Board of Behavioral Sciences

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POLICY AND ADVOCACY COMMITTEE MEETING NOTICE
April 15, 2016
9:00 a.m.

Department of Consumer Affairs
El Dorado Room
1625 North Market Blvd., #N220
Sacramento, CA 95834

I. Call to Order and Establishment of Quorum

II. Introductions*

III. Approval of the October 30, 2015, Committee Meeting Minutes

IV. Discussion and Recommendations for Possible Action Regarding AB 796 (Nazarian) Health Care Coverage: Autism and Pervasive Development Disorders

V. Discussion and Recommendations for Possible Action Regarding AB 1001 (Maienschein) Child Abuse Reporting

VI. Discussion and Recommendations for Possible Action Regarding AB 1715 (Holden) Behavioral Analysis: Licensing

VII. Discussion and Recommendations for Possible Action Regarding AB 1808 (Wood) Minors: Mental Health Services

VIII. Discussion and Recommendations for Possible Action Regarding AB 1863 (Wood) Medi-Cal: Federally Qualified Health Centers: Rural Health Centers

IX. Discussion and Recommendations for Possible Action Regarding AB 2083 (Chu) Interagency Child Death Review

X. Discussion and Recommendations for Possible Action Regarding AB 2191 (Assembly) Sunset Bill to Extend the Board to 2021

XI. Discussion and Recommendations for Possible Action Regarding AB 2199 (Campos) Sexual Offenses Against Minors: Persons in a Position of Authority

Governor
Edmund G. Brown Jr.

State of California

Business, Consumer Services and Housing Agency

Department of Consumer Affairs

XII. Discussion and Recommendations for Possible Action Regarding AB 2507 (Gordon) Telehealth: Access

XIII. Discussion and Recommendations for Possible Action Regarding AB 2606 (Grove) Crimes Against Children, Elders, Dependent Adults, and Persons with Disabilities

XIV. Discussion and Recommendations for Possible Action Regarding SB 614(Leno) Medi-Cal: Mental Health Services: Peer and Family Support Specialist Certification

XV. Discussion and Recommendations for Possible Action Regarding SB 1034 (Mitchell) Health Care Coverage: Autism

XVI. Discussion and Recommendations for Possible Action Regarding SB 1101(Wieckowski) Alcohol and Drug Counselors: Regulation

XVII. Discussion and Recommendations for Possible Action Regarding SB 1155 (Morrell) Licenses: Military Service

XVIII. Discussion and Recommendations for Possible Action Regarding SB 1204 (Hernandez) Health Professions Development: Loan Repayment

XIX. Discussion and Recommendations for Possible Action Regarding SB 1217 (Stone) Health Arts: Reporting Requirements: Professional Liability Resulting in Death or Personal Injury

XX. Discussion and Recommendations for Possible Action Regarding SB 1334 (Stone) Crime Reporting: Health Practitioners: Human Trafficking

XXI. Discussion and Recommendations for Possible Action Regarding Board Sponsored Legislation and Other Legislation Affecting the Board

a. AB 1084 (Bonilla) BBS Bill for Sunset Recommendations
b. AB 1917 (Obernolte) Mental Health Care Professionals: Qualifications
c. AB 2649 (Jones) Marriage and Family Therapist Intern and Professional Clinical Counselor Intern: Renaming
d. SB 1478 (Senate) Healing Arts: Omnibus Bill

XXII. Status of Board Rulemaking Proposals

a. Pending Regulations: Standards of Practice for Telehealth, 16 CCR section 1815.5
b. Pending Regulations: English as a Second Language: Additional Examination Time, 16 CCR section 1805.2

XXIII. Discussion and Recommendations for Possible Action Regarding Publication of Citation and Fines Less Than $1500 on the Board's Website and in the Board Newsletter

XXIV. Suggestions for Future Agenda Items

XXV. Public Comment for Items not on the Agenda

XXVI. 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.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 796** **VERSION:** **AMENDED JANUARY 13, 2016**

AUTHOR: **NAZARIAN** **SPONSOR:** **DIR FLOOR TIME COALITION**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALTH CARE COVERAGE: AUTISM AND PERVASIVE DEVELOPMENTAL DISORDERS**

Summary:

This bill seeks ensure that individuals with pervasive development disorder or autism are able to receive insurance coverage for types of evidence-based behavioral health treatment other than applied behavior analysis. To accomplish this, it directs the Board of Psychology to form a committee to develop a list of acceptable behavioral health evidence-based treatment modalities.

Existing Law:

1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). (Health and Safety Code (HSC) §1374.73(a), Insurance Code (IC) §10144.51(a))

2) Requires these health care service plans and health insurers subject to this provision to maintain an adequate network of qualified autism service providers. (HSC §1374.73(b), IC §10144.51(b))

3) Defines "behavioral health treatment" as professional services and treatment programs, <u>including applied behavior analysis and evidence-based behavior intervention programs</u>, which develop or restore the functioning of an individual with pervasive developmental disorder or autism, and meets the following criteria (HSC §1374.73(c), IC §10144.51(c):

    a) Is prescribed by a licensed physician and surgeon or is developed by a licensed psychologist;

    b) Is provided under a treatment plan prescribed by a qualified autism service provider and administered by such a provider or by a qualified autism service professional under supervision and employment of a qualified autism service provider;

    c) The treatment plan has measurable goals over a specific timeline and the plan is reviewed by the provider at least once every six months; and

d) Is not used for purposes of providing or for the reimbursement of respite, day care, or educational services.

4) Defines a “qualified autism service provider” as either (HSC §1374.73(c), IC §10144.51(c)):

   a) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited and which designs, supervises, or provides treatment for pervasive developmental disorder or autism; or

   b) A person who is licensed as a specified healing arts practitioner, including a psychologist, marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor. The licensee must design, supervise, or provide treatment for pervasive developmental disorder or autism and be within his or her experience and competence.

5) Defines a “qualified autism service professional” as someone who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):

   a) Provides behavioral health treatment;

   b) Is employed and supervised by a qualified autism service provider;

   c) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider.

   d) Is a behavioral service provider approved by a regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations (CCR); and

   e) Has training and experience providing services for pervasive developmental disorder or autism pursuant to the Lanterman Developmental Disabilities Services Act.

6) Defines a “qualified autism service paraprofessional” as an unlicensed and uncertified person who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):

   a) Is employed and supervised by a qualified autism service provider;

   b) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider;

   c) Meets criteria set forth in regulations regarding use of paraprofessionals in group practice providing behavioral intervention services; and

d) Is certified by a qualified autism service provider as having adequate education, training, and experience.

7) Defines vendor service codes and sets requirements for regional centers to classify the following professions (CCR 17 §54342):

a) Associate Behavior Analysts;

b) Behavior Analysts;

c) Behavior Management Assistants;

d) Behavior Management Consultants; and

e) Behavior Management Programs.

This Bill:

1) Requires the Board of Psychology to form a committee to create a list of behavioral health evidence-based treatment modalities for PDD/A. (HSC §1374.73(g), IC §10144.51(g))

2) Extends the provisions in law requiring health care contracts and insurance policies to provide coverage for PDD/A from January 1, 2017 to January 1, 2022. (HSC §1374.73(h), IC §10144.51(h))

Comments:

1) **Author's Intent.** SB 946 (Chapter 650, Statutes of 2011) required health service plan and insurance policies to provide coverage for evidence-based behavioral health treatment for PDD/A. However, this bill only referenced one type of behavioral health treatment, which was applied behavior analysis (ABA).

   According to the author, although SB 946 intended that the type of evidence-based behavioral health treatment prescribed should be selected by the physician who best knows the patient, the reference to ABA in the bill has caused insurance companies to develop networks of ABA practitioners, but not necessarily a network of practitioners of other forms of evidence-based behavioral health treatment.

   Due to this, the author notes that it is difficult for patients with PDD/A, who have been prescribed an evidence-based treatment that is not ADA, to obtain coverage for that treatment. Instead, they are forced to accept a form of behavioral health treatment that has not been prescribed.

   By having the Board of Psychology develop a list of other types of appropriate evidence-based treatments for PDD/A, the author's office is seeking to ensure that a PDD/A patient will be able to obtain insurance coverage for treatments other than ABA, if his or her doctor believes that other treatment is more appropriate.

2) **Related Legislation.** The California Association for Behavior Analysis is currently sponsoring a bill proposal (AB 1715, Holden), which would create a licensure

category for behavior analysts and assistant behavior analysts under the Board of Psychology.

The prospect of competing types of effective behavioral health treatment may raise questions about the implications of establishing a licensure category for one of the treatment types, but not the others.

SB 1034 (Mitchell) would extend indefinitely the provisions in current law that all health insurance plans must provide coverage for behavioral health treatment for PDD/A. (This bill instead proposes extending them until January 1, 2022).

3) **Previous Legislation.** SB 946 (Chapter 650, Statues of 2011) requires every health care service plan contract and insurance policy that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for PDD/A.

   AB 171 (Beall, 2012), would have required health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment of PDD/A other than behavioral health treatment. This bill died in the Senate Health Committee.

   SB 126 (Chapter 680, Statutes of 2013) extended the provisions of SB 946 until January 1, 2017.

4) **Previous Position.** This bill is a two-year bill. When the Board considered this bill last year, the author was seeking to accomplish the same purpose, but the approach was different. Last year, the bill was proposing to amend the definition of "qualified autism service professional" and "qualified autism service paraprofessional" to allow insurance coverage for types of behavioral health treatment other than applied behavior analysis.

   At its May 2015 meeting, the Board considered this bill and decided to take a "neutral" position. It also directed staff to bring the bill back to the Board for consideration if it moved forward.

5) **Support and Opposition.**

Support:
- DIR Floor Time Coalition (Sponsor)
- Occupational Therapy Association of California
- Numerous Individuals

Oppose:
- Autism Research Group (previous version)
- Center for Autism & Related Disorders (previous version)

6) History

02/04/16 Referred to Coms. on HEALTH and HUMAN S.
01/25/16 In Senate. Read first time. To Com. on RLS. for assignment.
01/25/16 Read third time. Passed. Ordered to the Senate. (Ayes 75. Noes 0. Page 3476.)
01/21/16 Read second time. Ordered to third reading.
01/21/16 From committee: Do pass. (Ayes 17. Noes 0.) (January 21).
01/14/16 Re-referred to Com. on APPR.
01/13/16 From committee chair, with author's amendments: Amend, and re-refer to Com. on APPR. Read second time and amended.
01/13/16 From committee: Do pass and re-refer to Com. on APPR. (Ayes 18. Noes 0.) (January 12). Re-referred to Com. on APPR.
01/12/16 From committee: Do pass and re-refer to Com. on HEALTH. (Ayes 12. Noes 0.) (January 12). Re-referred to Com. on HEALTH.
01/07/16 (pending re-refer to Com. on HEALTH.)
01/07/16 Assembly Rule 56 suspended. (Page 3366.)
01/04/16 Re-referred to Com. on B. & P.
01/04/16 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
05/07/15 In committee: Reconsideration granted.
05/07/15 Joint Rule 62(a), file notice suspended. (Page 1320.)
05/05/15 In committee: Set, first hearing. Failed passage.
04/09/15 (Ayes 51. Noes 26. Page 845.)
04/09/15 Re-referred to Coms. on B. & P. and HEALTH pursuant to Assembly Rule 96.
04/08/15 In committee: Hearing postponed by committee.
03/26/15 In committee: Hearing postponed by committee.
03/12/15 Referred to Coms. on HEALTH and B. & P.
02/27/15 From printer. May be heard in committee March 29.
02/26/15 Read first time. To print.

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AMENDED IN ASSEMBLY JANUARY 13, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 796

Introduced by Assembly Member Nazarian
(Coauthor: Assembly Member Rendon)

February 26, 2015

An act to amend Section 1374.73 of the Health and Safety Code, and to amend Section 10144.51 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Nazarian. Health care coverage: autism and pervasive developmental disorders.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A violation of those provisions is a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance.

Existing law requires every health care service plan contract and health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism until January 1, 2017, and defines "behavioral health treatment" to mean specifie services provided by, among others, a qualified autism service professional supervised and employed by a qualified autism service provider. For purposes of this provision, existing law defines a "qualifie autism service professional" to mean a person who, among other requirements, is a behavior service provider approved as a vendor by a California regional center to provide services as an associate behavior

analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program pursuant to specified regulations adopted under the Lanterman Developmental Disabilities Services Act.

This bill would extend the operation of these provisions to January 1, 2022. By extending the operation of these provisions, the violation of which by a health care service plan would be a crime, the bill would impose a state-mandated local program. The bill would require the Board of Psychology, no later than December 31, 2017, and thereafter as necessary, to convene a committee to create a list of evidence-based treatment modalities for purposes of ~~developing mandated~~ behavioral health treatment ~~modalities~~ for pervasive developmental disorder or ~~autism.~~ *autism, and to post the list on the department's Internet Web site no later than January 1, 2019.*

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

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

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) Autism and other pervasive developmental disorders are
4 complex neurobehavioral disorders that include impairments in
5 social communication and social interaction combined with rigid,
6 repetitive behaviors, interests, and activities.
7 (b) Autism covers a large spectrum of symptoms and levels of
8 impairment ranging in severity from somewhat limiting to a severe
9 disability that may require institutional care.
10 (c) One in 68 children born today will be diagnosed with autism
11 or another pervasive developmental disorder.
12 (d) Research has demonstrated that children diagnosed with
13 autism can often be helped with early administration of behavioral
14 health treatment.
15 (e) There are several forms of evidence-based behavioral health
16 treatment, including, but not limited to, applied behavioral analysis.

(f) Children diagnosed with autism respond differently to behavioral health treatment.

(g) It is critical that each child diagnosed with autism receives the specific type of evidence-based behavioral health treatment best suited to him or her, as prescribed by his or her physician or developed by a psychologist.

(h) The Legislature intends that all forms of evidence-based behavioral health treatment be covered by health care service plans, pursuant to Section 1374.73 of the Health and Safety Code, and health insurance policies, pursuant to Section 10144.51 of the Insurance Code.

(i) The Legislature intends that health care service plan provider networks include qualified professionals practicing all forms of evidence-based behavioral health treatment other than just applied behavioral analysis.

SEC. 2. Section 1374.73 of the Health and Safety Code is amended to read:

1374.73. (a) (1) Every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 1374.72.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health plans will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities

Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Every health care service plan subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health care service plan from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definition shall apply:

(1) "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service pr vider.

(ii) A qualified autism service professional supervised and employed by the qualified autism service pr vider.

(iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service pr vider.

(C) The treatment plan has measurable goals over a specifi timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualifie autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments or developmental challenges that are to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported.

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical effica y in treating pervasive developmental disorder or autism.

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the health care service plan upon request.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 1374.72.

(3) "Qualified autism service provider" means either of the following:

(A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment.

(B) Is employed and supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service pr vider.

(D) Is a behavioral service provider approved as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 *of Subchapter 2 of Chapter 3 of Division 2* of Title 17 of the California Code of Regulations.

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(5) "Qualified autism service paraprofessional" means an unlicensed and uncertified individual who meets all of the following criteria:

(A) Is employed and supervised by a qualified autism service provider.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

(C) Meets the criteria set forth in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

(D) Has adequate education, training, and experience, as certified by a qualified autism service p vider.

(d) This section shall not apply to the following:

(1) A specialized health care service plan that does not deliver mental health or behavioral health services to enrollees.

(2) A health care service plan contract in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(3) A health care service plan contract in the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code).

(4) A health care benefit plan or contract entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 1374.72.

(f) As provided in Section 1374.72 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health care service plan may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

(g) No later than December 31, 2017, and thereafter as necessary, the Board of Psychology, upon appropriation of the Legislature, shall convene a committee to create a list of evidence-based treatment modalities for purposes of ~~developing mandated~~ behavioral health treatment ~~modalities~~ for pervasive developmental disorder or autism. *The Board of Psychology shall post the list of evidence-based treatment modalities on its Internet Web site no later than January 1, 2019.*

(h) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 3. Section 10144.51 of the Insurance Code is amended to read:

10144.51. (a) (1) Every health insurance policy shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 10144.5.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health insurers will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual

service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Pursuant to Article 6 (commencing with Section 2240) *of Subchapter 2 of Chapter 5* of Title 10 of the California Code of Regulations, every health insurer subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health insurer from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definition shall apply:

(1) "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service pr vider.

(ii) A qualified autism service professional supervised and employed by the qualified autism service pr vider.

(iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service pr vider.

(C) The treatment plan has measurable goals over a specifi timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the

Welfare and Institutions Code pursuant to which the qualifie autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments or developmental challenges that are to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported.

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical effica y in treating pervasive developmental disorder or autism.

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the insurer upon request.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 10144.5.

(3) "Qualified autism service provider" means either of the following:

(A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment.

(B) Is employed and supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service pr vider.

(D) Is a behavioral service provider approved as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 *of Subchapter 2 of Chapter 3 of Division 2* of Title 17 of the California Code of Regulations.

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(5) "Qualified autism service paraprofessional" means an unlicensed and uncertified individual who meets all of the following criteria:

(A) Is employed and supervised by a qualified autism service provider.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

(C) Meets the criteria set forth in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

(D) Has adequate education, training, and experience, as certified by a qualified autism service p vider.

(d) This section shall not apply to the following:

(1) A specialized health insurance policy that does not cover mental health or behavioral health services or an accident only, specified disease, hospital indemnity, or Medicare supplement policy.

(2) A health insurance policy in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(3) A health insurance policy in the Healthy Families Program (Part 6.2 (commencing with Section 12693)).

(4) A health care benefit plan or policy entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 10144.5.

(f) As provided in Section 10144.5 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health insurer may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

(g) No later than December 31, 2017, and thereafter as necessary, the Board of Psychology, upon appropriation by the Legislature, shall convene a committee to create a list of evidence-based treatment modalities for purposes of ~~developing mandated~~ behavioral health treatment ~~modalities~~ for pervasive developmental disorder or autism. *The Board of Psychology shall post the list of evidence-based treatment modalities on its Internet Web site no later than January 1, 2019.*

(h) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 1001** **VERSION:** **AMENDED JANUARY 14, 2016**

AUTHOR: **MAIENSCHEIN** **SPONSOR:** **CHILDREN'S ADVOCACY INSTITUTE AT UNIVERSITY OF SAN DIEGO SCHOOL OF LAW**

RECOMMENDED POSITION: **NONE**

SUBJECT: **CHILD ABUSE: REPORTING: FOSTER FAMILY AGENCIES**

Overview:

1) This bill seeks to address a report that social workers who work for foster family agencies are sometimes prohibited by their supervisors from making mandated reports of child abuse. Foster family agencies are licensed by the Department of Social Services. The amendments in this bill give the Department of Social Services more authority to ensure that foster family agencies follow mandated reporting requirements.

Existing Law:

1) Specifies that licensees of the Board of Behavioral Sciences (Board) are mandated reporters under the Child Abuse and Neglect Reporting Act and as such, must submit a report whenever in their professional capacity, they have knowledge of, or observe a child who is known, or reasonably suspected to have been, a victim of child abuse or neglect. (Penal Code (PC) §§11165.7(a)(21) – (25) and 11166(a))

2) Requires mandated reports of suspected child abuse or neglect be made to any police or sheriff's department, the county probation department, or the county welfare department. (PC §11165.9)

3) Makes mandated reporting duties individual. Supervisors or administrators may not impede reporting duties, and mandated reporters shall not be subject to sanctions for making a report. (PC §11166(i)(1))

4) States that reporting a case of possible child abuse or neglect to an employer or supervisor is not a substitute for making a mandated report to a designated agency. (PC §11166(i)(3))

5) States that a supervisor or administrator who impedes reporting duties shall be punished by a fine up to $1,000 and/or up to six months in county jail. (PC §11166.01)

6) Defines a "foster family agency" (FFA), as a public agency or private organization engaged in the recruiting, certifying, and training of foster parents, or in finding homes for placement of children for temporary or permanent care. (Health and Safety Code (HSC) §1502(a)(4)

This Bill:

1) This bill focuses on mandated reporting from foster family agencies, which are licensed by the Department of Social Services (DSS). The bill makes four new amendments in an effort to increase the Department of Social Services' enforcement power over foster family agencies in order to ensure that they are following mandated reporting requirements. The four amendments are as follows:

    a. If the DSS requires orientation training for board members or administrators of a foster family agency, it must include training on mandated reporting duties. (HSC §1556.5(a))

    b. If the DSS requires an FFA to submit a written plan of operation as a requirement for licensure, that plan must include written policies, procedures, or practices to ensure that the foster family agency does not violate mandated reporting requirements. (HSC §1556.5(b))

    c. Requires the DSS to take reasonable action against a supervisor or administrator who impedes or inhibits mandated reporting duties. This may include prohibiting a person from being a board member, executive, or officer of an FFA, or denying, suspending or revoking an FFA license. (HSC §1558(i))

    d. Allows FFA social workers to participate in DSS's already-existing process for social workers to voluntarily report violations of mandated reporting requirements. (Welfare and Institutions Code (W&I) §10605.5(e))

Comment:

2) **Author's Intent.** The author's office states that social workers who work for FFAs, as well as one teacher, have reported to the Children's Advocacy Institute at the University Of San Diego School Of Law that supervisors at some FFAs are willing to override child abuse mandated reporting requirements. The purpose of this bill is to give the state agency that licenses FFAs more authority to ensure mandated reporting requirements are followed.

3) **Previous Position.** This bill is a two-year bill and was considered by the Board at its May 2015 meeting. That version of the bill amended the Penal Code section that addresses mandated reporting in an attempt to clarify that it is illegal for anyone, including a supervisor, to impede or interfere with the making of a mandated report of suspected child abuse or neglect. The Board took a "support" version on the 2015 version of this bill. It has been amended significantly since then, and no longer amends the Penal Code.

4) Support and Opposition.

Support

- Children's Advocacy Institute at the University of San Diego School of Law (Sponsor)
- Crime Victims United of California (CVUC)

Opposition

- None on this version at this time.

5) History

2016

02/04/16 Referred to Coms. on HUMAN S. and PUB. S.
01/27/16 In Senate. Read first time. To Com. on RLS. for assignment.
01/27/16 Read third time. Passed. Ordered to the Senate. (Ayes 78. Noes 0. Page 3509.)
01/21/16 Read second time. Ordered to Consent Calendar.
01/21/16 From committee: Do pass. To Consent Calendar. (Ayes 17. Noes 0.) (January 21).
01/15/16 Re-referred to Com. on APPR.
01/14/16 Read second time and amended.
01/13/16 From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (January 12).
01/05/16 From committee: Be re-referred to Com. on HUM. S. Re-referred. (Ayes 11. Noes 0.) (January 5). Re-referred to Com. on HUM. S.
01/04/16 Re-referred to Com. on RLS. pursuant to Assembly Rule 96.
01/04/16 Re-referred to Com. on PUB. S.
01/04/16 From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.

2015

04/21/15 In committee: Set, second hearing. Hearing canceled at the request of author.
04/07/15 In committee: Set, first hearing. Hearing canceled at the request of author.
03/19/15 Referred to Com. on PUB. S.
02/27/15 From printer. May be heard in committee March 29.
02/26/15 Read first time. To print.

6) Attachments

Attachment A: Penal Code Section 11166

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AMENDED IN ASSEMBLY JANUARY 14, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1001

Introduced by Assembly Member Maienschein
(Coauthors: Assembly Members Chávez and Gallagher)
(Coauthor: Senator Anderson)

February 26, 2015

An act to amend Section ~~1554~~ *1558* of, and to add ~~Sections 1550.1 and~~ *Section* 1556.5 to, the Health and Safety Code, and to amend Section 10605.5 of the Welfare and Institutions Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Maienschein. Child abuse: reporting: foster family agencies.

(1) 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. Under existing law, the failure to make this report is a crime. Existing law also prohibits a supervisor or administrator from impeding or inhibiting the reporting duties, provides that a person making the report shall not be subject to any sanctions for making the report, and prohibits internal procedures to facilitate reporting from requiring any employee required to make reports to disclose his or her identity to the employer.

Existing law, the California Community Care Facilities Act (the act), governs the licensing and regulation of community care facilities, as defined, including foster family agencies for children. Existing law vests responsibility for administering and enforcing laws and regulations governing those facilities in the State Department of Social Services. *Existing law authorizes the department to prohibit a person from being a member of the board of directors, an executive director, or an office of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility or certified family home, or allowing contact with clients of a licensed facility or certifie family home by, any employee, prospective employee, or person who is not a client who has committed various acts or has been denied an exemption to work or to be present in a facility or certified family home, as specified*

~~This bill would require the department to deny an application for, or suspend or revoke, a license pursuant to the act, upon a finding that the applicant or licensee has impeded or inhibited those mandated reporting duties, sanctioned a person making a report, or required an employee to disclose his or her identity to the employer in violation of the provisions described above governing mandated reporters. The bill would prohibit the reinstatement of a license, registration, or special permit that is suspended pursuant to this provision, as specified. The bill would also impose other related requirements on the department governing conditions of licensure.~~

This bill would require that if the department, as a condition of licensure, requires the chief executive officer or other authorized member of the board of directors and the administrator of a foster family agency to attend an orientation give by the licensing agency that outlines the applicable rules and regulations for operation of a foster family agency, then that orientation shall include a description of policies, procedures, or practices, that violate the provisions described above governing mandated reporters. The bill would also require the department to take reasonable action, including, among other things, prohibiting a person from being a member of the board of directors, upon a finding of a violation of the provisions described above governing mandated reporters.

(2) Existing law requires the department, in consultation with counties and labor organizations, to establish a process to receive voluntary disclosures from social workers, if a social worker has reasonable cause to believe that a policy, procedure, or practice, related to the provision

of child welfare services by a county child welfare agency, meets any of specified conditions, including that the policy, procedure, or practice endangers the health or well-being of children or is contrary to *an* existing statute or regulation. Existing law requires the department to make available to counties and labor organizations a description of the process established, and, no later than January 1, 2018, to report to the Legislature the total number of relevant disclosures received from social workers and a summary description of both the issues raised in the disclosures received and the actions taken by the department in response to the disclosures, and to post the information on the department's Internet Web site.

This bill would, effective January 1, 2018, require the department to carry out the duties imposed pursuant to these provisions with respect to voluntary disclosures from social workers employed at a foster family agency, as defined, including, but not limited to, disclosures from social workers who have reasonable cause to believe that a policy, procedure, or practice violates the provisions governing mandated reporters described in paragraph (1). The bill would require the department to make a report regarding this information, similar to the report required pursuant to existing law, no later than July 1, 2019, and to post the information on its Internet Web site.

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

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

~~SECTION 1. Section 1550.1 is added to the Health and Safety Code, to read:~~

~~1550.1. The department shall deny an application for, or suspend or revoke, any license, or any special permit, certificat of approval, or administrator certificate, issued under this chapter, or shall deny a transfer of a license pursuant to paragraph (2) of subdivision (c) of Section 1524, upon a finding that the applican or licensee has impeded or inhibited mandated reporting duties within the meaning of subdivision (i) of Section 11166 of the Penal Code, or sanctioned a person making a report within the meaning of that subdivision, or required an employee to disclose his or her identity to the employer in violation of that subdivision.~~

~~SEC. 2. Section 1554 of the Health and Safety Code is amended to read:~~

~~1554. Any license, registration, or special permit suspended pursuant to this chapter, and any special permit revoked pursuant to this chapter, may be reinstated pursuant to the provisions of Section 11522 of the Government Code. This section does not apply to a license, registration, or special permit that is suspended or to a special permit that is revoked pursuant to Section 1550.1.~~

~~SEC. 3.~~

SECTION 1. Section 1556.5 is added to the Health and Safety Code, to read:

1556.5. (a) If the department, as a condition of licensure, requires the chief executive officer or other authorized member of the board of directors and the administrator of a foster family agency to attend an orientation given by the licensing agency that outlines the applicable rules and ~~regulation~~ *regulations* for operation of a foster family agency, that orientation shall include, but not be limited to, a description of policies, procedures, or practices that violate paragraph (1) or (2) of subdivision (i) of Section 11166 of the Penal Code.

(b) If the department requires, as part of an application for licensure for a foster family agency, a written plan of operation, that plan of operation shall include a written plan establishing policies, procedures, or practices to ensure that the foster family agency does not violate paragraph (1) or (2) of subdivision (i) of Section 11166 of the Penal Code.

(c) For purposes of this section, a foster family agency is define in paragraph (4) of subdivision (a) of Section 1502.

SEC. 2. Section 1558 of the Health and Safety Code is amended to read:

1558. (a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility or certifie family home, or allowing contact with clients of a licensed facility or certified family home by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct that is inimical to the health, morals, welfare, or safety of either the people of this state or an individual in or receiving services from the facility or certified family home.

(3) Been denied an exemption to work or to be present in a facility or certified family home, when that person has been convicted of a crime as defined in Section 1522

(4) Engaged in any other conduct that would constitute a basis for disciplining a licensee or certified amily home.

(5) Engaged in acts of financial malfeasance concerning the operation of a facility or certified family home, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

(b) The excluded person, the facility or certified family home, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to fil a written appeal within the prescribed time, the department's action shall be final

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility or certifie family home pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility or certifie family home, the department shall serve an order of immediate exclusion upon the excluded person that shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility or certified family home shall remain in effect until the hearing is completed and the director has made a fina determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section. The department may enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or prohibiting the excluded person's employment or presence in the facility or certified family home, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded

person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility or certified family home.

(g) A licensee's or certified family home's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

(h) (1) (A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certifie foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

(i) Notwithstanding paragraph (2) of subdivision (a) or subdivision (c) of Section 1550, the department shall take reasonable action, including, but not limited to, prohibiting a person from being a member of the board of directors, an executive director, or an officer of a licensee of a licensed facility or certifie family home, or denying an application for, or suspending or revoking, a license, special permit, certificate of approval, or

administrator certificat , issued under this chapter, or denying a transfer of a license pursuant to paragraph (2) of subdivision (c) of Section 1524, upon a finding of a violation of subdivision (i) of Section 11166 of the Penal Code.

~~SEC. 4.~~

SEC. 3. Section 10605.5 of the Welfare and Institutions Code is amended to read:

10605.5. (a) (1) The department, in consultation with counties and labor organizations, shall establish, no later than January 1, 2016, a process to receive voluntary disclosures from social workers, if a social worker has reasonable cause to believe that a policy, procedure, or practice, related to the provision of child welfare services by a county child welfare agency, meets any of the following conditions:

(A) Endangers the health or well-being of a child or children.

(B) Is contrary to existing statute or regulation.

(C) Is contrary to public policy.

(2) Notwithstanding any other law, the department shall not disclose to any person or entity the identity of a social worker making a disclosure described in paragraph (1), unless (A) the social worker has consented to the disclosure or (B) there is an immediate risk to the health and safety of a child.

(b) The department shall make available a description of the process established pursuant to subdivision (a) to counties and labor organizations.

(c) For purposes of this section, "county child welfare agency" includes a county welfare department, child welfare department, and any other county agency that employs social workers and is responsible for the placement and supervision of children and youth in foster care, including department social workers contracted by counties to perform direct adoption services.

(d) (1) No later than January 1, 2018, the department shall report to the Legislature only the following information:

(A) The total number of relevant disclosures received from social workers, including the month and year the disclosure was received.

(B) A summary description of both of the following:

(i) The issues raised in the disclosures received from a social worker.

(ii) The actions taken by the department in response to the disclosures.

(2) No later than January 1, 2018, the department shall post on its Internet Web site the information described in paragraph (1).

(3) The report required pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(e) (1) Effective January 1, 2018, all of the duties imposed on the department pursuant to subdivisions (a) and (b) shall apply with respect to the receipt of voluntary disclosures from social workers employed at a foster family agency, as defined in Section 1502 of the Health and Safety Code, including, but not limited to, disclosures from social workers who have reasonable cause to believe that a policy, procedure, or practice violates paragraph (1) or (2) of subdivision (i) of Section 11166 of the Penal Code.

(2) No later than July 1, 2019, the department shall report to the Legislature only the following information:

(A) The total number of relevant disclosures received from social workers employed at foster family agencies, including the month and year the disclosure was received.

(B) A summary description of both of the following:

(i) The issues raised in the disclosures received from a social worker.

(ii) The actions taken by the department in response to the disclosures.

(3) No later than July 1, 2019, the department shall post on its Internet Web site the information described in paragraph (1).

(4) The report required pursuant to paragraph (2) shall be submitted in compliance with Section 9795 of the Government Code.

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California LEGISLATIVE INFORMATION

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PENAL CODE - PEN

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS [11006 - 14315] *(Part 4 added by Stats. 1953, Ch. 1385.)*

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS [11006 - 11460] *(Title 1 added by Stats. 1953, Ch. 1385.)*

CHAPTER 2. Control of Crimes and Criminals [11150 - 11199.5] *(Chapter 2 added by Stats. 1953, Ch. 70.)*

ARTICLE 2.5. Child Abuse and Neglect Reporting Act [11164 - 11174.3] *(Heading of Article 2.5 amended by Stats. 1987, Ch. 1444, Sec. 1.)*

11166. (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 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. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) A report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the State Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse and that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) (1) A commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall, immediately or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.

(2) A commercial computer technician who has knowledge of or observes, within the scope of his or her professional capacity or employment, any representation of information, data, or an image, including, but not limited to, any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or materials are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a brief description of the images or materials.

(3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (43) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, "electronic medium" includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, "sexual conduct" means any of the following:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(B) Penetration of the vagina or rectum by any object.

(C) Masturbation for the purpose of sexual stimulation of the viewer.

(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(E) Exhibition of the genitals, pubic, or rectal areas of a person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) (1) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child that relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(2) A county probation or welfare department shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation, as defined in subdivision (d) of Section 11165.1.

(3) When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in Section 11165.1, is missing or has been abducted, the county probation or welfare department shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse

or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(Amended by Stats. 2015, Ch. 425, Sec. 4. Effective January 1, 2016.)

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 1715** **VERSION:** **AMENDED MARCH 29, 2016**

AUTHOR: **HOLDEN** **SPONSOR:** **CALIFORNIA ASSOCIATION FOR BEHAVIOR ANALYSIS**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALING ARTS: BEHAVIOR ANALYSIS: LICENSING**

Summary

This bill establishes licensure for behavior analysts and assistant behavior analysts under the Board of Psychology. In addition, it would require behavior analyst interns and behavior analyst technicians to register with the Board of Psychology.

Existing Law:

1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). (Health and Safety Code (HSC) §1374.73(a), Insurance Code (IC) §10144.51(a))

2) Requires these health care service plans and health insurers subject to this provision to maintain an adequate network of qualified autism service providers. (HSC §1374.73(b), IC §10144.51(b))

3) Defines "behavioral health treatment" as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs which develop or restore the functioning of an individual with pervasive developmental disorder or autism, and meets the following criteria (HSC §1374.73(c), IC §10144.51(c):

    - Is prescribed by a licensed physician and surgeon or is developed by a licensed psychologist;

    - Is provided under a treatment plan prescribed by a qualified autism service provider and administered by such a provider or by a qualified autism service professional under supervision and employment of a qualified autism service provider;

    - The treatment plan has measurable goals over a specific timeline and the plan is reviewed by the provider at least once every six months; and

- Is not used for purposes of providing or for the reimbursement of respite, day care, or educational services.

4) Defines a "qualified autism service provider" as either (HSC §1374.73(c), IC §10144.51(c)):

    - A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited and which designs, supervises, or provides treatment for pervasive developmental disorder or autism; or

    - A person who is licensed as a specified healing arts practitioner, including a psychologist, marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor. The licensee must design, supervise, or provide treatment for pervasive developmental disorder or autism and be within his or her experience and competence.

5) Defines a "qualified autism service professional" as someone who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):

    - Provides behavioral health treatment;

    - Is employed and supervised by a qualified autism service provider;

    - Provides treatment according to a treatment plan developed and approved by the qualified autism service provider.

    - Is a behavioral service provider approved by a regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations (CCR); and

    - Has training and experience providing services for pervasive developmental disorder or autism pursuant to the Lanterman Developmental Disabilities Services Act.

6) Defines a "qualified autism service paraprofessional" as an unlicensed and uncertified person who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):

    - Is employed and supervised by a qualified autism service provider;

    - Provides treatment according to a treatment plan developed and approved by the qualified autism service provider;

- Meets criteria set forth in regulations regarding use of paraprofessionals in group practice providing behavioral intervention services; and

- Is certified by a qualified autism service provider as having adequate education, training, and experience.

7) Establishes billing service codes and definitions for the following types of professionals used in regional centers for functions related to behavioral analysis for persons with developmental disabilities: (17 California Code of Regulations (CCR) §54342(a))

    - Associate Behavior Analyst;

    - Behavior Analyst;

    - Behavior Management Assistant; and

    - Behavior Management Consultant.

<u>This Bill:</u>

1) Establishes the Behavior Analyst Act to license behavior analysts and assistant behavior analysts, and to register behavior analyst interns and technicians, under the Board of Psychology beginning January 1, 2018. (Business and Professions Code (BPC) §2999.10, et. seq.)

2) Defines the "practice of behavior analysis" as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. It includes the following (BPC §2999.12):

- Empirical identification of functional relations between behavior and environmental factors;

- Interventions based on scientific research and direct observation and measurement of behavior and the environment; and

- Utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

3) Specifies that the practice of behavior analysis does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, counseling, prescribing drugs, performing surgery, or administering electroconvulsive therapy. (BPC §2999.12)

4) States that nothing in the Behavior Analyst Act shall be construed to allow a licensee to engage in the scope of practices of other healing arts licensees. Such a violation

subjects the licensee to disciplinary action by the Board of Psychology and the board overseeing the other healing art (BPC §2999.12).

5) Creates the Behavior Analyst Committee, under the jurisdiction of the Board of Psychology, with the mandate to protect the public from unauthorized and unqualified practice of applied behavior analysis. (BPC §2999.26)

6) Licensure as a Behavior Analyst (BPC §§2999.31 and 2999.32)

i. Requires an applicant for licensure as a Behavior Analyst to maintain active status as a certified behavior analyst with the Behavior Analyst Certification Board (BACB), or a national credentialing organization with behavior analyst certification programs approved by the board and accredited by the National Commission for Certifying Agencies. The applicant must also have passed the BACB's exam and must pass a California Law and Ethics Exam.

After July 1, 2019, the applicant must also meet the following requirements:

a. Possess a master's degree or higher in behavior analysis, psychology, education or a degree program that contained a behavior analysis course sequence approved by the certifying entity.

b. Completion of one of the following options:

Option One:
Completion of 270 hours of graduate level coursework in specified content areas and either 1,500 hours of supervised independent field work in behavior analysis, 1,000 hours of supervised practicum in behavior analysis, 750 hours of supervised intensive practicum in behavior analysis, or a combination thereof.

Option Two:
Have a faculty appointment of at least three years at a fully accredited school within a five year period, and taught at least five sections of behavior analysis coursework that meets specified criteria, and published one article meeting specified criteria. The applicant must have also obtained either 1,500 hours of supervised independent field work in behavior analysis, 1,000 hours of supervised practicum in behavior analysis, 750 hours of supervised intensive practicum in behavior analysis, or a combination thereof.

Option Three:
Possess a doctoral degree conferred at least ten years prior to application, in behavior analysis, psychology, or education, and have ten years of postdoctoral experience practicing behavior analysis. The applicant must also have at least 500 hours of supplemental supervised experience that meets current experience requirements of the certifying entity.

7) Licensure as an Assistant Behavior Analyst (BPC §§2999.33 and 2999.34)

i. Requires an applicant for licensure as an Assistant Behavior Analyst to maintain active status as a certified assistant behavior analyst with the Behavior Analyst Certification Board (BACB), or a national organization with a behavior analyst certification program approved by the board and accredited by the National Commission for Certifying Agencies. The applicant must also have passed the BACB's exam and a California Law and Ethics Exam.

ii. Requires the applicant to provide proof of ongoing supervision by a licensed behavior analyst or a licensed psychologist.

After July 1, 2019, the applicant must also meet the following requirements:

i. Have a bachelor's degree or higher from an accredited institution.

ii. Complete 180 hours of undergraduate or graduate instruction in specified content areas, <u>and</u> either 1,000 hours of supervised independent field work in behavior analysis, 670 hours of supervised practicum in behavior analysis, 500 hours of supervised intensive practicum in behavior analysis, or a combination thereof.

8) Allows a person preparing for licensure as a behavior analyst to register as a behavior analyst intern. The intern must meet the following requirements (BPC §2999.35.5):

i. Be supervised by a licensed behavior analyst or licensed psychologist;

ii. Be enrolled in or have completed an education program designed to qualify him or her to become a licensed behavior analyst;

iii. Provide fingerprints and submit to a background check;

iv. Renew his or her registration every two years.

9) Requires behavior analysis technicians practicing under a licensed behavior analyst or psychologist to be meet the following criteria (BPC §2999.36):

i. Be at least age 18;
ii. Have at least a high school diploma;
iii. Submit an application to the Board of Psychology;
iv. Submit fingerprints;
v. Pay an application fee; and
vi. Renew the application every two years.

10) Prohibits a person from engaging in the practice of behavior analysis, representing his or her self as a licensed behavior analyst or licensed assistant behavior analyst, or using the title or letters, without being licensed (BPC §2999.37).

11) Exempts the following practitioners from the provisions of this licensing act if the person is acting within the scope of his or her licensed scope of practice and within the scope of his or her training and competence (BPC §2999.38):

- Licensed psychologists;
- Licensed occupational therapists;
- Licensed physical therapists;
- **Licensed marriage and family therapists;**
- **Licensed educational psychologists;**
- **Licensed clinical social workers;**
- **Licensed professional clinical counselors.**

Any of the above individuals must not represent that they are a licensed behavior analyst or licensed assistant behavior analyst, unless they actually hold that license.

12) Exempts certain other, non-licensed persons from the provisions of this licensing act, including the following (BPC §2999.38):

- A parent or guardian of a recipient of behavior analysis, under the direction of a licensed behavior analyst or other exempt licensee;

- An individual who teaches or researches behavior analysis, as long they do not provide direct services;

- A behavior analyst licensed in another state, who provides services temporarily in California for a period of not more than 90 days per year.

