Board of Behavioral Sciences

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POLICY AND ADVOCACY COMMITTEE MEETING NOTICE
April 21, 2017
9:30 a.m.

Department of Consumer Affairs
First Floor Hearing Room
1625 North Market Blvd., #S102
Sacramento, CA 95834

I. Call to Order and Establishment of Quorum

II. Introductions*

III. Approval of the February 3, 2017 Committee Meeting Minutes

IV. Discussion and Possible Recommendation Regarding Assembly Bill 191 (Wood) Mental Health: Involuntary Treatment

V. Discussion and Possible Recommendation Regarding Assembly Bill 456 (Thurmond) Healing Arts: Associate Clinical Social Workers

VI. Discussion and Possible Recommendation Regarding Assembly Bill 508 (Santiago) Health Care Practitioners: Student Loans

VII. Discussion and Possible Recommendation Regarding Assembly Bill 703 (Flora) Professions and Vocations: Licenses: Fee Waivers

VIII. Discussion and Possible Recommendation Regarding Assembly Bill 767 (Quirk-Silva) Master Business License Act

IX. Discussion and Possible Recommendation Regarding Assembly Bill 1116 (Grayson) Peer Support and Crisis Referral Services Act

X. Discussion and Possible Recommendation Regarding Assembly Bill 1188 (Nazarian) Health Professions Development: Loan Repayment

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

XI. Discussion and Possible Recommendation Regarding Assembly Bill 89 (Levine) Psychologists: Suicide Prevention Training

XII. Discussion and Possible Recommendation Regarding Assembly Bill 1372 (Levine) Crisis Stabilization Unit: Psychiatric Patients

XIII. Discussion and Possible Recommendation Regarding Assembly Bill 1591 (Berman) Medi-Cal: Federally Qualified Health Centers and Rural Health Centers: Licensed Professional Clinical Counselors

XIV. Discussion and Possible Recommendation Regarding Senate Bill 27 (Morrell) Professions and Vocations: Licenses: Military Service

XV. Discussion and Possible Recommendation Regarding Senate Bill 244 (Lara) Privacy: Agencies: Personal Information

XVI. Discussion and Possible Recommendation Regarding Senate Bill 374 (Newman) Health Insurance: Discriminatory Practices: Mental Health

XVII. Discussion and Possible Recommendation Regarding Senate Bill 399 (Portantino) Health Care Coverage: PDD or Autism

XVIII. Discussion and Possible Recommendation Regarding Senate Bill 572 (Stone) Healing Arts Licenses: Violations: Grace Period

XIX. Discussion and Possible Recommendation Regarding Senate Bill 636 (Bradford) Addiction: Treatment: Advertising: Payment

XX. Status of Board-Sponsored Legislation

a. Assembly Bill 93 (Medina) Healing Arts: Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, Licensed Professional Clinical Counselors: Required Supervision and Experience

b. Board Omnibus Bill - Proposed Technical and Non-Substantive Amendments to Business and Professions Code Sections 801, 801.1, 802, 4980.09, 4999.12.5, 4980.44, 4984.7, 4999.32, 4999.42, 4999.53, 4999.62, 4999.63, 4999.120, 4984.4, 4984.7, 4996.3, 4996.6, 4999.32, 4999.33, 4999.60, 4999.61, 4984.9, 4992.8, 4989.46, 4999.18, 4980.72, 4996.17, 4999.53; Evidence Code Section 1010(f)(o); and Penal Code Section 11165.7(a)(25) and (a)(40)

XXI. Status of Board Rulemaking Proposals

a. English as a Second Language: Additional Examination Time: Add Title 16. California Code of Regulations Section 1805.2

b. Application Processing Times and Registrant Advertising: Amend Title 16. California Code of Regulations, Sections 1805.1 and 1811

c. Contact Information; Application Requirements; Incapacitated Supervisors: Amend Title 16. California Code of Regulations, Sections 1804, 1805 and 1820.7; Add Section 1815.8

XXII. Suggestions for Future Agenda Items

XXIII. Public Comment for Items not on the Agenda

XXIV. 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 191** **VERSION:** **INTRODUCED JANUARY 19, 2017**

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

RECOMMENDED POSITION: **NONE**

SUBJECT: **MENTAL HEALTH: INVOLUNTARY TREATMENT**

Summary:

This bill add licensed marriage and family therapists and licensed professional clinical counselors to the list of professionals who are authorized to be the secondary signatory to extend involuntary commitments, under certain circumstances.

Existing Law:

1) Allows a person to be taken into custody for up to 72 hours for assessment, evaluation, and crisis intervention, when that person is deemed a danger to oneself or others due to a mental health disorder. (Welfare & Institutions Code (WIC) §5150)

2) Allows a person on a 72 hour detention to be certified for up to 14 days of intensive treatment related to a mental health disorder or impairment by chronic alcoholism if the person is found to be a danger to self or others and is not willing or able to accept voluntary treatment. (WIC §5250)

    a. Requires the notice of certification to be signed by the following two people (WIC §5251):

        1. The professional person, or his or her designee, in charge of the agency or facility providing evaluation services. A designee must be a physician or licensed psychologist with at least 5 years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders; and

        2. A physician or psychologist who participated in the evaluation. However, if the professional person in charge or the designee is the physician who performed the medical evaluation or a psychologist, then the second person may be another physician or psychologist, or if one is not available, then it may be a licensed clinical social worker or registered nurse who participated in the evaluation.

3) Upon the expiration of the 14 days of intensive treatment, allows further confinement for intensive treatment for another 14 days if the person was suicidal during the previous intensive treatment. (WIC §5260)

    a. Requires the certification to be signed by the following two people (WIC §5261):

        1. The person in charge of the facility providing the 14-day treatment; and

        2. A physician or licensed psychologist with at least 5 years postgraduate experience in the diagnosis and treatment of emotional and mental disorders. This person must have participated in the evaluation. However, if the person in charge of the facility is the physician who performed the evaluation or a psychologist, the second person to sign may be another physician or psychologist, or if one is not available, it may be a social worker or registered nurse who participated in the evaluation.

