supervisor and the organization employer when the supervisor is not employed by the supervisee's employer or is a volunteer.~~

(1) The written oversight agreement shall be executed and signed prior to commencement of supervision in which the supervisor agrees supervision, and shall be submitted to the Board upon application for licensure.

(2) The agreement shall contain a statement from the supervisor agreeing to ensure that the extent, kind, and quality of counseling performed by the ~~associate or trainee~~ supervisee is consistent with the ~~associate's or trainee's~~ supervisee's training, education, and experience, and is appropriate in extent, kind, and quality.

(3) The agreement shall contain an acknowledgment by the employer that the employer:

(1)(A) Is aware of the licensing requirements that must be met by the ~~associate or trainee~~ supervisee and that the employer agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements; and

(2)(B) Agrees to provide the supervisor access to clinical records of the clients counseled by the ~~associate or trainee.~~ supervisee, and

(C) Is aware that the supervisor will be providing clinical guidance and direction to the supervisee in order to ensure compliance with the standards of practice of the profession, which include legal requirements and professional codes of ethics, and agrees not to interfere with this process.

~~(c) Professional enrichment activities may be credited toward the experience requirement as specified in this article and by section 4980.43 of the Code.~~

~~(1) No more than two hundred fifty (250) hours of verified attendance, with the approval of the applicant's supervisor, at workshops, seminars, training sessions, or conferences directly related to marriage and family therapy will be credited.~~

~~(2) No more than one hundred (100) hours of psychotherapy, which will be triple counted, received as specified in section 4980.43 of the Code, will be credited.~~

~~(d) Experience gained by associates and trainees shall be subject to the following conditions, as applicable:~~

~~(1) When an associate employed in private practice is supervised by someone other than the employer, the supervisor must be employed by and practice at the same site(s) as the associate's employer.~~

~~(2) A trainee shall not perform services in a private practice.~~

~~(3) Associates and trainees may only perform services as employees or volunteers and not as independent contractors.~~

(b) Effective January 1, 2022, supervisors shall complete and submit a self-assessment report pertaining to the licensee's qualifications to be a supervisor, as specified in section 1833.1, and in section 4980.03 of the Code.

(c)(1) Within 60 days of the commencement of any supervision, the supervisor and supervisee shall sign a supervision agreement under penalty of perjury. The original signed supervisory agreement shall be retained by the supervisee and submitted to the Board with the supervisee's application for licensure.

(2) A supervisor and a supervisee who are in a supervisory relationship that existed prior to [OAL to insert effective date of regulation] shall complete a supervisory plan as required by subsection (c)(3)(F), but are not required to complete a supervision agreement. The supervisee shall instead submit the previously required signed supervisor responsibility statement with the application for licensure.

(3) The supervision agreement shall include all of the following:

(A) The licensee's qualifications to be a supervisor as specified in section 1833.1, and in section 4980.03 of the Code.

(B) The supervisor affirms an understanding of the requirements pertaining to registration of the supervisee, work settings, employment, supervision practices and oversight of supervisees as specified in sections 4980.43.1, 4980.43.2, 4980.43.3 and 4980.43.4 of the Code.

(C) The supervisor affirms an understanding of the requirements pertaining to direct supervisor contact as specified in section 4980.43.2 of the Code.

(D) The supervisor affirms an understanding of the supervision documentation required by this section and the Board's right to audit a supervisor's compliance with the requirements in this article and in the Code.

(E) The supervisee affirms an understanding of all of the following:

(i) Requirements pertaining to registration as an associate as specified in

section 4980.43 of the Code.

(ii) The supervisee's supervisor must hold a current and active California license that is not under suspension or probation while supervising in order for hours to count toward licensure as specified in section 1833.1, and in section 4980.03 of the Code.

(iii) Requirements pertaining to documentation of completed supervised experience as specified in this section.

(iv) Prohibited practices pertaining to employment and supervisory relationships as specified in section 4980.43.3 of the Code.

(v) The age limit pertaining to experience hours as specified in section 4980.43 of the Code.

(F) A supervisory plan that describes the goals and objectives of supervision, and whereby the supervisor affirms an understanding of the responsibilities pertaining to monitoring and evaluating the supervisee as specified in section 1833.1, and in section 4980.43.1 of the Code. This plan shall be developed collaboratively by the supervisor and supervisee.

~~(e)(d) Effective January 1, 1991, trainees and associates~~ Supervisees shall maintain a weekly log of all hours of experience gained toward licensure. The log of hours shall be signed by the supervisor on a weekly basis. A applicant-supervisee shall retain all the signed logs until such time as the applicant supervisee is licensed by the board. The board shall have the right to require an applicant for licensure to submit all or such portions of the log as it deems necessary to verify hours of experience. The log shall include all of the following:

~~(1) If the applicant is gaining experience to comply with section 4980.43(a) of the Code, the applicant shall use the "Marriage and Family Therapist Trainee/Associate Weekly Summary of Experience Hours Option 1—Streamlined Method" (Form No. 37A-524, Revised 08/2018), hereby incorporated by reference.~~

~~(2) If the applicant is gaining experience to comply with section 4980.43(b) of the Code, the applicant shall use the "Marriage and Family Therapist Trainee/Associate Weekly Summary of Experience Hours Option 2—Multiple Category Method" (Form No. 37A-524a, Revised 08/2018), hereby incorporated by reference.~~

(1) The name and address of the supervisee's work setting.

(2) Hours of experience gained per category each week.

(3) Total hours gained per week and in each category overall.

(e) Completed hours of experience shall be documented at the completion or termination of supervision. Such documentation shall be submitted by the supervisee upon application for licensure and shall include all of the following:

(1) The supervisor's telephone number and license information.

- (2) The supervisee's employer's name, address and telephone number.
- (3) Whether the supervisee's work setting complies with sections 4980.43.3 and 4980.43.4 of the Code.
- (4) If the supervisee was an associate at the time the experience was gained, documentation of employment or volunteer status, as specified in section 4980.43.3 of the Code.
- (5) The applicant's accumulated hours of experience broken down by category.
- (6) The amount and type of supervision provided to the applicant.
- (7) The dates during which the experience was gained.
- (8) The supervisor's signature under penalty of perjury.

Note: Authority cited: Sections 4980.35 and 4980.60, Business and Professions Code. Reference: Sections 4980.03, 4980.35, 4980.40, 4980.42, 4980.43, 4980.43.4, 4980.44 and 4980.45, Business and Professions Code.

Add § 1833.05. PLACEMENT BY TEMPORARY STAFFING AGENCIES.

- (a) A "temporary staffing agency" is defined as an agency that locates positions for individuals seeking temporary work, and fills vacancies for agencies seeking individuals to perform work on a temporary basis.
- (b) A "contracting agency" is defined as an agency where a supervisee has been placed by a temporary staffing agency.
- (c) The following provisions apply to a supervisee who has been placed by a temporary staffing agency:
 - (1) The supervisee shall only perform mental health and related services at the places where the contracting agency permits business to be conducted.
 - (2) Notwithstanding section 1833, the written oversight agreement shall be between the contracting agency and the supervisor; and, in cases where the supervisor is an employee of the contracting agency, no written agreement shall be required.
- (d) The employer of a supervisee who has been placed by a temporary staffing agency shall issue a W-2 tax form, or shall provide the employee with a letter verifying volunteer status as required in section 4980.43.3 of the Code.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4980.35, 4980.43.3, 4980.43.4 and 4980.60, Business and Professions Code.