- An individual vendorized by a regional center.

- An individual employed or contracted by a local educational agency assisting students with behavioral or developmental issues.

13) Sets forth criteria for renewing a license. (BPC §§2999.44-2999.47)

14) Sets forth unprofessional conduct provisions. (BPC §2999.62)

Comments:

1) **Intent of This Bill.** Applied Behavior Analysis (ABA) is commonly used to treat autism spectrum disorders. During the past decade, there has been increasing evidence that ABA therapy is effective in the treatment of autism, and there has been an increase in the practice of this profession in California. State law now mandates that insurance plans provide coverage for ABA treatment. However, the California Business and Professions Code does not apply any standard requirements to the practice of ABA.

   Because there is no licensure for ABAs, it is difficult for consumers to make an informed decision when choosing an applied behavior analyst. In some cases, ABA

programs may be designed, supervised, and/or implemented by someone who lacks training and experience.

The goal of this bill is establish licensure for behavior analysts and assistant behavior analysts, so that individuals with autism are protected from unqualified practitioners.

2) **Ability of Board Licensees to Become Dually Licensed.** As written, this bill allows BBS licensees to continue to practice behavior analysis as part of their scope of services, as long as they are competent to practice them, and as long as they do not hold themselves out to be a licensed behavior analyst or licensed assistant behavior analyst.

   However, if a BBS licensee wishes to obtain licensure as a behavior analyst, it may be difficult to do so. BPC §2999.32(d) requires an applicant to have a master's degree or higher in behavior analysis, psychology, education, or in a degree program with a behavior analysis course sequence approved by the certifying entity (currently this is the BACB). These degree titles are required both by law, and are also required for a certification as a behavior analyst with the BACB. (a BACB certification is required by law for licensure.)

   Attachment A provides the BACB's definitions of acceptable degrees for certification. It is unclear if the BACB would accept marriage and family therapy, clinical social work, or clinical counseling degrees under these definitions.

3) **Ability of Board Registrants and Trainees to Gain Supervised Experience Practicing Behavior Analysis.** The exemptions from licensure listed in BPC §2999.38 no longer contain an allowance for BBS trainees and registrants to practice behavior analysis even if they are doing so to gain experience hours toward a BBS license.

4) **Ability of Board Licensees to Supervise Assistant Behavior Analysts and Behavior Analyst Technicians.** Although this bill allows BBS licensees to continue to practice behavior analysis if it is in the scope of their competence, it does not allow them to supervise licensed assistant behavior analysts, behavior analyst interns, or behavior analysis technicians.

   Licensed assistant behavior analysts and behavior analyst interns must be supervised by a licensed behavior analyst or a licensed psychologist. Behavior analyst technicians must be supervised by a licensed behavior analyst, licensed assistant behavior analyst, or a licensed psychologist.

   This means that although Health and Safety Code §1374.73 and Insurance Code Section 10144.51 currently include BBS licensees in the definition of "qualified autism service providers" and allow them to supervise qualified autism service professionals and paraprofessionals, this bill would eliminate their ability to supervise such individuals.

5) **Related Legislation.** AB 796 (Nazarian) requires that the Board of Psychology form a committee in order to develop a list of behavioral health evidence-based treatment modalities for individuals with pervasive development disorder or autism.

SB 1034 (Mitchell) would extend indefinitely the provisions in current law that all health insurance plans must provide coverage for behavioral health treatment for pervasive development disorder or autism. Previously, the provisions were scheduled to sunset in 2017.

6) **Previous Legislation**. AB 1282 (Steinberg, 2010) was proposed in 2010. This bill, which failed passage, attempted to establish a certification process for practitioners of behavior analysis. It would have established the California Behavioral Certification Organization (CBCO), a nonprofit organization that would have provided for the certification and registration of applied behavioral analysis practitioners if they met certain conditions, one of which was being certified by the BACB or a similar entity. The Board took an oppose position on this legislation.

   AB 1205 (Berryhill, 2011), proposed licensing behavior analysts and assistant behavior analysts under the Board of Behavioral Sciences. The Board did not take a position on this legislation. The bill died in the Assembly Appropriations Committee.

   SB 946 (Chapter 650, Statues of 2011) requires every health care service plan contract and insurance policy that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism, effective July 1, 2012.

   SB 126 (Chapter 680, Statutes of 2013) extended the provisions of SB 946 until January 1, 2017.

   SB 479 (Bates, 2015) proposed licensing behavior analysts and assistant behavior analysts under the Board of Psychology. The provisions of SB 479 were very similar to those in the introduced version of this bill. The Board was neutral on the bill. SB 479 is now a two-year bill, and the author's office does not plan to pursue it this year.

7) **Support and Opposition.**

   Support:

   - California Association for Behavior Analysis (sponsor)
   - Advance Kids, Inc.
   - A.G.E.S. Learning Solutions, Inc. Autism Behavior Intervention Behavioral Learning Network
   - Building Blocks Behavior Consultants, Inc. CARE, Inc.
   - Central Valley Autism Project
   - Coyne Associates Education Corporation Ed Support Services
   - Gateway Learning Group
   - The Kendall Centers
   - Kids Overcoming, LLC
   - North Los Angeles County Regional Center The Reilly Behavioral Group, LLC
   - Shabani Institute STE Consultants
   - Trumpet Behavioral Health

- 2 individuals

Opposition:
- California Board of Psychology
- DIR/Floortime Coalition of California
- 1 individual

8) History.

2016

03/30/16 Re-referred to Com. on B. & P.
03/29/16 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
02/18/16 Referred to Com. on B. & P.
01/27/16 From printer. May be heard in committee February 26.
01/26/16 Read first time. To print.

9) Attachments.

Attachment A: Behavior Analyst Certification Board: Acceptable Degree Definitions for Certification as a Behavior Analyst

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AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1715

Introduced by Assembly Member Holden

January 26, 2016

An act to amend Sections 27 and 2920 of, to amend, repeal, and add Sections 2922, 2923, and 2927 of, to add Chapter 6.7 (commencing with Section 2999.10) to Division 2 of, and to repeal Sections 2999.20, 2999.26, 2999.31, and 2999.33 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1715, as amended, Holden. Healing arts: behavior analysis: licensing.

Existing law provides for the licensure and regulation of various healing arts licensees by various boards~~, as defined~~ within the Department of Consumer Affairs, including the Board of Psychology. Under existing law, until January 1, 2017, the board is vested with the power to enforce the Psychology Licensing Law, and *the board* consists of 9 members, 4 of whom are public members and 5 of whom are licensed psychologists. *Existing law specifies that a quorum of the board requires 5 members.* Existing law requires the board to post information on its~~ licensees, as specified, including, among others, psychological assistants. Existing law specifies that a quorum of the board requires 5 members.~~ *licensees, including the license status and address of record for a licensee, as specified*

This bill would enact the Behavior Analyst Act and would, until January 1, 2022, vest the board with the power to enforce the act.

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This bill would, on and after July 1, 2018, increase the number of members that constitute a quorum of the board to 6 members, and would require the Governor to appoint 2 additional members to the board that ~~to~~ meet certain requirements, including, but not limited to, that one member is licensed as a psychologist and *is* qualified to practice behavior analysis, as defined *The bill would also additionally require the board to post license information regarding behavior analysts, assistant behavior analysts, behavior analysis technicians, and behavior analyst interns.*

~~This bill would establish the Behavior Analyst Act. The~~

This bill would require a person to apply for and obtain a license from the board prior to engaging in the practice of behavior analysis, as defined, either as a behavior analyst or an assistant behavior analyst. The bill would require these applicants to, among other things, meet certain educational and training requirements, and submit fingerprint for both a state and federal criminal background check. The bill would require an assistant behavior analyst applicant to provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis, as specified The bill would provide that those licenses expire 2 years after the date of issuance and would authorize the renewal of unexpired licenses if certain requirements are met, including the completion of specifie continuing education. The bill would also require an applicant to certify, under penalty of perjury, that he or she is in compliance with that continuing education requirement. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would require the registration of a behavior analyst intern by the board and would require the intern to be supervised by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis. In order to be registered, the bill would require an intern applicant to meet certain educational requirements, submit fin erprints for a criminal background check, and pay an application fee, as provided. The bill would make these intern registrations subject to renewal every 2 years and would require the payment of a renewal fee.

This bill would also require a behavior analysis technician, as defined who practices under the direction and supervision of a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior analysis, to submit, among other things, an application subject to board approval, fingerprints for a state

and federal criminal background check, and payment of an ~~annual~~ application fee. *The bill would make these approvals subject to renewal every 2 years and would require the payment of a renewal fee.*

~~This bill would, until January 1, 2022, vest the board with the power to enforce the Behavior Analyst Act, and would require the board to, among other things, post information regarding licensed behavior analysts and licensed assistant behavior analysts, as specified. The~~

This bill would, until January 1, 2022, create the Behavior Analyst Committee within the jurisdiction of the board, and would require the committee to be ~~comprised~~ *composed* of 5 members who shall be appointed as specified. The bill would authorize the committee to make recommendations to the board regarding the regulation of the practice of behavior ~~analysis in the state.~~ *analysis.*

~~This bill would define certain terms for these purposes. The~~

This bill would require the board to conduct disciplinary hearings, as specified. The bill, on and after July 1, 2019, would make it unlawful to, among other things, practice behavior analysis without being licensed by the board, except as specified

This bill would make a licensee or health care facility, as defined that fails or refuses to comply with an authorized client request or court order for the medical records of a client subject to a specified civil penalty, except as specified. The bill would also make a licensee or health care facility with multiple violations of those court orders subject to a crime. By creating a new crime, the bill would impose a state-mandated local program.

This bill would make a violation of ~~any of these provisions~~ *the act* a misdemeanor punishable by 6 months in the county jail or a fine not to exceed $2,500, or by both imprisonment and a fine. By creating a new crime, ~~this bill would result in~~ *the bill would impose* a state-mandated local program.

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

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

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

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specifie in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensee

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, registered psychologists, behavior analysts, ~~and~~ assistant behavior ~~analysts.~~ *analysts, behavior analysis technicians, and behavior analyst interns.*

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Marijuana Regulation shall disclose information on its licensees.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2. Section 2920 of the Business and Professions Code is amended to read:

2920. (a) The Board of Psychology shall enforce and administer this chapter and Chapter 6.7 (commencing with Section 2999.10). The board shall consist of ~~9~~ *nine* members, ~~4~~ *four* of whom shall be public members.

(b) On and after July 1, 2018, notwithstanding subdivision (a), the board shall consist of 11 members, ~~5~~ *fiv* of whom shall be public members.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed.

(d) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 3. Section 2922 of the Business and Professions Code is amended to read:

2922. (a) In appointing the members of the board, except the public members, the Governor shall use his or her judgment to select psychologists who represent, as widely as possible, the varied professional interests of psychologists in California.

(b) The Governor shall appoint two of the public members and the fi e licensed members of the board qualified as provided in Section 2923. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(c) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 4. Section 2922 is added to the Business and Professions Code, to read:

2922. (a) In appointing the licensed members of the board, the Governor shall use his or her judgment to select psychologists and behavior analysts who represent, as widely as possible, the varied professional interests of psychologists and behavior analysts in California.

(b) The Governor shall appoint three of the public members and the six licensed members of the board qualified as provided in Section 2923. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

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

SEC. 5. Section 2923 of the Business and Professions Code is amended to read:

2923. (a) Each member of the board shall have all of the following qualifications

(1) He or she shall be a resident of this state.

(2) Each member appointed, except the public members, shall be a licensed psychologist.

(b) The public members shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

(c) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 6. Section 2923 is added to the Business and Professions Code, to read:

2923. (a) Each member of the board shall be a resident of this state.

(b) Five members of the board shall be licensed as psychologists under this chapter.

(c) One member shall be licensed as a psychologist and qualifie to practice behavior analysis, as defined in Section 2999.12, as follows:

(1) For the first appointment after the operative date of this section, the member shall hold a certificate as a certified behavior analyst from a certifying entity, as defined in Section 2999.12

(2) For subsequent appointments, the member shall be licensed as a behavior analyst under Chapter 6.7 (commencing with Section 2999.10).

(d) The public members shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

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

SEC. 7. Section 2927 of the Business and Professions Code is amended to read:

2927. (a) Five members of the board shall at all times constitute a quorum.

(b) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 8. Section 2927 is added to the Business and Professions Code, to read:

2927. (a) Six members of the board shall at all times constitute a quorum.

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

SEC. 9. Chapter 6.7 (commencing with Section 2999.10) is added to Division 2 of the Business and Professions Code, to read:

Chapter 6.7. Behavior Analysts

Article 1. General Provisions

2999.10. This chapter shall be known, and may be cited, as the Behavior Analyst Act.

2999.11. (a) The Legislature finds and declares that the practice of behavior analysis in California affects the public health, safety, and welfare, and is subject to regulation to protect the public from the unauthorized and unqualified practice of behavior analysis,

and unprofessional, unethical, or harmful conduct by persons licensed to practice behavior analysis.

(b) It is the intent of the Legislature that the board begin accepting applications for behavior analyst ~~licensure and~~ *licensure,* assistant behavior analyst ~~licensure~~ *licensure, behavior analysis technician approval, and behavior analyst intern registration* no later than January 1, 2018, provided that the funds necessary to implement this chapter have been appropriated by the Legislature as specified in Section 2999.98

2999.12. For purposes of this chapter, the following terms have the following meanings:

(a) "Behavior analysis technician" means an individual who works directly with a client to implement applied behavior analysis services under the direction and supervision of a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior analysis, and has successfully completed the application requirements described in Section 2999.36.

(b) "Board" means the Board of Psychology.

(c) "Certifying entity" means the Behavior Analyst Certificatio Board or its successor, or another national credentialing organization with behavior analyst certification programs approved by the board and accredited by the National Commission for Certifying Agencies.

(d) "Committee" means the Behavior Analyst Committee.

(e) "Department" means the Department of Consumer Affairs.

(f) "Licensed assistant behavior analyst" means a person licensed under this chapter to practice behavior analysis under the supervision of a licensed behavior ~~analyst.~~ *analyst or a licensed psychologist who is qualified to p actice behavior analysis.*

(g) "Behavior analyst intern" means a person registered under this chapter to practice behavior analysis under the supervision of a licensed behavior analyst or a licensed psychologist who is qualified to p actice behavior analysis.

~~(g)~~

(h) "Licensed behavior analyst" means a person licensed under this chapter to practice behavior analysis.

~~(h)~~

(i) "Practice of behavior analysis" or "to practice behavior analysis" means the design, implementation, and evaluation of

instructional and environmental modifications to produce socially significant improvements in human behavior and includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, interventions based on scientific research and the direct observation and measurement of behavior and the environment, and utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

(1) The practice of behavior analysis does not include psychological testing and assessment, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, counseling, prescribing drugs, performing surgery, or administering electroconvulsive therapy.

(2) The Legislature recognizes that the scopes of practice of healing arts licensees regulated under this division sometimes contain similar practices. However, nothing herein shall be construed to allow a licensed behavior analyst or a licensed assistant behavior analyst to engage in those practices, including, but not limited to, assessments, other than specific to their scope of practice within behavior analysis as described herein. Any person practicing behavior analysis under this chapter who violates this provision is subject to disciplinary action by both the Board of Psychology and the board overseeing the relevant practice.

Article 2. Administration

2999.20. (a) The Board of Psychology is vested with the power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

(b) This section shall remain in effect only until January 1, 2022, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

2999.21. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary

functions pursuant to this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

2999.22. The board shall adopt, amend, and repeal regulations to implement the requirements of this chapter. All regulations adopted by the board shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

2999.23. The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of behavior analysis. The board shall establish ~~as its~~ standards of ethical conduct relating to the practice of behavior ~~analysis, the "Professional and Ethical Compliance Code for Behavior Analysts"~~ *analysis that are based on current standards* published by ~~the Behavior Analyst Certification Board.~~ *a national credentialing organization with behavior analyst certification programs approved by the board and accredited by the National Commission for Certifying Agencies.* These standards shall be applied by the board as the accepted standard of ~~care~~ *ethics* in all *law and ethics* licensing examination development and in all board enforcement policies and disciplinary case ~~evaluations.~~ *evaluations involving the practice of behavior analysis.*

2999.24. The board may employ, subject to civil service and other laws, employees as may be necessary to carry out the provisions of this chapter under the direction of the executive officer of the board

2999.25. The board shall maintain, and make available to the public, a list of all licensees. The board shall make available on its Internet Web site information regarding the status of every license issued by the board under this chapter pursuant to Section 27.

2999.26. (a) The Behavior Analyst Committee is hereby created within the jurisdiction of the board to make recommendations to the board regarding the regulation of the practice of behavior analysis in the state in order to protect the public from the unauthorized and unqualified practice of applied behavior analysis, and unprofessional, unethical, or harmful conduct by persons licensed to practice behavior analysis.

(b) The committee shall consist of fi e members. Two members shall be licensed behavior analysts, one of which shall also be a

member of the board. One member shall be a psychologist licensed under Chapter 6.6 (commencing with Section 2900) and who holds a current certification from a certifying entity as a behavior analyst. One member shall be a licensed assistant behavior analyst. One member shall be a public member who is not licensed under this chapter, under any chapter within this division, or by any board referred to in the Chiropractic Act or the Osteopathic Act.

(c) The Governor shall appoint one licensed behavior analyst member, the licensed psychologist member, and the licensed assistant behavior analyst member. The Senate Committee on Rules shall appoint the public member, and the Speaker of the Assembly shall appoint one licensed behavior analyst member.

(d) Notwithstanding subdivisions (b) and (c), the ~~initially~~ *initial* appointed members of the committee shall be appointed as follows:

(1) The initial members appointed by the Governor shall be as follows:

(A) One member shall be currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of one year.

(B) One member shall be currently certified by a certifying entity as a certified assistant behavior analyst and shall serve an initial term of two years.

(C) One member shall be a licensed psychologist who is currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of three years.

(2) The initial member appointed by the Senate Committee on Rules shall serve a term of four years.

(3) The initial member appointed by the Speaker of the Assembly shall be currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of four years.

(e) Except as provided in subdivision (d), each member of the committee shall hold office for a term of four years, and shall serve until the appointment of his or her successor or until one year has elapsed since the expiration of the term for which he or she was appointed, whichever occurs first. Vacancies shall be filled by the appointing power for the unexpired portion of the terms in which they occur. A member shall not serve for more than two consecutive terms.

(f) All terms shall begin on July 1 and expire on June 30.

(g) Each member of the committee shall receive per diem and expenses as provided in Sections 103 and 113.

(h) Three members of the committee shall at all times constitute a quorum.

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

(j) This section shall remain in effect only until January 1, 2022, and as of that date is repealed. ~~Notwithstanding any other law, the repeal of this section renders the committee subject to review by the appropriate policy committees of the Legislature.~~

2999.27. The committee shall do all of the following:

(a) Meet at least once per quarter. All meetings of the committee shall be public meetings. Notice of each regular meeting of the committee shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(b) Committee meetings may be called upon reasonable notice at the discretion of the chair, and shall be called at any time upon reasonable notice by a written request of two committee members to the chair.

(c) The committee shall elect a chair and a vice chair from among its members at the first meeting held in each fiscal year. The chair shall preside at all meetings of the committee and shall work with the executive officer of the board to coordinate the committee's business. If the chair is unable to attend a meeting, the vice chair shall preside at the meeting.

2999.28. (a) The committee may make recommendations to the board regarding licensing and practice standards.

(b) The committee may make recommendations to the board regarding the adoption, amendment, and repeal of regulations to implement the requirements of this chapter including, but not limited to, the setting of fees and the establishment of disciplinary guidelines.

Article 3. Licensing

2999.30. To qualify for licensure as a licensed behavior analyst or a licensed assistant behavior analyst, each applicant shall meet the board's ~~regulatory~~ requirements for behavior analyst or assistant

behavior analyst licensure, as applicable, including all of the following:

(a) The applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) The board shall not issue a license or registration to any person who has been convicted of a crime in this state, or another state, or in a territory of the United States that involves sexual abuse of a child, or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(c) The applicant has successfully passed a state and federal level criminal offender record information search conducted through the Department of Justice, as follows:

(1) The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for each person who submitted information pursuant to this subdivision.

(2) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

2999.31. (a) In order to obtain a license as a behavior analyst, an individual shall submit an application on a form approved by the board accompanied by the fees required by the board as specified in Section 2999.93

(b) An applicant shall include, with the application, verificatio from the certifying entity that the applicant meets both of the following requirements:

(1) Has passed the Board Certified Behavior Analyst examination or an equivalent examination administered by the certifying entity.

(2) Maintains an active status as a certified behavior analyst with the certifying entity.

(c) Each applicant shall obtain a passing score on a California law and ethics examination administered by the board.

(d) This section shall become inoperative on July 1, 2019. An applicant who submits his or her application prior to July 1, 2019, shall be required to meet the requirements of this section to be licensed by the board.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

2999.32. (a) In order to obtain a license as a behavior analyst, an individual shall submit an application on a form approved by

the board accompanied by the fees required by the board as specified in Section 2999.93

(b) An applicant shall include, with the application, verificatio from the certifying entity that the applicant meets both of the following requirements:

(1) Has passed the Board Certified Behavior Analyst examination or an equivalent examination administered by the certifying entity.

(2) Maintains an active status as a certified behavior analyst with the certifying entity.

(c) Each applicant shall obtain a passing score on a California law and ethics examination administered by the board.

(d) The applicant shall ~~possess~~ *meet one of the following requirements:*

(1) Possess a master's degree or higher level of education from an institution, which meets the requirements described in Section 2999.35, that was conferred in behavior analysis, psychology, or ~~education, or conferred in a degree program in which the applicant completed a behavior analysis course sequence approved by the certifying entity or otherwise deemed an applicable equivalent by the certifying entity.~~ *education.*

(2) Possess a master's degree or higher level of education, which meets the requirements described in Section 2999.35, and completed a behavior analysis course sequence approved by the certifying entity.

(e) In addition to subdivisions (a) to (d), inclusive, an individual shall meet one of the following paragraphs in order to be licensed under this chapter:

(1) An individual shall have completed both of the following:

(A) Two hundred seventy hours of classroom graduate-level instruction in all of the following content areas:

(i) Ethical and professional conduct coursework consisting of 45 hours. The content must be taught in one or more freestanding courses devoted to ethical and professional conduct of behavior analysts.

(ii) Concepts and principles of behavior analysis consisting of 45 hours.

(iii) Research methods in behavior analysis, consisting of 25 hours of measurement, including data analysis, and 20 hours of experimental design.

(iv) Applied behavior analysis, consisting of 45 hours of fundamental elements of behavior change and specific behavior change procedures, 30 hours of identification of the problem and assessment, 10 hours of intervention and behavior change considerations, 10 hours of behavior change systems, and 10 hours of implementation, management, and supervision.

(v) Elective coursework in behavior analysis consisting of 30 hours.

(B) Supervised experiential training by any of the following:

(i) One thousand fi e hundred hours of independent field work in behavior analysis supervised in accordance with the requirements of the certifying entity.

(ii) One thousand hours of supervised practicum in behavior analysis within a university practicum approved by the certifying entity, taken for graduate academic credit, and completed with a passing grade.

(iii) Seven hundred fifty hours of supervised intensive practicum in behavior analysis within a university practicum approved by the certifying entity, taken for graduate academic credit, and completed with a passing grade.

(iv) A combination of the supervised experience in clause (i), (ii), or (iii). Hours may be completed in any combination of the categories of supervised experience. Hours accrued through a combination of supervised experience shall be proportionately calculated.

(2) An individual shall meet all of the following requirements:

(A) Have a faculty appointment of at least three years, cumulatively, of full-time work as a faculty member at a fully accredited higher education institution within a fi e-year period.

(B) Taught at least fi e sections or iterations of behavior analysis coursework. An applicant shall have taught at least two behavior analysis content areas, which are concepts and principles of behavior, single-subject research methods, applied behavior analysis, and ethics in behavior analysis, in separate courses. Each course taught shall have been exclusively or primarily devoted to behavior analysis content, and shall have been taught at the graduate level. An applicant shall submit proof of completion of the faculty appointment and teaching requirements from a department head, including the syllabus for each course taught, to the board.

(C) Published one article with all of the following characteristics:

(i) Behavior analytic in nature.

(ii) Includes at least one experimental evaluation.

(iii) Published in a high-quality, peer reviewed journal.

(iv) The applicant is the first, second, or corresponding author.

(v) The article may have been published at any time during the applicant's career.

(D) Obtained supervised experiential training by any of the following:

(i) One thousand fi e hundred hours of independent field work in behavior analysis supervised in accordance with the requirements of the certifying entity.

(ii) One thousand hours of supervised practicum in behavior analysis within a university practicum approved by the certifying entity, taken for graduate academic credit, and completed with a passing grade.

(iii) Seven hundred fifty hours of supervised intensive practicum in behavior analysis within a university practicum approved by the certifying entity, taken for graduate credit, and completed with a passing grade.

(iv) A combination of the supervised experience in clause (i), (ii), or (iii). Hours may be completed in any combination of the categories of supervised experience. Hours accrued through a combination of supervised experience shall be proportionately calculated.

(3) An individual shall have completed all of the following:

(A) A doctoral degree in behavior analysis, psychology, or education from an accredited higher education institution.

(B) Ten years of postdoctoral experience practicing behavior analysis. The duration of practice shall be at least 10 years, cumulatively, of full-time practice. An applicant's practice shall have occurred under a relevant state professional credential or license.

(C) At least 500 hours of supplemental supervised experiential training that meets current experience standards of the certifying entity, commencing after the 10 years of postdoctoral experience required in paragraph (b).

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

2999.33. (a) To obtain a license as an assistant behavior analyst, an individual shall submit an application on a form approved by the board accompanied by the fees required by the board as specified in Section 2999.93

(b) An applicant shall include, with the application, verificatio from the certifying entity that the applicant meets all of the following requirements:

(1) Has passed the Board Certified Assistant Behavior Analyst examination or equivalent examination administered by the certifying entity.

(2) Maintains an active status as a certified assistant behavior analyst with the certifying entity.

(c) Each applicant shall obtain a passing score on a California law and ethics examination administered by the board.

(d) Each applicant shall provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts.

(e) This section shall become inoperative on July 1, 2019. An applicant who submits his or her application prior to July 1, 2019, shall be required to meet the requirements of this section to be licensed by the board.

(f) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

2999.34. (a) In order for an individual to be licensed as an assistant behavior analyst under this chapter, he or she shall possess a baccalaureate degree or higher level of education from an institution that meets the requirements described in Section 2999.35.

(b) An applicant shall include, with the application, verificatio from the certifying entity that the applicant meets both of the following requirements:

(1) Has passed the Board Certified Assistant Behavior Analyst examination or an equivalent examination administered by the certifying entity.

(2) Maintains an active status as a certified assistant behavior analyst with the certifying entity.

(c) Each applicant shall obtain a passing score on a California law and ethics examination administered by the board.

(d) Each applicant shall provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts.

(e) In addition to subdivisions (a) to (d), inclusive, an individual shall meet all of the following requirements in order to be licensed under this chapter:

(1) Completed a baccalaureate degree or higher level of education from an institution that meets the requirements in Section 2999.35.

(2) An applicant shall meet both of the following:

(A) Completed 180 classroom hours of undergraduate or graduate level instruction in all of the following content areas:

(i) Ethical and professional conduct coursework of behavior analysis consisting of 15 hours.

(ii) Concepts and principles of behavior analysis consisting of 45 hours.

(iii) Research methods in behavior analysis, consisting of 10 hours of measurement, including data analysis, and fi e hours of experimental design.

(iv) Applied behavior analysis, consisting of 45 hours of fundamental elements of behavior change and specific behavior change procedures, 30 hours of identification of the problem and assessment, fi e hours of intervention and behavior change considerations, fi e hours of behavior change systems, and fi e hours of implementation, management, and supervision.

(v) Elective coursework in behavior analysis consisting of 15 hours.

(B) Obtained supervised experiential training by any of the following:

(i) One thousand hours of independent field work in behavior analysis supervised in accordance with the requirements of the certifying entity, taken for academic credit, and completed with a passing grade.

(ii) Six hundred seventy hours of supervised practicum in behavior analysis within a university practicum approved by the certifying entity, taken for academic credit, and completed with a passing grade.

(iii) Five hundred hours of supervised intensive practicum in behavior analysis within a university practicum approved by the certifying entity, taken for academic credit, and completed with a passing grade.

(iv) A combination of the supervised experience in clause (i), (ii), or (iii). Hours may be completed in any combination of the categories of supervised experience. Hours accrued through a combination of supervised experience shall be proportionately calculated.

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

2999.35. The education required to obtain a behavior analyst license or an assistant behavior analyst license shall be from any of the following:

(a) A United States institution of higher education listed by the Council for Higher Education Accreditation.

(b) A Canadian institution of higher education that is a member of the Association of Universities and Colleges of Canada or the Association of Canadian Community Colleges.

(c) An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that he or she possesses a degree in a relevant subject that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. Such an applicant shall provide to the board a comprehensive evaluation of the degree performed by a foreign credential service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation that the board deems necessary.

2999.35.5. (a) A person other than a licensed behavior analyst, licensed assistant behavior analyst, or approved behavior analysis technician may be registered as a behavior analyst intern by the board in order to prepare for licensure as a behavior analyst. The behavior analyst intern shall be supervised in accordance with the board's regulations by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in order to perform behavior analysis services provided that all of the following apply:

(1) The person's title is "behavior analyst intern."

(2) The person meets one of the following requirements:

(A) Is enrolled in a defined program of study, course, practicum, internship, or postdoctoral program that meets the requirements of subdivision (d) of Section 2999.32.

(B) Has completed a defined program of study, course, or postdoctoral traineeship that meets the requirements of subdivision (d) of Section 2999.32 and is currently completing supervised experiential training in accordance with this chapter.

(b) The behavior analyst intern's supervisor shall be responsible for ensuring that the extent, kind, and quality of the behavior analysis services the behavior analyst intern performs are consistent with his or her training and experience and shall be responsible for the behavior analyst intern's compliance with this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2999.62.

(c) The behavior analyst intern shall be registered by the board. In order to register as a behavior analyst intern an individual shall:

(1) Submit fin erprint images to the California Department of Justice for a state and federal criminal background report within 14 days from the date of application.

(2) Pay an application fee, in an amount not to exceed a reasonable regulatory cost, to be determined by the board.

(3) Renew his or her application every two years by submitting to the board verification of continued practice, as specified in this section, and by paying to the board a renewal fee in an amount that is 50 percent of the application fee.

(4) An individual may only practice as a behavior analyst intern for up to six years from the date of initial registration.

(d) No licensed behavior analyst or licensed psychologist who is qualified to practice behavior analysis may supervise more than four behavior analyst interns at any given time unless specificall authorized to do so by the board. No behavior analyst intern may provide behavior analysis services to the public except as a supervisee of a licensed behavior analyst or licensed psychologist who is qualified to p actice behavior analysis.

2999.36. (a) Behavior analysis technicians practicing in this state under the direction and supervision of an individual licensed under this chapter or a licensed psychologist who is qualified to practice behavior analysis shall satisfy all of the following requirements:

(1) Be at least 18 years of age and possess a minimum of a high school diploma or its equivalent.

(2) Submit an application on a form approved by the board.

(3) Submit fingerprint images to the California Department of Justice for a state and federal criminal background report within 14 days from the date of application.

(4) ~~Annually pay~~ *Pay* an application fee, in an amount not to exceed a reasonable regulatory cost, to be determined by the board.

(5) Renew his or her application every two years by submitting to the board verification of continued practice as a behavior analysis technician and by paying to the board a renewal fee in an amount that is 50 percent of the application fee.

(b) The board may deny or revoke acceptance of an application *or the renewal of an application* under this section if it is determined to be in the best interest of public safety and welfare, as described in Section 2999.21.

2999.37. On and after July 1, 2019, it shall be unlawful for any person to engage in any of the following acts:

(a) Engage in the practice of behavior analysis, as defined in Section 2999.12, without first having complied with the provisions of this chapter and without holding a current, valid, and active license as required by this chapter.

(b) Represent himself or herself by *using* the title "licensed behavior analyst," or "licensed assistant behavior analyst" without being duly licensed according to the provisions of this chapter.

(c) Make any use of any title, words, letters, or abbreviations that may reasonably be confused with a designation provided by this chapter to denote a standard of professional or occupational competence without being duly licensed.

(d) Materially refuse to furnish the board information or records required or requested pursuant to this chapter.

2999.38. This chapter does not apply to any of the following:

(a) An individual licensed to practice psychology in this state under Chapter 6.6 (commencing with Section 2900), if the practice of behavior analysis engaged in by the licensed psychologist is within the licensed psychologist's training and competence.

(b) A speech-language pathologist or an audiologist licensed under Chapter 5.3 (commencing with Section 2530), an occupational therapist licensed under Chapter 5.6 (commencing with Section 2570), a physical therapist licensed under Chapter

5.7 (commencing with Section 2600), a marriage and family therapist licensed under Chapter 13 (commencing with Section 4980), an educational psychologist licensed under Chapter 13.5 (commencing with Section 4989.10), a clinical social worker licensed under Chapter 14 (commencing with Section 4991), or a professional clinical counselor licensed under Chapter 16 (commencing with Section 4999.10), if the services provided by any of those licensees are within his or her licensed scope of practice and within the scope of his or her training and competence, provided that he or she does not represent himself or herself as a licensed behavior analyst or licensed assistant behavior analyst.

~~(c) A student or other individual pursuing supervised experience for any of the following:~~

~~(1) Experiential training toward a license described in this chapter in accordance with this chapter.~~

~~(2) Experience in behavior analysis toward a license described in subdivision (a) or (b) in accordance with the requirements of the respective licensure act in this division.~~

~~(3) As part of a defined program of study, course, practicum, internship, or postdoctoral program, provided that the behavior analysis activities are directly supervised by a licensed behavior analyst, a licensed psychologist, or by an instructor in a course sequence approved by a certifying entity.~~

~~(d)~~

(c) A parent or ~~guardian~~ *guardian, or his or her designee,* of a recipient of behavior analysis services who acts under the direction of a licensed behavior analyst or ~~licensed assistant behavior analyst.~~ *an individual exempt pursuant to subdivision (a) or (b) for that recipient.*

~~(e)~~

(d) An individual who teaches behavior analysis or conducts behavior analysis research, provided that such teaching or research does not involve the direct delivery of behavior analysis services.

~~(f)~~

(e) A behavior analyst licensed in another state or certified by the certifying entity to practice independently, and who temporarily provides behavior analysis services in California during a period of not more than 90 days in a calendar year.

~~(g)~~

(f) An individual who is vendorized by one or more regional centers of the State Department of Developmental Services while practicing behavior analysis services authorized under that vendorization. That individual shall not represent himself or herself as a licensed behavior analyst or licensed assistant behavior analyst unless he or she holds a license under this chapter, and shall not offer behavior analysis services to any person or entity other than the regional centers with which he or she is vendorized or accept remuneration for providing behavior analysis services other than the remuneration received from those regional centers unless he or she holds a license under this chapter.

~~(h) An individual employed by a local educational agency for the purpose of assisting students with behavioral and developmental issues when in classroom and other school settings.~~

(g) An individual employed or contracted by a local educational agency, or a nonpublic agency or school with a contract with a local educational agency, for the purpose of serving students with behavioral and developmental issues when in classroom and other school settings. This individual shall not represent himself or herself as a licensed behavior analyst or licensed assistant behavior analyst unless he or she holds a license under this chapter, and shall not offer behavior analysis services to any person or entity other than the local education agencies with which he or she has a contract or accept remuneration for providing behavior analysis services other than the remuneration received from those local education agencies unless he or she holds a license under this chapter.

2999.41. A licensee shall give written notice to the board of a name change within 30 days after each change, giving both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

2999.44. (a) A license shall expire and become invalid two years after it is issued at 12 midnight on the last day of the month in which it was issued, if not renewed.

(b) To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form provided by the board, accompanied by the renewal fee set by the board. The licensee shall include verificatio

from the certifying entity that he or she maintains an active certification status with the ren wal form.

(c) To renew an assistant behavior analyst license, in addition to the requirements in subdivision (b), the licensee shall submit proof of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in a manner consistent with the board's requirements for supervision of assistant behavior analysts.

2999.45. (a) A license that has expired may be renewed at any time within three years after its expiration by applying for renewal on a form provided by the board, payment of all accrued and unpaid renewal fees, and the delinquency fee specified in Section 2999.93. The licensee shall include verification from the certifying entity that he or she maintains an active certification status with the renewal form.

(b) Except as provided in Section 2999.47, a license that is not renewed within three years of its expiration shall not be renewed, restored, or reinstated, and the license shall be canceled immediately upon expiration of the three-year period.

2999.46. (a) The board shall not issue any renewal license, a new license after expiration of an expired license, or a reinstatement license unless the applicant submits proof that he or she has completed not less than 32 hours of approved continuing education in the preceding two-year licensure cycle for licensed behavior analysts and 20 hours of approved continuing education in the preceding two-year licensure cycle for licensed assistant behavior analysts.

(b) Each person renewing or reinstating his or her license or obtaining a new license after expiration of a prior license issued pursuant to this chapter shall submit proof of compliance with this section to the board.

(c) A person applying for renewal, a new license after expiration of a prior license, or reinstatement to an active license status shall certify under penalty of perjury that he or she is in compliance with this section.

(d) The board may recognize continuing education courses that have been approved by ~~one or more private nonprofit organizations that have at least 10 years' experience managing continuing education programs for behavior analysts.~~ *the certifying entity.*

(e) The board shall adopt regulations as necessary for implementation of this section.

2999.47. (a) A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while the license remains suspended, and until it is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

(b) A license revoked on disciplinary grounds is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee, plus the delinquency fee, and any fees accrued at the time of its revocation.

Article 4. Enforcement

2999.60. The board may on its own, and shall, upon the receipt of a complaint from any person, investigate the actions of any licensee. The board shall review a licensee's alleged violation of statute, regulation, or any other law and any other complaint referred to it by the public, a public agency, or the department, and may upon a finding of a violation take disciplinary action under this article.

2999.61. A license issued under this chapter may be denied, revoked, or otherwise sanctioned upon demonstration of ineligibility for licensure, including, but not limited to, failure to maintain active certification by the certifying entity or falsificatio of documentation submitted to the board for licensure or submitted to the certifying authority for certification

2999.62. The board may ~~deny a license application, may issue a license with terms and conditions, may suspend or revoke a license, or may place a license on probation if the applicant or licensee has been guilty of unprofessional conduct.~~ *refuse to issue a registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct.* Unprofessional conduct shall include, but not be limited to:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of a licensed behavior analyst or a licensed assistant behavior analyst.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that this use impairs his or her ability to safely perform the practice of behavior analysis.

(c) Fraudulently or neglectfully misrepresenting the type or status of a license actually held.

(d) Impersonating another person holding a license or allowing another person to use his or her license.

(e) Use of fraud or deception in applying for a license or in passing any examination required by this chapter.

(f) Paying, offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence

(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of behavior analysis.

(m) The suspension, revocation, or imposition of probationary conditions or other disciplinary action by another state or country of a license, certificate, or registration to practice behavior analysis issued by that state or country to a person also holding a license issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section. A certified copy of the decision or judgment of the other state or country shall be conclusive evidence of that action.

(n) The commission of any dishonest, corrupt, or fraudulent act.

(o) Any act of sexual abuse or sexual relations with a ~~patient or~~ *patient, with a* former ~~patient~~ *patient, or with a patient's parent, guardian, or caregiver* within two years following termination of therapy, or sexual misconduct that is related to the qualifications functions, or duties of a licensed behavior analyst or a licensed assistant behavior analyst.

(p) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.

(q) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised xperience to the board.

(r) Repeated acts of negligence.

(s) Failure to comply with all ethical and disciplinary standards published by the certifying entity.

2999.63. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely ashion.

(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

2999.64. Notwithstanding Section 2999.62, any proposed decision or decisions issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in Section 728, when that act is with a patient, ~~or~~ with a former patient, *or with a patient's parent, guardian, or caregiver* within two years following termination of services, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

2999.66. The board may deny an application for, or issue subject to terms and conditions, or suspend or revoke, or impose probationary conditions upon, a license or registration after a hearing as provided in Section 2999.70.

2999.67. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions, and duties of a licensed behavior analyst or licensed assistant behavior analyst is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

2999.68. Any person required to register as a sex offender pursuant to Section 290 of the Penal Code, is not eligible for licensure by the board.

2999.69. An administrative disciplinary decision that imposes terms of probation may include, among other things, a requirement that the licensee who is being placed on probation pay the monetary costs associated with monitoring the probation.

2999.70. The proceedings under this article shall be conducted by the board in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

2999.80. A person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months or by a fine not exceeding two thousand fi e hundred dollars ($2,500), or by both that fin and imprisonment.

2999.81. In addition to other proceedings provided in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction or other appropriate order restraining that conduct on application of the board, the Attorney General, or the district attorney of the county. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that it shall be presumed that there is no adequate remedy at law and that irreparable damage will occur if the continued violation is not restrained or enjoined. On the written request of the board, or on its own motion, the board may commence an action in the superior court under this section.

2999.83. (a) (1) A licensee who fails or refuses to comply with a request for the medical records of a client, that is accompanied by that client's written authorization for release of those records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the medical records of a client that is accompanied by that client's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing client's medical records to the board within 30 days of receiving the request, authorization, and notice shall subject the

health care facility to a civil penalty, payable to the board, of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars ($10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the client's authorization. The board shall pay the reasonable costs of copying the medical records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board, shall be subject to a civil penalty, payable to the board, in an amount not to exceed fi e thousand dollars ($5,000). The amount of the penalty shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of client records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced, up to ten thousand dollars ($10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be

tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board, shall be subject to a civil penalty, payable to the board, in an amount not to exceed fi e thousand dollars ($5,000). Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be a misdemeanor punishable by a fine not to exceed fi e thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be a misdemeanor punishable by a fine not to exceed fi e thousand dollars ($5,000) and shall be reported to the State Department of Health Care Services and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate

(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) The imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(f) For purposes of this section, "health care facility" means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

Article 5. Revenue

2999.90. The board shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time deposit the entire amount thereof in the State Treasury for credit to the Psychology Fund established by Section 2980.