4) Allows that upon completion of the 14 day period of intensive treatment per WIC §5250, a person may be certified for an additional period of up to 30 days of intensive treatment if both of the following conditions are met (WIC §5270.15):

    a. The professional staff of the treating entity finds the person remains gravely disabled as a result of a mental disorder or chronic alcoholism; and

    b. The person remains unwilling or unable to accept treatment voluntarily.

        1. This type of certification must be signed by the following two people (WIC §5270.20):

            i. The professional person in charge of the facility providing the treatment; and

            ii. A physician or a licensed psychologist with at least 5 years postgraduate experience in the diagnosis and treatment of emotional and mental disorders. This person must have participated in the evaluation. However, if the professional person in charge is the physician who performed the evaluation or a psychologist, the second person to sign may be another physician or psychologist, or if one is not available, it may be a social worker or registered nurse who participated in the evaluation.

<u>This Bill:</u>

1) Would allow, if a physician or psychologist is not available, the second person who signs off on the certification for involuntary intensive treatment to be a licensed

marriage and family therapist or a licensed professional clinical counselor. (WIC §§5251(b), 5261(b), 5270.20(b))

Comments:

1) **Author's Intent.** The author's office notes that currently, if a physician or psychologist is not available, the second person to sign an involuntary treatment certification may be a social worker or registered nurse.

   The author points out that it is not uncommon for LMFTs or LPCCs to be part of involuntary hold treatment teams, but they are currently not able to provide the second required signature. If a social worker or registered nurse is not available, this can lead to a person being held longer than authorized by law, or it can cause continuity of care issues, because the treating LMFT or LPCC is unable to sign the certification.

2) **Support and Opposition.**

   Support:

- California Association of Marriage and Family Therapists (CAMFT) (Sponsor)
- California Association for Licensed Professional Clinical Counselors (CALPCC)
- California Hospital Association
- Doctors Behavioral Health Center

   Oppose:

- California Psychological Association

3) **History**

   2017

03/30/17	In Senate. Read first time. To Com. on RLS. for assignment.
03/30/17	Read third time. Passed. Ordered to the Senate. (Ayes 75. Noes 0.)
03/23/17	Read second time. Ordered to third reading.
03/22/17	From committee: Do pass. (Ayes 15. Noes 0.) (March 21).
01/30/17	Referred to Com. on HEALTH.
01/20/17	From printer. May be heard in committee February 19.
01/19/17	Read first time. To print.

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ASSEMBLY BILL No. 191

Introduced by Assembly Member Wood

January 19, 2017

An act to amend Sections 5251, 5261, and 5270.20 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 191, as introduced, Wood. Mental health: involuntary treatment.

Under existing law, the Lanterman-Petris-Short Act, when a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, he or she may, upon probable cause, be taken into custody and placed in a facility designated by the county and approved by the State Department of Health Care Services for up to 72 hours for evaluation and treatment. Existing law authorizes a person who has been detained for 72 hours and who has received an evaluation to be certified for not more than 14 days of intensive treatment related to the mental health disorder or impairment by chronic alcoholism under specified conditions. Existing law further authorizes the person to be certified for an additional period not to exceed 14 days if that person was suicidal during the 14-day period or the 72-hour evaluation period, or an additional period not to exceed more than 30 days under specified conditions. Existing law requires, for a person to be certified under any of these provisions, a notice of certification to be signed by 2 people, and, in specified circumstances, authorizes the 2nd signature to be from a licensed clinical social worker or a registered nurse who participated in the evaluation.

This bill would include a licensed marriage and family therapist and a licensed professional clinical counselor in the list of professionals who are authorized to sign the notice under specified circumstances.

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

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

SECTION 1. Section 5251 of the Welfare and Institutions Code is amended to read:

5251. *(a)* For a person to be certified under this article, a notice of certification shall be signed by two people. ~~The~~

(1) The first person shall be the professional person, or his or her designee, in charge of the agency or facility providing evaluation services. A designee of the professional person in charge of the agency or facility shall be a physician or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

~~The~~

(2) The second person shall be a physician or psychologist who participated in the evaluation. The physician shall be, if possible, a board certified psychiatrist. The psychologist shall be licensed and have at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

~~If~~

(b) If the professional person in charge, or his or her designee, is the physician who performed the medical evaluation or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a licensed clinical social ~~worker~~ *worker, licensed marriage and family therapist, licensed professional clinical counselor,* or ~~a~~ registered nurse who participated in the evaluation shall sign the notice of certification.

SEC. 2. Section 5261 of the Welfare and Institutions Code is amended to read:

5261. *(a)* For a person to be certified under this article, a second notice of certification ~~must~~ *shall* be signed by the professional person in charge of the facility providing *the* 14-day intensive treatment under Article 4 (commencing with Section

5250) to the person and by a physician, if possible a board-qualified ~~psychiatrist~~ *psychiatrist,* or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The physician or psychologist who signs shall have participated in the evaluation and finding referred to in subdivision (a) of Section 5260.

~~If~~

(b) If the professional person in charge is the physician who performed the medical evaluation and ~~finding~~ *finding,* or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a social ~~worker~~ *worker, licensed marriage and family therapist, licensed professional clinical counselor,* or ~~a~~ registered nurse who participated in ~~such~~ *the* evaluation and finding shall sign the notice of certification.

SEC. 3. Section 5270.20 of the Welfare and Institutions Code is amended to read:

5270.20. *(a)* For a person to be certified under this article, a second notice of certification shall be signed by the professional person in charge of the facility providing intensive treatment to the person and by either a physician who shall, if possible, be a board-qualified psychiatrist, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The physician or psychologist who signs shall have participated in the evaluation and finding referred to in subdivision (a) of Section 5270.15.