Amend § 1833.1. REQUIREMENTS FOR SUPERVISORS.

- (a) Any person supervising a trainee or an ~~assöciate~~ associate, or an applicant for associate registration as described in section 4980.43(b) of the Code, (hereinafter

"supervisor") within California shall comply with the requirements below.

~~(a) Prior to the commencement of any counseling or supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Associate" (Form No. 37A-523, Revised 01/2020), hereby incorporated by reference, requiring that:~~

~~(1) The supervisor possesses and maintains a current and active California license as either a licensed marriage and family therapist, licensed clinical social worker, licensed professional clinical counselor, licensed educational psychologist, licensed psychologist, or physician who is certified in psychiatry as specified in section 4980.03(g) of the Code Code, and meets all other qualifications specified in section 4980.03(b) of the Code.~~

~~(2) The supervisor has held an active California or out-of-state license listed in subsection (1) for at least two years within the five-year period immediately preceding any supervision.~~

~~(3)(2) A supervisor who is not a licensed as a licensed marriage and family therapist, shall have sufficient experience, training, and education in marriage and family therapy to competently practice marriage and family therapy in California. A supervisor who is a licensed educational psychologist shall only supervise the provision of educationally related mental health services consistent with the scope of practice of an educational psychologist.~~

(A) If the supervisor is a licensed professional clinical counselor, the supervisor shall meet the additional training and education requirements specified in section 4999.20(a)(3) of the Code pertaining to assessment and treatment of couples or families.

~~(4)(3) The supervisor keeps himself or herself The supervisor shall be competent in the areas of clinical practice and techniques being supervised, and shall keep informed of developments in marriage and family therapy and in California law governing the practice of marriage and family therapy.~~

(4) The supervisor shall self-monitor for and address supervision dynamics such as, but not limited to, countertransference, intrapsychic, interpersonal, or trauma-related issues that may affect supervision.

~~(5) The supervisor has and maintains a current license in good standing and will immediately notify the trainee or associate supervisee of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or any lapse in licensure that affects the supervisor's ability or right to practice or supervise.~~

~~(6) The supervisor has practiced psychotherapy, provided psychological counseling pursuant to subdivision (e) of section 4989.14 of the Code, or provided direct clinical supervision of psychotherapy performed by marriage and family therapist trainees,~~

~~associate marriage and family therapists, associate professional clinical counselors, or associate clinical social workers for at least two (2) years within the five (5) year period immediately preceding any supervision. Supervision of psychotherapy performed by a social work intern or professional clinical counselor trainee shall be accepted if the supervision provided is substantially equivalent to the supervision required for registrants.~~

~~(7)(6)~~ The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise trainees or associates. Persons licensed by the board who provide supervision shall complete the minimum supervision training or coursework specified in section 1834.

~~(A) Persons licensed by the board who provide supervision shall complete a minimum of six (6) hours of supervision training or coursework in each renewal period while providing supervision. This training or coursework may apply towards the continuing education requirements set forth in sections 4980.54, 4996.22, and 4999.76 of the Code.~~

~~(B) Persons licensed by the board who provide supervision and who have not met requirements of subsection (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty (60) days of commencement of supervision.~~

~~(8)(7)~~ The supervisor knows and understands the laws and regulations pertaining to both the supervision of trainees and associates and the experience required for licensure as a marriage and family therapist.

~~(9) The supervisor shall ensure that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the trainee or associate.~~

~~(10)(8)~~ The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the trainee or associate supervisee by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor as specified in section 4980.43.1(b) of the Code.

~~(9) The supervisor shall complete an assessment of the ongoing strengths and limitations of the supervisee at least once a year and at the completion or termination of supervision. The supervisor shall provide the supervisee with a copy of all assessments.~~

~~(11)(10)~~ The supervisor shall address with the trainee or associate the manner in which emergencies will be handled. establish written procedures for supervisees to contact the supervisor, or, in the supervisor's absence, procedures for contacting an alternative on-call supervisor to assist supervisees in handling crises and emergencies. The supervisor shall provide these procedures to the supervisee prior to the commencement of supervision.

~~(b) Each supervisor shall provide the trainee or associate with the original signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Associate" (Form No. 37A-523, Revised 01/2020) prior to the commencement of any counseling or supervision. Trainees and associates shall provide the board with the signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Associate" (Form No. 37A-523, Revised 01/2020) from each supervisor upon application for licensure.~~

~~(c)~~(b) A supervisor shall give at least one (1) week's prior written notice to a ~~trainee or associate~~ supervisee of the supervisor's intent not to sign for any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

~~(d)~~(c) The supervisor shall obtain from each ~~trainee or associate~~ supervisee for whom supervision will be provided, the name, address, and telephone number of the ~~trainee's or associate's~~ supervisee's most recent supervisor and employer.

(d) Effective January 1, 2022, a supervisor shall complete and sign under penalty of perjury a self-assessment report which includes all of the following:

(1) The licensee's qualifications to be a supervisor as specified in section 1833.1.

(2) The supervisor's telephone number and email address.

(3) The date the licensee initially began supervising, and for licensees who have previously served as a board-qualified supervisor but have not supervised for the past two (2) years, the date the licensee resumed supervising.

(4) The date the supervisor completed the training required by section 1834, and the length of the course(s) taken.

(5) The supervisor affirms an understanding of all of the following:

(A) The supervisor's license must meet the supervisor qualifications set forth in section 1833.1, and in section 4980.03 of the Code, for a supervisee's experience hours to be credited toward licensure.

(B) The supervisee notification requirement set forth in subsection (a)(5).

(C) The requirements set forth in section 4980.43.4 of the Code pertaining to the maximum number of registrants.

(D) The Board's right to audit records pertaining to supervisor qualifications in accordance with section 4980.43.5 of the Code.

(E) The requirement to complete a supervision agreement for each supervisee as specified in section 1833.

~~(e) In any setting that is not a private practice, a supervisor shall evaluate the site(s) where a trainee or associate will be gaining hours of experience toward licensure and~~

~~shall determine that: (1) the site(s) provides experience which is within the scope of practice of a marriage and family therapist; and (2) the experience is in compliance with the requirements set forth in section 1833 and sections 4980.43 through 4980.43.4 of the Code.~~

(e) Licensees who have not previously served as a supervisor, or who have previously served as a board-qualified supervisor but are not actively supervising, shall submit a self-assessment report to the Board within 60 days of the commencement of any supervision.

(f) Licensees acting as a supervisor prior to January 1, 2022, shall submit a self-assessment report to the Board by December 31, 2022.

~~(f)(g)~~ Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

~~(g) The board shall not deny hours of experience gained towards licensure by any supervisee due to failure of his or her supervisor to complete the training or coursework requirements in subsection (a)(6)(A).~~

*Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code.
Reference: Sections 4980.03, 4980.42, 4980.43, 4980.43.1, 4980.43.2, 4980.43.3, 4980.43.4, 4980.43.5 and 4989.14, Business and Professions Code.*

Add § 1833.1.5. SUBSTITUTE SUPERVISORS.

(a) When it becomes necessary for a supervisee to obtain supervision temporarily from a substitute supervisor, the substitute supervisor shall meet all supervisor qualifications required by the Code and in this article.

(b) The substitute supervisor and the supervisee shall sign the supervision agreement required by section 1833, and the substitute supervisor shall sign the weekly log required by section 1833.