2999.91. (a) The moneys credited to the Psychology Fund under Section 2999.90 shall, upon appropriation by the Legislature, be used for the purposes of carrying out and enforcing the provisions of this chapter.

(b) The board shall keep records that will reasonably ensure that funds expended in the administration of each licensing category bear a reasonable relation to the revenue derived from each category, and shall so notify the department no later than May 31 of each year.

2999.93. The board shall establish fees for the application for and the issuance and renewal of licenses to cover, but not exceed, the reasonable regulatory costs of the board related to administering this chapter. The fees shall be fi ed by the board in regulations that are duly adopted under this chapter. Fees assessed pursuant to this section shall not exceed the following:

(a) The delinquency fee shall be 50 percent of the biennial renewal fee.

(b) The fee for rescoring an examination shall be twenty dollars ($20).

(c) The fee for issuance of a replacement license shall be twenty dollars ($20).

(d) The fee for issuance of a certificate or letter of good standing shall be twenty-fi e dollars ($25).

2999.94. (a) A person licensed under this chapter is exempt from the payment of the renewal fee in any one of the following instances:

(1) While engaged in full-time active service in the United States Army, Navy, Air Force, or Marine Corps.

(2) While in the United States Public Health Service.

(3) While a volunteer in the Peace Corps or AmeriCorps VISTA.

(b) Every person exempted from the payment of the renewal fee by this section shall not engage in any private practice and shall become liable for the fee for the current renewal period upon the completion of his or her period of full-time active service and shall have a period of 60 days after becoming liable within which to pay the fee before the delinquency fee becomes applicable. Any person who completes his or her period of full-time active service within 60 days of the end of a renewal period is exempt from the payment of the renewal fee for that period.

(c) The time spent in that full-time active service or full-time training and active service shall not be included in the computation of the three-year period for renewal of an expired license specifie in Section 2999.45.

(d) The exemption provided by this section shall not be applicable if the person engages in any practice for compensation other than full-time service in the United States Army, Navy, Air Force, or Marine Corps, in the United States Public Health Service, or the Peace Corps or AmeriCorps VISTA.

2999.98. The licensing and regulatory program under this chapter shall be supported from fees assessed to applicants and licensees. Startup funds to implement this program shall be derived, as a loan, from the Psychology Fund, subject to an appropriation by the Legislature in the annual Budget Act. The board shall not implement this chapter until funds have been appropriated.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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ACCEPTABLE DEGREE DEFINITIONS

Behavior Analysis:

The degree or program name must include the term “behavior analysis” (or a functional equivalent). Graduate programs accredited by Association for Behavior Analysis International meet this requirement.

Education:

The degree or program name must include the words “education” or “educational.” Applicants with education degrees that do not meet this requirement must submit documentation clearly illustrating that (a) the coursework was focused on education and (b) the degree was offered by a department of education. Department is defined as the local collection of academic faculty responsible for mounting a specialized curriculum within a college/school.

Psychology:

The degree or program name must include the word “psychology” or “psychological.” Applicants with psychology degrees that do not meet this requirement must submit documentation clearly illustrating that (a) the coursework was focused on psychology and (b) the degree was offered by a department of psychology. Department is defined as the local collection of academic faculty responsible for mounting a specialized curriculum within a college/school. Note: Degrees in forms of counseling and other mental health areas must meet this definition.

Degree Program in Which the Candidate Completed a BACB Approved Course Sequence:

Applicants who seek to exercise this option must demonstrate that (a) they completed a single BACB approved course sequence (BCBA-level) as part of their degree requirements and that (b) the approved coursework was offered by the department in which the program was housed and was included in the degree program's official plan of study. Note: approved courses may have been offered either as core requirements or elective courses, but they must have been offered by program faculty.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 1808** **VERSION:** **AMENDED APRIL 4, 2016**

AUTHOR: **WOOD** **SPONSOR:**

- **CALIFORNIA ASSOCIATION OF MARRIAGE AND FAMILY THERAPISTS (CAMFT)**
- **CALIFORNIA ASSOCIATION FOR LICENSED PROFESSIONAL CLINICAL COUNSELORS (CALPCC)**

RECOMMENDED POSITION: **NONE**

SUBJECT: **MINORS: MENTAL HEALTH SERVICES**

Summary:

This bill includes marriage and family therapist trainees and clinical counselor trainees in the list of professional persons who may perform mental health treatment or residential shelter services with a consenting minor 12 years of age or older under certain defined circumstances.

Existing Law:

1) Allows a minor who is 12 years of age or older to consent to mental health services on an outpatient basis or to residential shelter services, under the following circumstances (FC §6924(b), HSC 124260(b)):

   a) In the opinion of the attending professional person, if the minor is mature enough to participate intelligently in the services; and

   b) The minor would present a danger of serious physical or mental harm to self or others without treatment, or the minor is allegedly a victim of incest or child abuse.

2) Defines a "professional person" related to mental health treatment or counseling services in the treatment of minors on an outpatient basis as including the following: (Family Code (FC) §6924 (a), Health and Safety Code (HSC) §124260(a()

   a) A marriage and family therapist;

   b) A marriage and family therapist intern, if under proper supervision as specified by law;

   c) A licensed professional clinical counselor;

   d) A clinical counselor intern, if under proper supervision as specified by law.

3) Defines “mental health treatment or counseling services” as the provision of mental health treatment or counseling on an outpatient basis by any of the following: (FC §6924 (a))

   a) A governmental agency;

   b) A person or agency having a contract with a governmental agency to provide those services;

   c) An agency that receives funding from community united funds;

   d) A runaway house or crisis resolution center; or,

   e) A professional person, as defined.

4) Defines a “residential shelter service” as any of the following: (FC §6924 (a))

   a) A provision of residential and other support services to minors on a temporary emergency basis in a facility that services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency that receives funding from community funds, or a licensed community care facility or crisis resolution center.

   b) The provision of other support services on a temporary or emergency basis by any professional person, as defined.

5) Requires a professional person offering residential shelter services to make his or her best efforts to notify the parent or guardian of the provision of services. (Family Code §6924 (c))

6) Requires the mental health treatment or counseling of a minor authorized by this section of law to include the involvement of the minor’s parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. (FC §6924 (d), HSC §124260(c))

7) Defines a “marriage and family therapist trainee” as an unlicensed person who is currently enrolled in a master’s or doctoral degree program designed to qualify for licensure as a marriage and family therapist. The person must have completed at least 12 semester or 18 quarter units in his or her degree program. (Business and Professions Code (BPC) §4980.03(c))

8) Defines a “clinical counselor trainee” as an unlicensed person who is currently enrolled in a master’s or doctoral degree program designed to qualify for licensure as a professional clinical counselor. The person must have completed at least 12 semester or 18 quarter units in his or her degree program. (BPC §4999.12(g))

9) Prohibits marriage and family therapist trainees and clinical counselor trainees from working in a private practice. (BPC §§4980.43(e), 4999.34(c))

10) Defines marriage and family therapist trainees and clinical counselor trainees as mandated reporters under the Child Abuse and Neglect Reporting Act. (Penal Code §11165.7(a)(24) and (39))

This Bill:

1) Includes marriage and family therapist trainees and clinical counselor trainees in the list of professional persons who may perform mental health treatment or residential shelter services with a consenting minor 12 years of age or older under certain defined circumstances. (FC §6924(a)(2)(G) and (I), HSC §124260(a)(2)(G) and (J))

2) Requires marriage and family therapist trainees and clinical counselor trainees conducting such treatment to be supervised by a person who meets the Board's requirements as a supervisor. (FC §6924(a)(2)(G) and (I), HSC §124260(a)(2)(G) and (J))

3) Requires the trainee, when assessing whether the minor is mature enough to participate intelligently in the mental health services, to consult with his or her supervisor as soon as reasonably possible. (FC §6924(c), HSC §124260(b)(2))

Comment:

1) **Author's Intent.** The author's office states that leaving trainees off the list of eligible providers to treat consenting minors limits the number of providers available to treat minors, and limits MFT trainees' opportunities to gain experience hours toward licensure.
They state that trainees already routinely work with a variety of diagnoses and specialties, including PTSD, child abuse, and suicide. In addition, trainees must follow the same supervision requirements as interns, except that they are required to have more weekly supervision than interns.

2) **Trainee Qualifications to Treat Minors.** Under the law, a minor may consent to mental health treatment or residential shelter services if he or she is age 12 or older, and if the attending professional person determines the minor is mature enough to participate intelligently in the process.

   This bill was recently amended to require the trainee to consult with his or her supervisor when making this determination.

3) **Support and Opposition.**

   Support:
   - California Association of Marriage and Family Therapists (co-sponsor)
   - California Association for Licensed Professional Clinical Counselors (co-sponsor)
   - Community Clinic Association of Los Angeles County

   Opposition:
   - California Right to Life Committee

4) History

2016

04/05/16 Read second time. Ordered to third reading.
04/04/16 Read second time and amended. Ordered returned to second reading.
03/31/16 From committee: Amend, and do pass as amended. (Ayes 14. Noes 0.) (March 29).
02/25/16 Referred to Com. on B. & P.
02/09/16 From printer. May be heard in committee March 10.
02/08/16 Read first time. To print.

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1808

Introduced by Assembly Member Wood

February 8, 2016

An act to amend Section 6924 of the Family Code, and to amend Section 124260 of the Health and Safety Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1808, as amended, Wood. Minors: mental health services.

Existing law authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling services on an outpatient basis, or to residential shelter services, ~~under~~ *when* certain ~~circumstances, where those services are provided by any one of specific professionals, including~~ *requirements are satisfied, including a determination that the minor, in the opinion of the attending professional person, as specified, is mature enough to participate intelligently in those services. Existing law defines "professional person," for the purposes of those provisions, to include, among others,* a marriage and family therapist, a marriage and family therapist intern, a professional clinical counselor, and a clinical counselor intern.

This bill would additionally authorize a marriage and family therapist trainee and a clinical counselor trainee, while working under the supervision of certain licensed professionals, to provide those services. *The bill would require the marriage and family therapist trainee or the clinical counselor trainee to consult with his or her supervisor, as soon as reasonably possible, when assessing the maturity of the minor.* The bill would also make technical changes.

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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 6924 of the Family Code is amended to
2 read:
3 6924. (a) As used in this section:
4 (1) "Mental health treatment or counseling services" means the
5 provision of mental health treatment or counseling on an outpatient
6 basis by any of the following:
7 (A) A governmental agency.
8 (B) A person or agency having a contract with a governmental
9 agency to provide the services.
10 (C) An agency that receives funding from community united
11 funds.
12 (D) A runaway house or crisis resolution center.
13 (E) A professional person, as defined in paragraph (2)
14 (2) "Professional person" means any of the following:
15 (A) A person designated as a mental health professional in
16 Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of
17 Chapter 1 of Title 9 of the California Code of Regulations.
18 (B) A marriage and family therapist as defined in Chapter 13
19 (commencing with Section 4980) of Division 2 of the Business
20 and Professions Code.
21 (C) A licensed educational psychologist as defined in Chapter
22 13.5 (commencing with Section 4989.10) of Division 2 of the
23 Business and Professions Code.
24 (D) A credentialed school psychologist as described in Section
25 49424 of the Education Code.
26 (E) A clinical psychologist as defined in Section 1316.5 of th
27 Health and Safety Code.
28 (F) The chief administrator of an agency referred to in paragraph
29 (1) or (3).
30 (G) A person registered as a marriage and family therapist intern,
31 or a marriage and family therapist trainee, as defined in Chapter
32 13 (commencing with Section 4980) of Division 2 of the Business
33 and Professions Code, while working under the supervision of a
34 licensed professional specified in subdivision (g) of Section
35 4980.03 of the Business and Professions Code.

(H) A licensed professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(I) A person registered as a clinical counselor intern, or a clinical counselor trainee, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (h) of Section 4999.12 of the Business and Professions Code.

(3) "Residential shelter services" means any of the following:

(A) The provision of residential and other support services to minors on a temporary or emergency basis in a facility that services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency that receives funding from community funds, or a licensed community care facility or crisis resolution center.

(B) The provision of other support services on a temporary or emergency basis by any professional person as defined in paragraph (2).

(b) A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if both of the following requirements are satisfied

(1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services.

(2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.

(c) A marriage and family therapist trainee or a clinical counselor trainee, as specified in paragraph (2) of subdivision (a), shall consult with his or her supervisor, as soon as reasonably possible, when assessing the maturity of the minor pursuant to paragraph (1) of subdivision (b).

~~(c)~~

(d) A professional person offering residential shelter services, whether as an individual or as a representative of an entity specifie in paragraph (3) of subdivision (a), shall make his or her best efforts to notify the parent or guardian of the provision of services.

~~(d)~~

(e) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

~~(e)~~

(f) The minor's parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian. The minor's parents or guardian are not liable for payment for any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.

~~(f)~~

(g) This section does not authorize a minor to receive convulsive treatment or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor's parent or guardian.

SEC. 2. Section 124260 of the Health and Safety Code is amended to read:

124260. (a) As used in this section:

(1) "Mental health treatment or counseling services" means the provision of outpatient mental health treatment or counseling by a professional person, as defined in paragraph (2)

(2) "Professional person" means any of the following:

(A) A person designated as a mental health professional in Sections 622 to 626, inclusive, of Title 9 of the California Code of Regulations.

(B) A marriage and family therapist, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(C) A licensed educational psychologist, as defined in Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code.

(D) A credentialed school psychologist, as described in Section 49424 of the Education Code.

(E) A clinical psychologist, as defined in Section 1316.5 of the Health and Safety Code.

(F) A licensed clinical social worker, as defined in Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code.

(G) A person registered as a marriage and family therapist intern, or a marriage and family therapist trainee, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (g) of Section 4980.03 of the Business and Professions Code.

(H) A board certified, or board eligible, psychiatrist

(I) A licensed professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(J) A person registered as a clinical counselor intern, or a clinical counselor trainee, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (h) of Section 4999.12 of the Business and Professions Code.

(b) *(1)* Notwithstanding any provision of law to the contrary, a minor who is 12 years of age or older may consent to mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.

(2) A marriage and family therapist trainee or a clinical counselor trainee, as specified in paragraph (2) of subdivision (a), shall consult with his or her supervisor, as soon as reasonably possible, when assessing the maturity of the minor pursuant to paragraph (1).

(c) Notwithstanding any provision of law to the contrary, the mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or

guardian, unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

(d) The minor's parent or guardian is not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian.

(e) This section does not authorize a minor to receive convulsive treatment or psychosurgery, as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor's parent or guardian.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 1863** **VERSION:** **INTRODUCED FEBRUARY 10, 2016**

AUTHOR: **WOOD** **SPONSOR:**
- **CALIFORNIA PRIMARY CARE ASSOCIATION**
- **CALIFORNIA ASSOCIATION OF MARRIAGE AND FAMILY THERAPISTS (CAMFT)**

RECOMMENDED POSITION: **NONE**

SUBJECT: **MEDI-CAL: FEDERALLY QUALIFIED HEALTH CENTERS: RURAL HEALTH CENTERS**

Summary:

This bill would allow Medi-Cal reimbursement for covered mental health services provided by a marriage and family therapist employed by a federally qualified health center or a rural health clinic.

Existing Law:

1) Establishes that federally qualified health center services (FQHCs) and rural health clinic (RHC) services are covered Medi-Cal benefits that are reimbursed on a per-visit basis. (Welfare and Institutions Code (WIC) §14132.100(c))

2) Allows an FQHC or RHC to apply for an adjustment to its per-visit rate based on a change in the scope of services that it provides. (WIC §14132.100(e))

3) Defines a FQHC or RHC "visit" as a face-to-face encounter between an FQHC or RHC patient and one of the following (WIC §14132.100(g)

    - A physician;
    - physician assistant;
    - nurse practitioner;
    - certified nurse-midwife;
    - clinical psychologist;
    - licensed clinical social worker;
    - visiting nurse; or
    - dental hygienist.

This Bill:

1) Adds a marriage and family therapist to the list of health care professionals included in the definition of a visit to a FQHC or RHC that is eligible for Medi-Cal reimbursement. (WIC §14132.100(g)(2)(A))

2) Adds technical procedures for how an FQHC or RHC that employs marriage and family therapists can apply for a rate adjustment and bill for services. (WIC §14132.100(g)(2)(B) and (C))

Comments:

1) **Background.** Currently, there are approximately 600 FQHCs and 350 RHCs in California. These clinics serve the uninsured and underinsured, and are reimbursed by Medi-Cal on a "per visit" basis. Generally, the cost of a visit is calculated by the Department of Health Care Services for each clinic, by determining the annual cost of care provided by the clinic, divided by the annual number of visits to the clinic.

2) **Intent.** The intent of this legislation is to allow FQHCs and RHCs to be able to hire a marriage and family therapist and be reimbursed through Medi-Cal for covered mental health services. Under current law, a clinic may hire a marriage and family therapist. However, only clinical psychologists or licensed clinical social workers may receive Medi-Cal reimbursement for covered services in such settings. According to the author's office, the inability to receive Medi-Cal reimbursement serves as a disincentive for a FQHC or a RHC to consider hiring a marriage and family therapist. Allowing services provided by LMFTs to be reimbursed will maximize the availability of mental health services in rural areas.

3) **Suggested Amendment.** Staff suggests an amendment be made to include the word "licensed" in front of the term "marriage and family therapist" throughout WIC §14132.100. This will clarify that the marriage and family therapist must be licensed by the Board, and it is consistent with the use of the term "licensed clinical social worker" in that code section. In addition, it is also consistent with the Board's August 18, 2011 decision that the title "Licensed Marriage and Family Therapist" be utilized in all new regulatory and legislative proposals.

4) **Previous Legislation.** This bill was run as AB 1785 (B. Lowenthal) in 2012. The Board took a "support" position on AB 1785. However, the bill died in the Assembly Appropriations Committee.

   This bill was run again as AB 690 (Wood) in 2015. The Board took a "support" position on the bill; however, it died when it was held in committee. Its provisions were amended into AB 858 (Wood), also in 2015. AB 858 was part of a series of six Medi-Cal related bills that were all vetoed by the Governor. In a combined veto message for all six bills, the Governor stated that the bills would require expansion or development of new benefits and procedures in the Medi-Cal program, and that he could not support any of them until the fiscal outlook for Medi-Cal is stabilized.

Support and Opposition.

Support:

- California Primary Care Association (sponsor)
- California Association of Marriage and Family Therapists (sponsor)
- AIDS Project Los Angeles
- Association of California Healthcare Districts Community Clinic Association of Los Angeles County
- County Health Executives Association of California
- North Coast Clinic Network
- Open Door Community Health Centers

Oppose:

- California Psychological Association
- National Association of Social Workers, California Chapter

5) History

2016

04/06/16 In committee: Set, first hearing. Referred to APPR. suspense file.
03/30/16 From committee: Do pass and re-refer to Com. on APPR. (Ayes 18. Noes 0.) (March 29). Re-referred to Com. on APPR.
02/25/16 Referred to Com. on HEALTH.
02/11/16 From printer. May be heard in committee March 12.
02/10/16 Read first time. To print.

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ASSEMBLY BILL No. 1863

Introduced by Assembly Member Wood

February 10, 2016

An act to amend Section 14132.100 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1863, as introduced, Wood. Medi-Cal: federally qualified health centers: rural health centers.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides that federally qualified health center (FQHC) services and rural health clinic (RHC) services, as defined, are covered benefits under the Medi-Cal program, to be reimbursed, to the extent that federal financial participation is obtained, to providers on a per-visit basis. "Visit" is defined as a face-to-face encounter between a patient of an FQHC or RHC and specified health care professionals. Existing law allows an FQHC or RHC to apply for an adjustment to its per-visit rate based on a change in the scope of services it provides.

This bill would include a marriage and family therapist within those health care professionals covered under that definition. The bill would require an FQHC or RHC that currently includes the cost of services of a marriage and family therapist for the purposes of establishing its FQHC or RHC rate to apply to the department for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the

department, would require the FQHC or RHC to bill these services as a separate visit, as specified. The bill would require an FQHC or RHC that does not provide the services of a marriage and family therapist, and later elects to add these services, to process the addition of these services as a change in scope of service.

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 14132.100 of the Welfare and Institutions
2 Code is amended to read:
3 14132.100. (a) The federally qualified health center services
4 described in Section 1396d(a)(2)(C) of Title 42 of the United States
5 Code are covered benefits
6 (b) The rural health clinic services described in Section
7 1396d(a)(2)(B) of Title 42 of the United States Code are covered
8 benefits
9 (c) Federally qualified health center services and rural health
10 clinic services shall be reimbursed on a per-visit basis in
11 accordance with the definition of "visit" set forth in subdivision
12 (g).
13 (d) Effective October 1, 2004, and on each October 1, thereafter,
14 until no longer required by federal law, federally qualified health
15 center (FQHC) and rural health clinic (RHC) per-visit rates shall
16 be increased by the Medicare Economic Index applicable to
17 primary care services in the manner provided for in Section
18 1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to
19 January 1, 2004, FQHC and RHC per-visit rates shall be adjusted
20 by the Medicare Economic Index in accordance with the
21 methodology set forth in the state plan in effect on October 1,
22 2001.
23 (e) (1) An FQHC or RHC may apply for an adjustment to its
24 per-visit rate based on a change in the scope of services provided
25 by the FQHC or RHC. Rate changes based on a change in the
26 scope of services provided by an FQHC or RHC shall be evaluated
27 in accordance with Medicare reasonable cost principles, as set
28 forth in Part 413 (commencing with Section 413.1) of Title 42 of
29 the Code of Federal Regulations, or its successor.

(2) Subject to the conditions set forth in subparagraphs (A) to (D), inclusive, of paragraph (3), a change in scope of service means any of the following:

(A) The addition of a new FQHC or RHC service that is not incorporated in the baseline prospective payment system (PPS) rate, or a deletion of an FQHC or RHC service that is incorporated in the baseline PPS rate.

(B) A change in service due to amended regulatory requirements or rules.

(C) A change in service resulting from relocating or remodeling an FQHC or RHC.

(D) A change in types of services due to a change in applicable technology and medical practice utilized by the center or clinic.

(E) An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations.

(F) Any changes in any of the services described in subdivision (a) or (b), or in the provider mix of an FQHC or RHC or one of its sites.

(G) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the services described in subdivision (a) or (b), including new or expanded service facilities, regulatory compliance, or changes in technology or medical practices at the center or clinic.

(H) Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents.

(I) Any changes in the scope of a project approved by the federal Health Resources and ~~Service~~ *Services* Administration (HRSA).

(3) No change in costs shall, in and of itself, be considered a scope-of-service change unless all of the following apply:

(A) The increase or decrease in cost is attributable to an increase or decrease in the scope of services defined in subdivisions (a) and (b), as applicable.

(B) The cost is allowable under Medicare reasonable cost principles set forth in Part 413 (commencing with Section 413) of Subchapter B of Chapter 4 of Title 42 of the Code of Federal Regulations, or its successor.

(C) The change in the scope of services is a change in the type, intensity, duration, or amount of services, or any combination thereof.

(D) The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For FQHCs and RHCs that filed consolidated cost reports for multiple sites to establish the initial prospective payment reimbursement rate, the 1.75-percent threshold shall be applied to the average per-visit rate of all sites for the purposes of calculating the cost associated with a scope-of-service change. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal yea .

(4) An FQHC or RHC may submit requests for scope-of-service changes once per fiscal year, only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.

(5) An FQHC or RHC shall submit a scope-of-service rate change request within 90 days of the beginning of any FQHC or RHC fiscal year occurring after the effective date of this section, if, during the FQHC's or RHC's prior fiscal year, the FQHC or RHC experienced a decrease in the scope of services provided that the FQHC or RHC either knew or should have known would have resulted in a significantly lower per-visit rate. If an FQHC or RHC discontinues providing onsite pharmacy or dental services, it shall submit a scope-of-service rate change request within 90 days of the beginning of the following fiscal year. The rate change shall be effective as provided for in paragraph (4). As used in this paragraph, "significantly lower" means an average per-visit rate decrease in excess of 2.5 percent.

(6) Notwithstanding paragraph (4), if the approved scope-of-service change or changes were initially implemented on or after the first day of an FQHC's or RHC's fiscal year ending in calendar year 2001, but before the adoption and issuance of written instructions for applying for a scope-of-service change, the adjusted reimbursement rate for that scope-of-service change shall be made retroactive to the date the scope-of-service change was initially implemented. Scope-of-service changes under this paragraph shall be required to be submitted within the later of 150

days after the adoption and issuance of the written instructions by the department, or 150 days after the end of the FQHC's or RHC's fiscal year ending in 2003

(7) All references in this subdivision to "fiscal year" shall be construed to be references to the fiscal year of the individual FQHC or RHC, as the case may be.

(f) (1) An FQHC or RHC may request a supplemental payment if extraordinary circumstances beyond the control of the FQHC or RHC occur after December 31, 2001, and PPS payments are insufficient due to these extraordinary circumstances. Supplemental payments arising from extraordinary circumstances under this subdivision shall be solely and exclusively within the discretion of the department and shall not be subject to subdivision (*l*). These supplemental payments shall be determined separately from the scope-of-service adjustments described in subdivision (e). Extraordinary circumstances include, but are not limited to, acts of nature, changes in applicable requirements in the Health and Safety Code, changes in applicable licensure requirements, and changes in applicable rules or regulations. Mere inflation of costs alone, absent extraordinary circumstances, shall not be grounds for supplemental payment. If an FQHC's or RHC's PPS rate is sufficient to cover its overall costs, including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

(2) The department shall accept requests for supplemental payment at any time throughout the prospective payment rate year.

(3) Requests for supplemental payments shall be submitted in writing to the department and shall set forth the reasons for the request. Each request shall be accompanied by sufficien documentation to enable the department to act upon the request. Documentation shall include the data necessary to demonstrate that the circumstances for which supplemental payment is requested meet the requirements set forth in this section. Documentation shall include all of the following:

(A) A presentation of data to demonstrate reasons for the FQHC's or RHC's request for a supplemental payment.

(B) Documentation showing the cost implications. The cost impact shall be material and significant, two hundred thousand dollars ($200,000) or 1 percent of a facility's total costs, whichever is less.

(4) A request shall be submitted for each affected year.

(5) Amounts granted for supplemental payment requests shall be paid as lump-sum amounts for those years and not as revised PPS rates, and shall be repaid by the FQHC or RHC to the extent that it is not expended for the specified purposes

(6) The department shall notify the provider of the department's discretionary decision in writing.

(g) (1) An FQHC or RHC "visit" means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse. For purposes of this section, "physician" shall be interpreted in a manner consistent with the Centers for Medicare and Medicaid Services' Medicare Rural Health Clinic and Federally Qualifie Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a physician and surgeon, *osteopath,* podiatrist, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal ~~services~~ practitioner, as defined in Section ~~51179.1~~ *51179.7* of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan s definition of an FQHC or RHC visit

(2) (A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental ~~hygienist or~~ *hygienist,* a dental hygienist in alternative ~~practice.~~ *practice, or a marriage and family therapist.*

(B) Notwithstanding subdivision (e), an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative ~~practice~~ *practice, or a marriage and family therapist* for the purposes of establishing its FQHC or RHC rate shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals *or marriage and family therapists* that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC's or ~~RHC~~

RHC's rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental ~~hygienist or~~ *hygienist,* a dental hygienist in alternative ~~practice~~ *practice, or a marriage and family therapist* has been approved. Any approved increase or decrease in the provider's rate shall be made within six months after the date of receipt of the department's rate adjustment forms pursuant to this subparagraph and shall be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but in no case shall the effective date be earlier than January 1, 2008.

(C) An FQHC or RHC that does not provide dental ~~hygienist or~~ *hygienist,* dental hygienist in alternative ~~practice~~ *practice, or marriage and family therapist* services, and later elects to add these services, shall process the addition of these services as a change in scope of service pursuant to subdivision (e).

(h) If FQHC or RHC services are partially reimbursed by a third-party payer, such as a managed care entity (as defined in Section 1396u-2(a)(1)(B) of Title 42 of the United States Code), the Medicare Program, or the Child Health and Disability Prevention (CHDP) program, the department shall reimburse an FQHC or RHC for the difference between its per-visit PPS rate and receipts from other plans or programs on a contract-by-contract basis and not in the aggregate, and may not include managed care financial incentive payments that are required by federal law to be excluded from the calculation.

(i) (1) An entity that first qualifies as an FQHC or RHC in the year 2001 or later, a newly licensed facility at a new location added to an existing FQHC or RHC, and any entity that is an existing FQHC or RHC that is relocated to a new site shall each have its reimbursement rate established in accordance with one of the following methods, as selected by the FQHC or RHC:

(A) The rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable

FQHCs or RHCs located in the same or adjacent area with a similar caseload.

(B) In the absence of three comparable FQHCs or RHCs with a similar caseload, the rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or an adjacent service area, or in a reasonably similar geographic area with respect to relevant social, health care, and economic characteristics.

(C) At a new entity's one-time election, the department shall establish a reimbursement rate, calculated on a per-visit basis, that is equal to 100 percent of the projected allowable costs to the FQHC or RHC of furnishing FQHC or RHC services during the first 12 months of operation as an FQHC or RHC. After the firs 12-month period, the projected per-visit rate shall be increased by the Medicare Economic Index then in effect. The projected allowable costs for the first 12 months shall be cost settled and the prospective payment reimbursement rate shall be adjusted based on actual and allowable cost per visit.

(D) The department may adopt any further and additional methods of setting reimbursement rates for newly qualified FQHCs or RHCs as are consistent with Section 1396a(bb)(4) of Title 42 of the United States Code.

(2) In order for an FQHC or RHC to establish the comparability of its caseload for purposes of subparagraph (A) or (B) of paragraph (1), the department shall require that the FQHC or RHC submit its most recent annual utilization report as submitted to the Offic of Statewide Health Planning and Development, unless the FQHC or RHC was not required to file an annual utilization report. FQHCs or RHCs that have experienced changes in their services or caseload subsequent to the filing of the annual utilization report may submit to the department a completed report in the format applicable to the prior calendar year. FQHCs or RHCs that have not previously submitted an annual utilization report shall submit to the department a completed report in the format applicable to the prior calendar year. The FQHC or RHC shall not be required to submit the annual utilization report for the comparable FQHCs or RHCs to the department, but shall be required to identify the comparable FQHCs or RHCs.

(3) The rate for any newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered benefits on a fee-for-service basis *under its existing provider number* until it is informed of its ~~enrollment as an~~ FQHC or ~~RHC,~~ *RHC enrollment approval,* and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

(j) Visits occurring at an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, of an existing FQHC or RHC, or in a mobile unit as defined by paragraph (2) of subdivision (b) of Section 1765.105 of the Health and Safety Code, shall be billed by and reimbursed at the same rate as the FQHC or RHC establishing the intermittent clinic site or the mobile unit, subject to the right of the FQHC or RHC to request a scope-of-service adjustment to the rate.

(k) An FQHC or RHC may elect to have pharmacy or dental services reimbursed on a fee-for-service basis, utilizing the current fee schedules established for those services. These costs shall be adjusted out of the FQHC's or RHC's clinic base rate as scope-of-service changes. An FQHC or RHC that reverses its election under this subdivision shall revert to its prior rate, subject to an increase to account for all ~~MEI~~ *Medicare Economic Index* increases occurring during the intervening time period, and subject to any increase or decrease associated with applicable ~~scope-of-services~~ *scope-of-service* adjustments as provided in subdivision (e).

(*l*) FQHCs and RHCs may appeal a grievance or complaint concerning ratesetting, scope-of-service changes, and settlement of cost report audits, in the manner prescribed by Section 14171. The rights and remedies provided under this subdivision are cumulative to the rights and remedies available under all other provisions of law of this state.

(m) The department shall, ~~by~~ no later than March 30, 2008, promptly seek all necessary federal approvals in order to implement this section, including any amendments to the state plan. To the

1 extent that any element or requirement of this section is not
2 approved, the department shall submit a request to the federal
3 Centers for Medicare and Medicaid Services for any waivers that
4 would be necessary to implement this section.
5 (n) The department shall implement this section only to the
6 extent that federal financial participation is obtained

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 2083** **VERSION:** **INTRODUCED FEBRUARY 17, 2016**

AUTHOR: **CHU** **SPONSOR:** **COUNTY OF SANTA CLARA**

RECOMMENDED POSITION: **NONE**

SUBJECT: **INTERAGENCY CHILD DEATH REVIEW**

Summary: This bill would, at the discretion of the provider, allow medical and mental health information to be disclosed to an interagency child death review team.

Existing Law:

1) Specifies that licensees of the Board of Behavioral Sciences (Board) are mandated reporters under the Child Abuse and Neglect Reporting Act and must submit a report to specified agencies when in their professional capacity, they have knowledge of, or observe a child who is known, or reasonably suspected to have been, a victim of child abuse or neglect. (Penal Code (PC) § 11165.7(a)(21) and 11166(a))

2) Requires that all mental health records be confidential and only subject to disclosure under certain specified circumstances. (Welfare and Institutions Code (WIC) §5328)

3) Allows counties to establish interagency child death review teams in order to review suspicious child deaths and to help identify incidents of child abuse or neglect. (PC §11174.32(a))

4) Requires that records that are exempt from disclosure to third parties by law remain exempt from disclosure when they are in possession of a child death review team. (PC §11174.32(d))

5) Establishes interagency elder and dependent adult death review teams, and permits certain confidential information, including medical and mental health information, to be disclosed to the team, at the discretion of the person who has the information. (PC §§11174.5, 11174.8)

6) Establishes interagency domestic violence death review teams, and permits certain confidential information, including medical and mental health information, to be disclosed to the team, at the discretion of the person who has the information. (PC §11163.3)

This Bill:

1) Permits certain confidential information to be disclosed to a child death review team. This includes medical information and mental health information. (PC §11174.32(e))

2) States that if such confidential information is requested by a child death review team, the person who has the information is not required to disclose it. (PC §11174.32(e))

Comment:

1) **Author's Intent.** The author's office notes that while the law provides domestic violence and elder and dependent adult death review teams the ability to review mental health information, it is silent about whether or not child death review teams may obtain this information. Allowing child death review teams to obtain this information could help with investigation and detection of child abuse and neglect, and could help identify trends to reduce incidents of child death.

Support and Opposition:

Support:
- County of Santa Clara (Sponsor)

Oppose:
- None at this time.

History:

2016
02/29/16 Referred to Com. on PUB. S.
02/18/16 From printer. May be heard in committee March 19.
02/17/16 Read first time. To print.

Attachments:

Attachment A: Relevant Code Sections

ASSEMBLY BILL No. 2083

Introduced by Assembly Member Chu

February 17, 2016

An act to amend Section 11174.32 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2083, as introduced, Chu. Interagency child death review.

Existing law authorizes a county to establish an interagency child death review team to assist local agencies in identifying and reviewing suspicious child deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. Existing law requires records that are exempt from disclosure to 3rd parties pursuant to state or federal law to remain exempt from disclosure when they are in the possession of a child death review team.

This bill would authorize the voluntary disclosure of specifie information, including mental health records, criminal history information, and child abuse reports, by an individual or agency to an interagency child death review team.

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 11174.32 of the Penal Code is amended
2 to read:

11174.32. (a) Each county may establish an interagency child death review team to assist local agencies in identifying and reviewing suspicious child deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. Interagency child death review teams have been used successfully to ensure that incidents of child abuse or neglect are recognized and other siblings and nonoffending family members receive the appropriate services in cases where a child has expired.

(b) Each county may develop a protocol that may be used as a guideline by persons performing autopsies on children to assist coroners and other persons who perform autopsies in the identification of child abuse or neglect, in the determination of whether child abuse or neglect contributed to death or whether child abuse or neglect had occurred prior to but was not the actual cause of death, and in the proper written reporting procedures for child abuse or neglect, including the designation of the cause and mode of death.

(c) In developing an interagency child death review team and an autopsy protocol, each county, working in consultation with local members of the California State Coroner's Association and county child abuse prevention coordinating councils, may solicit suggestions and final comments from persons, including, but not limited to, the following:

(1) Experts in the field of forensic patholog .

(2) Pediatricians with expertise in child abuse.

(3) Coroners and medical examiners.

(4) Criminologists.

(5) District attorneys.

(6) Child protective services staff.

(7) Law enforcement personnel.

(8) Representatives of local agencies which are involved with child abuse or neglect reporting.

(9) County health department staff who deals with children's health issues.

(10) Local professional associations of persons described in paragraphs (1) to (9), inclusive.

(d) Records exempt from disclosure to third parties pursuant to state or federal law shall remain exempt from disclosure when they are in the possession of a child death review team.

(e) Written and oral information may be disclosed to a child death review team established pursuant to this section. The team may make a request, in writing, for the information sought and any person with information of the kind described in paragraph (2) may rely on the request in determining whether information may be disclosed to the team.

(1) An individual or agency that has information governed by this subdivision shall not be required to disclose information. The intent of this subdivision is to allow the voluntary disclosure of information by the individual or agency that has the information.

(2) The following information may be disclosed pursuant to this subdivision:

(A) Notwithstanding Section 56.10 of the Civil Code, medical information, unless disclosure is prohibited by federal law.

(B) Notwithstanding Section 5328 of the Welfare and Institutions Code, mental health information.

(C) Notwithstanding Section 11167.5, information from child abuse reports and investigations, except the identity of the person making the report, which shall not be disclosed.

(D) State summary criminal history information, criminal offender record information, and local summary criminal history information, as defined in Sections 11105, 11075, and 13300, respectively.

(E) Notwithstanding Section 11163.2, information pertaining to reports by health practitioners of persons suffering from physical injuries inflicted by means of a fi earm or of persons suffering physical injury where the injury is a result of assaultive or abusive conduct.

(F) Notwithstanding Section 10850 of the Welfare and Institutions Code, records of in-home supportive services, unless disclosure is prohibited by federal law.

~~(e)~~

(f) (1) No less than once each year, each child death review team shall make available to the public findings, conclusions an recommendations of the team, including aggregate statistical data on the incidences and causes of child deaths.

(2) In its report, the child death review team shall withhold the last name of the child that is subject to a review or the name of the deceased child's siblings unless the name has been publicly

1 disclosed or is required to be disclosed by state law, federal law,
2 or court order.

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Attachment A
Relevant Code Sections

Elder and Dependent Adult Death Review Teams

Penal Code (PC) §11174.5.
(a) Each county may establish an interagency elder and dependent adult death review team to assist local agencies in identifying and reviewing suspicious elder and dependent adult deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in elder and dependent adult abuse or neglect cases.

(b) Each county may develop a protocol that may be used as a guideline by persons performing autopsies on elders and dependent adults to assist coroners and other persons who perform autopsies in the identification of elder and dependent adult abuse or neglect, in the determination of whether elder or dependent adult abuse or neglect contributed to death or whether elder or dependent adult abuse or neglect had occurred prior to, but was not the actual cause of, death, and in the proper written reporting procedures for elder and dependent adult abuse or neglect, including the designation of the cause and mode of death.

(c) As used in this section, the term “dependent adult” has the same meaning as in Section 368, and applies regardless of whether the person lived independently.

PC §11174.8.
(a) Each organization represented on an elder death review team may share with other members of the team information in its possession concerning the decedent who is the subject of the review or any person who was in contact with the decedent and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential. The intent of this subdivision is to permit the disclosure to members of the team of any information deemed confidential, privileged, or prohibited from disclosure by any other provision of law.

(b) (1) Written and oral information may be disclosed to an elder death review team established pursuant to this section. The team may make a request in writing for the information sought and any person with information of the kind described in paragraph (3) may rely on the request in determining whether information may be disclosed to the team.

(2) No individual or agency that has information governed by this subdivision shall be required to disclose information. The intent of this subdivision is to allow the voluntary disclosure of information by the individual or agency that has the information.

(3) The following information may be disclosed pursuant to this subdivision:

(A) Notwithstanding Section 56.10 of the Civil Code, medical information.

(B) Notwithstanding Section 5328 of the Welfare and Institutions Code, mental health information.

(C) Notwithstanding Section 15633.5 of the Welfare and Institutions Code, information from elder abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(D) State summary criminal history information, criminal offender record information, and local summary criminal history information, as defined in Sections 11075, 11105, and 13300.

(E) Notwithstanding Section 11163.2, information pertaining to reports by health practitioners of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of assaultive or abusive conduct.

(F) Information provided to probation officers in the course of the performance of their duties, including, but not limited to, the duty to prepare reports pursuant to Section 1203.10, as well as the information on which these reports are based.

(G) Notwithstanding Section 10825 of the Welfare and Institutions Code, records relating to in-home supportive services, unless disclosure is prohibited by federal law.

(c) Written and oral information may be disclosed under this section notwithstanding Sections 2263, 2918, 4982, and 6068 of the Business and Professions Code, the lawyer-client privilege protected by Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, the physician-patient privilege protected by Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, and the psychotherapist-patient privilege protected by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

Domestic Violence Death Review Teams

PC §11163.3.

(a) A county may establish an interagency domestic violence death review team to assist local agencies in identifying and reviewing domestic violence deaths, including homicides and suicides, and facilitating communication among the various agencies involved in domestic violence cases. Interagency domestic violence death review teams have been used successfully to ensure that incidents of domestic violence and abuse are recognized and that agency involvement is reviewed to develop recommendations for policies and protocols for community prevention and intervention initiatives to reduce and eradicate the incidence of domestic violence.

(b) For purposes of this section, “abuse” has the meaning set forth in Section 6203 of the Family Code and “domestic violence” has the meaning set forth in Section 6211 of the Family Code.

(c) A county may develop a protocol that may be used as a guideline to assist coroners and other persons who perform autopsies on domestic violence victims in the identification of domestic violence, in the determination of whether domestic violence

contributed to death or whether domestic violence had occurred prior to death, but was not the actual cause of death, and in the proper written reporting procedures for domestic violence, including the designation of the cause and mode of death.

(d) County domestic violence death review teams shall be comprised of, but not limited to, the following:

(1) Experts in the field of forensic pathology.

(2) Medical personnel with expertise in domestic violence abuse.

(3) Coroners and medical examiners.

(4) Criminologists.