~~If~~

(b) If the professional person in charge is the physician who performed the medical evaluation and finding, or a psychologist, the second person to sign may be another physician or ~~psychologist,~~ *psychologist* unless one is not available, in which case a social ~~worker~~ *worker, licensed marriage and family therapist, licensed professional clinical counselor,* or ~~a~~ registered nurse who participated in the evaluation and finding shall sign the notice of certification.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 456** **VERSION:** **AMENDED MARCH 27, 2017**

AUTHOR: **THURMOND** **SPONSOR:**
- **SENECA FAMILY OF AGENCIES**
- **LINCOLN FAMILIES**

RECOMMENDED POSITION: **NONE**

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

Summary: This bill would extend the Board's "90-day rule" to applicants for registration as an associate clinical social worker (ASW). Currently, the 90-day rule allows applicants for registration as a marriage and family therapist intern or a professional clinical counselor intern to count postdegree hours of supervised experience before receiving a registration number, as long as they apply for their intern registration within 90 days of the granting of their qualifying degree.

Existing Law:

1) Requires all persons seeking licensure as a marriage and family therapist to register with the Board as an intern in order to be credited with postdegree supervised experience toward licensure. (Business and Professions Code (BPC) §4980.43(g))

2) Allows an exception to the requirement to register as an MFT intern to be credited with postdegree supervised experience, if the applicant applies for the intern registration within 90 days of the granting of the qualifying degree, and is thereafter granted the intern registration by the Board. (BPC §4980.43(g), (h))

3) Prohibits an LMFT applicant from being employed or volunteering in a private practice until registered as an intern. (BPC §4980.43(h))

4) Requires an applicant seeking licensure as a professional clinical counselor to register with the Board as in inter to be credited with postdegree supervised experience toward licensure. (BPC §4999.46(d))

5) Allows an exception to the requirement to register as a PCC intern to be credited with postdegree supervised experience, if the applicant applies for the intern registration within 90 days of the granting of the qualifying degree, and is thereafter granted the intern registration by the Board. (BPC §4999.46(d))

6) Prohibits an LPCC applicant from being employed or volunteering in a private practice until registered as an intern. (BPC §4999.46(d))

This Bill:

1) Allows an applicant seeking licensure as a clinical social worker to be credited with postdegree hours of experience toward licensure as long as the Board receives the application for the associate registration within 90 days of the granting of the qualifying degree, and the applicant is thereafter granted the associate registration by the Board. Prohibits the applicant from being employed or volunteering in private practice until registered as an associate. (BPC §4996.18(j))

2) Allows the 90-day rule to also apply to an applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. (BPC §4996.18(c))

Comments:

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

   Historically, the purpose of the rule has been to assist recent graduates in obtaining some of their supervised experience hours during the time they are waiting for their registration number. Currently, the Board strives to keep its registration processing times to under 30 days. However, in the past due to high seasonal application volumes, budget constraints, or furloughs, processing times were higher. In addition, before fingerprint processing was done electronically, there could be up to a 3 month wait for the FBI and Department of Justice to perform their required background checks.(With electronic fingerprints today, that wait time has been reduced to approximately 3 to 7 days.)

2) **Author's Intent.** The author's office states that the delay between graduation and receipt of a registration number creates a hiring barrier for ASW applicants, and also creates an unnecessary inequity between ASW applicants, who cannot utilize the 90-day rule, and MFT and PCC intern applicants, who can. They note that removal of barriers for the public mental health workforce has been recognized as a major priority of both the California Office of Statewide Health Planning and Development (OSHPD) and the Mental Health Services Act (MHSA).

3) **Previous Board Position on 90-Day Rule.** In 2012, the Board pursued legislation to eliminate the 90-day rule for LMFT and LPCC applicants. This was due to concerns that the 90-day rule could potentially be used to practice unlicensed and outside the Board's jurisdiction while temporarily bypassing the Board's enforcement process.

   One concern was if a consumer or a supervisor were to file a complaint against an applicant who was not yet registered but was using the 90-day rule to gain hours, the Board would have no jurisdiction to investigate the complaint and take action.

The other concern was that using the 90-day rule, an applicant with a previous conviction would be able to submit an application after graduation and begin working under the 90 day rule. They would then have up to one year to submit their conviction records (which would be considered a deficiency if not submitted up front; deficient applicants have one year to provide the missing information.) Although most applicants with deficiencies typically submit the missing information quickly in order to obtain their registration as soon as possible, occasionally an applicant with a serious conviction will delay, taking their full one year period.

However, although they are gaining hours in this period, if after reviewing the application the Board imposes supervised practice or other restrictions on their supervised experience as a condition of their registration due to the conviction, the hours gained without the imposed restrictions would not count. In addition, the law explicitly states that applicants utilizing the 90 day rule to gain hours cannot work in a private practice until the registration is issued.

Ultimately, the Board was unable to find an author for the proposal to eliminate the 90 day rule, due to stakeholder opposition and a lack of specific cases where such a situation compromised consumer protection. The Board is no longer pursing this proposal. However, the concerns cited above remain a possibility.

4) **AB 93: Reorganization of Affected Codes.** The Board is sponsoring AB 93 (Medina) which makes amendments to several of the Board's statutes related to supervised experience. As part of this effort, several of these statutes are being reorganized or re-numbered.

   Both code sections amended by AB 456, BPC sections 4996.18 and 4996.23, are also affected by AB 93, as follows:

   - AB 93 makes some renumbering changes to section 4996.18, so the amendment in AB 456 adding a subsection (j) will likely need to be renumbered.

   - AB 93 rearranges some of the provisions of section 4996.23. Therefore, the amendment in AB 456 being made to subsection 4996.23(g) would likely need to instead be made to section 4996.23(a) in AB 93.

   These issues could be resolved using double-joining language toward the end of the legislative session.