(c) If the substitute supervisor will be supervising for 30 consecutive calendar days or less:

(1) A new supervisory plan as specified in section 1833(c)(3)(F) is not required. The substitute supervisor shall follow the supervisee's pre-existing supervisory plan.

(2) The experience gained during that 30-day period may be verified as specified in section 1833(e) by the regular supervisor.

(d) If the substitute supervisor will be supervising for more than 30 consecutive calendar days, a new supervisory plan shall be required, and the substitute supervisor shall verify the supervisee's experience gained during that time.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4980.03, 4980.35, 4980.43 and 4980.43.4, Business and Professions Code.

Amend § 1833.2. SUPERVISION OF EXPERIENCE GAINED OUTSIDE OF CALIFORNIA.

Experience gained outside of California ~~on or after January 1, 1991~~ must have been supervised in accordance with the following criteria:

At the time of supervision, the supervisor was licensed or certified by the state or jurisdiction in which the supervision occurred and possessed a current and active license or certification which was not under suspension or probation. The supervisor ~~was~~ must have been licensed or certified by that state or jurisdiction, for at least two (2) of the past five (5) years immediately prior to acting as a supervisor, as either a psychologist, clinical social worker, physician certified in psychiatry as specified in Section 4980.40(f) of the code by the American Board of Psychiatry and Neurology, professional clinical counselor, or a marriage and family therapist or similarly titled marriage and family practitioner practitioner, or other equivalent license or certification that allows the practitioner to independently provide clinical mental health services.

In a state or jurisdiction which does not license or certify marriage and family therapists or similarly titled marriage and family practitioners, experience may be obtained under the supervision of a person who at the time of supervision held a clinical membership in the American Association of Marriage and Family Therapists for at least two years and who maintained such membership throughout the period of supervision.

Note: Authority cited: Sections 4980.35, 4980.40(f) and 4980.60, 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4980.03, 4980.35, 4980.40(f), 4980.42-4980.45 and 4980.90, 4980.72 and 4980.74, Business and Professions Code.

Add § 1834. SUPERVISOR TRAINING AND COURSEWORK.

Persons licensed by the board who provide supervision shall complete, at a minimum, supervision training or coursework as follows:

(a) Beginning January 1, 2021, licensees who commence supervision for the first time in California shall obtain fifteen (15) hours in supervision training or coursework obtained from a government agency or from a continuing education provider specified as acceptable by the Board in Article 8. If taken from an acceptable continuing education provider, the training may apply towards the continuing education requirements set forth in sections 4980.54, 4989.34, 4996.22, and 4999.76 of the Code.

(1) The training content shall include, but not be limited to, current best practices and current industry standards, which include legal requirements, professional codes of ethics, and research focused on supervision, regarding the following:

- (A) Competencies necessary for new supervisors;
- (B) Goal setting and evaluation;
- (C) The supervisor-supervisee relationship;
- (D) California law and ethics, including legal and ethical issues related to supervision;
- (E) Cultural variables, including, but not limited to, race, gender, social class, and religious beliefs;
- (F) Contextual variables, such as treatment modality, work settings, and use of technology;
- (G) Supervision theories and literature; and
- (H) Documentation and record keeping of the supervisee's client files, as well as documentation of supervision.

(2) If taken from a government agency or from an acceptable continuing education provider, this course shall have been taken within two (2) years prior to commencing supervision, or within 60 days after commencing supervision.

(3) If taken at a master's or higher level from an accredited or approved postsecondary institution, this course shall have been taken within four (4) years prior to commencing supervision, or within 60 days after commencing supervision.

(b) A licensee who previously served as a board-qualified supervisor, but has not supervised for the past two (2) years shall take a six (6)-hour supervision training course within 60 days of resuming supervision.

(c) Supervisors shall complete a minimum of six (6) hours of continuing professional development in supervision during each subsequent renewal period while providing supervision. This shall consist of one or more of the following activities and records of completion shall be maintained as specified in section 4980.43.5 of the Code:

(1) Training or coursework specific to the topic of supervision, obtained from a government agency or from an acceptable continuing education provider. If taken from an acceptable continuing education provider, it may apply towards the continuing education requirements set forth in sections 4980.54, 4989.34, 4996.22, and 4999.76 of the Code.

(2) Teaching a supervision course described in subsection (c)(1).

(3) Authoring research directly focused on supervision that has been published professionally. This may include, but is not limited to, quantitative or qualitative research, literature reviews, peer reviewed journals or books, monographs, or other industry or academic published work deemed equivalent by the board. This shall not include personal opinion papers, editorials, or blogs.

(4) Collaboration with another licensee who also serves as a board-qualified supervisor through the use of mentoring or consultation.

(5) Attendance at supervisor peer discussion groups with other board licensees who also serve as board-qualified supervisors.

(d)(1) In lieu of subsections (a), (b), and (c), the Board shall accept a valid and active approved supervisor certification from one of the following entities:

(A) The American Association for Marriage and Family Therapy (AAMFT)

(B) The American Board of Examiners in Clinical Social Work (ABECSW)

(C) The California Association of Marriage and Family Therapists (CAMFT)

(D) The Center for Credentialing and Education (CCE)

(2) Licensees who hold one of the above certifications shall maintain a current and active California license, but are not required to have been actively licensed for at least two (2) of the past five (5) years immediately preceding any supervision, and are not required to have practiced psychotherapy or provided direct clinical supervision of psychotherapy performed by supervisees as specified in section 4980.03(g)(3) of the Code for at least two (2) of the past five (5) years immediately preceding any supervision.

(3) The board shall accept an approved supervisor certification from another entity if the licensee can demonstrate that the certification requirements of that entity meet or exceed those of any one of the above entities.

(e) The board shall not deny hours of experience gained towards licensure due to the supervisor's failure to complete the training, coursework, or continuing professional development requirements in this section.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4980.03 and 4980.35, Business and Professions Code.

Add § 1869. SUPERVISED EXPERIENCE: REQUIRED DOCUMENTATION.

(a) Pursuant to section 4996.23.3 of the Code, in a setting which is not a private practice, a written oversight agreement shall be executed between the supervisor and the employer when the supervisor is not employed by the supervisee's employer or is a volunteer.

(1) The written oversight agreement shall be executed and signed prior to the commencement of supervision and shall be submitted to the Board upon application for licensure.

(2) The agreement shall contain a statement from the supervisor agreeing to ensure that the extent, kind, and quality of counseling performed by the supervisee is

consistent with the supervisee's training, education, and experience, and is appropriate in extent, kind, and quality.

(3) The agreement shall contain an acknowledgment by the employer that the employer:

(A) Is aware of the licensing requirements that must be met by the supervisee and that the employer agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements;

(B) Agrees to provide the supervisor access to clinical records of the clients counseled by the supervisee; and

(C) Is aware that the supervisor will be providing clinical guidance and direction to the supervisee in order to ensure compliance with the standards of practice of the profession, which include legal requirements and professional codes of ethics, and agrees not to interfere with this process.

(b) Effective January 1, 2022, supervisors shall complete and submit a self-assessment report pertaining to the licensee's qualifications to be a supervisor, as specified in section 1870.

(c)(1) Within 60 days of the commencement of any supervision, the supervisor and supervisee shall sign a supervision agreement under penalty of perjury. The original signed supervisory agreement shall be retained by the supervisee and submitted to the Board with the supervisee's application for licensure.

(2) A supervisor and a supervisee who are in a supervisory relationship that existed prior to [OAL to insert effective date of regulation] are not required to complete a supervision agreement. The supervisee shall instead submit the previously required signed supervisor responsibility statement with the application for licensure.