(5) District attorneys and city attorneys.

(6) Domestic violence shelter service staff and battered women's advocates.

(7) Law enforcement personnel.

(8) Representatives of local agencies that are involved with domestic violence abuse reporting.

(9) County health department staff who deal with domestic violence victims' health issues.

(10) Representatives of local child abuse agencies.

(11) Local professional associations of persons described in paragraphs (1) to (10), inclusive.

(e) An oral or written communication or a document shared within or produced by a domestic violence death review team related to a domestic violence death review is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to a domestic violence death review team, or between a third party and a domestic violence death review team, is confidential and not subject to disclosure or discoverable by a third party. Notwithstanding the foregoing, recommendations of a domestic violence death review team upon the completion of a review may be disclosed at the discretion of a majority of the members of the domestic violence death review team.

(f) Each organization represented on a domestic violence death review team may share with other members of the team information in its possession concerning the victim who is the subject of the review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential. This provision shall permit the disclosure to members of the team of any information deemed confidential, privileged, or prohibited from disclosure by any other statute.

(g) Written and oral information may be disclosed to a domestic violence death review team established pursuant to this section. The team may make a request in writing for the information sought and any person with information of the kind described in paragraph (2) may rely on the request in determining whether information may be disclosed to the team.

(1) An individual or agency that has information governed by this subdivision shall not be required to disclose information. The intent of this subdivision is to allow the voluntary disclosure of information by the individual or agency that has the information.

(2) The following information may be disclosed pursuant to this subdivision:

(A) Notwithstanding Section 56.10 of the Civil Code, medical information.

(B) Notwithstanding Section 5328 of the Welfare and Institutions Code, mental health

(C) Notwithstanding Section 15633.5 of the Welfare and Institutions Code, information from elder abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(D) Notwithstanding Section 11167.5 of the Penal Code, information from child abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(E) State summary criminal history information, criminal offender record information, and local summary criminal history information, as defined in Sections 11075, 11105, and 13300 of the Penal Code.

(F) Notwithstanding Section 11163.2 of the Penal Code, information pertaining to reports by health practitioners of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of assaultive or abusive conduct, and information relating to whether a physician referred the person to local domestic violence services as recommended by Section 11161 of the Penal Code.

(G) Notwithstanding Section 827 of the Welfare and Institutions Code, information in any juvenile court proceeding.

(H) Information maintained by the Family Court, including information relating to the Family Conciliation Court Law pursuant to Section 1818 of the Family Code, and Mediation of Custody and Visitation Issues pursuant to Section 3177 of the Family Code.

(I) Information provided to probation officers in the course of the performance of their duties, including, but not limited to, the duty to prepare reports pursuant to Section 1203.10 of the Penal Code, as well as the information on which these reports are based.

(J) Notwithstanding Section 10850 of the Welfare and Institutions Code, records of in-home supportive services, unless disclosure is prohibited by federal law.

(3) The disclosure of written and oral information authorized under this subdivision shall apply notwithstanding Sections 2263, 2918, 4982, and 6068 of the Business and Professions Code, or the lawyer-client privilege protected by Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, the physician-patient privilege protected by Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, the psychotherapist-patient privilege protected by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, the

sexual assault counselor-victim privilege protected by Article 8.5 (commencing with Section 1035) of Chapter 4 of Division 8 of the Evidence Code, the domestic violence counselor-victim privilege protected by Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code, and the human trafficking caseworker-victim privilege protected by Article 8.8 (commencing with Section 1038) of Chapter 4 of Division 8 of the Evidence Code.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 2191** **VERSION:** **AMENDED APRIL 6, 2016**

AUTHOR: **SALAS** **SPONSOR:** **AUTHOR**

RECOMMENDED POSITION: **NONE**

SUBJECT: **BOARD OF BEHAVIORAL SCIENCES**

Summary

This bill would extend the Board's sunset date until January 1, 2021.

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, 2017.

2) Specifies the composition of the Board and authorizes the Board to employ an Executive Officer (Business and Professions Code (BPC) §§4990, 4990.04)

This Bill:

1) Extends the operation of the Board until January 1, 2021. (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 notified by the Joint Committee were requested to provide a detailed report regarding the board's operations and programs. Following submission of the report to the Joint Committee, a hearing was 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 of Behavioral Sciences went through sunset review was in 2012.

2) **March 2016 Sunset Review Hearing.** The Board submitted its Sunset Review Report to the Senate Committee on Business, Professions, and Economic Development and the Assembly Committee on Business and Professions on December 1, 2015.

   The Board's sunset hearing was held on March 14, 2016. Based on the findings of the Committee it was recommended that the Board's sunset date be extended for four years, to January 1, 2021.

3) **Previous Legislation.**

   - SB 294 (Chapter 695, Statutes of 2010) extended the Board's sunset date from January 1, 2011 until January 1, 2013.

   - SB 1236 (Chapter 332, Statutes of 2012) extended the Board's sunset date from January 1, 2013 until January 1, 2017.

4) **Support and Opposition.**

   Support:
   - None on File.

   Opposition:
   - None on File.

5) **History.**

2016
04/06/16 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
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.

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 2191

Introduced by ~~Committee on Business and Professions (Assembly Members Bonilla (Chair), Jones (Vice Chair), Baker, Bloom, Campos, Chang, Dodd, Mullin, Ting, Wilk, and Wood)~~ *Assembly Member Salas*

(Principal coauthor: Senator Hill)

February 18, 2016

An act to amend Sections 4990 and 4990.04 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2191, as amended, ~~Committee on Business and Professions~~ *Salas*. Board of Behavioral Sciences.

Existing law provides for the licensure and regulation of educational psychologists, clinical social workers, marriage and family therapists, and professional clinical counselors by the Board of Behavioral Sciences within the Department of Consumer Affairs. Existing law specifies the composition of the board and requires the board to employ an executive office . Existing law repeals these provisions on January 1, 2017. Under existing law, the repeal of the provision establishing the board renders the board subject to review by the appropriate policy committees of the Legislature.

This bill would extend the operation of these provisions until January 1, 2021.

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

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

SECTION 1. Section 4990 of the Business and Professions Code is amended to read:

4990. (a) There is in the Department of Consumer Affairs, a Board of Behavioral Sciences that consists of the following members:

(1) Two state licensed clinical social workers.

(2) One state licensed educational psychologist.

(3) Two state licensed marriage and family therapists.

(4) One state licensed professional clinical counselor.

(5) Seven public members.

(b) Each member, except the seven public members, shall have at least two years of experience in *her or* his ~~or her~~ profession.

(c) Each member shall reside in the State of California.

(d) The Governor shall appoint fi e of the public members and the six licensed members with the advice and consent of the Senate. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Each member of the board shall be appointed for a term of four years. A member appointed by the Speaker of the Assembly or the Senate Committee on Rules shall hold office until the appointment and qualification of his or her successor or until one year from the expiration date of the term for which *she or* he ~~or she~~ was appointed, whichever first occurs. Pursuant to Section 1774 of the Government Code, a member appointed by the Governor shall hold office until the appointment and qualificatio of *her or* his ~~or her~~ successor or until 60 days from the expiration date of the term for which he or she was appointed, whichever firs occurs.

(f) A vacancy on the board shall be filled by appointment for the unexpired term by the authority who appointed the member whose membership was vacated.

(g) Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.

(h) Each member of the board shall receive a per diem and reimbursement of expenses as provided in Section 103.

(i) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

(j) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 2. Section 4990.04 of the Business and Professions Code is amended to read:

4990.04. (a) The board shall appoint an executive office . This position is designated as a confidential position and is exempt from civil service under subdivision (e) of Section 4 of Article VII of the California Constitution.

(b) The executive officer ser es at the pleasure of the board.

(c) The executive officer shall exercise the powers and perform the duties delegated by the board and vested in *her or* him ~~or her~~ by this chapter.

(d) With the approval of the director, the board shall fix the salary of the executive office .

(e) The chairperson and executive officer may call meetings of the board and any duly appointed committee at a specified time and place. For purposes of this section, "call meetings" means setting the agenda, time, date, or place for any meeting of the board or any committee.

(f) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 2199** **VERSION:** **AMENDED MARCH 30, 2016**

AUTHOR: **CAMPOS** **SPONSOR:** **AUTHOR**

RECOMMENDED POSITION: **NONE**

SUBJECT: **SEXUAL OFFENSES AGAINST MINORS: PERSONS IN A POSITION OF AUTHORITY**

Summary: This bill would subject persons who engage in unlawful sexual intercourse with a minor or who commit a lewd or lascivious act upon a minor to be subject to additional jail terms if they held a position of authority over the minor. Persons in a position of authority include the minor's counselor or therapist.

Existing Law:

1) Specifies that a person age 21 or older who engages in unlawful sexual intercourse with a minor under age 16 is guilty of either a misdemeanor or a felony that is punishable by imprisonment for a term ranging from one to four years. (Penal Code (PC) §261.5(d))

2) Specifies that any person who willfully commits a lewd or lascivious act upon a child under age 14 is guilty of a felony that is punishable by imprisonment for three, six, or eight years. (PC §288(a))

3) Specifies that a person who commits a lewd or lascivious act upon a child of age 14 or 15 that is at least 10 years older than the child is guilty of public offense for a term ranging from one to three years. (PC §288(c)(1))

This Bill:

1) Requires a person over age 21 who engages in unlawful sexual intercourse with a minor under 16, or a person who annoys or molests a child under age 18, to be punished by an additional term of imprisonment for 2 years, if that person held a position of authority over the minor. (PC §261.5(e))

2) Requires a person who is guilty of a felony or a public offense for a lewd or lascivious act upon a child as specified in PC Section 288(a) or (c)(1) to be punished by an additional term of imprisonment for 2 years, if that person held a position of authority over the minor. (PC §288(c)(3))

3) Defines a person in a "position of authority" as including the child's counselor or therapist, among others. (PC §§ 261.5(e), 288(c))

Comment:

1) **Author's Intent.** The author is concerned about this issue due to learning of a case where the perpetrator received only a minor punishment despite being in a position of authority over the victim. The author believes it is unacceptable for persons in authority who commit the crimes listed above to only receive a minor punishment for their conduct.

2) **Support and Opposition.**

   Support
   - None at this time.

   Opposition
   - None at this time.

3) **History**

   2016
   04/05/16 In committee: Set, second hearing. Hearing canceled at the request of author.
   03/31/2016 Mar. 31 Re-referred to Com. on PUB. S.
   03/30/2016 Mar. 30 From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.
   03/29/2016 Mar. 29 In committee: Set, first hearing. Hearing canceled at the request of author.
   03/03/2016 Mar. 3 Referred to Com. on PUB. S.
   02/19/2016 Feb. 19 From printer. May be heard in committee March 20.
   02/18/2016 Feb. 18 Read first time. To print.

AMENDED IN ASSEMBLY MARCH 30, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 2199

Introduced by Assembly Member Campos

February 18, 2016

An act to amend Sections 261.5 and ~~647.64~~ *288 of* the Penal Code, relating to sexual offenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 2199, as amended, Campos. Sexual offenses against minors: persons in a position of authority.

(1) Existing law provides various circumstances that constitute rape, which are punishable by imprisonment in the state prison for 3, 6, or 8 years, except as specified

Existing law also prescribes circumstances that constitute unlawful sexual intercourse, some of which involve an adult perpetrator who engages in that unlawful intercourse with a minor, as specified. Unlawful sexual intercourse under those circumstances is punishable by imprisonment for 2, 3, or 4 years, and also may be subject to designated civil penalties or fines. Under existing law, any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to a specified provision of law for 2, 3, or 4 years.

This bill would subject any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age and is convicted of a felony *to* a sentence enhancement of ~~2, 4, or 6~~ *2* years, if the perpetrator holds a position of

authority over the minor with whom he or she engaged in the act of unlawful sexual intercourse. By changing the penalty for the commission of unlawful sexual intercourse under the above circumstances, this bill would impose a state-mandated local program.

~~(2) Existing law makes it a misdemeanor to annoy or molest a child under 18 years of age. Existing law makes it a misdemeanor to engage in conduct with an adult whom the perpetrator believes is a child if that conduct would otherwise violate the above provision if directed toward a child and if the perpetrator is motivated by an unnatural or abnormal sexual interest in children.~~

~~This bill would subject a person who violates those provisions with respect to a minor under 16 years of age over whom the person holds a position of authority to an additional term of imprisonment of 2, 4, or 6 years beyond the otherwise applicable term. By creating a new crime, the bill would impose a state-mandated local program.~~

(2) Under existing law, any person who willfully and lewdly commits a lewd or lascivious act with a minor under 14 years of age with the intent of arousing the minor is guilty of a felony, punishable by imprisonment in the state prison for 3, 6, or 8 years. Existing law makes it a public offense for a person to commit this act with the intent of arousing a minor of 14 or 15 years of age when the person is at least 10 years older than the minor, punishable by imprisonment in the state prison for one, 2, or 3 years, or by imprisonment in a county jail for no more than one year.

This bill would subject any person who willfully and lewdly commits a lewd or lascivious act with a minor under 14 years of age with the intent of arousing the minor, or who commits such an act with the intent of arousing a minor of 14 or 15 years of age when the person is at least 10 years older than the minor, to a sentence enhancement of 2 years, if the perpetrator holds a position of authority over the minor with whom he or she engaged in the act. By changing the penalty for the commission of a lewd or lascivious act under the above circumstances, this bill would impose a state-mandated local program.

(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 no reimbursement is required by this act for a specified reason

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

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

SECTION 1. Section 261.5 of the Penal Code is amended to read:

261.5. (a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under ~~the age of~~ 18 years *of age* and an "adult" is a person who is at least 18 years of age.

(b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

(e) Notwithstanding any other provision of this section, a person who is guilty of a felony pursuant to subdivision (d) who holds a position of authority over the minor with whom he or she has engaged in an act of unlawful sexual intercourse, shall be punished by an additional term of imprisonment in a county jail for ~~two, four, or six~~ *two* years.

(1) For purposes of this subdivision, a person is in a "position of authority" if he or she, by reason of that position, is able to exercise undue influence over a minor. A "position of authority" includes, but is not limited to, a ~~parent,~~ stepparent, foster parent, ~~relative,~~ partner of the ~~parent or relative,~~ *parent,* caretaker, youth leader, recreational director, athletic manager, coach, teacher, counselor, therapist, religious leader, doctor, *employer, or* employee of one of those aforementioned ~~persons, or coworker.~~ *persons.*

(2) For purposes of this subdivision, "undue influence" has the same meaning as that term is defined in Section 15610.70 of the Welfare and Institutions Code.

(f) (1) Notwithstanding any other provision of this section, an adult who engages in an act of sexual intercourse with a minor in violation of this section may be liable for civil penalties in the following amounts:

(A) An adult who engages in an act of unlawful sexual intercourse with a minor less than two years younger than the adult is liable for a civil penalty not to exceed two thousand dollars ($2,000).

(B) An adult who engages in an act of unlawful sexual intercourse with a minor at least two years younger than the adult is liable for a civil penalty not to exceed fi e thousand dollars ($5,000).

(C) An adult who engages in an act of unlawful sexual intercourse with a minor at least three years younger than the adult is liable for a civil penalty not to exceed ten thousand dollars ($10,000).

(D) An adult over the age of 21 years who engages in an act of unlawful sexual intercourse with a minor under 16 years of age is liable for a civil penalty not to exceed twenty-fi e thousand dollars ($25,000).

(2) The district attorney may bring actions to recover civil penalties pursuant to this subdivision. From the amounts collected for each case, an amount equal to the costs of pursuing the action shall be deposited with the treasurer of the county in which the judgment was entered, and the remainder shall be deposited in the Underage Pregnancy Prevention Fund, which is hereby created in the State Treasury. Amounts deposited in the Underage Pregnancy Prevention Fund may be used only for the purpose of preventing underage pregnancy upon appropriation by the Legislature.

(3) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subd vision.

SEC. 2. Section 288 of the Penal Code is amended to read:

288. (a) Except as provided in subdivision (i), any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) (1) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

(c) (1) Any person who commits an act described in subdivision (a) with the intent described in that subdivision, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person, with the intent described in subdivision (a), is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year.

(3) Any person who is guilty of a felony pursuant to subdivision (a) or is guilty of a public offense pursuant to paragraph (1), and who holds a position of authority over the minor with whom he or she has engaged in an act of unlawful sexual intercourse, shall be punished by an additional term of imprisonment for two years.

(A) For purposes of this paragraph, a person is in a "position of authority" if he or she, by reason of that position, is able to exercise undue influence over a minor. A "position of authority" includes, but is not limited to, a stepparent, foster parent, partner of the parent, youth leader, recreational director, athletic manager, coach, teacher, counselor, therapist, religious leader, doctor, employer, or employee of one of those aforementioned persons.

(B) For purposes of this paragraph, "undue influence" has the same meaning as that term is defined in Section 15610.70 of the Welfare and Institutions Code.

(d) In any arrest or prosecution under this section or Section 288.5, the peace office , district attorney, and the court shall consider the needs of the child victim or dependent person and shall do whatever is necessary, within existing budgetary resources, and constitutionally permissible to prevent psychological harm to the child victim or to prevent psychological harm to the dependent person victim resulting from participation in the court process.

(e) Upon the conviction of any person for a violation of subdivision (a) or (b), the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed ten thousand dollars ($10,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances of its commission, whether the defendant derived any economic gain as a result of the crime, and the extent to which the victim suffered economic losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs pursuant to Section 13837.

If the court orders a fine imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the count .

(f) For purposes of paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c), the following definitions apply

(1) "Caretaker" means an owner, operator, administrator, employee, independent contractor, agent, or volunteer of any of

the following public or private facilities when the facilities provide care for elder or dependent persons:

(A) Twenty-four hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(B) Clinics.

(C) Home health agencies.

(D) Adult day health care centers.

(E) Secondary schools that serve dependent persons and postsecondary educational institutions that serve dependent persons or elders.

(F) Sheltered workshops.

(G) Camps.

(H) Community care facilities, as defined by Section 1402 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(I) Respite care facilities.

(J) Foster homes.

(K) Regional centers for persons with developmental disabilities.

(L) A home health agency licensed in accordance with Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

(M) An agency that supplies in-home supportive services.

(N) Board and care facilities.

(O) Any other protective or public assistance agency that provides health services or social services to elder or dependent persons, including, but not limited to, in-home supportive services, as defined in Section 14005.14 of the Welfare and Institutions Code.

(P) Private residences.

(2) "Board and care facilities" means licensed or unlicensed facilities that provide assistance with one or more of the following activities:

(A) Bathing.

(B) Dressing.

(C) Grooming.

(D) Medication storage.

(E) Medical dispensation.

(F) Money management.

(3) "Dependent person" means any person who has a physical or mental impairment that substantially restricts his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have significantly diminished because of age. "Dependent person" includes any person who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(g) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) apply to the owners, operators, administrators, employees, independent contractors, agents, or volunteers working at these public or private facilities and only to the extent that the individuals personally commit, conspire, aid, abet, or facilitate any act prohibited by paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c).

(h) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) do not apply to a caretaker who is a spouse of, or who is in an equivalent domestic relationship with, the dependent person under care.

(i) (1) Any person convicted of a violation of subdivision (a) shall be imprisoned in the state prison for life with the possibility of parole if the defendant personally inflicted bodily harm upon the victim.

(2) The penalty provided in this subdivision shall only apply if the fact that the defendant personally inflicted bodily harm upon the victim is pled and proved.

(3) As used in this subdivision, "bodily harm" means any substantial physical injury resulting from the use of force that is more than the force necessary to commit the offense.

~~SEC. 2. Section 647.6 of the Penal Code is amended to read:~~

~~647.6. (a) (1) Every person who annoys or molests any child under 18 years of age shall be punished by a fine not exceeding fi- e thousand dollars ($5,000), by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.~~

~~(2) Every person who, motivated by an unnatural or abnormal sexual interest in children, engages in conduct with an adult whom he or she believes to be a child under 18 years of age, which conduct, if directed toward a child under 18 years of age, would be a violation of this section, shall be punished by a fine not~~

~~exceeding fi e thousand dollars ($5,000), by imprisonment in a county jail for up to one year, or by both that fine and imprisonment.~~

~~(b) Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, and by a fine not xceeding fi e thousand dollars ($5,000).~~

~~(c) (1) Every person who violates this section shall be punished upon the second and each subsequent conviction by imprisonment in the state prison.~~

~~(2) Every person who violates this section after a previous felony conviction under Section 261, 264.1, 269, 285, 286, 288a, 288.5, or 289, any of which involved a minor under 16 years of age, or a previous felony conviction under this section, a conviction under Section 288, or a felony conviction under Section 311.4 involving a minor under 14 years of age shall be punished by imprisonment in the state prison for two, four, or six years.~~

~~(d) A person who violates this section with respect to a minor under 16 years of age over whom the person holds a position of authority shall be punished by an additional term of imprisonment for two, four, or six years beyond any term otherwise applicable under this Section.~~

~~(1) For purposes of this subdivision, a person is in a "position of authority" if he or she, by reason of that position, is able to exercise undue influence over a minor. A "position of authority" includes, but is not limited to, a parent, stepparent, foster parent, relative, partner of the parent or relative, caretaker, youth leader, recreational director, athletic manager, coach, teacher, counselor, therapist, religious leader, doctor, employee of one of those aforementioned persons, or coworker.~~

~~(2) For purposes of this subdivision, "undue influence" has the same meaning as that term is defined in Section 15610.70 of the Welfare and Institutions Code.~~

~~(e) (1) In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.~~

~~(2) In any case in which a person is convicted of violating this section, and as a condition of probation, the court prohibits the defendant from having contact with the victim, the court order prohibiting contact shall not be modified except upon the request of the victim and a finding by the court that the modification is in the best interest of the victim. As used in this paragraph, "contact with the victim" includes all physical contact, being in the presence of the victim, communication by any means, any communication by a third party acting on behalf of the defendant, and any gifts.~~

~~(f) This section does not prohibit prosecution under any other provision of law.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 2507 **VERSION:** INTRODUCED FEBRUARY 19, 2016

AUTHOR: GORDON **SPONSOR:** STANFORD HEALTH CARE

RECOMMENDED POSITION: NONE

SUBJECT: TELEHEALTH: ACCESS

Summary: This bill requires that a health care service plan or health insurer must cover patient services provided via telehealth to the same extent as services provided in-person. It also specifies various communications platforms that are acceptable for telehealth.

Existing Law:

1) Defines "telehealth" as a mode of delivering health care via information and communication technologies. The patient's location is the originating site, and the health care provider's location is the distant site. (Business and Professions Code (BPC) §2290.5)

2) States that prior to providing health care via telehealth, the health care provider shall inform the patient about the use of telehealth and obtain verbal or written consent. (BPC §2290.5)

3) Defines an "originating site" as the site where the patient is located at the time health care services are provided. (BPC §2290.5)

4) Defines "distant site" as the site where the health care provider is located while providing the telehealth services. (BPC §2290.5)

5) States that this section shall not prevent patients from receiving in-person treatment after agreeing to receive services via telehealth. (BPC §2290.5)

6) States that a health care service plan or health insurer shall not require in-person contact between a health care provider and a patient before payment is made for covered services that are appropriately provided through telehealth. (This provision is subject to the terms and conditions of the contract with the health care service plan.) (Health and Safety Code (HSC) §1374.13(c), Insurance Code (IC) §10123.85(c))

7) States that a health care service plan or health insurer shall not limit the type of setting where services are provided before payment is made for covered services that are appropriately provided through telehealth. (This provision is subject to the terms and conditions of the contract with the health care service plan.) (HSC §1374.13(d), IC §10123.85(d))

8) States that a health care service plan or health insurer shall not require the use of telehealth when the health care provider has determined that it is not appropriate. (HSC §1374.13(f), IC §10123.85(e))

This Bill:

1) Specifies that telehealth includes communication via video, telephone, email, text, or chat conferencing. (BPC §2290.5(a)(6))

2) Allows that patient consent for telehealth can be oral, written, or digital. (BPC §2290.5(b))

3) States that telehealth should be practitioner-guided and patient preferred, and that the law does not authorize a health care provider to require services be performed via telehealth when the patient prefers to be treated in-person. (HSC §1374.13(g), IC §10123.85(f))

4) States that a health care service plan or health insurer must cover patient services provided via telehealth to the same extent as services provided in-person. (HSC §1374.13(h), IC §10123.85(g))

5) Prohibits a health care service plan or health insurer from interfering with the physician-patient relationship based on the modality used for appropriately provided services through telehealth. (HSC §1374.13(i), IC §10123.85(h))

Comments:

1) **Author's Intent.** This bill aims to provide a viable telehealth reimbursement infrastructure in California in order to improve patient access.

   The author notes that while a health insurer cannot limit the types of settings where services are provided, the law does not require health plans to include coverage and reimbursement for services provided via telehealth. Currently, these must be negotiated separately into each plan contract. They note that many other states require health plans to provide coverage for telehealth services to the same extent as in-person services. This is not currently the case in California.

   Under this bill, providers will be able to offer telehealth services with a guarantee that they will receive health plan reimbursement.

2) **Mode of Delivery.** This bill clarifies that the definition of telehealth includes communication via video, telephone, email, text or chat.

   There is debate regarding whether email, text, and chat are appropriate platforms for psychotherapeutic services.

   There are safeguards built into the law to ensure that health plans cannot require the use of telehealth when the health care provider has determined it is not appropriate (HSC §1374.13(f), IC §10123.85(e))

In addition, the Board is in the process of proposing regulations that would specify standards of practice for telehealth. These regulations are still in the approval process. If approved, they would require Board licensees and registrants to do the following each time services are provided via telehealth:

- Assess whether the client is appropriate for telehealth given his or her psychosocial situation; and
- Utilize industry best practices for telehealth to ensure both client confidentiality and the security of the communication medium.

Therefore, even though texting, chat, and email may be permitted modes of telehealth and acceptable for use in some healing art professions, the statute and regulations make it clear that it is the practitioner's ethical obligation to ensure the mode of service delivery is appropriate to each client, and that it is acceptable according to the industry standards of his or her profession.

3) **Physician-Patient Relationship.** This bill proposes adding a sentence to the Health and Safety Code (§1374.13(i)) and the Insurance Code (§10123.85(h)) prohibiting a health care service plan or health insurer from interfering with the physician-patient relationship based on the modality used for appropriately provided services through telehealth.

   Given that the law regarding telehealth includes all healing arts practitioners, it may be appropriate to replace the term "physician-patient relationship" with the term "provider-patient relationship" or "practitioner-patient relationship."

4) **Support and Opposition.**

   Support:

   - Stanford Health Care (Sponsor)

   Oppose:

   - None at this time.

5) **History**

   2016
   03/08/16 Referred to Com. on HEALTH.
   02/22/16 Read first time.
   02/21/16 From printer. May be heard in committee March 22.
   02/19/16 Introduced. To print.

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ASSEMBLY BILL No. 2507

Introduced by Assembly Member Gordon

February 19, 2016

An act to amend Section 2290.5 of the Business and Professions Code, to amend Section 1374.13 of the Health and Safety Code, and to amend Section 10123.85 of the Insurance Code, relating to telehealth.

LEGISLATIVE COUNSEL'S DIGEST

AB 2507, as introduced, Gordon. Telehealth: access.

(1) Existing law defines "telehealth" as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site, and that facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. Existing law requires that prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth inform the patient about the use of telehealth and obtain documented verbal or written consent from the patient for the use of telehealth.

This bill would add video communications, telephone communications, email communications, and synchronous text or chat conferencing to the definition of telehealth. The bill would also provide that the required prior consent for telehealth services may be digital as well as oral or written.

(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service

plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits health care service plans and health insurers from limiting the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee, insured, subscriber, or policyholder and the plan or insurer, and between the plan or insurer and its participating providers or provider groups.

This bill would also prohibit a health care provider from requiring the use of telehealth when a patient prefers to receive health care services in person and would require health care service plans and health insurers to include coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means, as specified. The bill would prohibit a health care service plan or health insurer from limiting coverage or reimbursement based on a contract entered into between the plan or insurer and an independent telehealth provider. The bill would prohibit a health care service plan or a health insurer from interfering with the physician-patient relationship based on the modality utilized for services appropriately provided through telehealth.

Because a willful violation of the bill's provisions by a health care service plan would be a crime, it would impose a state-mandated local program.

(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 no reimbursement is required by this act for a specified reason

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

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

1 SECTION 1. Section 2290.5 of the Business and Professions
2 Code is amended to read:
3 2290.5. (a) For purposes of this division, the following
4 definition ~~shall~~ apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means either of the following:

(A) A person who is licensed under this division.

(B) A marriage and family therapist intern or trainee functioning pursuant to Section 4980.43.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward ~~transfers.~~ *transfers, including, but not limited to, video communications, telephone communications, email communications, and synchronous text or chat conferencing.*

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain ~~verbal or written~~ *oral, written, or digital* consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 2. Section 1374.13 of the Health and Safety Code is amended to read:

1374.13. (a) For the purposes of this section, the definition in subdivision (a) of Section 2290.5 of the Business and Professions Code ~~shall~~ apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) ~~No~~ *A* health care service plan shall *not* require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided

through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(d) ~~No~~ *A* health care service plan shall *not* limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(e) The requirements of this section shall also apply to health care service plan and Medi-Cal managed care plan contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any ~~other provision,~~ *law,* this section shall not be interpreted to authorize a health care service plan to require the use of telehealth when the health care provider has determined that it is not appropriate.

(g) Notwithstanding any law, this section shall not be interpreted to authorize a health care provider to require the use of telehealth when a patient prefers to be treated in an in-person setting. Telehealth services should be physician- or practitioner-guided and patient-preferred.

(h) A health care service plan shall include in its plan contract coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means.

(1) A health care service plan shall reimburse the health care provider for the diagnosis, consultation, or treatment of the enrollee when the service is delivered through telehealth at a rate that is at least as favorable to the health care provider as those established for the equivalent services when provided in person or by some other means.

(2) A health care service plan may subject the coverage of services delivered via telehealth to copayments, coinsurance, or deductible provided that the amounts charged are at least as

favorable to the enrollee as those established for the equivalent services when provided in person or by some other means.

(i) A health care service plan shall not limit coverage or reimbursement based on a contract entered into between the health care service plan and an independent telehealth provider or interfere with the physician-patient relationship based on the modality utilized for services appropriately provided through telehealth.

SEC. 3. Section 10123.85 of the Insurance Code is amended to read:

10123.85. (a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health insurer shall require that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the policyholder or contractholder and the insurer, and between the insurer and its participating providers or provider groups.

(d) No health insurer shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided by telehealth, subject to the terms and conditions of the contract between the policyholder or contract holder and the insurer, and between the insurer and its participating providers or provider groups.

(e) Notwithstanding any other provision, this section shall not be interpreted to authorize a health insurer to require the use of telehealth when the health care provider has determined that it is not appropriate.

(f) Notwithstanding any law, this section shall not be interpreted to authorize a health care provider to require the use of telehealth when a patient prefers to be treated in an in-person setting. Telehealth services should be physician- or practitioner-guided and patient-preferred.

(g) A health insurer shall include in its policy coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means.

(1) A health insurer shall reimburse the health care provider for the diagnosis, consultation, or treatment of the insured when the service is delivered through telehealth at a rate that is at least as favorable to the health care provider as those established for the equivalent services when provided in person or by some other means.

(2) A health insurer may subject the coverage of services delivered via telehealth to copayments, coinsurance, or deductible provided that the amounts charged are at least as favorable to the insured as those established for the equivalent services when provided in person or by some other means.

(h) A health insurer shall not limit coverage or reimbursement based on a contract entered into between the health insurer and an independent telehealth provider or interfere with the physician-patient relationship based on the modality utilized for services appropriately provided through telehealth.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 2606** **VERSION:** **INTRODUCED FEBRUARY 19, 2016**

AUTHOR: **GROVE** **SPONSOR:**
- **THE ARC**
- **UNITED CEREBRAL PALSY CALIFORNIA COLLABORATION**

RECOMMENDED POSITION: **NONE**

SUBJECT: **CRIMES AGAINST CHILDREN, ELDERS, DEPENDENT ADULTS, AND PERSONS WITH DISABILITIES**

Summary: This bill would require a law enforcement agency to inform a state licensing agency if it receives or makes a report that one of the licensing agencies' licensees has allegedly committed certain specified crimes.

Existing Law:

1) Specifies that licensees of the Board of Behavioral Sciences (Board) are mandated reporters under the Child Abuse and Neglect Reporting Act and must submit a report whenever in their professional capacity, they have knowledge of, or observe a child who is known, or reasonably suspected to have been, a victim of child abuse or neglect. (Penal Code (PC) §§11165.7 and 11166(a))

2) States that any mandated reporter who fails to report child abuse or neglect, or any person who impedes such a report is subject to specified fines and jail sentences. (PC §§11166(c), 11166.01)

3) Specifies the mandated reporting requirements for elder and dependent adult abuse, and specifies fines and jail sentences for those who fail to report or impede a report. (Welfare and Institutions Code (WIC) §15630)

4) Makes it unprofessional conduct for a Board licensee or registrant to fail to comply with child abuse reporting requirements. (Business and Professions Code (BPC) §§4982(w), 4989.54(v), 4992.3(u), 4999.90(w))

5) Makes it unprofessional conduct for a Board licensee or registrant to fail to comply with elder and dependent adult abuse reporting requirements. (BPC §§4982(x), 4989.54(w), 4992.3(v), 4999.90(x))

This Bill:

1) Requires a law enforcement agency to report to a state licensing agency if the law enforcement agency receives or makes a report that one of the licensing agency's licensees has allegedly committed certain crimes. These crimes include the following (PC §368.7):

a. Sexual exploitation by a physician or a psychotherapist;

b. Rape;

c. Elder or dependent adult abuse;

d. Failure to report elder or dependent adult abuse, or impeding or interfering with such a report;

e. A hate crime;

f. Sexual abuse;

g. Child abuse; and

h. Failure to report child abuse, or interfering with such a report.

Comment:

1) **Author's Intent.** The author's office is seeking to strengthen enforcement of laws that prohibit impeding or retaliating against mandated reporters of elder and dependent adult abuse and child abuse.

   The author states that people with disabilities, elders, and children are victimized by violent crimes at a high rate, and the perpetrators are often not convicted, in part due to lack of mandated reporting. They also note that mandated reporters who fail to report, and supervisors who impede such reports, are rarely prosecuted.

   There is currently no requirement for law enforcement to cross-report to licensing agencies, and because of this, licensing agencies do not learn of many of these cases and therefore cannot pursue them.

2) **Current Board Enforcement Process.** Currently, the Board would learn of instances of the crimes listed above if an arrest was made, or if a complaint was received.

   In the case of an arrest, the Board would receive notification of the arrest, would obtain the police report, and would follow the progress of the case and take action if there were sufficient evidence to do so.

3) **Effects of this Bill on Board Enforcement Process.** Under this bill, law enforcement would report to the Board if it receives or makes a report of one of the above specified crimes.

   If there were no other evidence to the claim, other than that a complaint was received, the Board would need to contact the client to obtain a release of records in order to investigate the case. The ability of the investigation to proceed would depend on the patient's willingness to consent to releasing the records to the Board. In a case of child abuse, a parent or guardian would need to provide consent. If the case involved elder or dependent adult abuse, the patient may have a conservator, who would need to provide consent.

The Board would likely rely on DCA's Division of Investigation in order to track down clients and their guardians for consent, and to conduct an investigation.

4) **Fiscal Impact to the Board.** The Board does not have a high volume of child or elder abuse cases or cases where the licensee failed to make a mandated report. Typically, these cases number only a few per year.

   It is likely that this bill would lead to an increase in mandated reporting violation cases. Such an increase could have a fiscal impact due to the Board's need to utilize the Division of Investigation for additional investigations. However, at this time, the quantity of these cases, and the extent of investigative resources they would require, is unknown.

5) **Inclusion of Registrants.** This bill requires law enforcement to make a report to the issuing state agency if the holder of state credential, license, or permit is alleged to have committed a crime.

   Business and Professions Code Section 23.7 defines a "license" as a license, certificate, registration, or other means to engage in a business or profession, for purposes of the Business and Professions Code.

   However, this definition does not apply to the Penal Code, which is where the reporting requirement imposed by this bill is located. To avoid confusion about whether or not the reporting requirement includes registrants, it may be helpful to amend the bill to either reference the definition in BPC Section 23.7, or to specifically include registrants.

6) **Support and Opposition.**

   Support
   - The Arc (Sponsor)
   - United Cerebral Palsy California Collaboration (Sponsor)
   - Disability Rights California
   - The Arc of Riverside County
   - California Advocates for Nursing Home Reform

   Opposition
   - None at this time.

7) **History**

   2016
   03/10/16 Referred to Com. on PUB. S.
   02/22/16 Read first time.
   02/21/16 From printer. May be heard in committee March 22.
   02/19/16 Introduced. To print.

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ASSEMBLY BILL No. 2606

Introduced by Assembly Member Grove

February 19, 2016

An act to add Chapter 14 (commencing with Section 368.7) to Title 9 of Part 1 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2606, as introduced, Grove. Crimes against children, elders, dependent adults, and persons with disabilities.

The Child Abuse and Neglect Reporting Act requires a law enforcement agency that receives a report of child abuse to report to an appropriate licensing agency every known or suspected instance of child abuse or neglect that occurs while the child is being cared for in a child day care facility or community care facility or that involves a licensed staff person of the facility.

Existing law proscribes the commission of certain crimes against elders and dependent adults, including, but not limited to, inflictin upon an elder or dependent adult unjustifiable physical pain or mental suffering, as specified. Existing law proscribes the commission of a hate crime, as defined, against certain categories of persons, including disabled persons.

Existing law provides for the licensure of various healing arts professionals, and specifies that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action against the licensee. Existing law also establishes that the crime of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has occurred when the licensee

engages in specified sexual acts with a patient, client, or former patient or client.

This bill would require, if a law enforcement agency receives a report, or if a law enforcement officer makes a report, that a person who holds a state professional or occupational credential, license, or permit that allows the person to provide services to children, elders, dependent adults, or persons with disabilities is alleged to have committed one or more of specified crimes, the law enforcement agency to promptly send a copy of the report to the state licensing agency that issued the credential, license, or permit. By imposing additional duties on law enforcement agencies, 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, 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 these statutory provisions.

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. Chapter 14 (commencing with Section 368.7) is
2 added to Title 9 of Part 1 of the Penal Code, to read:
3
4 CHAPTER 14. REPORTING CRIMES AGAINST CHILDREN, ELDERS,
5 DEPENDENT ADULTS, AND PERSONS WITH DISABILITIES
6
7 368.7. If a law enforcement agency receives a report, or if a
8 law enforcement officer makes a report, that a person who holds
9 a state professional or occupational credential, license, or permit
10 that allows the person to provide services to children, elders,
11 dependent adults, or persons with disabilities is alleged to have
12 committed one or more of the crimes described in subdivisions (a)
13 to (f), inclusive, the law enforcement agency shall promptly send
14 a copy of the report to the state agency that issued the credential,
15 license, or permit.

(a) Sexual exploitation by a physician and surgeon, psychotherapist, or drug or alcohol abuse counselor, as described in Section 729 of the Business and Professions Code.

(b) Rape or other crimes described in Chapter 1 (commencing with Section 261).

(c) Elder or dependent adult abuse, failure to report elder or dependent adult abuse, interfering with a report of elder or dependent adult abuse or other crimes, as described in Chapter 13.

(d) A hate crime motivated by antidisability bias, as described in Chapter 1 (commencing with Section 422.55) of Title 11.6.

(e) Sexual abuse, as defined in Section 11165.1

(f) Child abuse, failure to report child abuse, or interfering with a report of child abuse.

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

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 614 **VERSION:** AMENDED AUGUST 31, 2015

AUTHOR: LENO **SPONSOR:** COUNTY BEHAVIORAL HEALTH DIRECTORS ASSOCIATION

PREVIOUS POSITION: OPPOSE UNLESS AMENDED

SUBJECT: MEDI-CAL: MENTAL HEALTH SERVICES: PEER, PARENT, TRANSITION-AGE, AND FAMILY SUPPORT SPECIALIST CERTIFICATION

Overview:

This bill requires the State Department of Health Care Services to develop a peer, parent, transition-age, and family support specialist certification 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, Parent, Transition-Age, and Family Support Specialist Certification Program Act of 2015. (WIC Article 1.4, §§ 14045.10 – 14045.27))

2) 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. These services can include support, coaching, facilitation, and education to Medi-Cal beneficiaries. (WIC §14045.13(k))

3) By July 1, 2017, requires the State Department of Health Care Services (DHCS) to establish a certification body and to provide statewide certification for adult peer support specialists, transition-age youth peer support specialists, family peer support specialists, and parent peer support specialists (WIC §14045.14)

4) Requires DHCS to establish the following for the various categories of peer support specialists (WIC §14045.14):

a) The range of responsibilities and practice guidelines;

b) Curriculum and core competencies, including areas of specialization;

c) Training requirements allowing for multiple qualified training entities, and that requires training to include individuals with lived experience as consumers and family members;

d) Continuing education requirements;

e) Clinical supervision requirements;

f) A code of ethics and a process for revocation of certification;

g) A process for certification renewal;

h) A process for revocation of certification; and

i) A process to allow those currently employed in the peer support field to obtain certification.

5) Requires applicants for each type of certification to pass an exam approved by DHCS. (WIC §§14045.15, 14045.16, 14045.17, 14045.18)

6) Requires DHCS to collaborate with the Office of Statewide Health Planning and Development (OSHPD), the County Behavioral Health Director's Association of California, the California Mental Health Planning Council, health plans participating in the Medi-Cal program, and other interested parties, when developing, implementing, and administering the peer, parent, transition-age, and family support specialist certification program. (WIC §14045.20)

7) Requires DHCS to amend its Medicaid state plan to include each category of peer support specialist as a provider type, and to include peer support specialists as a distinct service type. (WIC §14045.22)

8) Allows DHCS to use Mental Health Services Act Funds, as well as funds from certain other specified programs, to develop and administer the peer support specialist certification program. (WIC §14045.25)

9) Allows DHCS to establish fees to fund the department's administration of the peer support specialist certification program. (WIC §14045.251)

10) Allows DHCS to implement this law via plan letters, bulletins, or similar instructions, without regulations, until regulations are adopted. Regulations must be adopted by July 1, 2019. (WIC §14045.27)

Comments:

1) **Background**. The author's office defines a peer provider as someone who "uses his or her lived experience with mental illness and recovery, plus skills learned in formal training, to deliver services in a behavioral health setting to promote mind-body recovery and resiliency." (SB 614 fact sheet, March 2015) The author's office

notes that peers can be persons with experience as clients, family members, or caretakers.