5) **Consistency with Pending Amendments.** The Board is in the process of requesting an amendment to the 90-day rule language for LMFT and LPCC statute via AB 93. In LMFT statute, the amendment will appear as follows:

   "Postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the associate registration <u>and the board receives the application</u> within 90 days of the granting of the qualifying degree and he or she is thereafter granted the associate registration by the board.

The purpose of requesting the underlined language is to clarify that date of receipt by the Board must be within the 90 days. This is due to recent situations where it was unclear when the applicant sent the application.

In order to be consistent with the proposed LMFT and LPCC language, the sponsor has accepted the language proposed above for this bill as well. However, one minor correction is needed. The first sentence of BPC Section 4996.18(j) should be amended to include a comma for clarity purposes, as follows:

4996.18 (j) Postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the associate clinical social worker registration, the board receives the application within 90 days of the granting of the qualifying master's or doctoral degree and the applicant is thereafter granted the associate clinical social worker registration by the board…

6) Support and Opposition.

Support:
- Seneca Family of Agencies (Sponsor)
- Lincoln Families (Sponsor)
- California Access Coalition
- National Association of Social Workers – California Chapter

Opposition:
- None at this time.

7) History

2017
04/04/17 From committee: Do pass and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (April 4). Re-referred to Com. on APPR.
03/28/17 Re-referred to Com. on B. & P.
03/27/17 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
02/27/17 Referred to Com. on B. & P.
02/14/17 From printer. May be heard in committee March 16.
02/13/17 Read first time. To print.

AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 456

Introduced by Assembly Member Thurmond

February 13, 2017

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would authorize postgraduate hours of experience to be credited toward licensure so long as the person applies for registration as an associate clinical social worker *the board receives the application* within 90 days of the granting of the qualifying master's degree or doctoral degree and *the applicant* is granted registration by the board. *The bill would prohibit an applicant from being employed or volunteering in a private practice until the applicant is granted registration by the board.*

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

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

SECTION 1. Section 4996.18 of the Business and Professions Code is amended to read:

4996.18. (a) A person who wishes to be credited with experience toward licensure requirements shall register with the board as an associate clinical social worker prior to obtaining that experience, except as provided in subdivision (j). The application shall be made on a form prescribed by the board.

(b) An applicant for registration shall satisfy the following requirements:

(1) Possess a master's degree from an accredited school or department of social work.

(2) Have committed no crimes or acts constituting grounds for denial of licensure under Section 480.

(3) Commencing January 1, 2014, have completed training or coursework, which may be embedded within more than one course, in California law and professional ethics for clinical social workers, including instruction in all of the following areas of study:

(A) Contemporary professional ethics and statutes, regulations, and court decisions that delineate the scope of practice of clinical social work.

(B) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of clinical social work, including, but not limited to, family law.

(C) The current legal patterns and trends in the mental health professions.

(D) The psychotherapist-patient privilege, confidentiality, dangerous patients, and the treatment of minors with and without parental consent.

(E) A recognition and exploration of the relationship between a practitioner's sense of self and human values, and his or her professional behavior and ethics.

(F) Differences in legal and ethical standards for different types of work settings.

(G) Licensing law and process.

(c) ~~Except as provided in subdivision (j), an~~ *An* applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education shall be

eligible, and shall be required, *except as provided in subdivision (j),* to register as an associate clinical social worker in order to gain experience toward licensure if the applicant has not committed any crimes or acts that constitute grounds for denial of licensure under Section 480. That applicant shall not, however, be eligible to take the clinical examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.

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

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

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

(g) An applicant for registration or licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a master's of social work degree that is equivalent to a master's degree issued from a school or department of social work that is accredited by the Commission on Accreditation of the Council on Social Work

Education. These applicants shall provide the board with a comprehensive evaluation of the degree and shall provide any other documentation the board deems necessary. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements regardless of evaluation or accreditation.

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

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

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

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

4996.23. (a) To qualify for licensure as specified in Section 4996.2, each applicant shall complete 3,200 hours of post-master's degree supervised experience related to the practice of clinical social work. The experience shall comply with the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed professional clinical

counselor, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

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

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

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

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

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

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

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

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

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

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

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 508** **VERSION:** **INTRODUCED FEBRUARY 13, 2017**

AUTHOR: **SANTIAGO** **SPONSOR:** **AUTHOR**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALTH CARE PRACTITIONERS: STUDENT LOANS**

Summary

This bill would remove a healing art board's ability to issue a citation and fine and its ability to deny an application for a license or renewal of a license due to the licensee or applicant being in default on a U.S. Department of Health and Human Services education loan.

Existing Law:

1) Allows a healing arts board under the Department of Consumer Affairs (DCA) to issue a citation and fine to a licensee who is in default on a U.S. Department of Health and Human Services education loan, including a Health Education Assistance Loan. (Business and Professions Code (BPC) §685(a))

2) Allows a DCA healing arts board to deny an application for a license or a renewal of a license if the person is in default on one of the loans listed above, until either the default is cleared, or satisfactory repayment arrangements have been made. (BPC §685(b))

3) Requires the board to consider the following when deciding whether to issue disciplinary action for a loan default (BPC §685(c))

a) The population served by the health care practitioner; and

b) The practitioner's economic status.

This Bill:

1) Removes a healing arts board's ability to cite and fine or deny a license application or renewal for default on U.S. Department of Health and Human Services education loan, including a Health Education Assistance Loan.

Comments:

1) **Author's Intent.** The author's office is seeking to protect the professional licenses of people who have defaulted on their federal student loan debt, arguing that by removing a person's ability to practice their profession, they remove their ability to repay their loans and other bills. The author notes that at least 20 states have laws allowing disciplinary action against student loan defaulters, such as loss of driver's licenses or professional licenses, but that most of these laws were passed before the student loan debt bubble grew. They cite the following data as evidence of the problem:

    - Data from the Department of Education showing that nearly 1/3 of student debtors with federal loans are behind on their bills;

    - Data from the Association of American Medical Colleges showing that 86% of the class of 2013 graduated with debt, and 40% of them owed at least $200,000.