(3) The supervision agreement shall include all of the following:

(A) The licensee's qualifications to be a supervisor as specified in section 1870, and in section 4996.20 of the Code.

(B) The supervisor affirms an understanding of the requirements pertaining to registration of the supervisee, work settings, employment, supervision practices and oversight of supervisees as specified in sections 4996.18, 4996.23.2 and 4996.23.3 of the Code.

(C) The supervisor affirms an understanding of the requirements pertaining to direct supervisor contact as specified in section 4996.23.1 of the Code.

(D) The supervisor affirms an understanding of the supervision documentation required by this section and the Board's right to audit a supervisor's compliance with the requirements specified in this article and in the Code.

(E) The supervisee affirms an understanding of all of the following:

(i) Requirements pertaining to registration as an associate as specified in section 4996.18 of the Code.

(ii) The supervisee's supervisor must hold a current and active California license that is not under suspension or probation while supervising in order for hours to count toward licensure as specified in section 1870, and in section 4996.20 of the Code.

(iii) Requirements pertaining to documentation of completed supervised experience as specified in this section.

(iv) Prohibited practices pertaining to employment and supervisory relationships as specified in section 4996.23.2 of the Code.

(v) The age limit pertaining to experience hours as specified in section 4996.23 of the Code.

(F) A supervisory plan that describes the goals and objectives of supervision, and whereby the supervisor affirms an understanding of the responsibilities pertaining to monitoring and evaluating the supervisee as specified in section 1870, and in section 4996.20 of the Code. This plan shall be developed collaboratively by the supervisor and supervisee.

(d) Supervisees shall maintain a log of all hours of experience gained toward licensure. The log shall be signed by the supervisor on a weekly basis. A supervisee shall retain all logs until such time as the supervisee is licensed by the board. The board shall have the right to require an applicant for licensure to submit all or such portions of the log as it deems necessary to verify hours of experience. The log shall include all of the following:

(1) The name and address of the supervisee's work setting

(2) Hours of experience gained per category each week.

(3) Total hours gained per week and in each category overall.

(e) Completed hours of experience shall be documented at the completion or termination of supervision. Such documentation shall be submitted by the supervisee upon application for licensure and shall include all of the following:

(1) The supervisor's telephone number and license information.

(2) The supervisee's employer's name, address and telephone number.

(3) Whether the supervisee's work setting complies with section 4996.23.2 of the Code.

(4) Documentation of employment or volunteer status, as specified in section 4996.23.2 of the Code.

(5) The applicant's accumulated hours of experience broken down by category.

(6) The amount and type of supervision provided to the applicant.

(7) The dates during which the experience was gained.

(8) The supervisor's signature under penalty of perjury.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4996.18, 4996.20, 4996.23, 4996.23.1, 4996.23.2 and 4996.23.3, Business and Professions Code.

Add § 1869.3. PLACEMENT BY TEMPORARY STAFFING AGENCIES.

(a) A "temporary staffing agency" is defined as an agency that locates positions for individuals seeking temporary work, and fills vacancies for agencies seeking individuals to perform work on a temporary basis.

(b) A "contracting agency" is defined as an agency where a supervisee has been placed by a temporary staffing agency.

(c) The following provisions apply to a supervisee who has been placed by a temporary staffing agency:

(1) The supervisee shall only perform mental health and related services at the places where the contracting agency permits business to be conducted.

(2) Notwithstanding section 1869, the written oversight agreement shall be between the contracting agency and the supervisor; and, in cases where the supervisor is an employee of the contracting agency, no written agreement shall be required.

(d) The employer of a supervisee who has been placed by a temporary staffing agency shall issue a W-2 tax form, or shall provide the employee with a letter verifying volunteer status as required in section 4996.23.2 of the Code.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4996.23.2 and 4996.23.3, Business and Professions Code.

Amend § 1870. REQUIREMENTS FOR ASSOCIATE CLINICAL SOCIAL WORKER SUPERVISORS.

(a) Any person supervising an associate clinical social worker registered with the board or an applicant for associate registration as described in section 4996.23(b) of the Code (hereinafter called "supervisor") within California shall comply with the requirements set forth below.

(a) Prior to the commencement of any therapy or supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (Form No. 37A-522, Revised 01/2020) hereby incorporated by reference, which requires that:

~~(1) The supervisor possesses and maintains a current and active California license as a licensed clinical social worker or a licensed mental health professional acceptable to the Board as specified in section 4996.20(a) of the Code Code, and meets all other qualifications specified in section 4996.20(a) of the Code.~~

~~(2) The supervisor has held an active California or out-of-state license listed in subsection (1) for at least two years within the five-year period immediately preceding any supervision.~~

(2) A supervisor who is not a licensed clinical social worker shall have sufficient experience, training and education in clinical social work to competently practice clinical social work in California.

(3) The supervisor shall be competent in the areas of clinical practice and techniques being supervised, and shall keep informed of developments in clinical social work and in California law governing the practice of clinical social work.

(4) The supervisor shall self-monitor for and address supervision dynamics such as, but not limited to, countertransference, intrapsychic, interpersonal, or trauma related issues that may affect supervision.

~~(3)~~(5) The supervisor has and maintains a current license in good standing and will immediately notify the associate supervisee of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or any lapse in licensure, that affects the supervisor's ability or right to practice or supervise.

~~(4) The supervisor has practiced psychotherapy, provided psychological counseling pursuant to subdivision (e) of section 4989.14 of the Code, or provided direct clinical supervision of psychotherapy performed by marriage and family therapist trainees, associate marriage and family therapists, associate professional clinical counselors, or associate clinical social workers for at least two (2) years within the last five (5) years immediately preceding supervision. Supervision of psychotherapy performed by a social work intern or a professional clinical counselor trainee shall be accepted if the supervision provided is substantially equivalent to the supervision required for registrants.~~

~~(5)~~(6) A supervisor who is a licensed educational psychologist shall only supervise the provision of educationally related mental health services consistent with the scope of practice of an educational psychologist.

~~(6)~~(7) The supervisor has had sufficient experience, training and education in the area of clinical supervision to competently supervise associates. Persons licensed by the board who provide supervision shall complete the minimum supervision training or coursework specified in section 1871.

~~(A) Persons licensed by the board who provide supervision shall have a minimum of fifteen (15) contact hours in supervision training obtained from a~~

~~state agency or approved continuing education provider. This training may apply towards the approved continuing education requirements set forth in sections 4980.54, 4996.22, and 4999.76 of the Code. The content of such training shall include, but not be limited to:~~

- ~~(i) Familiarity with supervision literature through reading assignments specified by course instructors;~~
- ~~(ii) Facilitation of therapist-client and supervisor-therapist relationships;~~
- ~~(iii) Evaluation and identification of problems in therapist-client and supervisor-therapist relationships;~~
- ~~(iv) Structuring to maximize supervision, including times and conditions of supervision sessions, problem-solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;~~
- ~~(v) Knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and~~
- ~~(vi) The practice of clinical social work, including the mandated reporting laws, and knowledge of ethical and legal issues.~~

~~(7)(8) The supervisor knows and understands the laws and regulations pertaining to both supervision of associates and the experience required for licensure as a clinical social worker.~~

~~(8) The supervisor shall do all of the following:~~

~~(A) Ensure that the extent, kind and quality of clinical social work performed by the associate is consistent with the training and experience of the person being supervised.~~

~~(B) Review client/patient records and monitor and evaluate assessment and treatment decisions of the associate clinical social worker.~~

~~(C) Monitor and evaluate the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served.~~

~~(D) Ensure compliance with all laws and regulations governing the practice of clinical social work.~~

~~(9) The supervisor and the associate shall develop the "Supervisory Plan" as described in section 1870.1. The associate shall submit the original signed plan for each supervisor to the board upon application for licensure.~~

~~(10) The supervisor shall provide the associate with the original, signed "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (Form No. 37A-522, Revised 01/2020), prior to commencement of any supervision. The associate shall provide the board with the original signed form for each supervisor upon application for licensure.~~

~~(11) A supervisor shall give at least one (1) week's written notice to an associate of the supervisor's intent not to sign for any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.~~

(9) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the supervisee as specified in section 4996.20(b) of the Code.