The author cites benefits of peer certification including establishing a standard of practice and code of ethics, providing peer support employees with a professional voice, and qualifying peer services for federal financial participation.

2) **Intent of This Bill.** According to the author's office, the goal of this bill is twofold:

- Require DHCS to establish a peer support specialist certification program; and
- Authorize DHCS to add peer support providers as a provider type within the Medi-Cal program.

3) **Peer Certification in Other States.** In 2013, 31 states and the federal Department of Veteran's Affairs certified and employed peer specialists. The services peer specialists provide in these states are Medicaid billable.[1]

In 2007, the federal Centers for Medicare and Medicaid released guidance for states to establish a certification program for peers to enable the use of federal Medicaid.

California has not established a peer certification program at this time. There is a stakeholder group, the "Working Well Together Statewide Technical Assistance Center" which in 2013 released a report of recommendations about certification. The Executive Summary of this report is in **Attachment B**.

4) **Examples of Requirements in Other States.**

Several other states recognize certified peer counselors.

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.

In order to become a peer counselor in Washington, a person must be accepted as a training applicant. They must complete a 40 hour training program and pass a state exam.

Tennessee

According to the State of Tennessee's Department of Mental Health and Substance Abuse Services, Certified Peer Recovery Specialists must complete an extensive application. If accepted, they complete an intensive 40 hour training program. They

[1] *"Peer Certification: What are we Waiting For?,"* by the California Mental Health Planning Council, February 2015

must be supervised by a mental health professional or a substance use disorder professional.

New Mexico

The State of New Mexico offers peer support worker certification. Applicants must demonstrate 2 years of sustained recovery, complete a written application and phone interview, complete a 40 hour training program, and pass an examination.

5) **Previous Position.** This bill is a two-year bill. At its May 2015 meeting, the Board took an "oppose unless amended" position on a previous version of this bill. Below are the amendments the Board requested at that time, and the status of each:

a) **Requested Amendment #1: Include in statute a clear definition of a peer and family support specialist and a clearly defined scope of practice.**

HSC §14045.13(k) now defines "peer support specialist services." Although it is not labeled as a scope of practice, it might be construed as one. In addition, the current version of this bill specifies four types of peer support specialists (adult, family, parent, and transition-age youth), and provides a definition of each.

b) **Requested Amendment #2: Specify the required hours of supervision for a peer and family support specialist, and identify who may provide this supervision.**

The bill is silent on the amount of required supervision required for peer support specialists; it leaves the task to DHCS to establish via regulations.

The bill does now state who may supervise a peer support specialist. Supervisors can be a mental health rehabilitation specialist, a substance use disorder professional, or a licensed mental health professional as defined in Title 9, Section 782.26 of the California Code of Regulations (CCR).

Although the bill now allows some Board licensees to supervise peer support specialists, it is important to note that 9 CCR §782.26 lists psychologists, physicians, LMFTs, and LCSWs as licensed mental health professionals. LPCCs are not included in the list, which means that, as this bill is currently written, LPCCs would not be able to supervise peer support specialists.

c) **Requested Amendment #3: Specify training requirements for a peer and family support specialist.**

The bill delegates the task of establishing specific education and training requirements to regulation. However, it does now list several minimum core competencies that must be included in the required curriculum to become a certified peer support specialist.

The Board may want to discuss whether some of the curriculum areas, such as psychiatric rehabilitation skills and trauma-informed care, overlap with the scope of practice of the Board's licenses.

WIC Section 14045.19 of the bill has been added to state that it is not the intent of the law to imply that a peer support specialist provide clinical services. However a statement such as the following may provide more clarity:

"Any services that fall under the scope of practice of the Licensed Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code), the Educational Psychologist Practice Act (Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code), and the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code), which are not performed in an exempt setting as defined in Sections 4980.01, 4996.14, and 4999.22 of the Business and Professions Code, shall only be performed by a licensee or a registrant of the Board of Behavioral Sciences or other appropriately licensed professional, such as a licensed psychologist or board certified psychiatrist."

d) <u>Requested Amendment #4: Add a fingerprinting requirement for peer and family support specialists.</u>

The bill still does not contain a fingerprinting requirement.

6) Requirements Not Established in Legislation. This bill requires DHCS to establish many of the requirements of certified peer support specialists, including responsibilities and practice guidelines, curriculum, required training, continuing education, supervision, and renewal, via regulation. Assuming this bill was to pass, it would become effective January 1, 2017, and the certification program must be established by July 1, 2017. Regulations must be adopted by July 1, 2019. However, the bill leaves discretion to DHCS to implement the program via various instructions, until regulations are adopted.

7)* Support and Opposition. *(July 6, 2015 Bill Version)

<u>Support:</u>

- County Behavioral Health Directors Association of California (sponsor)
- American Federation of State, County and Municipal Employees
- Association of California Healthcare Districts
- California Alliance of Child and Family Services
- California Association of Alcohol and Drug Program Executives
- California Association of Social Rehabilitation Agencies
- California Coalition for Mental Health
- California Council of Community Mental Health Agencies
- California State Association of Counties
- California Youth Empowerment Network
- Children NOW
- Common Sense Kids Action

- Disability Rights California
- Los Angeles County Board of Supervisors
- Mental Health America of California
- Mental Health America of Los Angeles
- NAMI Alameda County South
- NAMI California
- San Bernardino County
- Service Employees International Union
- Steinberg Institute
  Telecare Corporation
  Urban Counties Caucus
  Western Center on Law & Poverty
  Women's Policy Foundation of California
  Women's Policy Institute

Concerns:

- African-American Health Institute of San Bernardino County
- Connections: a Counseling Center Affirming Spirituality and Diversity
- Council of Sacramento Valley Islamic Organizations
- Cyrus Urban Inter-Church Sustainability Network
- Diversity in Health Training Institute
- Hmong Health Collaborative
- La Familia
- MAS Social Services Foundation
- Multi-Ethnic Collaborative of Community Agencies
- Muslim Wellness Foundation-Atlanta
- National Association of Social Workers, California Chapter
- Native American Health Center
- Native Directions, Inc.
- Racial and Ethnic Mental Health Disparities Coalition
- Tarbiya Institute
- Village Project, Inc.
- 4 Individuals

Oppose Unless Amended:

- California Consortium of Addiction Programs and Professionals

8) History.

2015
09/03/15 Ordered to inactive file on request of Assembly Member Cristina Garcia.
09/01/15 Read second time. Ordered to third reading.
08/31/15 Read second time and amended. Ordered to second reading.
08/28/15 From committee: Do pass as amended. (Ayes 12. Noes 0.) (August 27).
08/27/15 Joint Rule 62(a) suspended.
08/26/15 August 26 set for first hearing. Placed on APPR. suspense file.

07/16/15 Read second time and amended. Re-referred to Com. on APPR.
07/15/15 From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 18. Noes 0.) (July 14).
07/06/15 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH.
06/18/15 Referred to Com. on HEALTH.
06/02/15 In Assembly. Read first time. Held at Desk.
06/01/15 Read third time. Passed. (Ayes 40. Noes 0. Page 1191.) Ordered to the Assembly.
05/28/15 Read second time. Ordered to third reading.
05/28/15 From committee: Do pass. (Ayes 7. Noes 0. Page 1157.) (May 28).
05/23/15 Set for hearing May 28.
04/27/15 April 27 hearing: Placed on APPR. suspense file.
04/17/15 Set for hearing April 27.
04/16/15 From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0. Page 651.) (April 15). Re-referred to Com. on APPR.
04/06/15 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH.
03/20/15 Set for hearing April 15.
03/12/15 Referred to Com. on HEALTH.
03/02/15 Read first time.
03/02/15 From printer. May be acted upon on or after April 1.
02/27/15 Introduced. 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: Executive Summary from *"Final Report: Recommendations from the Statewide Summit on Certification of Peer Providers,"* Working Well Together, 2013

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AMENDED IN ASSEMBLY AUGUST 31, 2015

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 6, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL No. 614

Introduced by Senator Leno
(Coauthor: Senator Anderson)

February 27, 2015

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 614, as amended, Leno. Medi-Cal: mental health services: peer, parent, transition-age, and family support specialist certification

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law provides for a schedule of benefits under the Medi-Cal program and provides for various services, including various behavioral and mental health services.

Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs. The act also requires funds to be reserved for the costs for the State Department of Health Care Services, the California Mental

Health Planning Council, the Office of Statewide Health Planning and Development (OSHPD), the Mental Health Services Oversight and Accountability Commission, the State Department of Public Health, and any other state agency to implement all duties pursuant to certain programs provided for by the act, subject to appropriation in the annual Budget Act. The act provides that it may be amended by the Legislature by a ⅔ vote of each house as long as the amendment is consistent with and furthers the intent of the act, and that the Legislature may also clarify procedures and terms of the act by majority vote.

This bill would require the State Department of Health Care Services to establish, by July 1, 2017, a statewide peer, parent, transition-age, and family support specialist certification program, as a part of the state's comprehensive mental health and substance use disorder delivery system and the Medi-Cal program. The bill would include 4 certificatio categories: adult peer support specialists, transition-age youth peer support specialists, family peer support specialists, and parent peer support specialists. The certification program's components would include, among others, defining responsibilities and practice guidelines, determining curriculum and core competencies, specifying training and continuing education requirements, and establishing a code of ethics and certification revocation processes. The bill would require an applicant for the certification as a peer, parent, transition-age, and family support specialist to meet specified requirements, including successful completion of the curriculum and training requirements.

This bill would require the department to collaborate with OSHPD and interested stakeholders in developing the certification program, and to obtain technical assistance pursuant to a specified joint state-county decisionmaking process. The bill would authorize the department to use funding provided through the MHSA and designated funds administered by OSHPD, to develop and administer the program, and would authorize the use of these MHSA funds to serve as the state's share of funding to develop and administer the program for the purpose of claiming federal financial participation under the Medicaid Program.

This bill would authorize the department to establish a certificatio fee schedule and require remittance of fees as contained in the schedule, for the purpose of supporting the department's activities associated with the ongoing state administration of the peer, parent, transition-age, and family support specialist certification program. The bill would require the department to utilize the other funding resources made available under the bill before determining the need for the certificatio

fee schedule and requiring the remittance of fees. The bill would declare legislative intent that the certification fees be reasonable and reflec the expenditures directly applicable to the ongoing state administration of the program.

This bill would require the department to amend the Medicaid state plan to include a certified peer, parent, transition-age, and family support specialist as a provider type for purposes of the Medi-Cal program, but would implement this provision only if and to the extent that federal financial participation is available and the department obtains all necessary federal approvals. The bill would authorize the department to enter into exclusive or nonexclusive contracts on a bid or nonbid basis, as specified, on a statewide or more limited geographic basis. This bill also would authorize the department to implement, interpret, or make specific its provisions by various informational documents until regulations are adopted.

This bill would declare that it clarifies terms and procedures under the Mental Health Services Act.

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

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

1 SECTION 1. Article 1.4 (commencing with Section 14045.10)
2 is added to Chapter 7 of Part 3 of Division 9 of the Welfare and
3 Institutions Code, to read:
4
5 Article 1.4. Peer, Parent, Transition-Age, and Family Support
6 Specialist Certification Progra
7
8 14045.10. This article shall be known, and may be cited, as
9 the Peer, Parent, Transition-Age, and Family Support Specialist
10 Certification Program Act of 2015.
11 14045.11. The Legislature finds and declares all of the
12 following:
13 (a) With the enactment of the Mental Health Services Act in
14 2004, support to include peer providers identified as consumers,
15 parents, and family members for the provision of services has been
16 on the rise.
17 (b) There are over 6,000 peer providers in California who
18 provide individualized support, coaching, facilitation, and

education to clients with mental health care needs and substance use disorder, in a variety of settings, yet no statewide scope of practice, standardized curriculum, training standards, supervision standards, or certification protocol is vailable.

(c) The United States Department of Veterans Affairs and over 30 states utilize standardized curricula and certification protocols for peer support services.

(d) The federal Centers for Medicare and Medicaid Services (CMS) recognizes peer support services as an evidence-based model of care and notes it is an important component in a state's delivery of effective mental health and substance use disorder treatment. The CMS encourages states to offer peer support services as a component of a comprehensive mental health and substance use disorder delivery system and federal financia participation is available for this purpose.

(e) A substantial number of research studies demonstrate that peer supports improve client functioning, increase client satisfaction, reduce family burden, alleviate depression and other symptoms, reduce hospitalizations and hospital days, increase client activation, and enhance client self-advocacy.

(f) Certification at the state level can incentivize the public mental health system and the Medi-Cal program, including the Drug Medi-Cal program, to increase the number, diversity, and availability of peer providers and peer-driven services.

14045.12. It is the intent of the Legislature that the peer, parent, transition-age, and family support specialist certification program, established under this article, achieve all of the following:

(a) Establish the ongoing provision of peer support services for beneficiaries experiencing mental health care needs, substance use disorder needs, or both by certified peer support specialists

(b) Provide support, coaching, facilitation, and education to beneficiaries with mental health needs, substance use disorder needs, or both, and to families or significant support persons

(c) Provide increased family support, building on the strengths of families and helping them achieve desired outcomes.

(d) Provide a part of a wraparound continuum of services, in conjunction with other community mental health services and other substance use disorder services.

(e) Collaborate with others providing care or support to the beneficiary or amily.

(f) Assist parents, when applicable, in developing coping mechanisms and problem-solving skills.

(g) Provide an individualized focus on the beneficiar , the family, or both, as needed.

(h) Encourage employment under the peer, parent, transition-age, and family support specialist certification program to reflect the culture, ethnicity, sexual orientation, gender identity, mental health service experiences, and substance use disorder experiences of the people whom they serve.

(i) Promote socialization, recovery, self-sufficien y, self-advocacy, development of natural supports, and maintenance of skills learned in other support services.

14045.13. For purposes of this article, the following definition shall apply:

(a) "Adult peer support specialist" means a person who is 18 years of age or older and who has self-identified as having lived experience of recovery from mental illness, substance use disorder, or both, and the skills learned in formal trainings to deliver peer support services in a behavioral setting to promote mind-body recovery and resiliency for adults.

(b) "Certification" means, as it pertains to the peer, parent, transition-age, and family support specialist certification program, all federal and state requirements have been satisfied, federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) is available, and all necessary federal approvals have been obtained.

(c) "Certified" means all federal and state requirements have been satisfied by an individual who is seeking designation under this article, including completion of curriculum and training requirements, testing, and agreement to uphold and abide by the code of ethics.

(d) "Certification examination" means the competency testing requirements, as approved by the department, an individual is required to successfully complete as a condition of becoming certified under this article. Each training program approved by the department may develop a unique competency examination for each category of peer, parent, transition-age, and family support specialist listed in subdivision (b) of Section 14045.14. Each certification examination shall include core curriculum elements.

(e) "Code of ethics" means the professional standards each certified peer, parent, transition-age, and family support specialist listed in subdivision (b) of Section 14045.14 is required to agree to uphold and abide by. These professional standards shall include principles, expected behavior and conduct of the certificate holder in an agreed-upon statement that is required to be provided to the applicant and acknowledged by signing with his or her personal signature prior to being granted certification under this article

(f) "Core competencies" are the foundational and essential competencies required by each category of peer, parent, transition-age, and family support specialists listed in subdivision (b) of Section 14045.14 who provide peer support services.

(g) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system or agency that enables that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates, at all levels, the importance of language and culture, intersecting identities, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, expansion of cultural knowledge, and adaptation of services to meet culturally unique needs to provide services in a culturally competent manner.

(h) "Family peer support specialist" means a person with lived experience as a self-identified family member of an individual experiencing mental illness, substance use disorder, or both, and the skills learned in formal trainings to assist and empower families of individuals experiencing mental illness, substance use disorder, or both. For the purposes of this subdivision, "family member" includes a sibling or kinship caregiver, and their partners.

(i) "Parent" means a person who is parenting or has parented a child or individual experiencing mental illness, substance use disorder, or both, and who can articulate his or her understanding of his or her experience with another parent or caregiver. This person may be a birth parent, adoptive parent, or family member standing in for an absent parent.

(j) "Parent peer support specialist" means a parent with formal training to assist and empower families parenting a child or individual experiencing mental illness, substance use disorder, or both.

(k) "Peer support specialist services" means culturally competent services that promote engagement, socialization, recovery, self-sufficien y, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services. Peer support specialist services shall include, but are not limited to, support, coaching, facilitation, and education to Medi-Cal beneficiaries that is individualized to the beneficiary and is conducted by a certified adult peer support specialist, a certified transition-age youth peer support specialist, a certified family peer support specialist, or a certified parent peer support specialist.

(*l*) "Recovery" means a process of change through which an individual improves his or her health and wellness, lives a self-directed life, and strives to reach his or her full potential. This process of change recognizes cultural diversity and inclusion, and honors the different routes to resilience and recovery based on the individual and his or her cultural community.

(m) "Transition-age youth peer support specialist" means a person who is 18 years of age or older and who has self-identifie as having lived experience of recovery from mental illness, substance use disorder, or both, and the skills learned in formal trainings to deliver peer support services in a behavioral setting to promote mind-body recovery and resiliency for transition-age youth, including adolescents and young adults.

14045.14. No later than July 1, 2017, the department, as the sole state Medicaid agency, shall establish a peer, parent, transition-age, and family support specialist certification program that, at a minimum, shall do all of the following:

(a) Establish a certifying body, either within the department, through contract, or through an interagency agreement, to provide for the certification of peer, parent, transition-age, and family support specialists as described in this article.

(b) Provide for a statewide certification for each of the following categories of peer support specialists, as contained in federal guidance issued by the Centers for Medicare and Medicaid Services, State Medicaid Director Letter (SMDL) #07-011:

(1) Adult peer support specialists, who may serve individuals across the lifespan.

(2) Transition-age youth peer support specialists.

(3) Family peer support specialists.

(4) Parent peer support specialists.

(c) Define the range of responsibilities and practice guidelines for the categories of peer support specialists listed in subdivision ~~(b).~~ *(b), by utilizing best practice materials published by the federal Substance Abuse and Mental Health Services Administration, the federal Department of Veterans Affairs, and related notable experts in the field as a basis for d velopment.*

(d) Determine curriculum and core competencies, including curriculum that may be offered in areas of specialization, such as older adults, veterans, family support, forensics, whole health, juvenile justice, youth in foster care, sexual orientation, gender identity, and any other areas of specialization identified by the department. Specialized curriculum shall be determined for each of the categories of peer, parent, transition-age, and family support specialists listed in subdivision (b). Core competencies-based curriculum shall include, at a minimum, all of the following elements:

(1) The concepts of hope, recovery, and wellness.

(2) The role of advocacy.

(3) The role of consumers and family members.

(4) Psychiatric rehabilitation skills and service delivery, and addiction recovery principles, including defined practices

(5) Cultural competence training.

(6) Trauma-informed care.

(7) Group facilitation skills.

(8) Self-awareness and self-care.

(9) Cooccurring disorders of mental health and substance use.

(10) Conflict resolution

(11) Professional boundaries and ethics.

(12) Safety and crisis planning.

(13) Navigation of, and referral to, other services.

(14) Documentation skills and standards.

(15) Study and test-taking skills.

(e) Specify training requirements, including core-competencies-based training and specialized training necessary to become certified under this article, allowing for multiple qualified training entities, and requiring training to include people with lived experience as consumers and family members.

(f) Specify required continuing education requirements for certification

(g) Determine clinical supervision requirements for personnel certified under this article, that shall require, at a minimum, personnel certified pursuant to this article to work under the direction of a mental health rehabilitation ~~specialist~~ *specialist, as defined in Section 782.35 of Title 9 of the California Code of Regulations,* or substance use disorder professional. *A licensed mental health professional, as defined in Section 782.26 of Title 9 of the California Code of Regulations, may also provide supervision.*

(h) Establish a code of ethics.

(i) Determine the process for certification ren wal.

(j) Determine a process for revocation of certification

(k) Determine a process for allowing existing personnel employed in the peer support field to obtain certification under this article, at their option.

14045.15. In order to be certified as an adult peer support specialist, an individual shall, at a minimum, satisfy all of the following requirements:

(a) Be at least 18 years of age.

(b) Have or have had a primary diagnosis of mental illness, substance use disorder, or both, which is self-disclosed.

(c) Have received or is receiving mental health services, substance use disorder services, or both.

(d) Be willing to share his or her experience of recovery.

(e) Demonstrate leadership and advocacy skills.

(f) Have a strong dedication to recovery.

(g) Agree to uphold and abide by a code of ethics. A copy of the code of ethics shall be signed by the applicant.

(h) Successful completion of the curriculum and training requirements for an adult peer support specialist.

(i) Pass a certification examination approved by the department for an adult peer support specialist.

(j) Successful completion of any required continuing education, training, and recertification requirements

14045.16. In order to be certified as a transition-age youth peer support specialist, an individual shall, at a minimum, satisfy all of the following requirements:

(a) Be at least 18 years of age.

(b) Have or have had a primary diagnosis of mental illness, substance use disorder, or both, which is self-disclosed.

(c) Have received or is receiving mental health services, substance use disorder addiction services, or both.

(d) Be willing to share his or her experience of recovery.

(e) Demonstrate leadership and advocacy skills.

(f) Have a strong dedication to recovery.

(g) Agree to uphold and abide by a code of ethics. A copy of the code of ethics shall be signed by the applicant.

(h) Successful completion of the curriculum and training requirements for a transition-age youth peer support specialist.

(i) Pass a certification examination approved by the department for a transition-age youth peer support specialist.

(j) Successful completion of any required continuing education, training, and recertification requirements

14045.17. In order to be certified as a family peer support specialist, an individual shall, at a minimum, satisfy all of the following requirements:

(a) Be at least 18 years of age.

(b) Be self-identified as a family member of an individual experiencing mental illness, substance use disorder, or both.

(c) Be willing to share his or her experience.

(d) Demonstrate leadership and advocacy skills.

(e) Have a strong dedication to recovery.

(f) Agree to uphold and abide by a code of ethics. A copy of the code of ethics shall be signed by the applicant.

(g) Successful completion of the curriculum and training requirements for a family peer support specialist.

(h) Pass a certification examination approved by the department for a family peer support specialist.

(i) Successful completion of any required continuing education, training, and recertification requirements

14045.18. In order to be certified as a parent peer support specialist, an individual shall, at a minimum, satisfy all of the following requirements:

(a) Be at least 18 years of age.

(b) Be self-identified as a parent, as defined in Section 14045.13.

(c) Be willing to share his or her experience.

(d) Demonstrate leadership and advocacy skills.

(e) Have a strong dedication to recovery.

(f) Agree to uphold and abide by a code of ethics. A copy of the code of ethics shall be signed by the applicant.

(g) Successful completion of the curriculum and training requirements for a parent peer support specialist.

(h) Pass a certification examination approved by the department for a parent peer support specialist.

(i) Successful completion of any required continuing education, training, and recertification requirements

14045.19. This article shall not be construed to imply that an individual who is certified pursuant to this article is qualified to, or authorize that individual to, diagnose an illness, prescribe medication, or provide clinical services.

14045.20. The department shall closely collaborate with the Office of Statewide Health Planning and Development (OSHPD) and its associated workforce collaborative, and regularly consult with interested stakeholders, including peer support and family organizations, mental health and substance use disorder services providers and organizations, the County Behavioral Health Directors Association of California, health plans participating in the Medi-Cal managed care program, the California Mental Health Planning Council, and other interested parties in developing, implementing, and administering the peer, parent, transition-age, and family support specialist certification program established pursuant to this article. This consultation shall initially include, at a minimum, bimonthly stakeholder meetings, which may also include technical workgroup meetings. The department may seek private funds from a nonprofit organization or foundation for this purpose.

14045.21. The department may contract to obtain technical assistance for the development of the peer, parent, transition-age, and family support specialist certification program, as provided in Section 4061.

14045.22. (a) The department shall amend its Medicaid state plan to do both of the following:

(1) Include each category of peer, parent, transition-age, and family support specialist listed in subdivision (b) of Section 14045.14 certified pursuant to this article as a provider type for purposes of this chapter.

(2) Include peer support specialist services as a distinct service type for purposes of this chapter, which may be provided to eligible Medi-Cal beneficiaries who are enrolled in either a Medi-Cal

managed mental health care plan or a Medi-Cal managed care health plan.

(b) The department may seek any federal waivers or other state plan amendments as necessary to implement the certificatio program provided for under this article.

(c) ~~This article~~ *Medi-Cal reimbursement for peer support services* shall be implemented only if and to the extent that federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) is available and all necessary federal approvals have been obtained.

14045.23. To facilitate early intervention for mental health services, community health workers may partner with peer, parent, transition-age, and family support specialists for engagement, outreach, and education.

14045.24. It is not the intent of the Legislature in enacting this article to modify the Medicaid state plan in any manner that would otherwise change or nullify the requirements, billing, or reimbursement of the "other qualified provider" provider type, as currently authorized by the Medicaid state plan.

14045.25. The department may utilize Mental Health Services Act funds, as authorized in subdivision (d) of Section 5892, and any designated Workforce Education and Training Program resources, including funding, as administered by OSHPD pursuant to Section 5820, to develop and administer the peer, parent, transition-age, and family support specialist certification program. ~~These~~ *Further, these* Mental Health Service Act funds may *then* serve as the state's share of funding to develop and administer the peer, parent, transition-age, and family support specialist certification program and shall be available for purposes of claiming federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) once all necessary federal approvals have been obtained.

14045.251. The department may establish a certification fee schedule and may require remittance as contained in the certification fee schedule for the purpose of supporting the department's activities associated with the ongoing state administration of the peer, parent, transition-age, and family support specialist certification program. The department shall utilize all funding resources as made available in Section 14045.25 fi st, prior to determining the need for the certification fee schedule

and requiring the remittance of fees. It is the intent of the Legislature that any certification fees charged by the department be reasonable and reflect the expenditures directly applicable to the ongoing state administration of the peer, parent, transition-age and family support specialist certification p ogram.

14045.26. For the purposes of implementing this article, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis, including contracts for the purpose of obtaining subject matter expertise or other technical assistance. Contracts may be statewide or on a more limited geographic basis.

14045.27. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specifi this article by means of plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until the time regulations are adopted. The department shall adopt regulations by July 1, 2019, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding Section 10231.5 of the Government Code, beginning six months after the effective date of this article, the department shall provide semiannual status reports to the Legislature, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

SEC. 2. The Legislature finds and declares that this act clarifie procedures and terms of the Mental Health Services Act within the meaning of Section 18 of the Mental Health Services Act.

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California Mental Health Planning Council

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PEER CERTIFICATION:

WHAT ARE WE WAITING FOR?

- Advocacy
- Evaluation
- Inclusion

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

February 2015

[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]

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[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 investment[6].

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]

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[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 respites 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 MHSA 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.

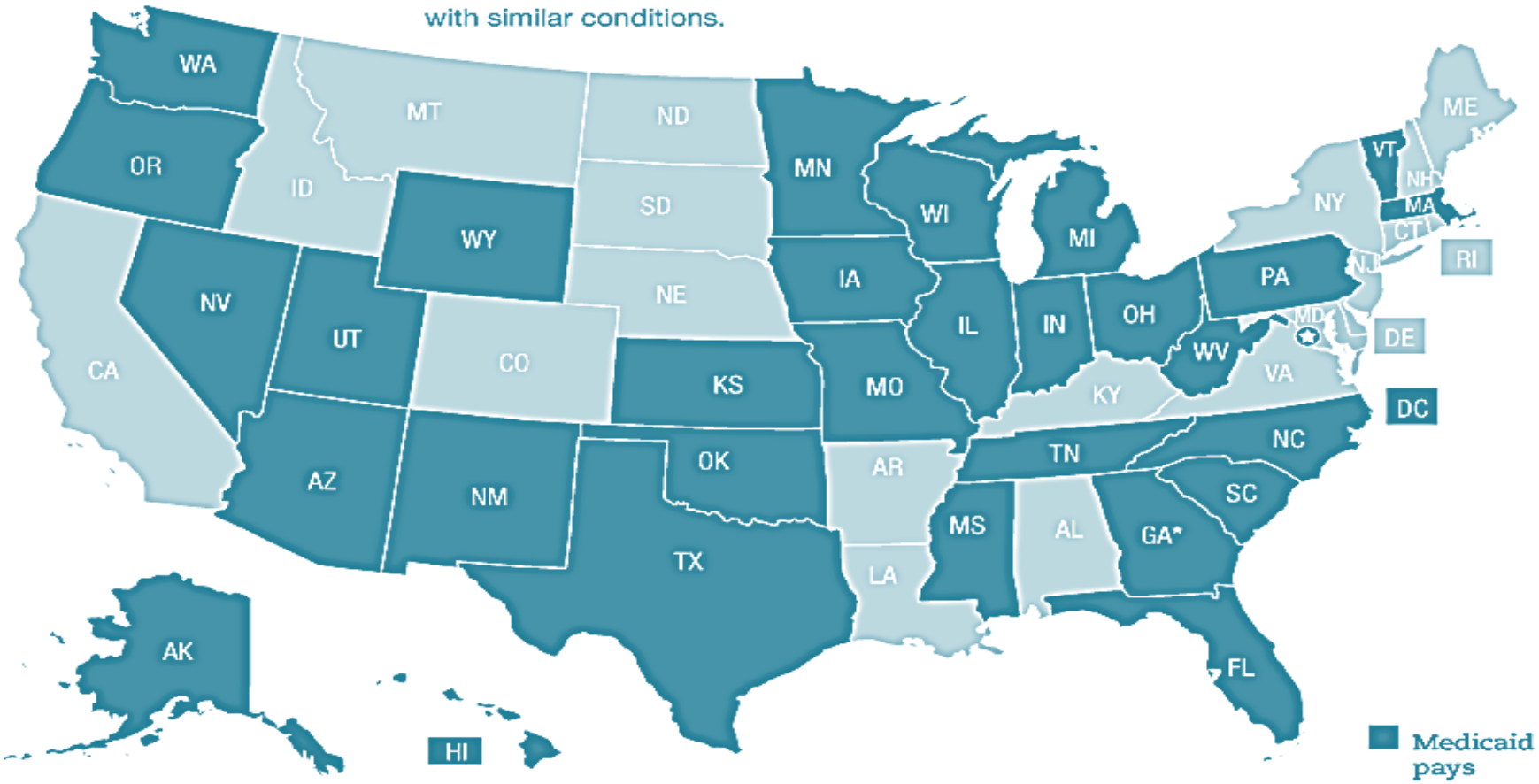
The CMHPC has been following and supporting the efforts of Inspired at Work, California Association of Mental Health Peer Run Organizations (CAMHPRO), United Advocates for Children and Families (UACF), National Alliance on Mental Illness (NAMI) and the former Working Well Together Group to bring this 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,

STATELINE INFOGRAPHIC

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

http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2013/09/11/peers-seen-easing-mental-health-worker-shortage#map

2013

Final Report: Recommendations from the Statewide Summit on Certification of Peer Providers

Working Well Together
Training and Technical Assistance Center

Report prepared for CAMHPRO-PEERS
under Working Well Together
by Inspired at Work
Lucinda Dei Rossi, MPA, CPRP and
Debra Brasher, MS, CPRP

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We'd like to specially recognize Karin Lettau for her diligence, hard work and grace in ensuring that all stakeholders felt heard and understood throughout the process.

DISCLAIMER

The views expressed in this publication do not necessarily reflect the views of the Office of Statewide Health Planning and Development.

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Executive Summary

Working Well Together is the only statewide organization dedicated to transforming systems to be client and family-driven by supporting the sustained development of client, family member and parent/caregiver employment within every level of the public mental health workforce. As part of this effort Working Well Together has, for the last three years, engaged in researching and evaluating the feasibility of inclusion of Peer Support into a State Plan Amendment for Specialty Mental Health services. This three year effort has included thorough state-wide and national research and extensive stakeholder involvement and has yielded seventeen recommendations for the development of Peer Support as an integral service within the public mental health system.

The statewide survey conducted to evaluate the current practice of hiring consumers and family members into the mental health workforce revealed that most counties have indeed hired people with lived experience of a mental health challenge or parents/family members of individuals with a mental health issue into the mental health workforce. However the survey also revealed that there remain significant workforce issues that must be addressed. Of the thirty responding counties that hire people with lived experience, none required previous training or education beyond a high school diploma as a qualification for hire. This was found to be true even in counties that have developed excellent training programs for Peer Support. Additional findings revealed that a variety of generalist job titles are used to hire Peer Support Specialists, job duties and descriptions vary widely and may or may not include peer support as a job duty.

The stakeholder process exposed a number of workforce issues that must be addressed to further the professional development of Peer Support as a discipline and Peer Support Specialists as practitioners. Perhaps the most pressing issue is the lack of a definition and/or understanding of Peer Support. While most counties have hired individuals with lived experience as well as parents and family members to provide services, many of these practitioners are providing services that are traditionally considered "case management" and include collateral, targeted case management and rehabilitation services. Another identified trend was the use of peer employees as clerical support, transportation providers and social or recreational activities support. Interestingly, while many of these practitioners are providing billable services within the scope of practice of "Other Qualified Provider", very few

counties (approximately nine) are billing Medi-Cal for these services. Going forward it is vital that Peer Support is identified as a separate and distinct service from other services provided under the current definitions of Specialty Mental Health services. Additional workforce issues identified by stakeholders necessary to advance the development for and respect of Peer Support include the;

1. Creation of welcoming environments that embrace these practitioners.
2. Development of multi-disciplinary teams that respect this new discipline.
3. Education and training of County Directors and Administration as well as the existing workforce on the value, role and legitimacy of peer support.
4. Training and acceptance of Medi-Caid approved use of recovery/resilience/wellness language in documentation.

While stakeholders strongly support the inclusion of peer support into a State Plan Amendment, they also support flexibility in what services individuals with lived experience can provide within the mental health system. Stakeholders strongly support career ladders that include non-certified peer providers as well as people with lived experience continuing their education and advancing into existing positions traditionally used in mental health settings, including supervision and management as well as the development of career ladders that include advancement opportunities within the practice of peer support. In short, stakeholders support maximum flexibility in what people with lived experience can provide and bill for within the existing State Plan as well as the inclusion of peer support as a new service category.

Stakeholders also emphasize the importance of recognizing that there are a number of services that enhance wellness and recovery/resiliency that peers may provide but that may not be reimbursed by Medi-Caid. It will be vital, when considering adding peer support as a new service, that reimbursement for peer support services not become the primary driving focus when offering/providing these services to clients and their families.

Working Well Together has engaged stakeholders in on-going teleconferences, webinars, work-groups, and five regional stakeholder meetings to provide feedback and recommendations that will support the requirements as laid out by the CMS letter regarding inclusion of peer support as a part of services provided under Specialty Mental Health. This resulted in several recommendations in support of the development of a statewide

Certification for Peer Support Specialists. In May of 2013 a final Statewide Stakeholder Summit was convened to provide further vetting with the goal of finalizing recommendations for the inclusion of peer support into the State Plan Amendment as well as the development of a statewide Certification for Peer Support Specialists. By and large the vast majority of stakeholders support the original recommendations, however, where appropriate, adjustments have been made in alignment with stakeholder feedback. Also where appropriate, additional edits to specific recommendations have been made to provide clarity. The seventeen recommendations are listed below.

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Final Stakeholder Recommendations regarding Certification of Peer Support Specialists

Recommendation 1

Develop a statewide certification for Peer Support Specialists, to include:

- Adult Peer Support Specialists
- Young Adult Peer Support Specialists
- Older Adult Peer Support Specialists
- Family Peer Support Specialists (Adult Services)
- Parent Peer Support Specialists (Child/Family Services)

1.1 Require Peer Support Specialists to practice within the adopted Peer Support Specialist Code of Ethics.

1.1.1 Seek final approval of Peer Support Code of Ethics by the Governing Board of Working Well Together.

1.2 Develop or adopt standardized content for a state-wide curriculum for training Peer Support Specialists.

1.3 Require a total of 80 hours of training for Peer Support Specialist Certification.

1.3.1 55-hour core curriculum of general peer support education that all peer support specialists will receive as part of the required hours towards certification.

1.3.2 25-hours of specialized curriculum specific to each Peer Support Specialist category.

1.4 Require an additional 25 hours of training to become certified in a specialty area such as forensics, co-occurring services, whole health and youth in foster care.

1.5 Require six months full-time equivalent experience in providing peer support services.

1.5.1 This experience can be acquired through employment, volunteer work or as part of an internship experience.

1.6 Require 15 hours of CEU's per year in subject matter relevant to peer support services to maintain certification.

1.7 Require re-certification every three years.

1.8 Allow a grandfathering-in process in lieu of training.

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1.8.1 Require one year of full-time equivalent employment in peer support services.

1.8.2 Require three letters of recommendation. One letter must be from a supervisor. The other letters may come from co-workers or people served.

1.9 Require an exam to demonstrate competency.

1.9.1 Provide test-taking accommodations as needed.

1.9.2 Provide the exam in multiple languages and assure cultural competency of exam.

Recommendation 2

Identify or create a single certifying body that is peer-operated and/or partner with an existing peer-operated entity with capacity for granting certification.

Recommendation 3

Include Peer Support as a service and Peer Support Specialist as a provider type within a new State Plan Amendment.

3.1 Seek adoption of the definitions of Peer Support Specialist providers and Peer Support services by the Governing Board of Working Well Together for use within the State Plan Amendment.

3.2 Maintain the ability for people with lived experience to provide services as "other qualified provider" within their scope of practice, including but not limited to rehabilitation services, collateral and targeted case management.

3.2 Acknowledge that there are important and non-billable services that Peer Support Specialists can and do provide.

Recommendation 4

Include in the State Plan the ability to grant site certification for peer-operated agencies to provide billable peer support services.

4.1 Allow for peer-operated agencies to provide other services billable under "other qualified provider" within their scope of practice, including but not limited to rehabilitation services, collateral and targeted case management.

Recommendation 5

Address the concern that current practice of documentation for billing may not be aligned with the values and principles of peer support and a wellness, recovery and resiliency orientation.

5.1 Engage with partners such as Department of Health Care Services and the California Mental Health Director's Association in order to develop an action plan to advocate for the use of CMS-approved recovery/resiliency-oriented language in documentation.

Recommendation 6

Investigate the options for broadening the definition of "service recipient" to include parents and family members of minors receiving services so that peer support services can be accessed more easily.

Recommendation 7

Convene a working group consisting of Working Well Together, the Mental Health Directors, the Office of Statewide Healthcare Planning and Development (OSHPD) and the Department of Health Care Services to develop buy-in and policies that will create consistency of practice regarding peer support services across the state.

Recommendation 8

Develop standards and oversight for the provider/entity that provides training of Peer Support Specialists.

8.1 Allow for multiple qualified training entities.

8.2 Training organizations must demonstrate infrastructure capacity that will allow for peer trainers.

8.3 Training must be provided by either individuals with lived experience or by a team that includes individuals with lived experience.

Recommendation 9

Establish qualifications for who may supervise Peer Support Specialists.

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9.1 Engage with the Mental Health Directors to develop a policy that outlines key qualifications necessary for the supervision of Peer Support Specialists.

9.2 Preferred supervisors are those individuals with lived experience and expertise in peer support.

9.3 Due to capacity issues, supervisors may include qualified people who receive specific training on the role, values and philosophy of peer support.

9.4 Recognize and define the specific qualities and skills within supervision that are required for the supervision of Peer Support Specialists. These skills should align with the values and philosophy of peer support.

Recommendation 10

Develop a plan to provide extensive and expansive training on the values, philosophy and efficacy of peer support to mental health administration and staff.

Recommendation 11

Develop a plan to ensure that welcoming environments are created that embrace the use of multi-disciplinary teams that can incorporate Peer Support Specialists fully onto mental health teams.

Recommendation 12

Develop a policy statement that recognizes and defines the unique service components of peer support as separate and distinct from other disciplines and services in order to maintain the integrity of peer support services.

Recommendation 13

Develop a policy statement and plan that supports the professional development of Peer Support Specialists that allows the practitioner to maintain and hone his/her professional values, ethics and principles.

Recommendation 14

Develop a plan for funding the development of certification.

14.1 Work with the Office of Statewide Healthcare Planning and Development to utilize

state-wide monies from the MHSA Workforce, Education and Training fund.

14.2 Investigate other potential funding sources.

14.3 Develop recommendations for funding of components of certification such as financial assistance with training, exam and certification fees.

Recommendation 15

Seek representation on committees and workgroups that are addressing civil service barriers to the employment of Peer Support Specialists.

Recommendation 16

Work with Mental Health Directors to seek agreement on a desired workforce minimum of Peer Support Specialists within each county to more fully actualize the intent of the MHSA.

Recommendation 17

Develop state-wide models that can inform county leadership on the development of career ladders for Peer Support Specialists that begin with non-certified Peer Support Specialists and creates pathways into management and leadership positions.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1034 **VERSION:** INTRODUCED FEBRUARY 12, 2016

AUTHOR: MITCHELL **SPONSOR:**
- AUTISM SPEAKS
- CENTER FOR AUTISM AND RELATED DISORDERS
- SPECIAL NEEDS NETWORK

RECOMMENDED POSITION: NONE

SUBJECT: HEALTH CARE COVERAGE: AUTISM

Summary:

This bill would delete the sunset date on the law that requires health care service plans or insurance policies to provide coverage for behavioral health treatment for pervasive development disorder or autism. It would also make some relatively minor adjustments to this law in areas that have been identified as needing further clarification.