    In 2015, the state of Montana passed a bill removing the ability to revoke licenses for defaulting on student loans. (See **Attachment A** and **Attachment B**)

2) **Board Enforcement Actions and Fiscal Impact.** The Board's Enforcement Unit has not issued any citations or fines for a student loan default. Therefore, this bill would have no fiscal impact to the Board in terms of lost revenue from fines.

Support and Opposition.

Support:
- None at this time.

Opposition:
- None at this time.

History.

2017
04/04/17 From committee: Do pass and re-refer to Com. on HIGHER ED. (Ayes 14. Noes 0.) (April 4). Re-referred to Com. on HIGHER ED.
02/27/17 Referred to Coms. on B. & P. and HIGHER ED.
02/14/17 From printer. May be heard in committee March 16.
02/13/17 Read first time. To print.

Attachments.

Attachment A: "States Review Laws Revoking Licenses for Student Loan Defaults," Whitney, Eric. NPR. 8 April 2015.
http://www.npr.org/2015/04/08/398037156/states-review-laws-revoking-licenses-for-student-loan-defaults

Attachment B: "These States Will Take Your License for not Paying Student Loans," Kitroeff, Natalie. Bloomberg. 15 March 2015. https://www.bloomberg.com/news/articles/2015-03-25/these-states-will-take-your-license-for-not-paying-student-loans

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ASSEMBLY BILL No. 508

Introduced by Assembly Member Santiago

February 13, 2017

An act to repeal Section 685 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 508, as introduced, Santiago. Health care practitioners: student loans.

Existing law authorizes a board, defined as a licensing board or agency having jurisdiction over a licensee, as specified, to cite and fine a licensed health care practitioner who is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan. Existing law authorizes the board to deny a license to an applicant to become a health care practitioner or deny renewal of a license if he or she is in default on a loan until the default is cleared or until the applicant or licensee makes satisfactory repayment arrangements. Existing law requires a board, prior to taking these actions, to take into consideration the population served by the health care practitioner and his or her economic status. Existing law requires that each board that issues citations and imposes fines retain the money from these fines for deposit into its appropriate fund.

This bill would repeal these provisions.

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

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

SECTION 1. Section 685 of the Business and Professions Code is repealed.

~~685. (a) (1) A board may cite and fine a currently licensed health care practitioner if he or she is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan.~~

~~(2) Each board that issues citations and imposes fines shall retain the money from these fines for deposit into its appropriate fund.~~

~~(b) The board may deny a license to an applicant to be a health care practitioner or deny renewal of a license if he or she is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan, until the default is cleared or until the applicant or licensee has made satisfactory repayment arrangements.~~

~~(c) In determining whether to issue a citation and the amount of the fine to a health care practitioner or to deny a license to an applicant to be a health care practitioner or to deny the renewal of a license, a board shall take into consideration the following:~~

~~(1) The population served by the health care practitioner.~~

~~(2) The health care practitioner's economic status.~~

~~(d) For purposes of this section, the following terms shall have the following meanings:~~

~~(1) "Board" means a licensing board or agency having jurisdiction of a licensee, but does not include the Board of Chiropractic Examiners.~~

~~(2) "Health care practitioner" means a person licensed or certified pursuant to this division or licensed pursuant to the Osteopathic Initiative Act.~~

~~(e) This section shall become operative on July 1, 2003.~~

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Attachment A

ON AIR NOW
NPR 24 Hour Program Stream

EDUCATION

States Review Laws Revoking Licenses For Student Loan Defaults

Listen · 3:51 Queue Download Transcript

April 8, 2015 · 3:48 AM ET
Heard on Morning Edition

ERIC WHITNEY

FROM Montana Public Radio

In 22 states, people who default on their student loans can have professional licenses suspended or revoked. The percentage of Americans who default on student loans has more than doubled since 2003.

Butch Dill/AP

Clementine Lindley says she had a great college experience, but if she had it to do over again, she probably wouldn't pick an expensive private school.

"I could actually buy a small home in Helena, Mont., with the amount of debt that I

graduated with," she says.

"

"Removing my driver's license, you just created one more barrier for me being a productive citizen in my community."

Clementine Lindley, Montana resident

Fresh out of school, Lindley says there were times when she had to decide whether to pay rent, buy food or make her student loan payments.

"There was a time where I defaulted on my student loans enough that I never was sent to collections, but just long enough to, honestly, ruin my credit."

That was motivation enough for Lindley to figure out ways to make her payments. But had she defaulted longer, the state of Montana could have revoked her driver's license.

In 22 states, defaulters can have the professional licenses they need to do their jobs suspended or revoked if they fall behind in their student loan payments, licenses for things like nursing or engineering. The percentage of Americans defaulting on their student loans has more than doubled since 2003. That's putting a lot of people's livelihoods at risk.

But Montana, where Lindley lives, is rolling those sanctions back.

When Democratic State Rep. Moffie Funk learned that that was a potential consequence, she says she felt embarrassed.

"I think it is demeaning," she says. "I think it is unnecessarily punitive."

Not to mention, she says, counterproductive. If the goal is to get people to make loan payments, taking away their ability to drive to work just makes it harder for them to make money, especially in rural states.

"There isn't public transportation, or very little," Funk says. "You know people need cars in Montana."

So Funk wrote a bill ending the state's right to revoke professional or driver's licenses because of student loan defaults.

NPR ED

Activists Stop Paying Their Student Loans

THE HOWARD PROJECT

Education May Be Priceless, But A College Degree Isn't

THE TWO-WAY

Student Tuition Now Outweighs State Funding At Public Colleges

Dustin Weeden, a policy analyst at the National Conference of State Legislatures, says a lot of states passed license revocation laws for student loan defaulters in the 1990s and early 2000s, back before the federal government started taking on a bigger role in lending to students.