~~(12)(10) The supervisor shall complete an assessment of the ongoing strengths and limitations of the associate supervisee at least once a year and at the completion or termination of supervision. The assessments shall be completed at least once a year and at the completion or termination of supervision. A copy of all assessments shall be provided to the associate by the supervisor. The supervisor shall provide the supervisee with a copy of all assessments.~~

(11) The supervisor shall establish written procedures for supervisees to contact the supervisor, or, in the supervisor's absence, procedures for contacting an alternative on-call supervisor to assist supervisees in handling crises and emergencies. The supervisor shall provide these procedures to the supervisee prior to the commencement of supervision.

~~(b) The board shall not deny hours of experience gained toward licensure by any associate due to the failure of his or her supervisor to complete the training requirements specified in subsection (a)(6)(A).~~

(b) A supervisor shall give at least one (1) week's written notice to a supervisee of the supervisor's intent not to sign for any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(c) The supervisor shall obtain from each supervisee for whom supervision will be provided, the name, address, and telephone number of the supervisee's most recent supervisor and employer.

(d) Effective January 1, 2022, a supervisor shall complete and sign under penalty of perjury a self-assessment report which includes all of the following:

(1) The licensee's qualifications to be a supervisor as specified in section 1870, and in section 4996.20 of the Code.

(2) The supervisor's telephone number and email address.

(3) The date the licensee initially began supervising, and for licensees who have previously served as a board-qualified supervisor but have not supervised for the past two (2) years, the date the licensee resumed supervising.

(4) The date the supervisor-completed the training required by section 1871, and the length of the course(s) taken.

(5) The supervisor affirms an understanding of all of the following:

(A) The supervisor's license must meet the supervisor qualifications in section 1870, and in section 4996.20 of the Code, for a supervisee's experience hours to be credited toward licensure.

(B) The supervisee notification requirement set forth in subsection (a)(5).

(C) The requirements set forth in section 4996.23.3 of the Code pertaining to the maximum number of registrants.

(D) The Board's right to audit records pertaining to supervisor qualifications in accordance with section 4996.21 of the Code.

(E) The requirement to complete a supervision agreement for each supervisee as specified in section 1869.

(e) Licensees who have not previously served as a supervisor, or who have previously served as a board-qualified supervisor but are not actively supervising, shall submit a self-assessment report to the Board within 60 days of the commencement of any supervision.

(f) Licensees acting as a supervisor prior to January 1, 2022, shall submit a self-assessment report to the Board by December 31, 2022.

~~(13)~~(g) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4989.14, 4996.18, 4996.20, 4996.23, ~~4996.23.1 and 4996.23.2~~, 4996.23.1, 4996.23.2 and 4996.23.3, Business and Professions Code.

~~Repeal § 1870.1. SUPERVISORY PLAN.~~

~~(a) On and after January 1, 1999, all associate clinical social workers and licensed mental health professionals acceptable to the board as defined in section 4996.20(a) of the Code who assume responsibility for providing supervision shall develop a supervisory plan that describes the goals and objectives of supervision and shall complete and sign under penalty of perjury the "Supervisory Plan", (Form No. 37A-521, Revised 07/2019), hereby incorporated by reference.~~

~~(b) This supervisory plan shall be completed by each supervisor providing supervision and the original signed plan shall be submitted by the associate clinical social worker to the board upon application for licensure.~~

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4996.18, 4996.20 and 4996.23, Business and Professions Code.

Add § 1870.3. SUBSTITUTE SUPERVISORS.

(a) When it becomes necessary for a supervisee to obtain supervision temporarily from a substitute supervisor, the substitute supervisor shall meet all supervisor qualifications required by the Code and in this article.

(b) The substitute supervisor and the supervisee shall sign the supervision agreement required by section 1869, and the substitute supervisor shall sign the weekly log specified in section 1869.

(c) If the substitute supervisor will be supervising for 30 consecutive calendar days or less:

(1) A new supervisory plan as specified in section 1869(c)(3)(F) is not required. The substitute supervisor shall follow the supervisee's pre-existing supervisory plan.

(2) The experience gained during that 30-day period may be verified as specified in section 1869(e) by the regular supervisor.

(d) If the substitute supervisor will be supervising for more than 30 consecutive calendar days, a new supervisory plan shall be required, and the substitute supervisor shall verify the supervisee's experience gained during that time.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4996.20 and 4996.23.3, Business and Professions Code.

Add § 1870.5. SUPERVISION OF EXPERIENCE GAINED OUTSIDE OF CALIFORNIA.

Experience gained outside of California must have been supervised in accordance with the following criteria:

At the time of supervision, the supervisor was licensed or certified by the state or jurisdiction in which the supervision occurred, and possessed a current and active license or certification which was not under suspension or probation. The supervisor must have been licensed or certified by that state or jurisdiction for at least two (2) of the past five (5) years immediately prior to acting as a supervisor, as either a psychologist, clinical social worker, physician certified in psychiatry by the American Board of Psychiatry and Neurology, professional clinical counselor, marriage and family therapist or similarly titled marriage and family practitioner, or other equivalent license or certification that allows the practitioner to independently provide clinical mental health services.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4996.17 and 4996.20, Business and Professions Code.

Add § 1871. SUPERVISOR TRAINING AND COURSEWORK.

Persons licensed by the board who provide supervision shall complete, at a minimum, supervision training or coursework as follows:

(a) Beginning January 1, 2021, licensees who commence supervision for the first time in California shall obtain fifteen (15) hours in supervision training or coursework obtained from a government agency or from a continuing education provider specified as acceptable by the board in Article 8. If taken from an acceptable continuing education provider, the training may apply towards the continuing education requirements set forth in sections 4980.54, 4989.34, 4996.22, and 4999.76 of the Code.

(1) The training content shall include, but not be limited to, current best practices and current industry standards, which include legal requirements, professional codes of ethics, and research focused on supervision, regarding the following:

(A) Competencies necessary for new supervisors;

(B) Goal setting and evaluation;

(C) The supervisor-supervisee relationship;

(D) California law and ethics, including legal and ethical issues related to supervision;

(E) Cultural variables, including, but not limited to, race, gender, social class, and religious beliefs;

(F) Contextual variables, such as treatment modality, work settings, and use of technology;

(G) Supervision theories and literature; and

(H) Documentation and record keeping of the supervisee's client files, as well as documentation of supervision.

(2) If taken from a government agency or from an acceptable continuing education provider, this course shall have been taken within two (2) years prior to commencing supervision, or within 60 days after commencing supervision.