Existing Law:

1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). (Health and Safety Code (HSC) §1374.73(a), Insurance Code (IC) §10144.51(a))

2) Requires these health care service plans and health insurers subject to this provision to maintain an adequate network of qualified autism service providers. (HSC §1374.73(b), IC §10144.51(b))

3) Defines "behavioral health treatment" as professional services and treatment programs, <u>including applied behavior analysis and evidence-based behavior intervention programs</u>, which <u>develop or restore</u> the functioning of an individual with pervasive developmental disorder or autism, and meets the following criteria (HSC §1374.73(c), IC §10144.51(c):

    a) Is prescribed by a licensed physician and surgeon or is developed by a licensed psychologist;

    b) Is provided under a treatment plan prescribed by a qualified autism service provider and administered by such a provider or by a qualified autism service professional under supervision and employment of a qualified autism service provider;

    c) The treatment plan has measurable goals over a specific timeline and the plan is reviewed by the provider at least once every six months; and

d) Is not used for purposes of providing or for the reimbursement of respite, day care, or educational services.

4) Defines a “qualified autism service provider” as either (HSC §1374.73(c), IC §10144.51(c)):

   a) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited and which designs, supervises, or provides treatment for pervasive developmental disorder or autism; or

   b) A person who is licensed as a specified healing arts practitioner, including a psychologist, marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor. The licensee must design, supervise, or provide treatment for pervasive developmental disorder or autism and be within his or her experience and competence.

5) Defines a “qualified autism service professional” as someone who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):

   a) Provides behavioral health treatment;

   b) Is employed and supervised by a qualified autism service provider;

   c) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider.

   d) Is a behavioral service provider approved by a regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations (CCR); and

   e) Has training and experience providing services for pervasive developmental disorder or autism pursuant to the Lanterman Developmental Disabilities Services Act.

6) Defines a “qualified autism service paraprofessional” as an unlicensed and uncertified person who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):

   a) Is employed and supervised by a qualified autism service provider;

   b) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider;

   c) Meets criteria set forth in regulations regarding use of paraprofessionals in group practice providing behavioral intervention services; and

d) Is certified by a qualified autism service provider as having adequate education, training, and experience.

7) Defines vendor service codes and sets requirements for regional centers to classify the following professions (CCR 17 §54342):

a) Associate Behavior Analysts;

b) Behavior Analysts;

c) Behavior Management Assistants;

d) Behavior Management Consultants; and

e) Behavior Management Programs.

8) Sunsets all of these provisions on January 1, 2017 (HSC §1374.73, IC §§10144.51, 10144.52)

This Bill:

1) Removes the January 1, 2017 sunset date on all of the above provisions, so that health service plans and insurance policies will be required to provide coverage for behavioral health treatment for PDD/A indefinitely. (HSC §1374.73, IC §§10144.51, 10144.52)

2) Makes a change to the definition of "behavioral health treatment" to clarify that it includes not only behavior analysis, but also other evidence-based behavior intervention programs. Also specifies that behavioral health treatment involves maintaining functioning of an individual with PDD/A. (HSC §1374.73(c), IC §10144.51(c))

3) Limits unnecessary treatment plan reviews by stating that a review shall take place no more than once every six months, unless a shorter period is recommended by the autism service provider. (HSC §1374.73(c), IC §10144.51(c))

4) Requires that medically necessary behavioral health treatment must be covered in all settings regardless of time or location of delivery. (HSC §1374.73(c), IC §10144.51(c))

5) Makes minor adjustments to the definitions of "qualified autism service professional" and "qualified autism service paraprofessional." (HSC §1374.73(c), IC §10144.51(c))

6) Removes the requirement currently in law that qualified autism service professionals must be approved as a vendor by a California regional center. However, it still requires them to meet the same education and experience requirements as those that work in regional centers. (HSC §1374.73(c), IC §10144.51(c))

Comments:

1) **Author's Intent.** The author's office states that originally, when SB 946 was signed in 2011 to require health plans and insurance policies to cover treatment for PDD/A, the bill included a sunset date because there was uncertainty regarding upcoming changes to mandated health benefits, the Affordable Care Act, and the State's fiscal responsibility for benefits. At the time, the Legislature was awaiting federal guidance on how to implement essential health benefits under the Affordable Care Act. This guidance has now been provided, and several uncertainties regarding health care coverage and the state's role have been clarified.

   Therefore, the author's office believes that it is now appropriate to remove the sunset date completely, ensuring that children with autism will continue receiving insurance coverage for medically necessary behavioral health treatment.

2) **Related Legislation.** The California Association for Behavior Analysis is currently sponsoring a bill proposal (AB 1715, Holden), which would create a licensure category for behavior analysts and assistant behavior analysts under the Board of Psychology.

   AB 796 (Nazarian) requires that the Board of Psychology form a committee in order to develop a list of behavioral health evidence-based treatment modalities for individuals with pervasive development disorder or autism.

3) **Previous Legislation.** SB 946 (Chapter 650, Statues of 2011) requires every health care service plan contract and insurance policy that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for PDD/A.

   SB 126 (Chapter 680, Statutes of 2013) extended the provisions of SB 946 until January 1, 2017.

4) **Support and Opposition.**

Support:
- Autism Speaks (Co-Sponsor)
- Center for Autism and Related Disorders (Co-Sponsor)
- Special Needs Network (Co-Sponsor)

Oppose:
- None at this time.

5) **History**

2016
02/25/16 Referred to Com. on HEALTH.
02/16/16 From printer. May be acted upon on or after March 17.
02/12/16 Introduced. Read first time. To Com. on RLS. for assignment. To print.

SENATE BILL No. 1034

Introduced by Senator Mitchell

February 12, 2016

An act to amend Section 1374.73 of the Health and Safety Code, and to amend Sections 10144.51 and 10144.52 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1034, as introduced, Mitchell. Health care coverage: autism.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A violation of those provisions is a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance.

Existing law requires every health care service plan contract and health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism until January 1, 2017, and defines "behavioral health treatment" to mean specifie services provided by, among others, a qualified autism service professional supervised and employed by a qualified autism service provider. Existing law defines a "qualified autism service professional" to mean a person who, among other requirements, is a behavior service provider approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program pursuant to specified regulations adopted under the Lanterman Developmental Disabilities Services Act. Existing law requires a treatment plan to be reviewed no less than once every 6 months.

This bill would, among other things, modify requirements to be a qualified autism service professional to include providing behavioral

health treatment, such as clinical management and case supervision. The bill would require that a treatment plan be reviewed no more than once every 6 months, unless a shorter period is recommended by the qualified autism service provider. The bill would extend the operation of these provisions indefinitel . The bill would make conforming changes.

By extending the operation of these provisions, the violation of which by a health care service plan would be a crime, the bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 1374.73 of the Health and Safety Code
2 is amended to read:
3 1374.73. (a) (1) Every health care service plan contract that
4 provides hospital, medical, or surgical coverage shall also provide
5 coverage for behavioral health treatment for pervasive
6 developmental disorder or autism no later than July 1, 2012. The
7 coverage shall be provided in the same manner and shall be subject
8 to the same requirements as provided in Section 1374.72.
9 (2) Notwithstanding paragraph (1), as of the date that proposed
10 final rulemaking for essential health benefits is issued, this section
11 does not require any benefits to be provided that exceed the
12 essential health benefits that all health plans will be required by
13 federal regulations to provide under Section 1302(b) of the federal
14 Patient Protection and Affordable Care Act (Public Law 111-148),
15 as amended by the federal Health Care and Education
16 Reconciliation Act of 2010 (Public Law 111-152).
17 (3) This section shall not affect services for which an individual
18 is eligible pursuant to Division 4.5 (commencing with Section
19 4500) of the Welfare and Institutions Code or Title 14
20 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Every health care service plan subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise ~~and employ~~ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health care service plan from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definition shall apply:

(1) "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and *other* evidence-based behavior intervention programs, that ~~develop~~ *develop, maintain,* or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service pr vider.

(ii) A qualified autism service professional supervised ~~and employed~~ by the qualified autism service pr vider.

(iii) A qualified autism service paraprofessional supervised ~~and employed~~ by a qualified autism service pr vider.

(C) The treatment plan has measurable goals over a specifi timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no ~~less~~ *more* than once every six months by the qualified autism service ~~provider~~ *provider, unless a shorter*

period is recommended by the qualified autism service provider, and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments or developmental challenges that are to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent *or caregiver* participation *recommended by the qualified autism service provider,* needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported. *Lack of parent or caregiver participation shall not be used to deny or reduce medically necessary behavioral health treatment.*

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical effica y in treating pervasive developmental disorder or autism.

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer ~~appropriate.~~ *appropriate, and continued therapy is not necessary to maintain function or prevent deterioration.*

(D) *(i)* The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. ~~The~~

(ii) Notwithstanding the clause (i), all medically necessary behavioral health treatment shall be covered in all settings regardless of time or location of delivery.

(iii) The treatment plan shall be made available to the health care service plan upon request.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 1374.72.

(3) "Qualified autism service provider" means either of the following:

(A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within

the experience and competence of the person, entity, or group that is nationally certified

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health ~~treatment.~~ *treatment, including clinical management and case supervision.*

(B) Is ~~employed and~~ supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service pr vider.

(D) Is a behavioral service provider ~~approved as a vendor by a California regional center to provide services as~~ *who meets the education and experience qualifications defined in Section 5432 of Title 17 of the California Code of Regulations for* an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management ~~Program as defined in Section 54342 of Title 17 of the California Code of Regulations.~~ *Program.*

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(5) "Qualified autism service paraprofessional" means an unlicensed and uncertified individual who meets all of the following criteria:

(A) Is ~~employed and~~ supervised by a qualified autism service provider.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service ~~provider.~~ *provider or qualified autism service professional.*

(C) Meets the ~~criteria set forth~~ *education and experience qualifications define* in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

(D) Has adequate education, training, and experience, as certified by a qualified autism service p vider.

(d) This section shall not apply to the following:

(1) A specialized health care service plan that does not deliver mental health or behavioral health services to enrollees.

(2) A health care service plan contract in the ~~Medi~~ *MDI*-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

~~(3) A health care service plan contract in the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code).~~

~~(4) A health care benefit plan or contract entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).~~

(e) ~~Nothing in this section shall be construed to~~ *This section does not* limit the obligation to provide services ~~under~~ *pursuant to* Section 1374.72.

(f) As provided in Section 1374.72 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health care service plan may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

~~(g) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.~~

SEC. 2. Section 10144.51 of the Insurance Code is amended to read:

10144.51. (a) (1) Every health insurance policy shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 10144.5.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the

essential health benefits that all health insurers will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Pursuant to Article 6 (commencing with Section 2240) of Title 10 of the California Code of Regulations, every health insurer subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise ~~and employ~~ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health insurer from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definition shall apply:

(1) "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and *other* evidence-based behavior intervention programs, that ~~develop~~ *develop, maintain,* or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service pr vider.

(ii) A qualified autism service professional supervised ~~and employed~~ by the qualified autism service pr vider.

(iii) A qualified autism service paraprofessional supervised ~~and employed~~ by a qualified autism service pr vider.

(C) The treatment plan has measurable goals over a specifi timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no ~~less~~ *more* than once every six months by the qualified autism service ~~provider~~ *provider, unless a shorter period is recommended by the qualified autism service provider,* and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments or developmental challenges that are to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent *or caregiver* participation *recommended by a qualified autism service provider* needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported. *Lack of parent or caregiver participation shall not be used to deny or reduce medically necessary behavioral health treatment.*

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical effica y in treating pervasive developmental disorder or autism.

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer ~~appropriate.~~ *appropriate, and continued therapy is not necessary to maintain function or prevent deterioration.*

(D) *(i)* The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. ~~The~~

(ii) Notwithstanding the above, all medically necessary behavioral health treatment shall be covered in all settings regardless of time or location of delivery.

(iii) The treatment plan shall be made available to the insurer upon request.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 10144.5.

(3) "Qualified autism service provider" means either of the following:

(A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health ~~treatment.~~ *treatment, including clinical management and case supervision.*

(B) Is employed and supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service pr vider.

(D) Is a behavioral service provider ~~approved as a vendor by a California regional center to provide services as~~ *who meets the education and experience qualifications defined in Section 5432 of Title 17 of the California Code of Regulations for* an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management ~~Program as defined in Section 54342 of Title 17 of the California Code of Regulations.~~ *Program.*

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and

Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(5) "Qualified autism service paraprofessional" means an unlicensed and uncertified individual who meets all of the following criteria:

(A) Is ~~employed and~~ supervised by a qualified autism service provider.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service ~~provider.~~ *provider or qualified autism service professional.*

(C) Meets the ~~criteria set forth~~ *education and experience qualifications define* in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

(D) Has adequate education, training, and experience, as certified by a qualified autism service p vider.

(d) This section shall not apply to the following:

(1) A specialized health insurance policy that does not cover mental health or behavioral health services or an accident only, specified disease, hospital indemnity, or Medicare supplement policy.

(2) A health insurance policy in the ~~Medi~~ *MDI*-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

~~(3) A health insurance policy in the Healthy Families Program (Part 6.2 (commencing with Section 12693)).~~

~~(4) A health care benefit plan or policy entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).~~

~~(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 10144.5.~~

~~(f)~~

(e) As provided in Section 10144.5 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health insurer may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

~~(g) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.~~

SEC. 3. Section 10144.52 of the Insurance Code is amended to read:

10144.52. ~~(a)~~ For purposes of this part, the terms "provider," "professional provider," "network provider," "mental health provider," and "mental health professional" shall include the term "qualified autism service provider," as defined in subdivision (c) of Section 10144.51.

~~(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES
BILL ANALYSIS

BILL NUMBER: **SB 1101** **VERSION:** **AMENDED MARCH 28, 2016**

AUTHOR: **WIECKOWSKI** **SPONSOR:**

- **CA ASSOCIATION OF ALCOHOL & DRUG EDUCATORS**
- **CA CONSORTIUM OF ADDICTION PROGRAMS AND PROFESSIONALS**
- **CA ASSOCIATION OF DUI TREATMENT PROGRAMS**

RECOMMENDED POSITION: **NONE**

SUBJECT: **ALCOHOL AND DRUG COUNSELORS: REGULATION**

Summary:

This bill proposes licensing alcohol and drug counselors under the State Department of Health Care Services.

Existing Law:

1) Requires the Department of Health Care Services (DHCS) to review and certify alcohol and other drug programs meeting state standards, and to develop standards for ensuring minimal statewide levels of service quality provided by alcohol and other drug programs. (Health and Safety Code (HSC) §11755(k) and (l)).

2) Identifies 10 organizations as approved by DHCS to register and certify alcohol and drug counselors. (9 California Code of Regulations (CCR) §13035(a))

3) Requires these DHCS-approved certifying organizations to gain and maintain accreditation with the National Commission for Certifying Agencies (NCCA). (9 CCR §13035(c))

4) Requires all alcohol and drug (AOD) counselors providing counseling services in an AOD program to register to obtain certification as an AOD counselor with one of the approved certifying organizations within 6 months of their hire date. Certification must be completed within 5 years. (9 CCR §13035(f))

5) Sets minimum education and experience requirements that the certifying organizations must require, including the following (9 CCR §13040):

- At least 155 hours formal AOD education, covering specified topics;
- At least 160 hours supervised AOD training based on specified curriculum;
- At least 2,080 hours of work experience providing AOD counseling;
- Passage of a written or oral exam.

6) Prior to certifying a registrant as an AOD counselor, the certifying organization must contact all other DHCS-approved certifying organizations to determine if the registrant's certification was ever revoked. If revoked, the certifying organization must document reasons for granting or denying certification. (9 CCR §13045)

This Bill:

1) Provides for licensure of alcohol and drug counselors under the State Department of Health Care Services (DHCS). (HSC §1179.80)

2) Prohibits a person from using the "licensed alcohol and drug counselor" title unless they have obtained a license issued by DHCS. (HSC §1179.80(b))

3) Outlines the minimum qualifications for obtaining an alcohol and drug counselor license, as follows (HSC §1179.80(c)):

    a. Has a master's or doctoral degree from an accredited or approved school in a specified profession, including addiction counseling, psychology, social work, counseling, marriage and family therapy, or counseling psychology;

    b. The degree contained at least 21 semester units of addiction specific education approved by a DHCS-recognized certifying organization;

    c. Has passed an exam deemed acceptably by one of the DHCS's approved certifying organizations;

    d. Is currently credentialed as an advanced alcohol and drug counselor in good standing with one of the certification organizations recognized by DHCS, with no history of revocation;

    e. Can document completion of certain specified coursework; and

    f. Submits to a state and federal criminal background check.

4) Allows for a one year grandparenting period. During the one-year period, applicants with 12,000 experience hours are exempted from the degree requirements, the exam requirements, and the specified coursework requirements. However, such applicants must pass the exam within one year of the end of their licenses' first renewal period. (HSC §1179.81)

5) Provides that a license for an alcohol and drug counselor is valid for two years, and that 36 hours of continuing education must be completed in order to be eligible for renewal. (HSC §1179.82)

6) Allows DHCS to revoke a license if one of the following occur (HSC §1179.82(c)):

    a. The licensee loses his or her credential from the certifying organization; or

    b. The licensee is convicted of a felony substantially related to the qualifications, functions or duties of a licensed alcohol and drug counselor.

7) Allows DHCS to deny, suspend, or delay a license if it determines the person has a criminal conviction or criminal charge pending, that is substantially related to actions as a licensed alcohol and drug counselor. (HSC §1179.84(b))

8) Allows DHCS to waive action to deny, suspend or delay a license under the following circumstances (HSC §1179.84(b)):

    a. For a felony conviction, more than five years have passed since convicted; or

    b. For a misdemeanor, the applicant must not be incarcerated, on work release, probation, or parole and must be in substantial compliance with all court orders.

    In order to qualify for a waiver, the applicant must not have been convicted of a felony sexual offense and must not present a danger to the public.

Comments:

1) **Background.** Although regulations promulgated by the DHCS require AOD counselors working within its licensed or certified facilities to become certified, this requirement does not apply outside its licensed or certified facilities. As a result many practitioners of drug and alcohol treatment are not regulated.

    In May 2013, the California Senate Office of Oversight and Outcomes (SOOO) published a report titled, "Suspect Treatment: State's lack of scrutiny allows unscreened sex offenders and unethical counselors to treat addicts." The report presents evidence that California's system for addiction treatment allows registered sex offenders and other serious felons, as well as counselors facing current drug and alcohol charges and those already revoked for misconduct, to provide treatment. The report finds that counselors can easily flout education and training requirements; that the system does not allow for criminal background checks for counselors; and that the system contains gaps that can be exploited by counselors who move between private organizations that register and certify counselors. The SOOO report recommends that drastic changes to California's counselor certification system should be considered. Among a list of many

recommendations, the report recommends a requirement for fingerprint-based criminal background checks for anyone working as a counselor.

2) **Intent.** This bill will create a licensing process for alcohol and drug counselors under the Department of Health Care Services. The author notes that most states already have a licensing program for such counselors, but California does not. In addition, the author notes that California does not currently even require a background check for alcohol and drug counselors. This bill will help ensure public protection by specifying minimum education qualifications for a license, requiring passage of an examination, and requiring a criminal background check.

3) **Scope of Practice Missing.** This bill does not explicitly define the scope of practice for an alcohol and drug counselor. The bill requires alcohol and drug counselors to receive some training in counseling techniques and approaches and crisis intervention. A defined scope of practice would help clarify that an alcohol and drug counselor is not permitted to practice within the scopes of practice of the Board's licensees.

4) **Title Act Versus Practice Act.** This bill is currently written as a title act, meaning that using the title of "licensed alcohol and drug counselor" is prohibited unless such a license is held.

   A practice act is a law that prohibits the practice of a profession unless a license is held. At this time, the bill is not a practice act, and the Board's licensees may continue to practice alcohol and drug counseling that is within the scope of their practice, education, and experience, as long as they do not use the title "licensed alcohol and drug counselor."

   If at any point this bill became a practice act, the Board would need to request that it be amended to contain language stating the following:

   "This bill shall not be construed to constrict, limit, or withdraw the licensing acts to practice marriage and family therapy, educational psychology, clinical social work, or professional clinical counseling."

5) **Single Diagnosis Practitioner.** This bill would create a license to treat only one diagnosis. An alcohol and drug counselor would therefore have to be able to differentiate between an issue that is solely attributed to alcohol and drug abuse problems and symptoms and issues that may be attributable to a diagnosis outside his or her scope of practice.

   SB 570 (2014), which was a previously proposed bill to license alcohol and drug counselors, contained the following language. It may be helpful in this bill as well:

   "Alcohol and drug counseling includes understanding and application of the limits of the counselor's own qualifications and scope of practice, including, but not limited to, screening and, as indicated, referral to or consultation with an

appropriately licensed health practitioner consistent with the client's needs. Every licensee who operates an independent counseling practice shall refer any client assessed as needing the services of another licensed professional to that professional in a timely manner."

6) Past Legislation:

- **SB 570 (De Saulnier) of 2014** This bill would have established the Alcohol and Drug Counselor Licensing Board within the Department of Consumer Affairs for the purposes of licensing and regulating Advanced Alcohol and Drug Counselor Interns (AADCIs) and Licensed Advanced Alcohol and Drug Counselors (LAADCs). This bill died in the Assembly.

- **AB 2007 (Williams) of 2012** would have established a licensing and certification system for AADCs to be administered by the Department of Public Health. This bill was held in Assembly Health Committee.

- **SB 1203 (DeSaulnier) of 2010** would have instituted a licensing and certification structure for AOD counselors by DADP. SB 1203 was held in the Assembly Rules Committee.

- **SB 707 (DeSaulnier) of 2009**, which was substantially similar to SB 1203 of 2010, died on the Assembly Appropriations Committee Suspense File.

- **AB 239 (DeSaulnier) of 2008** would have established two categories of licensed alcoholism and drug abuse counselors for persons licensed to practice alcoholism and drug abuse counseling under clinical supervision, and persons licensed to conduct an independent practice of alcoholism and drug abuse counseling, and to provide supervision to other counselors, both to be overseen by BBS. AB 239 was vetoed by Governor Arnold Schwarzenegger who stated, in his veto message, that he was directing DADP to work to craft a uniform standard for all alcohol and drug counselors whether in private practice or in facilities.

- **AB 1367 (DeSaulnier) of 2007** would have provided for the licensing, registration and regulation of Alcoholism and Drug Abuse Counselors, as defined, by BBS. AB 1367 died on Assembly Appropriations Committee Suspense File.

- **AB 2571 (Longville) of 2004** would have created the Board of Alcohol and Other Drugs of Abuse Professionals in DCA and established requirements for licensure of AOD abuse counselors. AB 2571 failed passage in the Assembly Health Committee.

- **AB 1100 (Longville) of 2003** would have enacted the Alcohol and Drug Abuse Counselors Licensing Law, to be administered by BBS. AB 1100 was held in the Assembly Business and Professions Committee.

- **SB 1716 (Vasconcellos) of 2002** would have required BBS to license and regulate alcohol and drug abuse counselors. SB 1716 was held in the Assembly Business and Professions Committee.

- **SB 537 (Vasconcellos) of 2001** would have required DCA to initiate a comprehensive review of the need for licensing substance abuse counselors. SB 537 was vetoed by Governor Gray Davis due to cost concerns. In his veto message, the Governor directed DADP to require counselors in drug and alcohol treatment facilities to be certified for quality assurance purposes.

7) Support and Opposition.

Support:

- California Association of Alcohol and Drug Educators (co-sponsor)
- California Consortium of Addiction Programs and Professionals (co-sponsor)
- California Association of DUI Treatment Programs (co-sponsor)
- California Narcotic Officers' Association
- Community Social Model Advocates, Inc.
- MARSTE Training Services
- Sacramento Recovery House, Inc.
- Sun Street Centers

Oppose:

- None at this time.

7) History

2016
03/29/16 March 30 set for first hearing canceled at the request of author.
03/28/16 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH.
03/17/16 Set for hearing March 30.
02/25/16 Referred to Com. on HEALTH.
02/18/16 From printer. May be acted upon on or after March 19.
02/17/16 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL No. 1101

Introduced by Senator Wieckowski

February 17, 2016

An act to add ~~Sections 11751.1 and 131055.3 to, and to add~~ Part 6.5 (commencing with Section 1179.80) to Division 1 of, the Health and Safety Code, relating to alcohol and drug counselors.

LEGISLATIVE COUNSEL'S DIGEST

SB 1101, as amended, Wieckowski. Alcohol and drug counselors: regulation.

Existing law provides for the registration, certification, and licensure of various healing arts professionals. Existing law provides for various programs to eliminate alcohol and drug abuse, and states the finding of the Legislature that state government has an affirmat ve role in alleviating problems related to the inappropriate use of alcoholic beverages and other drug use.

This bill, among other things, would prohibit any person from using the title licensed alcohol and drug counselor unless the person had applied for and obtained a license from the State Department of ~~Public Health,~~ *Health Care Services* and would specify the minimum qualifications for a license, including, but not limited to, educational qualifications, being currently credentialed as an advanced alcohol and drug counselor, and having submitted to a criminal background check. The bill would provide that a license for an alcohol and drug counselor would be valid for 2 years unless at any time during that period it is revoked or suspended, that the license would be authorized to be renewed prior to the expiration of the 2-year period, and that a licensee fulfill continuing education requirements prior to renewal. The bill

would also require that the license fee for an original alcohol and drug counselor license and the license renewal fee be reasonably related to the department's actual costs in performing its duties under this part, but to not exceed $200. ~~The~~

This bill would require the department to ensure that the state and federal level criminal history of the applicant is reviewed before issuing a license, and the department would be required, with exceptions, to deny, suspend, delay, or set aside a person's license if, at the time of the department's determination, the person has a criminal conviction or pending criminal charge relating to an offense, the circumstances of which substantially relate to actions as a licensed alcohol and drug counselor. *The bill would also require the department to oversee the disciplinary actions of certifying organizations it approves, as provided.*

~~This bill, effective July 1, 2017, would transfer the administrative and programmatic functions of the State Department of Health Care Services pertaining to alcohol and drug counselor certification and the approval and regulation of certifying organizations to the department. The bill would also require the State Department of Public Health to oversee the disciplinary actions of certifying organizations it approves, 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:

SECTION 1. Part 6.5 (commencing with Section 1179.80) is added to Division 1 of the Health and Safety Code, to read:

PART 6.5. REGULATION OF ALCOHOL AND DRUG COUNSELING PROFESSIONALS

Chapter 1. Licensing

1179.80. (a) ~~A~~ *For purposes of this part, "department" means the State Department of Health Care Services.*

(b) A person shall not use the title of licensed alcohol and drug counselor unless the person has applied for and obtained a license from the ~~State Department of Public Health.~~ *department.*

~~(b)~~

(c) The applicant for an alcohol and drug counselor license shall meet minimum qualifications that include, but are not limited to, all of the following:

(1) Has earned a master of arts, master of science, or doctoral degree in addiction counseling, psychology, social work, counseling, marriage and family therapy, counseling psychology, clinical psychology, or other clinically focused major that requires no less than 21 semester units, or equivalent, of addiction specifi education approved by a certifying organization recognized by the department, from an institution of higher learning accredited by a regional accrediting agency, or a board for private postsecondary education.

(2) Has demonstrated competence by passing a master's level exam accepted by a certifying organization approved by the department.

(3) Is currently credentialed as an advanced alcohol and drug counselor and in good standing with a certification organization recognized by the ~~Department of Health Care Services~~ *department* pursuant to Section 13035 of Title 9 of the California Code of Regulations, as it read on January 1, 2017, and has no history of revocation by a certifying organization, licensure board, or certifying entity.

(4) Has documented to the certifying organization that the following courses have been completed:

(A) Three semester units, or the equivalent, of psychopharmacology and physiology of addiction, including any of the following areas:

(i) Examination of the effects of alcohol and similar legal psychoactive drugs to the body and behavior.

(ii) Damage to the body and behaviors.

(iii) Damage to the brain, liver, and other organs.

(iv) Tolerance, cross tolerance, and synergistic effects.

(v) Physiological differences between males and females.

(vi) Disease model, including neurobiological signs and symptoms.

(B) Three semester units, or the equivalent, of clinical evaluation and psychopathology, including any of the following areas:

(i) Initial interviewing process.

(ii) Biopsychosocial assessment.

(iii) Differential diagnosis.

(iv) Diagnostic summaries.

(v) ~~Co-occurring~~ *Cooccurring* disorders, referral processes, and the evaluation of clients using placement criteria, including the American Society of Addiction Medicine (ASAM) patient placement criteria or other validated clinical tools, to determine the most appropriate level of care for the client and eligibility for admission to a particular alcohol and other drug abuse treatment program.

(C) Three semester units, or the equivalent, of counseling/psychotherapy for addiction, including all of the following areas:

(i) Introduction to counseling.

(ii) Introduction to techniques and approaches.

(iii) Crisis intervention.

(iv) Individual counseling focused on addiction.

(v) Group counseling.

(vi) Family counseling as it pertains to addiction treatment.

(D) Three semester units, or the equivalent, in case management, including all of the following areas:

(i) Community resources.

(ii) Consultation.

(iii) Documentation.

(iv) HIV-positive resources.

(E) Three semester units, or the equivalent, of client education, including all of the following areas:

(i) Addiction recovery.

(ii) Psychological client education.

(iii) Biochemical and medical client education.

(iv) Sociocultural client education.

(v) Addiction recovery and psychological family education.

(vi) Biomedical and sociocultural family education.

(vii) Community and professional education.

(F) Three semester units, or the equivalent, of professional responsibility law and ethics, including all of the following:

(i) Ethical standards, legal aspects, cultural competency, professional growth, personal growth, dimensions of recovery, clinical supervision, and consultation.

(ii) Community involvement.

(iii) Operating a private practice.

(G) Three semester units, or the equivalent, of supervised field ork.

(5) Has submitted to a state and federal level criminal offender record information search as part of a criminal background check pursuant to Section 1179.84.

1179.81. (a) For a period not to exceed one year from the date of accepting applications for the license, applicants with 12,000 hours experience are not required to meet the requirements of paragraphs (1), (2), and (4) of subdivision ~~(b)~~ *(c)* of Section 1179.80.

(b) Applicants who do not meet requirements of paragraphs (1), (2), and (4) of subdivision ~~(b)~~ *(c)* of Section 1179.80 shall sit for the masters level exam required by paragraph (2) of subdivision ~~(b)~~ *(c)* of Section 1179.80 before the first renewal period and shall provide proof of passing the exam to the certifying organization before one year after the end of the first ren wal period.

1179.82. (a) A license for an alcohol and drug counselor shall be valid for two years unless at any time during that period it is revoked or suspended. The license may be renewed prior to the expiration of the two-year period.

(b) To qualify to renew the license, a licensee shall have completed 36 hours of continuing education units approved by the certification organization during the two-year license renewal period, which shall include six hours of ethics and law, six hours of ~~co-occurring~~ *cooccurring* disorder, and three hours of cultural competency.

(c) The department may revoke the license of a licensed alcohol and drug counselor who is licensed pursuant to subdivision ~~(b)~~ *(c)* of Section 1179.80 if either of the following occurs:

(1) The licensee loses his or her credential granted by the certifying organization.

(2) The licensee has been convicted of a felony charge that is substantially related to the qualifications, functions, or duties of a licensed alcohol and drug counselor. A plea of guilty or nolo contendere to a felony charge shall be deemed a conviction for the purposes of this paragraph.

1179.83. The license fee for an original alcohol and drug counselor license and the license renewal fee shall be reasonably related to the ~~State Department of Public Health's~~ *department's*

actual costs in performing its duties under this part, but shall not exceed two hundred dollars ($200).

1179.84. (a) Before issuing a license, the ~~State Department of Public Health~~ *department* shall ensure that the state and federal level criminal history of the applicant is reviewed.

(b) (1) The department shall deny, suspend, delay, or set aside a person's license if, at the time of the department's determination, the person has a criminal conviction or criminal charge pending, relating to an offense, the circumstances of which substantially relate to actions as a licensed alcohol and drug counselor. Applicants who have a criminal conviction or pending criminal charge shall request the appropriate authorities to provide information about the conviction or charge directly to the department in sufficient specificity to enable the department to make a determination as to whether the conviction or charge is substantially related to actions as a licensed alcohol and drug counselor.

(2) However, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the department may waive this subdivision if it finds any of the following:

(A) For waiver of a felony conviction, more than fi e years have elapsed since the date of the conviction. At the time of the application, the applicant shall not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and shall be in substantial compliance with all court orders pertaining to fines, restitution, and community service

(B) For waiver of a misdemeanor conviction or violation, at the time of the application, the applicant shall not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and shall be in substantial compliance with all court orders pertaining to fines, restitution, and community service.

(C) The applicant is capable of practicing licensed alcohol and drug treatment services in a competent and professional manner.

(D) The granting of the waiver will not endanger the public health, safety, or welfare.

(E) The applicant has not been convicted of a felony sexual offense.

Chapter 2. Powers and Duties of the Department

~~1179.85. It is the intent of the Legislature that the administrative and programmatic functions of the State Department of Health Care Services pertaining to alcohol and drug counselor certificatio- and the approval and regulation of certifying organizations be transferred, pursuant to Section 131055.3, to the State Department of Public Health effective July 1, 2017.~~

1179.86. The ~~State Department of Public Health~~ *department* shall oversee the disciplinary actions of certifying organizations it approves by performing the following duties:

(a) Require that certifying organizations maintain national accreditation by the Institute for Credentialing Excellence, or another accrediting agency should the institute no longer perform this function to the department's satisfaction.

(b) Adopt a uniform code of conduct, uniform disciplinary guidelines, and consumer complaint procedures for alcohol and drug counselors.

(c) Withdraw approval and certifying authority of a certifying organization that does not uphold any disciplinary action rendered by the department.

(d) Coordinate complaint investigations with certifying organizations in a manner that objectively collects information pertinent to making decisions for the protection of the public.

(e) Require that certifying organizations provide updated information for all certified and registered alcohol and drug counselors each quarter and information specific to individual counselors and registrants upon demand.

Chapter 3. Construction of Part

1179.87. (a) This part shall not be construed to constrict, limit, or prohibit state licensed or certified facilities or programs, county contracted alcohol and drug treatment facilities or programs, or driving-under-the-influence programs from employing or contracting with alcohol and drug counselors certified by a certifying organization accredited and state approved under Chapter 8 (commencing with Section 13000) of Division 4 of Title 9 of the California Code of Regulations as it read on January 1, 2017.

(b) This part shall not be construed to constrict, limit, or prohibit state licensed or certified facilities or programs, county contracted alcohol and drug treatment facilities or programs, or driving-under-the-influence programs from employing or contracting with licensed advanced alcohol and drug counselors (LAADCs) or advanced alcohol and drug counselor interns (AADCIs) when stipulating that licensed professionals be employed or contracted with.

(c) This part shall not be construed to mandate the use of LAADCs or AADCIs in state licensed or certified facilities or programs, county operated or contracted alcohol and drug treatment programs or facilities, or driving-under-the-influence programs

~~SEC. 2. Section 11751.1 is added to the Health and Safety Code, to read:~~

~~11751.1. Effective July 1, 2017, the State Department of Public Health shall succeed to and be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Health Care Services, pursuant to Section 131055.3, as they relate to the certification of alcohol and drug counselors and the approval and regulation of certifying organizations.~~

~~SEC. 3. Section 131055.3 is added to the Health and Safety Code, to read:~~

~~131055.3. (a) Effective July 1, 2017, the State Department of Public Health shall succeed to and be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Health Care Services as they relate to the certification of alcohol and drug counselors and the approval and regulation of certifying organizations.~~

~~(b) Notwithstanding any other law, any reference in statute, regulation, or contract to the State Department of Health Care Services shall be construed to refer to the State Department of Public Health when it relates to the transfer of duties, powers, purposes, functions, responsibilities, and jurisdiction made pursuant to this section.~~

~~(c) All fees collected, unexpended balances of appropriations, and other funds available for use by the State Department of Health Care Services in connection with any function or the administration of any law transferred to the State Department of Public Health pursuant to the act that added this section shall be available for use by the State Department of Public Health for the purpose for~~

~~which the fees were collected, the appropriation was originally made, or the funds were originally available.~~

~~(d) No contract, lease, license, or any other agreement to which the State Department of Health Care Services is a party shall be made void or voidable by reason of this section, but shall continue in full force and effect with the State Department of Public Health assuming all of the rights, obligations, and duties of the State Department of Health Care Services with respect to the transfer of duties, powers, purposes, functions, responsibilities, and jurisdiction made pursuant to this section.~~

~~(e) All books, documents, forms, records, data systems, and property of the State Department of Health Care Services with respect to the transfer of duties, powers, purposes, functions, responsibilities, and jurisdiction made pursuant to this section shall be transferred to the State Department of Public Health.~~

~~(f) (1) Positions filled by appointment by the Governor in the State Department of Health Care Services whose principal assignment was to perform functions transferred pursuant to this section shall be transferred to the State Department of Public Health.~~

~~(2) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred pursuant to this section, are transferred to the State Department of Public Health pursuant to the provisions of Section 19050.9 of the Government Code. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all employees transferred pursuant to this section shall be transferred to the State Department of Public Health.~~

~~(g) Any regulation, order, or other action adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, power, purpose, function, or responsibility related to the certification of alcohol and drug counselors and the approval and regulation of certifying organizations in effect prior to July 1, 2017, shall remain in effect unless or until amended, readopted, or repealed, or until they expire~~

~~by their own terms, and shall be deemed to be a regulation or action of the agency to which or officer to whom the program, duty, power, purpose, function, responsibility, or jurisdiction is assigned pursuant to this section.~~

~~(h) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, power, purpose, function, or responsibility transferred pursuant to this section, shall abate by reason of the transfer of the program, duty, power, purpose, function, or responsibility under this section.~~

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **SB 1155** **VERSION:** **AMENDED MARCH 28, 2016**

AUTHOR: **MORRELL** **SPONSOR:** **AUTHOR**

RECOMMENDED POSITION: **NONE**

SUBJECT: **PROFESSIONS AND VOCATIONS: LICENSES: MILITARY SERVICE**

Summary

This bill would require licensing boards within the Department of Consumer Affairs (DCA) to grant fee waivers for the application for and issuance of a license to persons who are honorably discharged veterans.

Existing Law:

1) Allows a licensee or registrant of any board, commission, or bureau within DCA to reinstate his or her license without examination or penalty if the license expired while he or she was on active duty with the California National Guard or the United States Armed Forces, if certain conditions are met. (Business and Professions Code (BPC §114):

2) Requires boards under DCA to waive continuing education requirements and renewal fees for a licensee or registrant while he or she is called to active duty as a military member if he or she held a valid license or registration upon being called to active duty, and substantiates the active duty service. (Business and Professions Code (BPC) §114.3)

3) Requires every board under DCA to ask on all licensure applications if the individual serves, or has previously served, in the military. (BPC §114.5)

4) Requires Boards under DCA to expedite the initial licensure process for applicants who are honorably discharged from the military, or who are spouses of active military members who are already licensed in another state. (BPC §§115.4, 115.5)

This Bill:

1) Requires licensing boards within DCA to grant fee waivers for the application for and issuance of a license to persons who are honorably discharged military members. (BPC §114.6)

2) Prohibits fee waivers for license renewals. (BPC §114.6(c))

3) Only allows one fee waiver per person. (BPC §114.6(a))

Comments:

1) **Author's Intent.** The author seeks to assist honorably discharged military veterans with entrance into the workforce. They note that initial application and occupational license fees can act as barriers into the workforce for veterans.

2) **Fiscal Impact.** The fees that would qualify for a military service waiver under this bill are as follows:

   LMFTs: $130 initial license fee

   LEPs: $80 initial license fee

   LCSWs: $100 initial license fee

   LPCCs: $200 initial license fee

   The Board only recently began tracking data about the number of licensees in military service when the Breeze database system came online in late 2014. Therefore, data about applicants and licensees in military service is limited.

   Since October 2014, the Board has received applications from 259 individuals who successfully qualified for an expedited license due to being honorably discharged from the military. However, this number represents more than just initial licensees; it also includes registrants and those who are in the exam cycle.

   The Board cannot make an accurate estimate at this time about how many individuals per year would qualify for the fee waiver. As hypothetical example, however, we will assume 200 individuals per year qualified for the waiver. The average of the fee waived across license types is $128. Under this scenario, the fiscal impact to the Board would be as follows:

   200 applicants qualifying for fee waivers x $128 average waived fee = ***$25,600 fiscal impact to the Board for the year***

3) **Proration of Initial License Fees.** The Board prorates the initial license fee for all applicants based on their birth month and the month the initial license issuance application is received by the Board. This is done to ensure fairness. Licenses always expire in the licensee's birth month, and if the fee were not prorated, some would pay the full amount but receive less than the full two years of licensure due to their birth date.

   As an example, the full initial license fee for LMFT applicants is $130, but some pay a prorated fee as low as $70 based on birth date and submission time.

Because the initial license fee is prorated, allowing a fee waiver for it may cause some inequity. Some applicants will get more of a savings from the waived fee than others, depending on their birth date and when they submitted the application.

4) **Fees Intended for Waiver Unclear.** The amendments in this bill state that boards must grant a fee waiver for "the application for and issuance of a license…"

   Boards under DCA collect fees at a variety of times during the licensure process. Some boards only require fees to be paid for the issuance of a license. This Board requires fees to be paid at a variety of times: at registration, at renewal of registration, to apply for exam eligibility, to take licensing exams, and for the issuance of an initial license.

   The Board's initial license fee is the only fee that appears to meet the requirements for waiver under this bill. It is not known if the intent of the bill was for other fees in the process (for example, the Board's exam eligibility application fees) to qualify for waiver as well.

5) **Tracking Previous Fee Waivers.** This bill states that applicants can only be granted one fee waiver.

   It may be difficult for the Board to ascertain whether an applicant has already been granted a fee waiver, especially if he or she is dually licensed.

6) **Related Legislation.** SB 1348 (Cannella) would require that if a board's governing law allows it to accept military experience and training toward licensure, then that board must modify its licensure applications to advise veterans of this allowance.

7) **Support and Opposition.**

   Support:
   - California Association of Licensed Investigators, Inc.
   - Goodwill Southern California
   - Veterans of Foreign Wars of California (San Diego County, Southern Imperial County)

   Opposition:
   - None at this time.