"Because states were essentially the direct lenders to students, many states had large loan portfolios," he says.

Weeden adds that tying student loans to licenses, which often have to be renewed every couple of years, created a process to find people when they defaulted.

"The state loan authorities would report anybody who had defaulted on loans to all the licensing entities around the state," he says. "Then it's a way for a state to identify that person and really help them get into repayment."

But some policymakers want to retain consequences for defaulting. Like Republican State Sen. Dee Brown.

"I think that this is one of the sticks that we can use over a kid who is not paying their student loans," she says. "It's a stick to get their attention. And what a better way than their driver's license?"

There are plenty of sticks already, like having your wages garnisheed and your credit ruined, says Lindley. "Removing my driver's license," she adds, "you just created one more barrier for me being a productive citizen in my community."

The Montana bill to take away license revocation as a consequence for student loan default passed with bipartisan support. That wasn't the case in Iowa. An attempt to repeal a similar law there failed earlier this year.

driver's license student loans student loan debt montana debt

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Attachment B

These States Will Take Your License for Not Paying Student Loans

Legislators are fighting such rules in several states

by **Natalie Kitroeff**
March 25, 2015, 8:49 AM PDT

Photographer: Getty Images

Legislators in two states are trying to repeal laws that let authorities revoke driver's licenses or professional licenses when people fall severely behind on their student loan payments.

The Montana senate is considering a bill <http://laws.leg.mt.gov/legprd/LAW0210W$BSIV.ActionQuery?P_BILL_NO1=363&P_BLTP_BILL_TYP_CD=HB&Z_ACTION=Find&P_SESS=20151> , which passed the state's house in March, that would repeal a statute that made it possible for student debtors to lose their occupational and driver's licenses if they defaulted on their student loans—meaning they had not made payments in at least 270 days. Iowa legislators introduced a similar bill in February <http://coolice.legis.iowa.gov/Cool-ICE/default.asp?Category=BillInfo&Service=Billbook&ga=86&hbill=HF196> , but it stalled in the state senate this month because of a procedural obstacle.

The little-known laws exist in at least 22 states <http://www.jwj.org/wp-content/uploads/2015/02/State-Laws-and-Statutes-That-Suspend-Professional-Licenses-and-Certificates.pdf> and have been on the books in some states since as far back as 1990. Advocates for repealing them say they have real consequences for people who cannot make a dent in their student debt.

"It's the most inappropriate consequence, because you are taking away their ability to eventually pay [their loans] back," says Moffie Funk, the Montana state representative who sponsored the bill. In Montana, where there is little public transportation to speak of, driving is the only way most people can get to the jobs they need to repay their debt, Funk says.

Since 2007, Montana has suspended the driver's licenses of 92 people for defaulting on their student loans, according to John Barnes, a spokesman for the Montana attorney general's office. By 2012, Iowa had suspended more than 900 licenses because the license holders could not repay their student debt, according to Geoffrey Greenwood, a spokesman at the Iowa attorney general's office. Those suspensions were reversed two years ago but not because the policy changed. The Iowa College Student Aid Commission, which once collected federal loans in the state, reserved the suspensions and stopped revoking licenses in 2012, because the commission transferred its student loan portfolio to the Great Lakes Higher Education Corporation, a Wisconsin guaranty agency.

Debt collectors say that the laws have been valuable tools for extracting long overdue payments and that they often stop short of issuing the most severe consequences for borrowers. "It's more of a deterrent than something that goes all the way to license suspension," says Cheryl Poelman-Allen, who works in default prevention at the Montana Guaranteed Student Loan Program, a guaranty agency that collects federal student loans in the state. Poelman-Allen says the program tries to get borrowers to enroll in repayment plans that tie

payments to their income level, before threatening them with the loss of their license. In a fiscal note <http://leg.mt.gov/bills/2015/FNPDF/HB0363_1.pdf> explaining the cost of repealing the law, the agency said that the ability to revoke professional or driver's licenses helped generate more than $200,000 in debt collections per year.

"This law has saved taxpayers money," says Poelman-Allen.

The law has also been effective as leverage against debtors in Iowa. “Once we served a written notice that we were going to revoke a license, we generally got some action from a borrower,” says Julie Leeper, the executive officer of the Iowa College Student Aid Commission.

Records from states that publicly track suspensions of professional licenses suggest that hundreds of people have lost their right to work for not paying back student debt.

In Tennessee, for example, the state's student loan guaranty agency, the Tennessee Student Assistance Corporation, has suspended more than 1,500 professional licenses <http://www.tn.gov/tsac/About_Us/board_meetings_new/sept13/II%20E%20-%20License%20Update.pdf> held by people who defaulted on their student loans. Nurses aides, teachers, and emergency medical personnel have been among the most likely to lose their licenses.

Funk, the Montana State Representative, says that even if the laws are used sparingly, they should not be a part of states’ approach to struggling student borrowers. "You’re making criminals out of people who, for a multitude of reasons, have defaulted on their student loans,” says Funk. “It’s so punitive and so demeaning."

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 703** **VERSION:** **INTRODUCED FEBRUARY 15, 2017**

AUTHOR: **FLORA** **SPONSOR:** **AUTHOR**

RECOMMENDED POSITION: **NONE**

SUBJECT: **PROFESSIONS AND VOCATIONS: LICENSES: FEE WAIVERS**

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 an initial license to a person who holds a current license in the same profession in another state and is married to or in a domestic partnership with an active duty member of the U.S. military.

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 current and 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 licensure process for applicants who are honorably discharged from the military, or who are spouses of active military members and who are already licensed in the same profession 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 an initial license to a person who meets the following criteria (BPC §115.7(a)):

a) Is a spouse of an active duty military member; and

b) Holds a current, active, and unrestricted license for the same profession in another state.