(3) If taken at a master's or higher level from an accredited or approved postsecondary institution, this course shall have been taken within four (4) years prior to commencing supervision, or within 60 days after commencing supervision.

(b) A licensee who previously served as a board-qualified supervisor, but has not supervised for the past two (2) years shall take a six (6)-hour supervision training course within 60 days of resuming supervision.

(c) Supervisors shall complete a minimum of six (6) hours of continuing professional development in supervision during each subsequent renewal period while providing supervision. This shall consist of one or more of the following activities and records of completion shall be maintained as specified in section 4996.21 of the Code:

(1) Training or coursework specific to the topic of supervision, obtained from a government agency or from an acceptable continuing education provider. If taken

from an acceptable continuing education provider, it may apply towards the continuing education requirements set forth in sections 4980.54, 4989.34, 4996.22, and 4999.76 of the Code.

(2) Teaching a supervision course described in subsection (c)(1).

(3) Authoring research directly focused on supervision that has been published professionally. This may include, but is not limited to, quantitative or qualitative research, literature reviews, peer reviewed journals or books, monographs, or other industry or academic published work deemed equivalent by the board. This shall not include personal opinion papers, editorials, or blogs.

(4) Collaboration with another licensee who also serves as a board-qualified supervisor through the use of mentoring or consultation.

(5) Attendance at supervisor peer discussion groups with other board licensees who also serve as board-qualified supervisors.

(d)(1) In lieu of subsections (a), (b), and (c), the Board shall accept a valid and active approved supervisor certification from one of the following entities:

(A) The American Association for Marriage and Family Therapy (AAMFT)

(B) The American Board of Examiners in Clinical Social Work (ABECSW)

(C) The California Association of Marriage and Family Therapists (CAMFT)

(D) The Center for Credentialing and Education (CCE)

(2) Licensees who hold one of the above certifications shall maintain a current and active California license, but are not required to have been actively licensed for at least two (2) of the past five (5) years immediately preceding any supervision, and are not required to have practiced psychotherapy or provided direct clinical supervision of psychotherapy performed by supervisees as specified in section 4996.20(a)(2) of the Code for at least two (2) of the past five (5) years immediately preceding any supervision.

(3) The board shall accept an approved supervisor certification from another entity if the licensee can demonstrate that the certification requirements of that entity meet or exceed those of any one of the above entities.

(e) The board shall not deny hours of experience gained towards licensure due to the supervisor's failure to complete the training, coursework, or continuing professional development requirements in this section.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Section 4996.20, Business and Professions Code.



Board of Behavioral Sciences



1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830
www.bbs.ca.gov

Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

Attachment B

REGULATION HEARING TRANSCRIPT SUPERVISION-RELATED REGULATIONS

March 23, 2020
11:00AM

Via Zoom Meeting Online

Staff Present

Christy Berger, Regulatory Analyst

Guest List

None

Christy Berger, Regulatory Analyst:

The purpose of this meeting is to conduct a public hearing of proposed regulations brought forth by the Board of Behavioral Sciences.

Today is Monday, March 23, 2020 the time is 11:05 a.m., and this hearing is being conducted in virtually through Zoom meeting online.

The regulation proposal was filed with the Office of Administrative Law and has been duly noticed. Copies of the proposed regulations have been sent to interested parties. This regulation proposal would add sections 1815.8, 1820.3, 1821.1, 1821.2, 1821.3, 1833.05, 1833.1.5, 1834, 1869, 1869.3, 1870.3, 1870.5, and 1871; Amend Sections 1820, 1820.5, 1821, 1833, 1833.1, 1833.2, and 1870; Repeal sections 1822, 1870.1, and 1874 of Division 18 of Title 16 of the California Code of Regulations.

This proposal would do the following:

- Make technical, nonsubstantive and clarifying changes to the Board's supervision regulations.
- Create consistency in supervisor requirements and responsibilities among the three substantially equivalent license types.
- Set standards for documentation when a supervisor is deceased or becomes incapacitated prior to signing off on an applicant's supervised experience.
- Require supervisors to notify the Board that they are supervising and that they meet the qualifications to supervise.
- Require supervisors and supervisees to complete and sign a supervision agreement.
- Codify how completed experience hours shall be verified to the Board.

- Require supervisors to monitor for and address dynamics that could lead to ineffective supervision.
- Address requirements pertaining to temporary substitute supervisors.
- Provide for flexibility in supervisor ongoing training requirements by allowing for certain continuing professional development activities to count.
- Set forth parameters for situations where an individual gaining supervised experience has been placed in an agency by a temporary staffing agency.
- Allow licensees who hold an approved supervisor certification from one of several specified entities to be exempt from certain supervisor qualifications.
- Clarify requirements pertaining to supervision of experience gained outside of California and allow for some flexibility in the supervisor's license title.
- Clarify who can supervise the experience required with couples, families or children that is necessary for an LPCC to obtain the "couples and families" specialty designation.

Public comment on this proposal will now be taken. Due to the number of participants we may need to limit the amount of time that each person is speaking. I will let you know that once I see how many would like to comment. The Board will address all comments received and will address those comments in the Final Statement of Reasons. At this time please type your full name in the chat bar if you would like to comment. We can also take written comments on the proposal to my email address at Christy.berger@dca.ca.gov until 5:00pm today.

Sheila Addison stated that she is generally in support of the changes being proposed. As an AAMFT-approved supervisor for over 15 years she is very glad to see that the proposal acknowledges that ongoing training and allows it to be applied to the required experience for supervisors. She stated that she hopes the current crisis around online supervision in private practice can be addressed in some way to allow for even 50% of supervision in private practice to be provided online.

Naila Qureshi stated that she echoes Sheila's comment. She is new to private practice and would like to see videoconferencing supervision in private practice allowed in place of face-to-face supervision, as meeting in person is kind of risky right now.

Sheila Addison requested to expand on her comment. She would like to highlight the importance of disability access. When there are restrictions on the mode of supervision that make it illegal to use video chat methods, that's a hardship for disabled supervisors and disabled supervisees. If, a supervisor has an immune deficiency, they can ask their clients to attend through videoconferencing but cannot provide supervision in that manner. The same for disabled supervisees - if they are unable to come into the office they can ask clients to be seen via telehealth, but cannot do the same for supervision. This is an access issue which leads to inequality for already marginalized supervisors and supervisees.

Stacey Thacker stated that she echoes the prior comments. She's in the age group that the Governor has directed into isolation and would like to be able to provide supervision via videoconferencing.

Curt Widhalm stated that he sent a written comment, but wanted to add a comment on the section regarding deceased or incapacitated supervisors, related to professional wills. He would

like to see directives for handling supervisory documentation in the event of a supervisor's death or incapacitation.

Amanda Michelle Jones stated that she is echoing Sheila Addison's comments. As a disabled ASW running out of time on her first number, she would like to be able to practice and get supervision remotely.

Sheila Addison requested to make another comment. She stated that there is also the issue of client abandonment. If the supervisor is ill or out of town or restricted as in this pandemic, there is the problem of how to direct private practice supervisees. If we direct them to not work because we can't provide in-person supervision, then we are potentially telling them to commit client abandonment which is a legal and ethical problem. Arranging for interim supervision can be difficult and expensive and sometimes is not possible in specialty practices. She has heard from clients and supervisees that they are more comfortable with the therapy and supervision staying with the same person, as opposed to a new supervisor having access to the client's information.

May-Ci Xiong stated, for those who don't have telehealth access for weekly clinical supervision, she would like to see the possibility of considering telephone conferencing for group and individual supervision due to lack of access to telehealth equipment.