8) **History**

   2016
   04/06/16 Set for hearing April 12.
   03/28/16 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.
   03/11/16 Set for hearing April 4.
   03/03/16 Referred to Coms. on B., P. & E.D. and V.A.
   02/19/16 From printer. May be acted upon on or after March 20.
   02/18/16 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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AMENDED IN SENATE MARCH 28, 2016

SENATE BILL No. 1155

Introduced by Senator Morrell

February 18, 2016

An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1155, as amended, Morrell. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law, on and after July 1, 2016, requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist, the initial licensure process for an applicant who has served as an active duty member of the ~~Armed Forces of the~~ United States *Armed Forces* and was honorably discharged.

This bill would require ~~the Department of Consumer Affairs, in consultation with the Department of Veterans Affairs and the Military Department, to establish and maintain a program that grants~~ *every board within the Department of Consumer Affairs to grant* a fee waiver for the application for and the issuance of an initial license to an individual who is an honorably discharged veteran, as specified

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

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

1 SECTION 1. Section 114.6 is added to the Business and
2 Professions Code, to read:
3 114.6. ~~The Department of Consumer Affairs, in consultation~~
4 ~~with the Department of Veterans Affairs and the Military~~
5 ~~Department, shall establish and maintain a program that grants~~
6 *Notwithstanding any other provision of law, every board within*
7 *the department shall grant* a fee waiver for the application for and
8 issuance of a license to an individual who is an honorably
9 discharged veteran who served as an active duty member of the
10 California National Guard or the United States Armed Forces.
11 Under this program, all of the following apply:
12 (a) ~~The Department of Consumer Affairs shall grant only one~~
13 ~~fee waiver to a veteran.~~ *A veteran shall be granted only one fee*
14 *waiver.*
15 (b) The fee waiver shall apply only to an application of and a
16 license issued to an individual veteran and not to an application
17 of or a license issued to a business or other entity.
18 (c) A waiver shall not be issued for a renewal of a license or for
19 the application for and issuance of a license other than one initial
20 license.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 1204 **VERSION:** INTRODUCED FEBRUARY 18, 2016

AUTHOR: HERNANDEZ **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: HEALTH PROFESSIONS DEVELOPMENT: LOAN REPAYMENT

Summary: This bill would increase the Mental Health Practitioner Education Fund fee that licensed marriage and family therapists and licensed clinical social workers pay upon license renewal from $10 to $20. It would also require LPCCs to pay a $20 fee into the fund upon renewal, and would allow LPCCs to apply for a loan repayment grant if they work in a mental health professional shortage area.

Existing Law:

1) Establishes a maximum biennial renewal fee that LMFT, LCSW, and LPCC licensees must pay in order to renew a license. (Business and Professions Code (BPC) §§4984, 4984.7, 4996.6, 4996.3, 4999.102, 4999.120)

2) Sets the amount for the LMFT renewal fee at $130 (California Code of Regulations (CCR) Title 16, Section 1816(d)).

3) Sets the amount for the LCSW renewal fee at $100 (16 CCR §1816(f)).

4) Sets the amount for the LPCC renewal fee at $175 (16 CCR §1816(g))

5) Requires that in addition to the regular license renewal fee, LMFTs and LCSWs must pay an additional $10 renewal fee, which shall be deposited in the Mental Health Practitioner Education Fund. (BPC §§4984.75, 4996.65)

6) Creates the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation. Funds from this program are administered by the Office of Statewide Health Planning and Development (OSHPD). (Health and Safety Code (HSC) §§128454(a), 128458)

7) Allows any licensed mental health service provider who provides direct patient care in a publicly funded facility or a mental health professional shortage area to apply for grants under this program to reimburse educational loans related to a career as a licensed mental health service provider. (HSC §128454(c))

8) Defines a “licensed mental health service provider” to include several types of licensed mental health professionals, including marriage and family therapists, MFT interns, licensed clinical social workers, and associate clinical social workers. (HSC §128454(b))

9) Defines a "mental health professional shortage area" as an area given this designation by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. (HSC §128454(b))

10) Requires the Health Professions Education Foundation to develop the grant program, and allows it to make recommendations to the director of OSHPD regarding the following (HSC §128454(d) and (e)):

- The length of the contract that a grant recipient must sign obligating him or her to work in a mental health professional shortage area (the law requires it to be at least one year);

- The maximum allowable total grant per person and the maximum annual grant per person;

11) Requires a recipient of a loan repayment grant to provide service for 24 months for no less than 32 hours per week. (22 CCR §97930.8(a))

This Bill:

1) Increases the Mental Health Practitioner Education Fund Fee charged to LMFTs and LCSWs at license renewal from $10 to $20. (BPC §§4984.75, 4996.65)

2) Requires LPCCs to pay a Mental Health Practitioner Education Fund Fee of $20 upon license renewal. (BPC §4999.121)

3) Allows LPCCs to be eligible to apply for grants to reimburse educational loans under the Licensed Mental Health Service Provider Education Program if they are providing direct patient care in a publicly funded facility or a mental health professional shortage area. (HSC §128454)

Comment:

1) **Author's Intent.** The purpose of this bill is to increase the amount of funds available for loan repayment grant programs for mental health professionals who commit to working in medically underserved areas.

   The author's office notes that California suffers from shortages of mental health providers. They cite a 2013 Substance Abuse and Mental Health Services Administration report that states that recruitment and retention efforts are hampered by inadequate compensation, and calls for an increased effort on providing incentives such as loan repayments and forgiveness programs.

2) **Inclusion of LPCC Interns.** This proposal includes LPCCs in the list of mental health professionals who pay into the program, and who are eligible for grants from the program. They are being added because when the program was originally established, LPCC licensure did not exist.

   As written, the law includes MFT interns and clinical social work associates as being eligible for the grants, but overlooks PCC interns. In a conversation with the author's

office, staff learned that this was an oversight, and that they are willing to include them.

3) **Fee Comparison.** Below is a chart comparing the current biennial renewal fee for each license type, with what the biennial renewal fee would be if this bill became law.

License Type	Current Renewal Fee			Proposed Renewal Fee		
	Renewal Fee	MHP Edu. Fund Fee	**Total Fee**	Renewal Fee	MHP Edu. Fund Fee	**Total Fee**
LMFT	$130	$10	**$140**	$130	$20	**$150**
LCSW	$100	$10	**$110**	$100	$20	**$120**
LPCC	$175	$0	**$175**	$175	$20	**$195**

4) **Fiscal Impact and Revenue Generated.** If this bill became law, each LMFT and LCSW would pay an extra $10 every other year. LPCC licensees would pay an extra $20 every other year.

   Currently, the Board's total population of LMFTs, LCSWs, and LPCCs is approximately 65,000. Board staff estimates that the proposed increase in the Mental Health Practitioner Education Fund Fee would generate approximately an extra $331,000 per year.

   On its website, OSHPD states that the grant award amount per recipient ranges from a low of $5,000 to a high of $15,000. Therefore, it is likely that the extra revenue generated could fund several new awards.

5) **Delayed Implementation Needed.** This bill is an urgency measure, meaning it becomes effective immediately upon signing by the Governor. However, implementation of this bill will require new fee codes to be established in the Breeze database system. In addition, staff will need to update renewal forms for each license type to reflect the new fee amount. For these reasons, staff recommends the Board consider asking for a delayed implementation date of January 1, 2018.

6) **Support and Opposition.**

   Support:
   - None at this time.

   Opposition:
   - None at this time.

7) History

2016

03/15/16 April 4 set for first hearing canceled at the request of author.
03/11/16 Set for hearing April 4.
03/03/16 Referred to Com. on B., P. & E.D.
02/19/16 From printer. May be acted upon on or after March 20.
02/18/16 Introduced. Read first time. To Com. on RLS. for assignment. To print.

SENATE BILL No. 1204

Introduced by Senator Hernandez

February 18, 2016

An act to amend Sections 2436.5, 2455.1, 2987.2, 4984.75, and 4996.65 of, and to add Section 4999.121 to, the Business and Professions Code, and to amend Sections 128454, 128551, 128552, 128555, and 128556 of the Health and Safety Code, relating to health professions development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1204, as introduced, Hernandez. Health professions development: loan repayment.

(1) Under existing law, the Medical Board of California licenses and regulates physicians and imposes various fees on those licensees. The Osteopathic Medical Board of California licenses and regulates osteopathic physicians and imposes various fees on those licensees. Existing law establishes the Medically Underserved Account for Physicians within the Health Professions Education Fund that is managed by the Health Professions Education Foundation and the Offic of Statewide Health Planning and Development. The primary purpose of the account is to fund the Steven M. Thompson Physician Corps Loan Repayment Program, which provides for the repayment of educational loans, as specified, obtained by a physician who practices in a medically underserved area of the state, as defined. Funds placed in the account for those purposes are continuously appropriated for the repayment of loans. Physicians and osteopathic physicians are eligible for the loan repayment program, and the board assesses an additional $25 license charge at the time of the initial application for licensure and license renewal for purposes of funding the loan repayment program.

This bill would increase the license application and renewal charge to $50. The bill would increase the monetary limits for loan repayment, as specified, and would expand the eligibility for loan repayment funds to include those physicians providing psychiatric services. Because this bill would provide for the deposit of additional moneys in a continuously appropriated fund and would expand the purposes for which moneys in a continuously appropriated fund may be used, it would make an appropriation.

(2) The Psychology Licensing Law establishes the Board of Psychology to license and regulate the practice of psychology. That law establishes a biennial license renewal fee, and, in addition, a $10 fee at the time of renewal of a license for deposit in the Mental Health Practitioner Education Fund. Moneys in that fund are available, upon appropriation, for purposes of the Licensed Mental Health Service Provider Education Program.

This bill would increase that additional fee to $20.

(3) The Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act make the Board of Behavioral Sciences responsible for the licensure and regulation of marriage and family therapists, clinical social workers, and professional clinical counselors, respectively. Those acts require the board to establish and assess biennial license renewal fees, as specified. The Licensed Marriage and Family Therapist Act and the Clinical Social Worker Practice Act also require the board to collect an additional fee of $10 at the time of license renewal and directs the deposit of these additional fees in the Mental Health Practitioner Education Fund.

This bill would increase those existing additional fees under the Licensed Marriage and Family Therapist Act and the Clinical Social Worker Practice Act from $10 to $20, and would amend the Licensed Professional Clinical Counselor Act to require the Board of Behavioral Sciences to collect an additional $20 fee at the time of renewal of a license for a professional clinical counselor for deposit in the fund.

(4) Existing law authorizes any licensed mental health service provider, as defined, including a mental health service provider who is employed at a publicly funded mental health facility or a public or nonprofit private mental health facility that contracts with a county mental health entity or facility to provide mental health services, who provides direct patient care in a publicly funded facility or a mental health professional shortage area to apply for grants under the Licensed

Mental Health Service Provider Education Program to reimburse his or her educational loans related to a career as a licensed mental health service provider, as provided.

This bill would add licensed professional clinical counselors to those licensed mental health service providers eligible for grants to reimburse educational loans.

This bill would also delete obsolete provisions.

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

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 2436.5 of the Business and Professions
2 Code is amended to read:
3 2436.5. (a) (1) In addition to the fees charged for the initial
4 issuance or biennial renewal of a physician and surgeon's certificat
5 pursuant to Section 2435, and at the time those fees are charged,
6 the board shall charge each applicant or renewing licensee an
7 additional ~~twenty-fi e-dollar ($25)~~ *fift -dollar ($50)* fee for the
8 purposes of this section.
9 (2) The ~~twenty-fi e-dollar ($25)~~ *fift -dollar ($50)* fee shall be
10 paid at the time of application for initial licensure or biennial
11 renewal and shall be due and payable along with the fee for the
12 initial certificate or biennial ren wal.
13 (3) On or before July 1, 2015, the board shall develop a
14 mechanism for a physician and surgeon to pay a voluntary
15 contribution, at the time of application for initial licensure or
16 biennial renewal, for the purposes of this section.
17 (b) The board shall transfer all funds collected pursuant to this
18 section, on a monthly basis, to the Medically Underserved Account
19 for Physicians created by Section 128555 of the Health and Safety
20 Code for the Steven M. Thompson Physician Corps Loan
21 Repayment Program. Notwithstanding Section 128555 of the
22 Health and Safety Code, these funds shall not be used to provide
23 funding for the Physician Volunteer Program.
24 (c) Up to 15 percent of the funds collected pursuant to this
25 section shall be dedicated to loan assistance for physicians and
26 surgeons who agree to practice in geriatric care settings or settings

that primarily serve adults over 65 years of age or adults with disabilities. Priority consideration shall be given to those physicians and surgeons who are trained in, and practice, geriatrics and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

SEC. 2. Section 2455.1 of the Business and Professions Code is amended to read:

2455.1. (a) In addition to the fees charged pursuant to Section 2455, and at the time those fees are charged, the board shall charge each applicant for an original or reciprocity certificate or for a biennial license an additional ~~twenty-fi e-dollar ($25)~~ *fift -dollar ($50)* fee for the purposes of this section. This ~~twenty-fi e-dollar ($25)~~ *fift -dollar ($50)* fee shall be due and payable along with the fee for the original or reciprocity certificate or the biennial license.

(b) On or before July 1, 2015, the board shall develop a mechanism for an osteopathic physician and surgeon to pay a voluntary contribution, at the time of initial application for licensure or biennial renewal, for the purposes of this section.

(c) The board shall transfer all funds collected pursuant to this section, on a monthly basis, to the Medically Underserved Account for Physicians created by Section 128555 of the Health and Safety Code for the purposes of the Steven M. Thompson Physician Corps Loan Repayment Program. Notwithstanding Section 128555 of the Health and Safety Code, these funds shall not be used to provide funding for the Physician Volunteer Program.

SEC. 3. Section 2987.2 of the Business and Professions Code is amended to read:

2987.2. In addition to the fees charged pursuant to Section 2987 for the biennial renewal of a license, the board shall collect an additional fee of ~~ten~~ *twenty* dollars ~~($10)~~ *($20)* at the time of renewal. The board shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

SEC. 4. Section 4984.75 of the Business and Professions Code is amended to read:

4984.75. In addition to the fees charged pursuant to Section 4984.7 for the biennial renewal of a license pursuant to Section 4984, the board shall collect an additional fee of ~~ten~~ *twenty* dollars ~~($10)~~ *($20)* at the time of renewal. The board shall transfer this

amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

SEC. 5. Section 4996.65 of the Business and Professions Code is amended to read:

4996.65. In addition to the fees charged pursuant to Section 4996.6 for the biennial renewal of a license, the board shall collect an additional fee of ~~ten~~ *twenty* dollars ~~($10)~~ *($20)* at the time of renewal. The board shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

SEC. 6. Section 4999.121 is added to the Business and Professions Code, to read:

4999.121. In addition to the fees charged pursuant to Section 4999.120 for the biennial renewal of a license, the board shall collect an additional fee of twenty dollars ($20) at the time of renewal. The board shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

SEC. 7. Section 128454 of the Health and Safety Code is amended to read:

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

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

(1) "Licensed mental health service provider" means a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to Section 2910 of the Business and Professions Code, or employed pursuant to a State Department of Health Care Services waiver pursuant to Section 5751.2 of the Welfare and Institutions Code, marriage and family therapist, marriage and family therapist intern, licensed clinical social worker, ~~and~~ associate clinical social ~~worker.~~ *worker, and licensed professional clinical counselor.*

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

(c) Commencing January 1, 2005, any licensed mental health service provider, including a mental health service provider who is employed at a publicly funded mental health facility or a public or nonprofit private mental health facility that contracts with a county mental health entity or facility to provide mental health services, who provides direct patient care in a publicly funded facility or a mental health professional shortage area may apply for grants under the program to reimburse his or her educational loans related to a career as a licensed mental health service provider.

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

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

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

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

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

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

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

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

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

SEC. 8. Section 128551 of the Health and Safety Code is amended to read:

128551. (a) It is the intent of this article that the Health Professions Education Foundation and the office provide the ongoing program management of the two programs identified in subdivision (b) of Section 128550 as a part of the California Physician Corps Program.

(b) For purposes of subdivision (a), the foundation shall consult with the Medical Board of California, Office of Statewide *Health* Planning and Development, and shall establish and consult with an advisory committee of not more than seven members, that shall include two members recommended by the California Medical Association and may include other members of the medical community, including ethnic representatives, medical schools, health advocates representing ethnic communities, primary care clinics, public hospitals, and health systems, statewide agencies administering state and federally funded programs targeting underserved communities, and members of the public with expertise in health care issues.

SEC. 9. Section 128552 of the Health and Safety Code is amended to read:

128552. For purposes of this article, the following definition shall apply:

(a) "Account" means the Medically Underserved Account for Physicians established within the Health Professions Education Fund pursuant to this article.

(b) "Foundation" means the Health Professions Education Foundation.

(c) "Fund" means the Health Professions Education Fund.

(d) "Medi-Cal threshold languages" means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000, eligible LEP Medi-Cal beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal beneficiaries residing in t o contiguous ZIP Codes.

(e) "Medically underserved area" means an area defined as a health professional shortage area in Part 5 *(commencing with Section 5.1)* of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the California

Healthcare Workforce Policy Commission pursuant to Section 128225.

(f) "Medically underserved population" means the Medi-Cal program~~, Healthy Families Program,~~ and uninsured populations.

(g) "Office" means the Office of Statewide Health Planning and Development (OSHPD).

(h) "Physician Volunteer Program" means the Physician Volunteer Registry Program established by the Medical Board of California.

(i) "Practice setting," for the purposes of this article only, means either of the following:

(1) A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role pursuant to Section 17000 of the Welfare and Institutions Code, which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(2) A physician owned and operated medical practice setting that provides primary care *or psychiatric services* located in a medically underserved area and has a minimum of 50 percent of patients who are uninsured, Medi-Cal beneficiaries, or beneficiarie of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(j) "Primary specialty" means family practice, internal medicine, pediatrics, *psychiatry,* or obstetrics/gynecology.

(k) "Program" means the Steven M. Thompson Physician Corps Loan Repayment Program.

(*l*) "Selection committee" means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.

SEC. 10. Section 128555 of the Health and Safety Code is amended to read:

128555. (a) The Medically Underserved Account for Physicians is hereby established within the Health Professions Education Fund. The primary purpose of this account is to provide funding for the ongoing operations of the Steven M. Thompson Physician Corps Loan Repayment Program provided for under

this article. This account also may be used to provide funding for the Physician Volunteer Program provided for under this article.

~~(b) All moneys in the Medically Underserved Account contained within the Contingent Fund of the Medical Board of California shall be transferred to the Medically Underserved Account for Physicians on July 1, 2006.~~

~~(c)~~

(b) Funds in the account shall be used to repay loans as follows per agreements made with physicians:

(1) Funds paid out for loan repayment may have a funding match from foundations or other private sources.

(2) Loan repayments may not exceed ~~one hundred fi e thousand dollars ($105,000)~~ *one hundred fifty thousand dollars ($150,000)* per individual licensed physician.

(3) Loan repayments may not exceed the amount of the educational loans incurred by the physician participant.

~~(d)~~

(c) Notwithstanding Section 11105 of the Government Code, ~~effective January 1, 2006,~~ the foundation may seek and receive matching funds from foundations and private sources to be placed in the account. "Matching funds" shall not be construed to be limited to a dollar-for-dollar match of funds.

~~(e)~~

(d) Funds placed in the account for purposes of this article, including funds received pursuant to subdivision (d), are, notwithstanding Section 13340 of the Government Code, continuously appropriated for the repayment of loans. This subdivision shall not apply to funds placed in the account pursuant to Section 1341.45.

~~(f)~~

(e) The account shall also be used to pay for the cost of administering the program and for any other purpose authorized by this article. The costs for administration of the program may be up to 5 percent of the total state appropriation for the program and shall be subject to review and approval annually through the state budget process. This limitation shall only apply to the state appropriation for the program.

~~(g)~~

(f) The office and the foundation shall manage the account established by this section prudently in accordance with the other provisions of law.

SEC. 11. Section 128556 of the Health and Safety Code is amended to read:

128556. The terms of loan repayment granted under this article shall be as follows:

(a) After a program participant has completed one year of providing services as a physician in a medically underserved area, up to ~~twenty-fi e thousand dollars ($25,000)~~ *forty thousand dollars ($40,000)* for loan repayment shall be provided.

(b) After a program participant has completed two consecutive years of providing services as a physician in a medically underserved area, an additional amount of loan repayment up to ~~thirty-fi e thousand dollars ($35,000)~~ *fifty thousand dollars ($50,000)* shall be provided, for a total loan repayment of up to ~~sixty thousand dollars ($60,000).~~ *ninety thousand dollars ($90,000).*

(c) After a program participant has completed three consecutive years of providing services as a physician in a medically underserved area, an additional amount of loan repayment up to ~~forty-fi e thousand dollars ($45,000)~~ *sixty thousand dollars ($60,000)* shall be provided, for a total loan repayment of up to ~~one hundred fi e thousand dollars ($105,000).~~ *one hundred fift thousand dollars ($150,000).*

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the urgent need for physicians and licensed mental health practitioners in medically underserved areas, it is necessary that this act take effect immediately.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **SB 1217** **VERSION:** **INTRODUCED FEBRUARY 18, 2016**

AUTHOR: **STONE** **SPONSOR:** **AUTHOR**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALING ARTS: REPORTING REQUIREMENTS: PROFESSIONAL LIABILITY RESULTING IN DEATH OR PERSONAL INJURY**

Summary:

Currently, a healing art licensee must report all judgments or settlements for negligence claims in excess of a certain dollar amount to his or her licensing board. This bill would make the claim reporting threshold $10,000 for all healing arts licensees.

Existing Law:

1) Requires healing arts boards under the Department of Consumer Affairs (DCA) to have a central file for each licensee containing the following information (Business and Professions Code (BPC) §800(a)):

   a) Any criminal conviction that constitutes unprofessional conduct;

   b) Any public complaints;

   c) Any judgment or settlement that required the licensee or his or her insurer to pay damages in excess of $3,000 due to a claim that the licensee's negligence, error or omission in practice resulted in injury or death.

2) Requires every insurer providing professional liability insurance to one of the Board's licensees to report to the Board any settlement award over $10,000 for a claim for damages caused by the licensee's negligence, error, or omission in practice. (BPC §801(b))

3) Requires every state or local government agency that self-insures a Board licensee to report to the Board any settlement award over $10,000 for a claim for damages caused by the licensee's negligence, error, or omission in practice. (BPC §801.1(b))

4) Requires a Board licensee who does not have professional liability insurance to report to the Board any settlement award over $10,000 for a claim for damages caused by the licensee's negligence, error, or omission in practice. (BPC §802(b))

This Bill:

1) Raises the reporting requirement of any judgment or settlement against a licensee from $3,000 to $10,000 for all healing arts boards. (BPC §§800 – 802)

Comment:

1) **Author's Intent.** The author notes that all healing arts licensing boards under DCA are required to maintain a central file containing certain information on each licensee, including any reported judgments or settlements on the licensee. For some boards, judgments in excess of $10,000 must be reported, while for others, judgments in excess of $3,000 must be reported.

   The author believes the difference in the reporting amounts among boards is arbitrary, and seeks to make the judgment reporting threshold $10,000 for all healing arts license types.

2) **Error in Current Law.** The Board's reporting threshold is $10,000. However, there is an error in the law referencing which of the Board's licensees are subject to the reporting requirement. BPC Sections 801(b), 801.1(b), and 802(b) state that the $10,000 reporting requirement applies to licensees subject to Chapter 13 (commencing with Section 4980) (this references LMFTs), Chapter 14 (commencing with Section 4990), and Chapter 16 (commencing with Section 4999.10) (this references LPCCs).

   The reference to "Chapter 14 (commencing with Section 4990)" is incorrect. While Chapter 14 references LCSW statute, Section 4990 is a reference to the beginning of the Board's general provisions. Therefore, it is unclear whether this portion of the law intends to reference LCSW statute, or general provisions that apply to all of the Board's license types. It is likely attempting to reference the general provisions, which would mean that both LCSWs and LEPs are included in the $10,000 reporting requirement.

   This bill would correct this error, as it deletes the subsections specifically referencing this Board's license types. Under the new amendments, the $10,000 reporting requirements would apply to all healing arts licensees, and our Board's licensing statute would no longer be specifically referenced.

3) **Support and Opposition.**

   Support:
   - None at this time.

   Opposition:
   - None at this time.

4) **History**

   2016
   03/11/16 Set for hearing April 11.
   03/03/16 Referred to Com. on B., P. & E.D.
   02/19/16 From printer. May be acted upon on or after March 20.
   02/18/16 Introduced. Read first time. To Com. on RLS. for assignment. To print.

SENATE BILL No. 1217

Introduced by Senator Stone

February 18, 2016

An act to amend Sections 800, 801, 801.1, and 802 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1217, as introduced, Stone. Healing arts: reporting requirements: professional liability resulting in death or personal injury.

Existing law establishes within the Department of Consumer Affairs various boards that license and regulate the practice of various professions and vocations, including those relating to the healing arts. Existing law requires each healing arts licensing board to create and maintain a central file containing an individual historical record on each person who holds a license from that board. Existing law requires that the individual historical record contain any reported judgment or settlement requiring the licensee or the licensee's insurer to pay over $3,000 in damages for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or rendering unauthorized professional service.

This bill would instead require the record to contain reported judgments or settlements with damages over $10,000.

Existing law requires an insurer providing professional liability insurance to a physician and surgeon, a governmental agency that self-insures a physician and surgeon or, if uninsured, a physician and surgeon himself or herself, to report to the respective licensing board information concerning settlements over $30,000, arbitration awards in any amount, and judgments in any amount in malpractice actions to the practitioner's licensing board. Existing law provides that information concerning professional liability settlements, judgments, and arbitration

awards of over $10,000 in damages arising from death or personal injury must be reported to the respective licensing boards of specified healing arts practitioners including, among others, licensed professional clinical counselors, licensed dentists, and licensed veterinarians. Existing law provides that, for other specified healing arts practitioners including, among others, licensed educational psychologists, licensed nurses, and licensed pharmacists, information concerning professional liability settlements, judgments, and arbitration awards of over $3,000 in damages arising from death or personal injury shall be reported to their respective licensing boards.

This bill would raise the minimum dollar amount triggering those reporting requirements from $3,000 to $10,000.

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 800 of the Business and Professions Code
2 is amended to read:
3 800. (a) The Medical Board of California, the Board of
4 Psychology, the Dental Board of California, the Dental Hygiene
5 Committee of California, the Osteopathic Medical Board of
6 California, the State Board of Chiropractic Examiners, the Board
7 of Registered Nursing, the Board of Vocational Nursing and
8 Psychiatric Technicians of the State of California, the State Board
9 of Optometry, the Veterinary Medical Board, the Board of
10 Behavioral Sciences, the Physical Therapy Board of California,
11 the California State Board of Pharmacy, the Speech-Language
12 Pathology and Audiology and Hearing Aid Dispensers Board, the
13 California Board of Occupational Therapy, the Acupuncture Board,
14 and the Physician Assistant Board shall each separately create and
15 maintain a central file of the names of all persons who hold a
16 license, certificate, or similar authority from that board. Each
17 central file shall be created and maintained to provide an individual
18 historical record for each licensee with respect to the following
19 information:
20 (1) Any conviction of a crime in this or any other state that
21 constitutes unprofessional conduct pursuant to the reporting
22 requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of ~~three thousand dollars ($3,000)~~ *ten thousand dollars ($10,000)* for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licentiate pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805

(5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

(b) (1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificat holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

(2) If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within fi e years, or has found that the complaint or report is without merit, the central fil shall be purged of information relating to the complaint or report.

(3) Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) (1) The contents of any central file that are not public records under any other provision of law shall be confidentia except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of

this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subd vision.

(2) The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file

(3) Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

(4) These disclosures shall effect no change in the confidentia status of these records.

SEC. 2. Section 801 of the Business and Professions Code is amended to read:

801. (a) Except as provided in Section 801.01 and ~~subdivisions (b), (c), and (d)~~ *subdivision (b)* of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or arbitration award over ~~three thousand dollars ($3,000)~~ *ten thousand dollars ($10,000)* of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

~~(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Sciences as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.~~

~~(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.~~

~~(d)~~

(b) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

~~(e)~~

(c) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision ~~(a), (b), or (c)~~ *(a)* has been sent to the agency. If the attorney has not received this

notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

~~(f)~~

(d) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer. This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

SEC. 3. Section 801.1 of the Business and Professions Code is amended to read:

801.1. ~~(a)~~ Every state or local governmental agency that self-insures a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) shall send a complete report to that agency as to any settlement or arbitration award over ~~three thousand dollars ($3,000)~~ *ten thousand dollars ($10,000)* of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

~~(b) Every state or local governmental agency that self-insures a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties~~

~~thereto or within 30 days after service of the arbitration award on the parties.~~

SEC. 4. Section 802 of the Business and Professions Code is amended to read:

802. ~~(a)~~ Every settlement, judgment, or arbitration award over ~~three thousand dollars ($3,000)~~ *ten thousand dollars ($10,000)* of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from an agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if the person is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make the complete report. Failure of the licensee or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars ($50) or more than fi e hundred dollars ($500). Knowing and intentional failure to comply with this section or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than fi e thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000)

~~(b) Every settlement, judgment, or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional~~

~~services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10), respectively, who does not possess professional liability insurance as to that claim shall within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if he or she is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make a complete report. Failure of the marriage and family therapist, clinical social worker, or professional clinical counselor or claimant (or, if represented by counsel, his or her counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars ($50) nor more than fi e hundred dollars ($500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section or to hinder or impede any other person in that compliance, is a public offense punishable by a fine of not less than fi e thousand dollars ($5,000) nor more than fift thousand dollars ($50,000).~~

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **SB 1334** **VERSION:** **AMENDED MARCH 28, 2016**

AUTHOR: **STONE** **SPONSOR:** **CALIFORNIA CLINICAL FORENSIC MEDICAL TRAINING CENTER**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALTH PRACTITIONERS: HUMAN TRAFFICKING**

Summary: This bill would require a health care practitioner providing medical services to a patient to make a mandated report if the patient informs him or her that they are seeking treatment due to being the victim of assaultive or abusive conduct. It would also add human trafficking to the list of offenses that are considered reportable assaultive and abusive conduct.

Existing Law:

1) Requires any health practitioner who is employed in a health facility, clinic, physician's office, or local or state public health department to make a report when he or she provides medical services for a physical condition to a patient as follows (Penal Code (PC) §11160(a)):

   a) The patient is suffering from a wound or physical injury inflicted by his or her own act or inflicted by another, by means of a firearm; or

   b) The patient is suffering from a wound or physical injury inflicted as a result of assaultive or abusive conduct.

2) Defines "assaultive or abusive conduct" as including battery, sexual battery, assault with a deadly weapon, rape, incest, child abuse, spousal abuse, and elder abuse, among others. (PC §11160(d))

3) Defines a "health practitioner" to include the Board's license types. (PC §§11162.5(a), 11165.7(a))

This Bill:

1) Requires a health practitioner employed in a health facility, clinic, physician's office, or local or state public health department to make a report when he or she provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct. (PC §11160(a)(2))

2) Adds human trafficking to the list of offenses that are considered assaultive or abusive conduct. (PC §11160(d)(8))

Comment:

1) **Author's Intent.** The author states that there is a gap in the mandated reporting law that impacts reporting of sexual assault by health care providers. Currently such a mandated report is only triggered if there is a wound or injury. However, the author notes that there is not always a wound or physical injury resulting from a sexual assault.

2) **Definition of "Medical Services."** This bill requires a health care practitioner (which by definition includes Board licensees) to make specified mandated report based on observations made while providing medical services to the patient. It is unclear if medical services include mental health services, as no definition is provided.

3) **Effect on Psychotherapist-Patient Privilege.** The Committee may want to discuss effects on the psychotherapist-patient privilege if a Board licensee is required to make a mandated report upon learning that a patient is seeking treatment due to being a victim of assaultive or abusive conduct.

4) **Support and Opposition.**

   Support
   - California Clinical Forensic Medical Training Center (Sponsor)
   - California District Attorneys Association
   - California State Sheriffs' Association
   - County Health Executives' Association of California

   Opposition
   - None at this time.

5) **History**

   2016
   04/05/16 From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 7. Noes 0.) (April 5). Re-referred to Com. on APPR.
   03/28/16 From committee with author's amendments. Read second time and amended. Re-referred to Com. on PUB. S.
   03/15/16 Set for hearing April 5.
   03/03/16 Referred to Com. on PUB. S.
   02/22/16 Read first time.
   02/22/16 From printer. May be acted upon on or after March 23.
   02/19/16 Introduced. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL No. 1334

Introduced by Senator Stone

February 19, 2016

An act to amend Section 11160 of the Penal Code, relating to crime reporting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1334, as amended, Stone. Crime reporting: health practitioners: human trafficking

Existing law requires a health practitioner, as specified, who, in his or her professional capacity or within the scope of his or her employment, provides medical services to a patient who he or she knows, or reasonably suspects, has suffered from a wound or other physical injury where the injury is by means of a firearm or is the result of assaultive or abusive conduct, to make a report to a law enforcement agency, as specified. Existing law defines "assaultive or abusive conduct" for these purposes as a violation of specified crimes. Under existing law, a violation of this provision is a crime.

This bill would *require a health care practitioner who provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct, to additionally make a report to a law enforcement agency. The bill would also* add the crime of human trafficking to the list of crimes that constitute assaultive or abusive conduct for purposes of the above reporting ~~requirements.~~ *requirements and the reporting requirements added by this bill.* By increasing the scope of an existing 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:

SECTION 1. Section 11160 of the Penal Code is amended to read:

11160. (a) *(1)* A health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient who he or she knows, or reasonably suspects, is a person described as follows, shall immediately make a report in accordance with subdivision (b):

~~(1)~~

(A) A person suffering from a wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm

~~(2)~~

(B) A person suffering from a wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(2) A health practitioner employed in a health facility, clinic, physician's offic , local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct, shall immediately make a report in accordance with subdivision (b).

(b) A health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a

clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4) of this ~~subdivision, and Section 11160.2, and~~ *subdivision* adopted by the Office of Emergency Services, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the ~~injured~~ *injured, assaulted, or abused* person, if known.

(B) The ~~injured~~ *injured, assaulted, or abused* person's whereabouts.

(C) The character and extent of the person's ~~injuries.~~ *injuries, if any.*

(D) The identity of a person the ~~injured~~ *injured, assaulted, or abused* person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" ~~shall include~~ *includes* any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.
(4) Aggravated mayhem, in violation of Section 205.
(5) Torture, in violation of Section 206.
(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.
(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.
(8) Human trafficking, in violation of Section 236.1
(9) Battery, in violation of Section 242.
(10) Sexual battery, in violation of Section 243.4.
(11) Incest, in violation of Section 285.
(12) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244
(13) Assault with a stun gun or taser, in violation of Section 244.5.
(14) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.
(15) Rape, in violation of Section 261.
(16) Spousal rape, in violation of Section 262.
(17) Procuring a female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c.
(18) Child abuse or endangerment, in violation of Section 273a or 273d.
(19) Abuse of spouse or cohabitant, in violation of Section 273.5.
(20) Sodomy, in violation of Section 286.
(21) Lewd and lascivious acts with a child, in violation of Section 288.
(22) Oral copulation, in violation of Section 288a.
(23) Sexual penetration, in violation of Section 289.
(24) Elder abuse, in violation of Section 368.
(25) An attempt to commit any crime specified in paragraphs (1) to (24), inclusive.
(e) If two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and if there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as

required by subdivision (b). The written report shall be signed by the selected member of the reporting team. A member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) A supervisor or administrator shall not impede or inhibit the reporting duties required under this section and a person making a report pursuant to this section shall not be subject to sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require an employee required to make a report under this article to disclose his or her identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

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

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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: Committee Members **Date:** March 30, 2016

From: Rosanne Helms
Legislative Analyst **Telephone:** (916) 574-7897

Subject: **Legislative Update**

The Board is currently sponsoring the following legislative proposals:

1. **AB 1917 (Obernolte): Educational Requirements for Marriage and Family Therapists and Professional Clinical Counselor Applicants**

   This bill proposes modifications to the education required to become an LPCC or an LMFT as follows:

   1. It amends the coursework and practicum required of LPCC applicants in order to ensure that the degree was designed to qualify the applicant to practice professional clinical counseling.

   2. It amends the law to define education gained out-of-state based on the location of the school, instead of based on the residence of the applicant.

   Status: This bill has passed the Assembly Business and Professions Committee, and has been referred to the Assembly Appropriations Committee.

2. **SB 1478 (Senate Business, Professions, and Economic Development Committee): Healing Arts (Omnibus Bill)**

   This bill proposal, approved by the Board at its November 20, 2015 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

   The proposal to change the marriage and family therapist and professional clinical counselor “intern” title to “associate,” also approved by the Board at its November 20, 2015 meeting, is also included in this bill.

Status: This bill is scheduled for hearing with the Senate Business, Professions and Economic Development Committee on April 18, 2016.

The Board staff is watching the following legislative proposals:

1. **AB 1084 (Bonilla): Social Workers: Examination**

   This is a spot bill which contains a provision that is already included in the omnibus bill. Staff expects that AB 1084 will be amended to address a different topic.

2. **AB 2649 (Jones): Marriage and Family Therapist Intern and Professional Clinical Counselor Intern: Renaming**

   This Board is seeking these amendments in the omnibus bill. Staff expects that AB 2649 will be amended to address a different topic.

Board of Behavioral Sciences

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Memo

To: Policy and Advocacy Committee Members **Date:** April 5, 2016

From: Christy Berger
Regulatory Analyst **Telephone:** (916) 574-7817

Subject: Status of Rulemaking Proposals

CURRENT REGULATORY PROPOSALS

Standards of Practice for Telehealth: Add Title 16, CCR Section 1815.5

This proposal addresses the use of telehealth in the provision of psychotherapy, and clarifies questions, such as when a California license is needed, actions a licensee must take in order to protect the client in a telehealth setting, and that failure to follow telehealth requirements is considered unprofessional conduct.

The final proposal was approved by the Board at its meeting in May 2015. It was published in the California Regulatory Notice Register on July 10, 2015. The 45-day public comment period has ended, and the public hearing was held on August 25, 2015. In response to comments received, modifications were made to the proposal and the 15-day public comment period ended on September 24, 2015. This proposal is currently under review by the State Business, Consumer Services and Housing Agency.

English as a Second Language: Additional Examination Time: Add Title 16, CCR Section 1805.2

This proposal would allow the Board to grant time-and-a-half (1.5x) on a Board-administered examination to an English as a second language (ESL) applicant, if the applicant meets specific criteria demonstrating limited English proficiency.

The final proposal was approved by the Board at its meeting in November 2015. It was published in the California Regulatory Notice Register on January 1, 2016. The 45-day public comment period has ended, and the public hearing was held on February 15, 2016. This proposal is currently under review by the Department of Consumer Affairs.

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Board of Behavioral Sciences

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Memo

To: Committee Members **Date:** April 4, 2016

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

Subject: Publication of Citation and Fines Less Than $1500 on the Board's Website and in the Board Newsletter

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Background

Business and Professions Code section 27 (a) specifies the type of information that the Board is required to publish on its website. In addition to displaying a licensee's or registrant's information, such as the license/registrant's number and address of record, other information including suspensions revocations and other related enforcement actions (accusations filed) taken by the Board is published on the Board's website.

Business and Professions Code section 4990.09 further defines the parameters regarding the reporting of citations. Pursuant to this code section, the Board shall not publish on the Internet the final determination of a citation and fine of $1500 or less for more than five years from the date of issuance. After five years, the Board must remove the action from its website. Currently, BreEZe is designed to perform this function automatically.

In 2015 the Board resumed publishing its newsletter. Within the newsletter, Board disciplinary actions, including citations and fines, are published. Recently, concerns emerged related to publishing citations and fines of less than $1,500 on the Board's website and in the Board's newsletter. A citation and fine may be issued for minor violations such as being a few units short on documented Continuing Education and with a fine less than $1,500. This raises the question: should these names appear on the Board's website? Although the Board defines a citation and fine as an administrative action, listing formal disciplinary action (revocations, suspensions) under the title "Administrative Actions" in the Board newsletter may be confusing.

Discussion

As noted above, Business and Professions Code section 27 requires the Board to post its Enforcement Actions on the Internet (aka Board website). Unlike Business and Professions Code section 4990.09, Business and Professions Code section 27 does not specify parameters that allow the Board discretion to post an enforcement action or not.

However, Business and Professions Code section 4990.16 states that protection of the public shall be the highest priority for the Board. If the Board were to determine that some citations and fines would be published and others were not, the Board may appear non-compliant with its consumer protection mandate.

A citation and fine that is issued to a licensee is attached to the licensee's record. A public search of a licensee's record through the BreEZe system will reveal if a citation and fine has been issued. The public then has the opportunity to view the citation and fine document, which specifies the cause for the citation, fine assessed (if any), and Order of Abatement.

Citation and fines are listed in the Board's newsletter under "Enforcement Citations" and provide the name of the licensee, overall category of the violation (e.g. unprofessional conduct, unlicensed activity) and the fine amount (if any). A member of the public must conduct a license search through BreEZe to view details of the citation and fine. In the Board's newsletter a citation and fine is defined as *"an administrative action used for minor violations. Citations and fines are public information but are not considered to be disciplinary actions."*

Formal disciplinary actions appearing in the Board newsletter are listed under the heading "Administrative Actions". A summary of the formal disciplinary action taken is provided along with the name of the licensee or registrant, their location, and license/registration number. Further, a list of terms and their definition related to the discipline process is provided in every newsletter. Both the citations and fines and formal disciplinary actions appear next to each other in the Board's newsletter.

Another concern expressed is related to the five year time period in which a citation and fine is available on the Board's website. Specifically, if the Board is removing the citation and fine information after five years, are other related publications that include this information, such as the Board's newsletter, also removed? A review of the Board's website reveals that Board newsletters dating back to 1999 remain on the website. Citations and Fines were first published in the Fall 2005 newsletter.

<u>Possible Options to Consider</u>

Board staff is able to modify the titles in its newsletter. "Enforcement Citations" could be revised to "Administrative Actions", which would be consistent with the definition for a citation and fine provided in the newsletter. "Administrative Actions" could be revised to "Formal Disciplinary Actions" with a definition that indicates a higher level of discipline. Revising the titles may provide clarification to the public and affected licensees/registrants.