2) Prohibits a fee waiver from being granted for any of the following (BPC §115.7(b)):

a) A license renewal;

b) The application for and issuance of an additional license or a registration; or

c) An application for examination.

Comments:

1) **Author's Intent.** The author's office states that almost 35 percent of military spouses in the labor force require licenses or certifications for their professions, and that these individuals are ten times more likely than civilians to have moved across state lines in the past year. They also cite a 2008 survey by Defense Manpower Data Center. In that survey, military spouses were asked what would have helped them secure employment after their last military move. Nearly 40% of the survey participants stated that an "easier state-to-state transfer of certification" would have helped them.

2) **Fiscal Impact.** This bill requires fee waivers for the application of a license and for the issuance of a license, if a board charges both fees. This board only charges an initial license fee. (Applicants also typically have to pay a registration application fee, registration renewal fees, and exam application fees, but these fees are not waived under this bill.)

The fees that this board charges 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

Average BBS Initial License Fee (average of the 4 license types) = $128

The Board began tracking data about the number of applicants in who applied for an expedited application or license due to military service at the end of 2014. Therefore, two full years of data (2015 and 2016) are currently available.

Many of the expedited applications in 2015 and 2016 were for a registration. Because a high number of registrants may not go on to receive a license, or it may be many years before they do so, the number of applications for a registration is

likely not indicative of the number of persons who will eventually ask for an initial license fee to be waived. Instead, staff only looked at exam eligibility applications, and initial license requests that were expedited in 2015 and 2016.

- In 2015, there was one request from a spouse for an expedited exam eligibility application due to military service.

- In 2016, there were four requests from a spouse for an expedited exam eligibility or initial license issuance due to military service.

Because the military expedite process for licensure is relatively new, it is possible that these requests could increase in the future as more applicants learn that military spouses are eligible for expedited licenses. However, at this time, the fiscal impact would be $128 (the average amount of the waived fee) per military spouse applicant. Therefore, the cost of waiving these fees in 2016 ($128 average fee x 4 qualifying military spouses = $512 in waived fees) would be minor and absorbable.

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) **Tracking Previous Fee Waivers.** This bill states that applicants can only be granted one fee waiver. If an applicant is applying for more than one license, they cannot obtain fee waivers for those other licenses.

   It may be difficult for the Board to ascertain whether an applicant has already been granted a fee waiver if he or she applying for multiple licenses.

5) **Previous Legislation.**

   SB 1155 (Morrell, 2016) would have required licensing boards to grant fee waivers for the application for and issuance of a license to persons who are honorably discharged veterans. The Board had decided not to take a position on this bill. SB 1155 died in the Assembly Appropriations Committee.

   AB 1057 (Medina, Chapter 693, Statutes of 2013), requires each board to inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

6) **Related Legislation.** SB 27 (Morrell) would require licensing boards to grant fee waivers for the application for and issuance of a license to persons who are honorably discharged veterans.

Support and Opposition.

Support:
- None at this time.

Opposition:
- None at this time.

History

2017
03/02/17 Referred to Com. on B. & P.
02/16/17 From printer. May be heard in committee March 18.
02/15/17 Read first time. To print.

ASSEMBLY BILL No. 703

Introduced by Assembly Member Flora

February 15, 2017

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

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as introduced, Flora. Professions and vocations: licenses: fee waivers.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires a board within the department to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state if the applicant holds a current license in the same profession or vocation in another state, district, or territory. Existing law also requires a board to issue temporary licenses in specified professions to applicants as described above if certain requirements are met.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for application and issuance of an initial license for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States if the applicant holds a current license in the same profession or vocation in another state, district, or territory. The bill would require that an applicant be granted fee waivers for both the application for and issuance of a license if the board charges fees for both. The bill would prohibit fee waivers from being issued for

renewal of a license, for an additional license, a certificate, a registration, or a permit associated with the initial license, or for the application for an examination.

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 115.7 is added to the Business and Professions Code, to read:

115.7. (a) Notwithstanding any other law, every board within the department of Consumer Affairs shall grant a fee waiver for the application for and issuance of an initial license to an applicant who does both of the following:

(1) Supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States.

(2) Holds a current, active, and unrestricted license that confers upon him or her the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which he or she seeks a license from the board.

(b) If a board charges a fee for the application for a license and another fee for the issuance of a license, the applicant shall be granted fee waivers for both the application for and issuance of a license.

(c) A fee waiver shall not be issued for any of the following:

(1) Renewal of an existing California license.

(2) The application for and issuance of an additional license, a certificate, a registration, or a permit associated with the initial license.

(3) The application for an examination.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 767** **VERSION:** **INTRODUCED FEBRUARY 15, 2017**

AUTHOR: **QUIRK-SILVA** **SPONSOR:** **COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY**

RECOMMENDED POSITION: **NONE**

SUBJECT: **MASTER BUSINESS LICENSE ACT**

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

Existing Law:

1) Establishes the Governor's Office of Business and Economic Development (GO-Biz). (Government Code (GC) §12096.2)

2) States that the purpose of GO-Biz is to serve the Governor as the lead entity for economic strategy and marketing of California on issues related to business development, private sector investment, and economic growth. (GC §12096.3)

3) Outlines the duties of GO-Biz as including, among other tasks, marketing the business and investment opportunities available in California by partnering with other government and private entities to encourage business development and investment in the state. This may include assisting with obtaining state and local permits. (GC §12096.3(c))

4) Establishes the Permit Assistance Program within GO-Biz to provide permit and regulatory compliance assistance to businesses, and requires the agency to post licensing, permitting, and registration requirements of state agencies on its web site to assist individuals with identifying the types of applications or forms they may need to apply for various licenses and permits. (GC §§12097, 12097.1)

This Bill:

1) Establishes the Master Business License Act, and creates a business license center under GO-Biz that is tasked with the following (GC §§15930, 15932):

a) Developing and administering a computerized one-stop master business license system capable of storing, retrieving, and exchanging license information.

b) Providing a license information service detailing requirements to engage in business in the state.

c) Identifying types of licenses appropriate for inclusion in the master business license system.

d) Incorporating licenses into the master business license system.