There are no other commenters.

The time is now 11:23 a.m. and the hearing is now closed. I have provided my email address in the event individuals wish to comment in writing by 5:00 p.m. today.



Board of Behavioral Sciences

Memo

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members **Date:** May 29, 2020
From: Christy Berger, Regulatory Analyst **Telephone:** (916) 574-7817
Subject: **Status of Board Rulemaking Proposals**

Below is the status of Board-approved regulation proposals. See **Attachment A** for information on the required steps of the regulatory process. See **Attachment B** for the timeline for each proposal as it has proceeded through those steps.

Substantial Relationship & Rehabilitation Criteria (AB 2138 Regulations)

Status: DCA Final Review Process

This proposal would result in changes necessary in order to meet the requirements of Assembly Bill (AB) 2138 (Chapter 995, Statutes of 2018). This proposal includes modifying the Board's substantial relationship criteria, which helps to evaluate whether a crime or act was substantially related to the profession, as well as criteria to evaluate the rehabilitation of an individual when considering denying, suspending or revoking a license. The proposal was initially approved by the Board at its meeting in February 2019. During the DCA final review process several changes were requested which the Board approved at its March 2020 meeting, resulting in a 15-day public notice/comment period that ended March 30, 2020.

Enforcement Process

Status: On Hold

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 was submitted to the Department of Consumer Affairs (DCA) to begin the initial review process in July 2017. This regulation package was placed on hold due to the passage of AB 2138 and remains on hold pending passage of the AB 2138 regulations.

Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee

Status: Approved by OAL and Takes Effect July 1, 2020

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.

Supervision-Related Requirements

Status: Public Comments to Board for Review at June 5, 2020 Meeting

This proposal would do all of the following:

- Revise the qualifications to become supervisor.
- Require supervisors to perform a self-assessment of qualifications and submit the self-assessment to the Board.
- Set forth requirements for substitute supervisors.
- Update and strengthen supervisor training requirements.
- Strengthen supervisor responsibilities, including provisions pertaining to monitoring and evaluating supervisees.
- Strengthen requirements pertaining to documentation of supervision.
- Make supervision requirements consistent across the three licensed professions.
- Address supervision gained outside of California.
- Address documentation when a supervisor is incapacitated or deceased.
- Set forth terms relating to registrant placement by temporary staffing agencies.

The proposal was approved by the Board at its meeting in November 2016 and was held aside while awaiting passage of AB 93 (Chapter 743, Statutes of 2018), the Board's supervision legislation.

Continuing Education and Additional Training Requirements

Status: Preparation for Initial Review Process

This proposal would do the following:

- Update content requirements for human sexuality, child abuse assessment and reporting, and alcoholism and other chemical substance dependency courses and create consistency in the required qualifications for course providers.
- Strike the 18-hour CE exception for initial renewal periods.
- Recast CE “exceptions” as “temporary waivers” and modify CE waiver criteria.
- Require licensees who are granted a waiver to complete six hours of CE in law and ethics.
- Update CE waiver forms incorporated by reference for consistency with the proposed updated requirements and for clarity.
- Clarify that a course on law and ethics designed specifically to meet supervisor training requirements cannot be accepted toward meeting the 6-hour law and ethics course required of all licensees each renewal period.
- Specify that a maximum of 18 hours of CE may be met by teaching courses each renewal period, and that the course taught must be for a Board-accepted provider to count.
- Allow a licensee who completes a Board occupational analysis survey to be credited with six hours of CE.
- Repeal outdated regulations pertaining to the Board’s former CE program.
- Clarify that professional associations are the only type of organization that may be recognized by the Board as a CE provider.

This proposal was approved by the Board at its meeting in November 2019.

Examination Waiting Periods, Professional Corporations, Accrediting Agencies and Equivalent Degrees

Status: Preparation for Initial Review Process

This proposal would update examination waiting periods for consistency with current practice, add Licensed Professional Clinical Counselors to code sections pertaining to ownership, transfer of shares and naming of professional corporations, delete outdated text pertaining to equivalent accrediting agencies for marriage and family therapist applicants, and specify the accrediting agencies that are acceptable for licensed

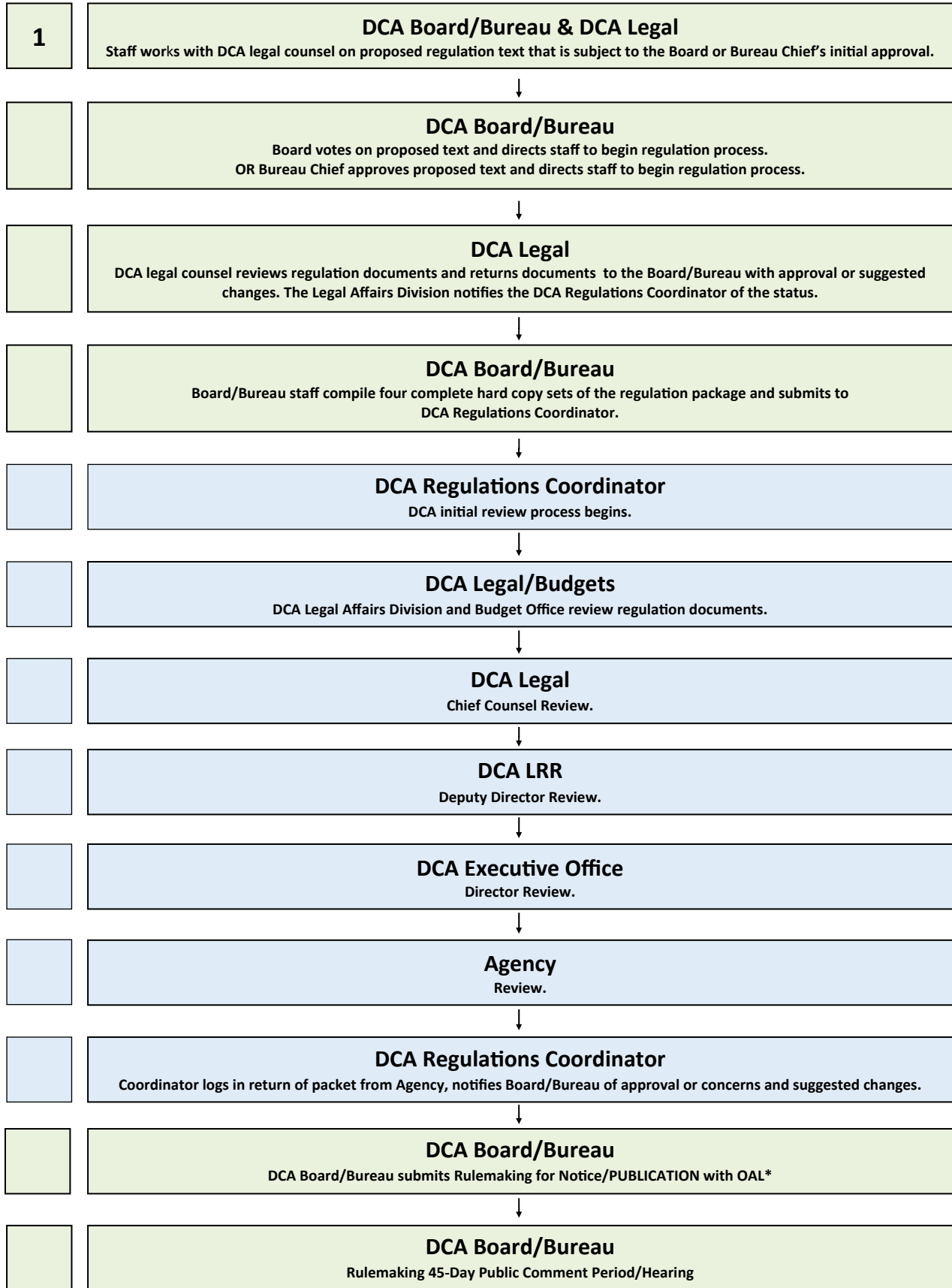
educational psychologist applicant degree programs. This proposal was approved by the Board at its meeting in November 2019.