The committee may also wish to consider recommending that the Board establish a policy to specify the removal of newsletters from the Board's website that complies with five year requirement specified in Business and Professions Code section 4990.09. Adoption of a policy would formally establish a process to remove Board newsletters from its website. Currently, a policy does not exist.
Alternatively, the committee may wish to consider a less formal option for removing Board newsletters from its website. Such as directing Board staff to immediately

remove all newsletters older than five years from the Board's website; and ongoing, maintain an archive of newsletters on the website that does not exceed five years.

Recommendation

Conduct an open discussion regarding the best alternative to address the concerns related to the publication of citations and fines in the Board's newsletters and bring the recommended alternatives to the Board for consideration.

Attachments:

A. Business and Professions Code 27
B. Business and Professions Code 4990.09
C. Business and Professions Code 4990.16
D. Board Newsletter

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ATTACHMENT A

§27. PUBLIC INFORMATION

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also

disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Marijuana Regulation shall disclose information on its licensees.

(g) “Internet” for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

ATTACHMENT B

§4990.09. INTERNET PUBLICATION OF FINAL DETERMINATION; TIME LIMIT
The board shall not publish on the Internet the final determination of a citation and fine of one thousand five hundred dollars ($1,500) or less issued against a licensee or registrant pursuant to Section 125.9 for a period of time in excess of five years from the date of issuance of the citation.

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ATTACHMENT C

§4990.16. PROTECTION OF THE PUBLIC

Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount

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VOL. 1 NO. 3

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CALIFORNIA
BOARD OF BEHAVIORAL SCIENCES
WINTER 2016
NEWSLETTER

EXAMINATION NEWS

EXAMINATION RESTRUCTURE

It's nearly here—the change to the Board's examination process. After January 1, 2016, all registrants will be required to take and pass the California Law and Ethics Examination. Once this examination is passed, you have completed the first of two examinations required for licensure.

The second exam is a Clinical Examination and may be taken after the required number of supervised hours have been obtained and submitted to the Board for approval. Once your supervised experience hours are approved, you may take the Clinical Examination.

So what does the change mean? For those who do not pass an examination, a reduced waiting period between exams. Further, some individuals will be taking a national examination for licensure.

The Board recognizes the change to the examination process is significant and impacts everyone seeking licensure. But how does the change impact YOU?

The Board created a series of video tutorials and FAQs (Frequently Asked Questions) to provide you with information about the process specific to your situation. This information is currently available on the Board's website. Please take a moment to view the tutorial that applies to your situation and the relevant FAQs.

This information will help guide you through the new examination process. It is important you become familiar with the new process to avoid delays in your registration renewal or in the licensure process.

Additionally, the Board created examination flow charts to provide you with quick overview of the process. The examination flow charts, which are included in this newsletter on pages 7 and 9, provide you with basic information about the new examination process. However, we strongly encourage watching the video tutorial and reviewing the FAQs specific to your situation so that you are aware of all the examination requirements.

For individuals who will be taking a national examination for licensure, information regarding the national exam, exam content, and study guides are available on the respective websites. For LPCC candidates, please visit **NBCC.org**. LCSW candidates may access the information at **ASWB.org**.

Information related to the California Law and Ethics Examination and the LMFT Clinical Examination is available on the Board's website at **www.bbs.ca.gov**.

CHAIR'S MESSAGE

Christina Wong, LCSW, Chair

Welcome to 2016!

When I look back at 2015, the Board of Behavioral Sciences (Board) enjoyed an auspicious and fruitful year with many successes. Online renewal through the BreEZe program was implemented, and the utilization is steadily increasing. Legislative changes to streamline the supervised work experience requirement and to improve efficiency of the enforcement process were approved and signed by the Governor. The Uniform Standards for Substance Abusing Licensees regulations were adopted and have been in effect since October. Finally, the Board's Sunset Review Report was completed and submitted for review in December. These accomplishments are the direct result of the diligent efforts and dedication of the Board staff and Board members.

The long awaited examination restructuring for LCSWs, LMFTs, and LPCCs will be in effect on January 1, 2016. Applicants are required to take a Law and Ethics Examination and a Clinical Examination. Board staff developed various instructional video tutorials and other materials to help registrants navigate the changes. You are strongly encouraged to visit the Board's website for details.

Another notable change in 2016 is the streamlining of the supervised work experience requirements for LMFT and LPCC applicants. This change allows applicants to gain hours in two categories instead of several categories. Additionally, LCSW applicants will also be allowed to count some direct supervisor contact hours. The Board believes this change will improve the application process for both applicants and Board staff.

The Board will continue to focus on its outreach efforts in 2016. BBS is now on Twitter (**@CalifBBS**), and we also have an official Facebook page. Please "follow" or "like" us to receive the latest news updates.

My sincere hope is that we will continue our collaborative work with our stakeholders to ensure Californians receive the highest quality of mental health. Together, we will create a world with peace.

Christina Wong, LCSW Member
Chair

ONLINE SERVICES

NEW SERVICES NOW AVAILABLE

Licensees and registrants are now able to change their address of record and request a duplicate or replacement certificate through BreEZe. You must be registered on BreEZe to use these new services. If you have not registered on BreEZe, select the BreEZe icon on the Board's website and follow the steps for a new registration. Candidates experiencing difficulty registering should contact the Board for assistance.

ONLINE RENEWAL

Since November 2014, 13 percent of licensees and registrants have renewed online. There are several benefits to online renewal.

- Your license or registration is immediately updated with a new expiration date.
- Incomplete renewal applications are avoided. Online renewals will not process unless the renewal application is complete.
- Lost mail and postal delivery delays are avoided.

If you are unable to register on BreEZe, it's likely due to some missing information. Please contact BBS to determine the best method to provide the missing information to register your BreEZe account.

NEW LAWS EFFECTIVE

JANUARY 1, 2016

The following bills were signed by the Governor and are effective January 1, 2016. Take a moment to familiarize yourself with these new changes.

1. **SB 531: Board of Behavioral Sciences (Enforcement Bill)**
   Code Sections Added: Business and Professions Code (BPC) §§4990.31 and 4990.33

   This bill makes two separate amendments to the law governing the enforcement process:

   a. It modifies the Board's requirements for an individual to petition for a termination of probation or modification of penalty. Under the proposal, the Board may deny a petition without hearing if the petitioner is not in compliance with the terms of his or her probation.

   b. It clarifies that the Board has jurisdiction to investigate and take disciplinary action even if the status of a license or registration changes, or if the license or registration expires.

2. **SB 620: Board of Behavioral Sciences: Licensure Requirements**
   Code Sections Amended: BPC §§4980.03, 4980.42, 4980.43, 4980.44, 4996.23, and 4999.46

   This bill streamlines the experience requirements for LMFT and LPCC applicants. It eliminates the complex assortment of minimum and maximum hours of differing types of experience required for licensure (also known as the "buckets" of experience) and instead requires 1,750 hours of the experience to be direct clinical counseling hours. The remaining required 1,250 hours may be nonclinical experience.

   This bill also makes amendments to LCSW law to allow LCSW applicants to count some direct supervisor contact hours, as well as some hours spent attending workshops, trainings, conferences, and seminars, toward their required experience.

3. **AB 250: Telehealth: Marriage and Family Therapist Interns and Trainees**

   Code Sections Affected: BPC §§2290.5, 4980.43

   This bill clarifies that MFT interns and trainees may practice via telehealth.

4. **AB 1140: Crime Victims (Violence Peer Counselors)**
   Code Section Affected: Government Code (GC) §13957.9

   This bill contains language that clarifies that a violence peer counselor may not perform services that fall under the scope of practice of any of the professions which the Board regulates, unless those services take place in an exempt setting.

5. **SB 560: Licensing Boards**
   Code Section Affected: BPC §30

   This bill does two things:

   1. Prohibits a licensing board from processing an application for an initial license if the applicant does not provide a Social Security number, a federal employer identification number, or an individual taxpayer identification number on the application.
   2. Requires licensing boards to share identification and license information of licensees with the Employment Development Department upon request.

6. **AB 2213: LMFT and LPCC Out-of-State Applicant Requirements (Chaptered in 2014, effective 1/1/16)**

   Code Sections Affected: BPC § 4980.72, 4980.78, 4980.80, 4980.90, 4999.57, 4999.58, 4999.59, 4999.60, and 4999.62, and Code Sections Added: BPC § 4980.79, 4980.81, and 4999.63

   This bill makes several significant changes to the out-of-state licensing requirements for LMFT and LPCC applicants:

   - Varies the number of units the degree must contain, based on when the degree was begun.
   - Allows remediation or waiving of practicum depending on certain circumstances.
   - Allows certain coursework to be remediated while a registrant.
   - Allows certain coursework to be remediated using continuing education courses.

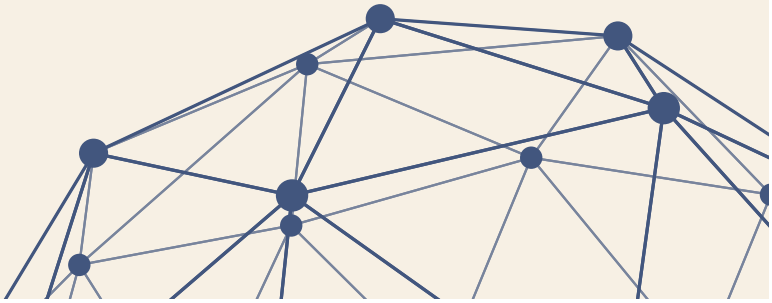
BBS CELEBRATES 70TH ANNIVERSARY

During the August Board meeting, Board members reflected on the 70-year history of the BBS. The history of the Board's work is very similar to the work of the Board today: ensuring consumers safely receive mental health services from qualified practitioners. Some interesting facts about the Board's history are noted below.

- On December 13, 1945, Anita Bullis took the Oath of Office and served as the first Executive Secretary for the Board of Social Work Examiners.
- The first Board members included Gardner Bullis, Mrs. Benjamin F. Warmer, Reverend Monsignor Raymond J. O'Flaherty, Miss Zdenka Buben, Mrs. M.D. Boucher, Miss Maurine McKeany, and Hyman Kaplan.
- Initially, the Board office was on Polk Street in San Francisco and was staffed with one Intermediate Stenographer clerk and the Executive Secretary. Temporary help was utilized to assist with the examination.
- Examination dates and registration dates were published in the newspaper.

- Registration as a Social Worker in California included a "Grandparent Clause." Qualified individuals could register using this method through January 1, 1947.
- The registration fee was $7 and renewals were $5 annually.
- The first registrations were revoked in 1953.

The Board acknowledges its early beginnings and looks forward many more years of consumer protection.



FOLLOW BBS ON FACEBOOK AND TWITTER

BBS is excited to announce the release of its Facebook page and Twitter account. These two social media venues will provide licensees, registrants, applicants, and consumers increased access to BBS activities and updates. Now you can be one of the first to know what's new at BBS. Simply "like" us on Facebook and follow BBS on Twitter (**@CalifBBS**) to stay current on all BBS activities.

REGISTRANTS AND SUPERVISION NEWS

NEW OPTIONS TO GAIN SUPERVISED WORK EXPERIENCE

Effective January 1, 2016, obtaining and tracking supervised work experience hours will become less complicated. Senate Bill 620, Chapter 262, Statutes of 2015 provides individuals a streamlined option to gain supervised work experience hours. After January 1, 2016, individuals may gain hours in two categories—clinical and nonclinical experience (Option 1).

The existing option of multiple categories (Option 2) will remain available, but individuals are required to submit an Application for Licensure and Examination postmarked no later than December 31, 2020. Otherwise, the individual must qualify under Option 1.

After January 1, 2016, hours gained after January 1, 2010, can now qualify under either Option 1 (new streamlined categories) or Option 2 (pre-existing multiple categories) as described below. Applicants must fully qualify under Option 1 OR Option 2. There is no "mixing and matching" between the two categories.

Additionally, LCSW applicants may now count some direct supervisor contact hours, as well as some hours spent attending workshops, trainings, conferences, and seminars towards their required experience. The details, by license type, are noted below.

LMFT OPTION 1 (new streamlined categories) NEED 3,000 HOURS

Under the new option, the supervised work experience categories break down into just two overall types:

- ***Direct counseling experience (minimum 1,750 hours)***—A minimum of 500 of these hours must be gained diagnosing and treating couples, families and children.
- ***Nonclinical experience (maximum 1,250 hours)***—May consist of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client-centered advocacy, and workshops, seminars, training sessions, or conferences.

LMFT OPTION 2 (pre-existing multiple categories) NEED 3,000 HOURS

a. Individual Psychotherapy (no minimum or maximum hours required)

b. Couples, Families, and Children (minimum 500 hours—up to 150 hours may be double-counted)

c. Group Therapy or Counseling (maximum 500 hours)

d. Telehealth Counseling (maximum 375 hours)

e. Workshops, seminars, training sessions, or conferences directly related to marriage, family, and child counseling (maximum 250 hours)

f. Personal Psychotherapy Received (maximum 100 hours, triple counted)

	2010 & 2011	2012 & Later
a. Administering and evaluating psychological tests, writing clinical reports and progress or process notes	Max 250 hours	Max 500 hours combined
b. Client-centered advocacy	Combined max 1,250 hours	
c. Direct supervisor contact	Combined max 1,250 hours	Combined max 1,000 hours

LPCC OPTION 1 (new streamlined categories) NEED 3,000 HOURS

Under the new option, the supervised work experience categories break down into just two overall types:

- ***Direct counseling experience (minimum 1,750 hours)***—Must include minimum of 150 hours of clinical experience in a hospital or community mental health setting.

CONTINUED ON PAGE 8

PROCESS FOR CANDIDATES APPROVED TO TAKE THE LICENSURE EXAMINATION

HAVE YOU TAKEN AND PASSED THE STANDARD WRITTEN EXAM? *(passed exam prior to 1/1/2016)*

YES

You have satisfied the California Law and Ethics exam requirement. You may proceed to the Clinical exam.

NO

You must take the California Law and Ethics exam prior to the expiration date of your exam eligibility.

If you do not pass the Law and Ethics exam, you must submit an application and fee to the BBS to retake the Law and Ethics exam.

Have you passed the California Law and Ethics exam?

YES

PROCEED TO THE CLINICAL EXAM

NO

You must wait 90 days to retest

CLINICAL EXAM

LCSW

Submit your application and fee to ASWB to register for the Clinical level exam. If you fail the exam, you must wait 90 days to retest.

LPCC

Submit your application and fee to NBCC to register for the NCMHCE. If you fail the exam, you must wait 90 days to retest.

LMFT

Submit your application and fee to BBS to register for the California Clinical exam. If you fail the exam, you must wait 90 days to retest.

Failure to take the exam before your eligibility expiration date will result in the closure of your file and may result in the loss of supervised hours.

Candidates who need to maintain a registration and who do not pass the Law and Ethics exam prior to the registration's expiration date will be required to take a 12-hour California Law and Ethics course to continue testing.

REGISTRANTS NEWS CONTINUED FROM PAGE 6

- ***Nonclinical experience (maximum 1,250 hours)***—May consist of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences.

LPCC OPTION 2 (pre-existing multiple categories) NEED 3,000 HOURS

a. Direct Counseling with Individuals, Groups, Couples or Families (minimum 1,750 hours).

b. Group Therapy or Counseling (maximum 500 hours).

c. Telehealth Counseling (maximum 375 hours).

d. Maximum 1,250 hours that include all of the following: Workshops, seminars, training sessions, or conferences directly related to marriage, family, and child counseling (maximum 250 hours).

- Administering and evaluating psychological tests of counselees, writing clinical reports, and progress or process notes (maximum 250 hours).
- Client-Centered Advocacy.
- Direct Supervisor Contact.

LCSW OPTION—NEED 3,200 HOURS

- At least 1,700 hours must gained under the supervision of a Licensed Clinical Social Worker
- A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling. Of this number, 750 hours shall be face to face individual or group psychotherapy provided to clients in the context of clinical social work services.
- A maximum of 1,200 hours in client center advocacy, consultation, evaluation, research, direct supervisor contact, and workshops, seminars, training sessions, or conferences directly related to clinical social work that have been approved by the applicant's supervisor.

BBS STAFF NEWS

The Board is fortunate to have dedicated staff to accomplish its mission and goals. The following staff members were recognized at the August Board meeting for their service to the Board.

The following individuals have served the Board for at least 5 years.

Cynthi Burnett—*Enforcement Analyst*

Ann Glassmoyer—*Special Investigator*

Marsha Gove—*Examination Analyst*

Cassandra Kearney—*Enforcement Analyst*

Gena Kereazis—*Enforcement Analyst*

Dawn La Franco—*Budget Analyst*

Kim Madsen—*Executive Officer*

Racquel Pena—*Enforcement Analyst*

Laurie Williams—*Personnel Analyst*

Darlene York—*Licensing Analyst Social Worker Unit*

The following individuals have served the Board for at least 10 years.

Theresa Malloy—*Licensing Analyst LPCC Unit*

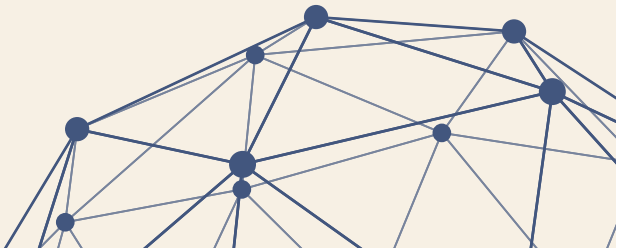
Pearl Yu—*Enforcement Manager*

The following individuals have served the Board for at least 15 years.

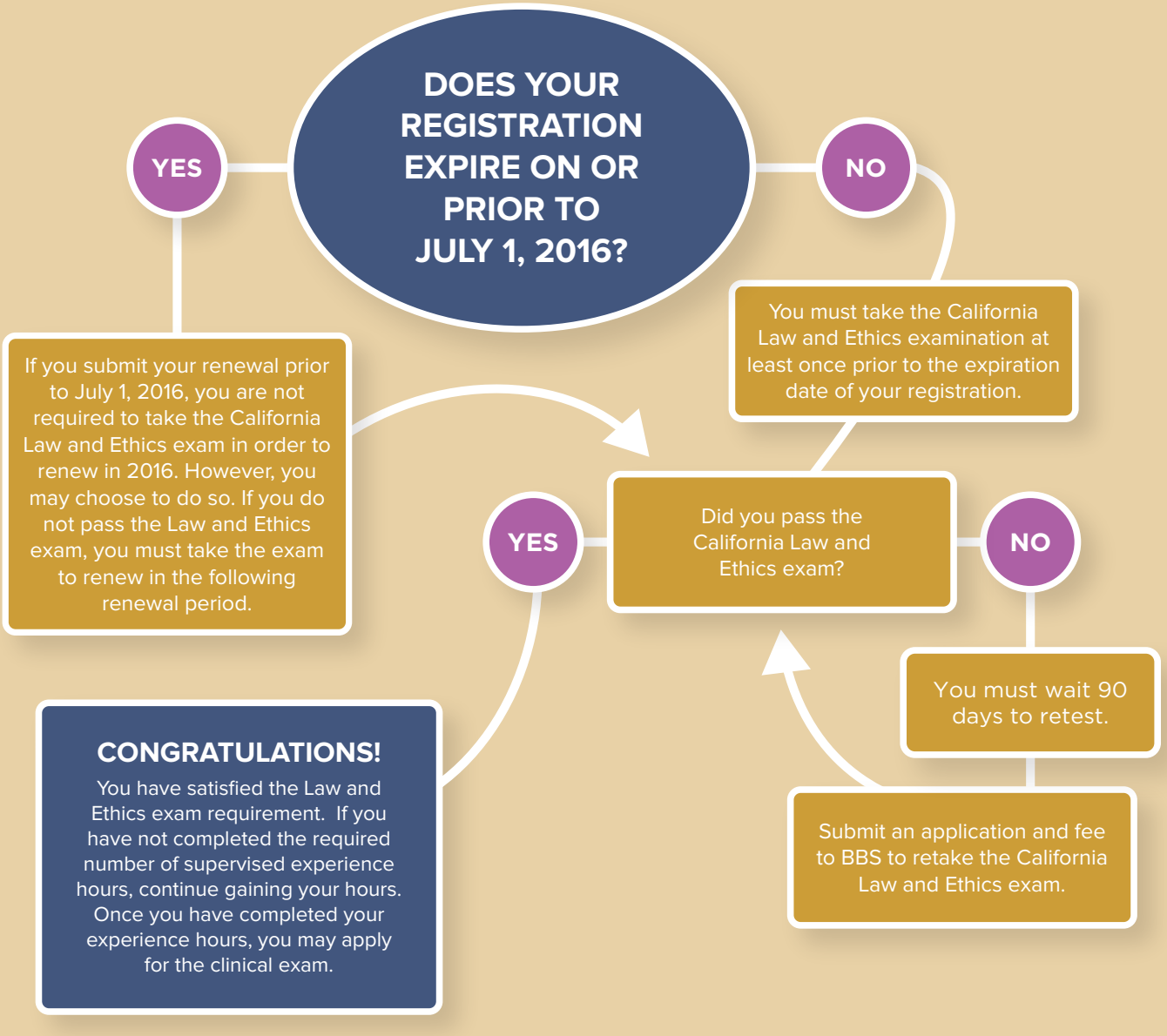
Marilyn Schilling—*Administrative Technician*

Christina Kitamura—*Administrative Analyst*

Sandra Wright—*Enforcement Analyst*



EXAMINATION PROCESS FOR REGISTRANTS



All registrants must take the Law and Ethics exam at least once during each renewal cycle until passed. If a registrant does not pass the exam during a renewal cycle, the registrant may renew, but must take a 12-hour California Law and Ethics course to continue testing.

LICENSING TOTALS

AS OF OCTOBER 31, 2015

License Type	Total Number
Associate Clinical Social Worker (ASW)	15,270
MFT Interns (IMF)	19,607
Licensed Clinical Social Workers (LCSW)	23,119
Licensed Educational Psychologists (LEP)	2,164
Licensed Marriage and Family Therapists (LMFT)	38,822
Licensed Professional Clinical Counselor (LPCC)	1,311
Professional Clinical Counselor Interns (PCCI)	1,411
Registered Continuing Education Providers (PCE)	2,424
Total Number	**104,128**

EXPLANATION OF DISCIPLINARY TERMS AND ACTIONS

Accusation—Formal statement of charges against the registrant/licensee.

Statement of Issues—Formal statement of reasons why an application for registration/license should be denied.

Effective Date—The date the disciplinary decision goes into effect.

Revoked—The registration/license is canceled, voided, rescinded. The right to practice is terminated.

Revoked, Stayed, Probation—"Stayed" means the revocation is postponed. Professional practice may continue so long as the registrant/licensee complies with specific probationary terms and conditions. Violation of probation may result in the revocation that was postponed.

Suspension—The registrant/licensee is prohibited from practicing for a specific period of time.

License Surrender—To resolve a disciplinary action, the registrant/licensee has given up his or her registration/license; subject to acceptance by the board. The right to practice is terminated.

Citation and Fine—An administrative action used for minor violations. Citations and fines are public information but are not considered to be disciplinary actions.

ENFORCEMENT CITATIONS

January 1–May 30, 2015		
Name	License Number	Fine Amount
Unprofessional Conduct		
Judith Thompson-Weston	LMFT 23268	$1,500
Lisa G. Ross	LMFT 20183	$500
Gary Lee Fortenberry	LMFT 35841	$1,000
Patrick James Curran	LMFT 46576	$1,000
Angela N. MacDougall	IMF 59753	$1,000
Sandra Lavin-Mond	LCSW 10456	$1,000

ADMINISTRATIVE ACTIONS:

JUNE 1–OCTOBER 31, 2015

ARRAZOLA, VIOLETA STEPHANIE

IMF 87795

Glendale, CA

CRIMINAL CHARGES/CONVICTIONS

Action: Registration revoked, revocation stayed, and placed on probation for a period of three (3) years.

Effective 7/15/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014001246.pdf

BANKS JAMILA, JOELLE

IMF 69839

Los Angeles, CA

CRIMINAL CHARGES/CONVICTIONS

Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.

Effective 9/4/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/im20121387.pdf

BARELA, ALEJANDRO

ASW 67503

Sacramento, CA

CRIMINAL CHARGES/CONVICTIONS

Action: Registration revoked, revocation stayed, and placed on probation for a period of three (3) years.

Effective 7/23/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015000084.pdf

BOYNTON, MATTHEW ADAM

IMF 65677

Fountain Valley, CA

UNPROFESSIONAL CONDUCT/ COMMISSION OF DISHONEST OR FRAUDULENT ACT

Action: Registration revoked, revocation stayed, and placed on probation for a period of three (3) years.

Effective 10/16/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/im20131200.pdf

CARTER, ANDREA JENNIFER

IMF 88205

North Hollywood, CA

CRIMINAL CHARGES/CONVICTIONS

Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.

Effective 8/6/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/ap2013140.pdf

CLINGMAN, JACQUELINE LOUISE

LCSW 17782

Signal Hill, CA

CRIMINAL CHARGES/CONVICTIONS

Action: License revoked, revocation stayed, and placed on probation for a period of four (4) years.

Effective 8/27/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/lc201060.pdf

COLON, RUBEN GABRIEL

LCSW 29821

San Jose, CA

CRIMINAL CHARGES/CONVICTIONS

Action: License revoked.

Effective 10/16/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015001233.pdf

CRUZ, JAIME

IMF 87794

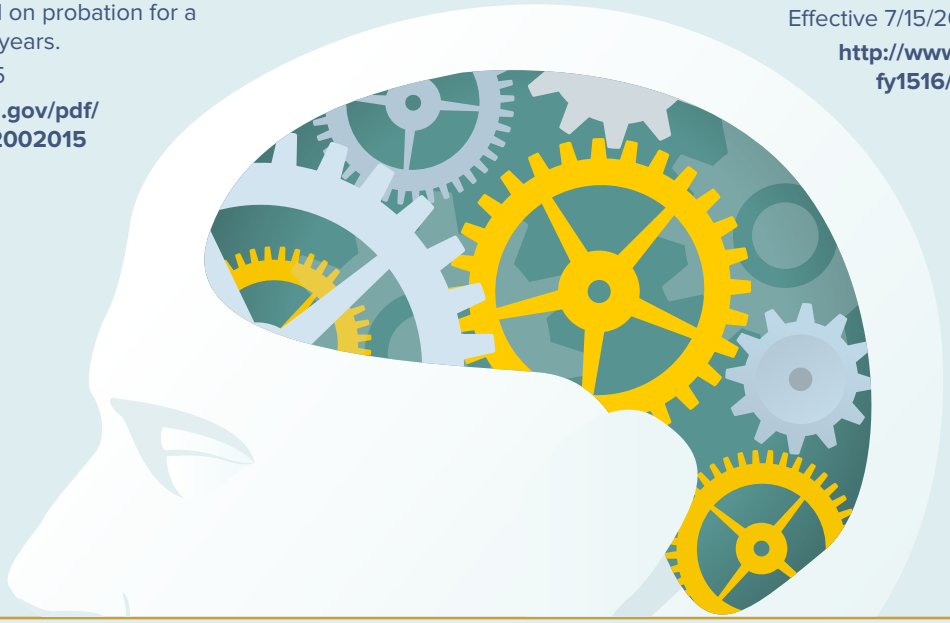
Palmdale, CA

CRIMINAL CHARGES/CONVICTIONS

Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.

Effective 7/15/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014000098.pdf



CONTINUED ON PAGE 12

ADMINISTRATIVE ACTIONS CONTINUED FROM PAGE 11

DUARTE II, RICHARD FRANK
IMF 88216
California City, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.
Effective 8/6/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/ap2014140.pdf

ELLIS, JAMES
LMFT 6984
Fresno, CA
CRIMINAL CHARGES/CONVICTIONS
Action: License revoked.
Effective 9/4/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/mf20131317.pdf

FRIEDMAN, BONNIE LYNN
LCSW 24172
San Francisco, CA
CRIMINAL CHARGES/CONVICTIONS
Action: License revoked, revocation stayed, and placed on probation for a period of three (3) years.
Effective 8/27/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/lc2014241.pdf

GABRINETTI, PAUL ANTHONY
LMFT 8301 Woodland Hills, CA
DISCIPLINE BY ANOTHER AGENCY
Action: License revoked, revocation stayed, and placed on probation for a period of four (4) years.
Effective 6/17/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1415/2002014000723.pdf

GALLAGHER, DEANNA LYNN
LMFT 44493
Orem, UT
DISCIPLINE BY ANOTHER STATE/AGENCY
Action: License surrendered.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014001239.pdf

GARDINER, LYNN D.
LMFT 31328
San Carlos, CA
VIOLATION OF PROBATION
Action: Probation period extended one (1) additional year to four (4) years.
Effective 10/16/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015000090.pdf

HEFFERMAN, PAMELA
LMFT 33171
Oakland, CA
CRIMINAL CHARGES/CONVICTIONS
Action: License surrendered.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015001638.pdf

HICKS, AMY MARIE
LCSW 63872
Hawthorne, CA
VIOLATION OF PROBATION
Action: License revoked.
Effective 10/16/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015001288.pdf

HOLDEN, SUSAN CATHERINE
LCSW 25830
San Marcos, CA
CRIMINAL CHARGES/CONVICTIONS
Action: License revoked, revocation stayed, and placed on probation for a period of three (3) years.
Effective 8/27/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/lc20131726.pdf

JOHNSON, MARTY CHRISTINE
LMFT 14010
Mendocino, CA
CRIMINAL CHARGES/CONVICTIONS
Action: License revoked, revocation stayed, and placed on probation for a period of three (3) years.
Effective 8/27/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/mf20131292.pdf

JOHNSON, JESSICA LIN
LMFT 78185
Ventura, CA
VIOLATION OF PROBATION
Action: License revoked.
Effective 10/16/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015000115.pdf

KILLELEA, KEVIN MICHAEL
LMFT 43007
Mill Valley, CA
VIOLATION OF PROBATION
Action: License surrendered.
Effective 9/4/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015000285.pdf

CONTINUED ON PAGE 13

ADMINISTRATIVE ACTIONS CONTINUED FROM PAGE 12

KITADA, BARBARA M.
LMFT 50140
Auburn, CA
CRIMINAL CHARGES/CONVICTIONS
Action: License revoked, revocation stayed, and placed on probation for a period of three (3) years.
Effective 8/27/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/mf2014246.pdf

KRZEMIONKA, DARIUS JOSEPH
LMFT 44985
La Crescenta, CA
CRIMINAL CHARGES/CONVICTIONS
Action: License revoked.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/mf2013483.pdf

MC GUIRE, DAVID A.
LMFT 45136
Beverly Hills, CA
CRIMINAL CHARGES/CONVICTIONS
Action: License revoked, revocation stayed, and placed on probation for a period of three (3) years.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/mf20131929.pdf

MCMANUS, CHRISTOPHER JAMES
IMF 78849
Fairfax, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration surrendered.
Effective 10/16/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014001300.pdf

MENDEZ, MELISSA ANN
IMF 87181
San Jose, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.
Effective 6/17/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1415/2002014000330.pdf

MINIX, ALTAMARA TAMI
IMF 87793
Vallejo, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked, revocation stayed, and placed on probation for a period of three (3) years.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014000833.pdf

MITCHELL, STEVEN FREDERICK
ASW 29551
Lake Forest, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/as2014325.pdf

MOENNICH, ANA PATRICIA VALENZUELA
ASW 34098
Chatsworth, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration surrendered.
Effective 7/23/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015000367.pdf

MORENO, CRISTINA
IMF 87913
Bakersfield, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked, revocation stayed, and placed on probation for a period of four (4) years.
Effective 7/23/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014000624.pdf

MYERS, JAKE DAVID
IMF 68676
Los Angeles, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.
Effective 9/4/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014000145.pdf

O'DONNELL, KATHARINE W.
ASW 59584
Oakland, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.
Effective 8/27/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014000323.pdf

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ADMINISTRATIVE ACTIONS CONTINUED FROM PAGE 13

ONTIVEROS, ERIC F.

ASW 34342

San Bernardino, CA

CRIMINAL CHARGES/CONVICTIONS

Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.

Effective 9/4/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014000257.pdf

O'ROURKE, STEVEN GEORGE

LMFT 32888

Santa Rosa, CA

CRIMINAL CHARGES/CONVICTIONS

Action: License revoked, revocation stayed, and placed on probation for a period of three (3) years.

Effective 10/16/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/mf20131125.pdf

PETERSON, EDWARD J.

IMF 87914

Palm Springs, CA

NEGLIGENCE/INCOMPETENCE

Action: Registration revoked, revocation stayed, and placed on probation for a period of three (3) years.

Effective 7/23/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/im2012836.pdf

PLANCICH, JESSICA KAY

LMFT 39667

Vista, CA

UNPROFESSIONAL CONDUCT/ NEGLIGENCE/INCOMPETENCE

Action: Registration revoked, revocation stayed, and placed on probation for a period of four (4) years.

Effective 10/16/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/mf2014310.pdf

RAMIREZ, ANTHONY NORIEGA

IMF 65883

Pomona, CA

CRIMINAL CHARGES/CONVICTIONS

Action: Registration revoked.

Effective 9/4/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/im201364.pdf

RAMIREZ, SABRY E.

IMF 60744

San Jose, CA

VIOLATION OF PROBATION

Action: Probation period extended one (1) additional year to six (6) years.

Effective 10/16/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015000286.pdf

ROGOFF, KIRSTEN INGRID

LMFT 45602

Harbor City, CA

UNPROFESSIONAL CONDUCT/ NEGLIGENCE/INCOMPETENCE

Action: License revoked, revocation stayed, and placed on probation for a period of three (3) years.

Effective 6/17/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1415/mf2012119.pdf

SMITH, L. AARON

ASW 33082

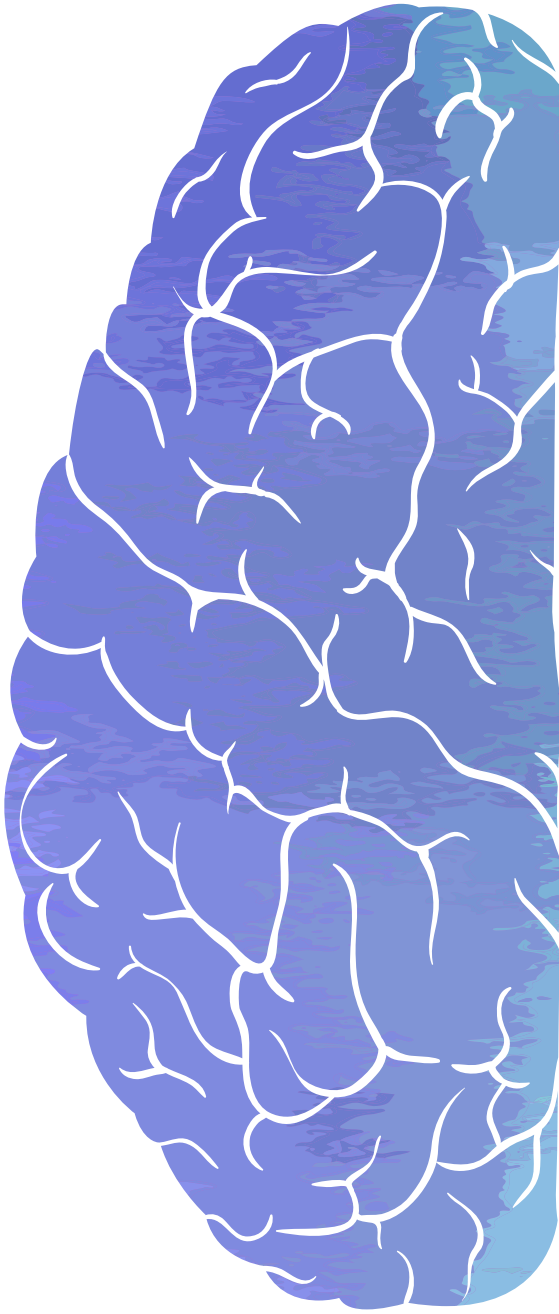
Oakland, CA

VIOLATION OF PROBATION

Action: Probation period extended one (1) additional year to five (5) years.

Effective 10/16/2015

http://www.bbs.ca.gov/pdf/enf_docs/fy1516/d120101332.pdf



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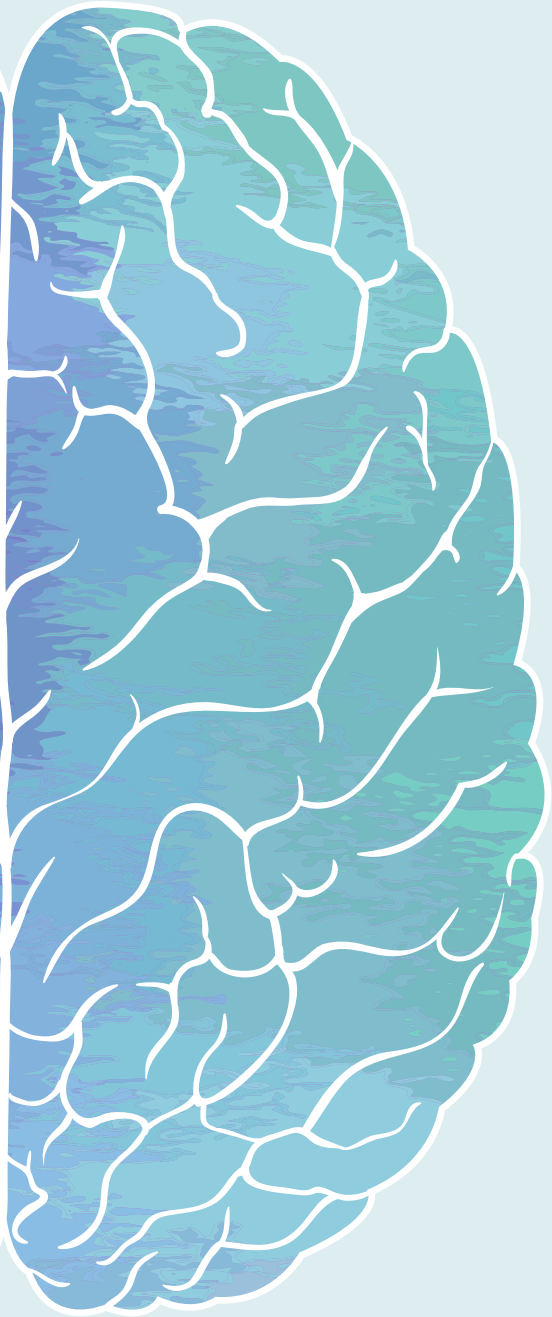


ADMINISTRATIVE ACTIONS CONTINUED FROM PAGE 14

STOUT, EVANS ANN
LMFT 25178
Santa Barbara, CA
UNPROFESSIONAL CONDUCT/ NEGLIGENCE/INCOMPETENCE
Action: License surrendered.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/mf2012881.pdf

STROLE, CHARLES H.
LMFT 18086 Rancho Mirage, CA
VIOLATION OF PROBATION
Action: Probation period extended two (2) additional years to seven (7) years.
Effective 10/16/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014000716.pdf

TEJERAS, CINDA L.
LCSW 27684
El Dorado Hills, CA
UNPROFESSIONAL CONDUCT/ NEGLIGENCE/INCOMPETENCE
Action: License revoked, revocation stayed, and placed on probation for a period of three (3) years.
Effective 10/16/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/lc20121371.pdf

TRUEBLOOD, HOLLAND MAY
IMF 83093
Camarillo, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration surrendered.
Effective 10/16/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002015001639.pdf

VALLADARES, ERIC ALEXANDER
IMF 64639
Daly City, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked, revocation stayed, and placed on probation for a period of three (3) years.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014000701.pdf

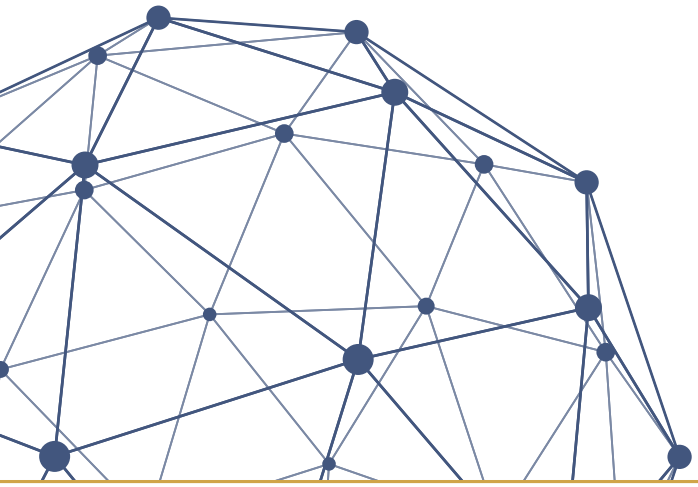
VILLALOBOS, MICHAEL VERNON
IMF 72982
Corona, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked.
Effective 7/15/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/2002014001095.pdf

WATSON, DEAN LEO
IMF 60311
Corona, CA
CRIMINAL CHARGES/CONVICTIONS
Action: Registration revoked, revocation stayed, and placed on probation for a period of five (5) years.
Effective 7/15/2015
http://bbs.ca.gov/pdf/enf_docs/fy1516/im2012697

YATES, TIFFANY CURTIS
LMFT 41944
Westlake Village, CA
VIOLATION OF PROBATION
Action: Probation period extended two (2) additional years to five (5) years.
Effective 9/10/2015
http://www.bbs.ca.gov/pdf/enf_docs/fy1516/d120101239.pdf

CALIFORNIA
BOARD OF BEHAVIORAL SCIENCES

1625 N. Market Blvd., Suite S-200
Sacramento, CA 95834



UPCOMING MEETING DATES

Board Meetings

March 3-4, 2016	Sacramento, CA
May 12-13, 2016	Southern California
August 24-26, 2016	Sacramento, CA
November 3-4, 2016	Southern California

Committee Meetings

April 15, 2016	Policy & Advocacy	Sacramento
August 5, 2016	Policy & Advocacy	TBD
September 30, 2016	Policy & Advocacy	TBD