Attachments

Attachment A: DCA Regulation Process

Attachment B: BBS Regulation Timeline

INITIAL PHASE



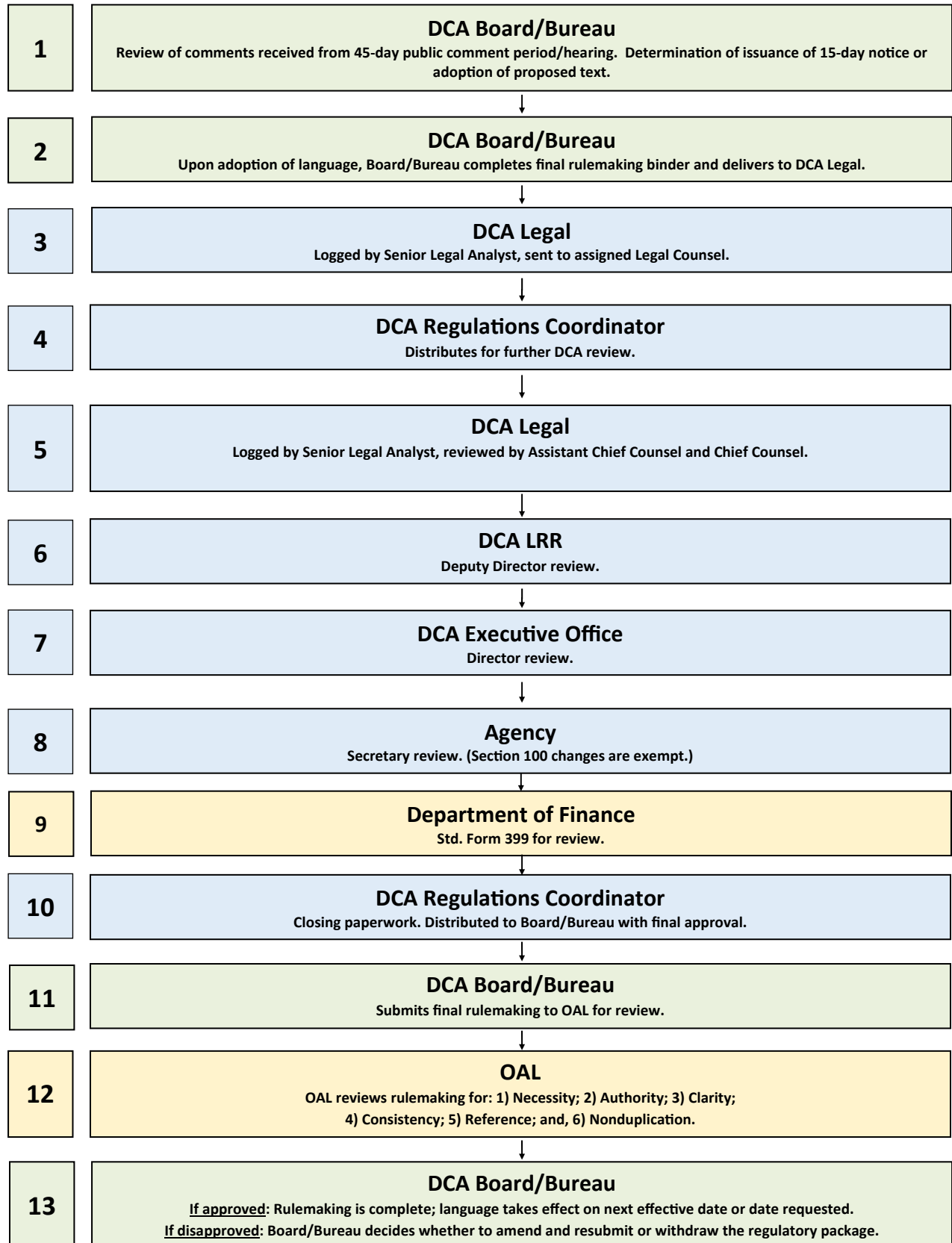
Legend

DCA – Department of Consumer Affairs
 LRR – Division of Legislative Regulatory Review
 OAL – Office of Administrative Law

* If any changes to language last approved by the Board are needed, a vote by the Board may be necessary.

REGULAR RULEMAKING PROCESS—DCA BOARDS/BUREAUS

FINAL PHASE



Legend

DCA – Department of Consumer Affairs
LRR – Division of Legislative Regulatory Review
OAL – Office of Administrative Law

DOF – Department of Finance
Std. Form 399 – Economic and Fiscal Impact Statement
350

ATTACHMENT B

BBS REGULATION TIMELINE

MAY 26, 2020

Regulation Package Name	Board Approval	Submitted to DCA: Initial Review	Submitted to Agency: Initial Review/Date Agency Approved	Noticed	Public Hearing	Submitted to DCA: Final Review	Approved by Agency: Final Review	Submitted to DOF for Approval	Date Submitted to OAL/ Date OAL Approved
Substantial Relationship & Rehabilitation Criteria (AB 2138 Regs)	3/1/19	4/18/19	6/25/19/ 7/30/19	8/8/19	9/30/19	11/25/19			
Enforcement Update to Disciplinary Guidelines	3/3/17	7/11/17	9/13/18*						
Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee	11/2/17	4/6/18	9/12/18/ 1/11/19**	2/22/19	4/8/19	4/30/19	6/10/19	6/13/19	Submitted 1/24/20*** Approved 3/5/20 Effective 07/01/20
Supervision	11/4/16****	4/18/19	8/8/19/ 10/28/19	2/7/20	3/23/20				
Continuing Education and Additional Training	11/22/19	To be submitted June 2020							

*This package was held due to the passage of AB 2138 and continues to be on hold pending approval of AB 2138 regulations.

**Returned to Board meeting for Agency-requested changes during this time.

***Originally submitted on 7/22/19 and withdrawn for approval of OAL-required language changes.

****This package was held pending passage of AB 93.

DCA and Agency Initial Review Process: Following review by the Board's attorney and the assigned DCA regulation unit attorney, required document preparation (Notice, Initial Statement of Reasons, Fiscal Impact), the package is submitted to the Department of Consumer Affairs' (DCA) Legal Affairs Office, who routes it for approvals from the budget office, the DCA Executive Office and the State Business, Consumer Services and Housing Agency (Agency). Once approved by Agency, the Board can submit the package to the Office of Administrative Law (OAL) to publicly notice the proposed regulation change. There may be changes requested to documents during this time and the timeline includes processing time for those changes.

Notice and Public Hearing: The public notice initiates the 45-day public comment period and a public hearing. The Board must consider all comments submitted. If any substantive changes to the text of the proposal, the Board must approve the language again, and provide a 15-day public comment period. If no changes are made to the proposal, the package goes 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 (DOF) and OAL 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.