2) Requires each state agency to cooperate and provide reasonable assistance to GO-Biz in implementing the Master Business License Act. (GC §15934)

3) Allows any person that applies for two or more business licenses that are in GO-Biz's master business license system to submit a master application to GO-Biz to request the issuance of the licenses. (GC §15935(a))

4) Requires GO-Biz to develop an internet-based platform that allows businesses to electronically submit their master application, along with the payment of every fee required to obtain each requested license and a master application fee. (GC §15935(a))

5) Requires the fees collected under the master business license system to be allocated to the relevant respective licensing agencies. (GC §15937)

6) Defines a "license" to mean any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including by regulation, to engage in any activity. (GC §15931(d))

Comments:

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

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

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

Permitting and licensing information for licensees of this Board is not currently included in the database. To get an idea of the type of information provided, staff did a search for requirements for an optometry business located in the city and county of Sacramento. **Attachment A** shows the results. It includes information such as business license information (city jurisdiction), fire inspection information

(city jurisdiction), air tank permit information (state jurisdiction), corporation filing information (state jurisdiction), facility licensing information (state jurisdiction), and licensing information (state (DCA) jurisdiction), among others. The site includes links to each of these entity's websites where an applicant can go for further information.

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

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

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

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

4) **Board Acceptance of Online Applications.** Aside from renewal applications, the Board does not currently accept online applications. The Board hopes to be able to build this capability into the Breeze system over the next several years.

5) **Fiscal Impact.** The fiscal impact for each DCA board or bureau has not been calculated at this time. However, the department has estimated an IT cost of $4.9 million spread over two fiscal years for the entire department (113 license types). This cost would cover modifications to the Board's primary license database systems: Breeze, CAS, and ATS. It also assumes GO-Biz and DCA will need to securely transmit business application and license, address, and fee information on a daily basis.

<u>Support and Opposition.</u>

Support:

- Assembly Committee on Jobs, Economic Development, and the Economy (Sponsor)

Oppose:

- None at this time.

History

2017

03/02/17	Referred to Com. on J., E.D., & E.
02/16/17	From printer. May be heard in committee March 18.
02/15/17	Read first time. To print.

Attachment

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

ASSEMBLY BILL No. 767

Introduced by Assembly Member Quirk-Silva

February 15, 2017

An act to add Part 12. 5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

This bill would authorize a person that applies for 2 or more business licenses that have been incorporated into the master business license

system to submit a master application to the office requesting the issuance of the licenses. The bill would require the office to develop and adopt an Internet-based platform that allows the business to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee, which would be deposited into the Master License Fund, which would be created by the bill. The bill would authorize moneys in the fund, upon appropriation, to be expended only to administer this bill or be transferred to the appropriate licensing agencies. The bill would also require, upon issuance of the license or licenses, the office to transfer the fees, except for the master license fee, to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.

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

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

The bill would also require the Director of Small Business Advocate to work with small business owners and all regulatory agencies to ensure the state's implementation of a consolidated business license and permit system.

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

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

1 SECTION 1. Part 12.5 (commencing with Section 15930) is
2 added to Division 3 of Title 2 of the Government Code, to read:

PART 12.5. MASTER BUSINESS LICENSE ACT

Chapter 1. General Provisions

15930. This part may be known, and may be cited as, the Master Business Licence Act.

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

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

(b) "Director" means the Director of the Governor's Office of Business and Economic Development.

(c) "License information packet" means a collection of information about licensing requirements and application procedures custom assembled for each request.

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

(e) "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this part.

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

(g) "Office" means the Governor's Office of Business and Economic Development or its successor.

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

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

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

Chapter 2. Business License Center

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

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

(1) Developing and administering a computerized onestop master business license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes.

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

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

(4) Recommending in reports to the Governor and the Legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing or inspection requirements.

(5) Incorporating licenses into the master business license system.

15933. (a) The director may adopt regulations as may be necessary to effectuate the purposes of this part.

(b) The director shall encourage state entities to participate in the online master business license system.

15934. Each state agency shall cooperate and provide reasonable assistance to the office in the implementation of this part.

Chapter 3. Master License

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

(b) Irrespective of any authority delegated to the office to implement this part, the authority for approving the issuance and

renewal of any requested license that requires a prelicensing or renewal investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally authorized to issue the license shall remain with that agency.

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

15936. The office shall establish a fee for each master application that does exceed the reasonable costs of administering this part and collect that fee.

15937. All fees collected under the master business license system, including the master license application fee and the fees of the regulatory agencies, shall be deposited into the Master License Fund, which is hereby created in the State Treasury. Moneys in the fund from master application fees may, upon appropriation by the Legislature, be expended only to administer this part or be transferred to the appropriate licensing agencies. Moneys in the fund from other fees shall be transferred to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.

Chapter 4. Uniform Business Identification Number

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

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

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

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

Chapter 5. Oversight

15945. The Director of Small Business Advocate from the Governor's Office of Planning and Research shall work with small business owners and all regulatory agencies to ensure the state's implementation of a consolidated business license and permit system under this part.

O

Governor's Office of Business and Economic Development GO-Biz (http://business.ca.gov/)

ATTACHMENT A - CALGOLD SEARCH RESULT - OPTOMETRY: SACRAMENTO CITY/COUNTY -

Search Results

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

- Optometry

Permits & Licenses | Resources Available to Help You | Print List

Business License - Business Tax Certificate

city

Required for all entities doing business within city limits. See "County Unincorporated" for businesses located outside of city limits.

applies to:
Optometry

City of Sacramento
City Finance, Revenue Department
Business License
915 I Street, 5th Floor
Sacramento, CA, 95814
Phone: 916-808-5845
website (http://portal.cityofsacramento.org/Finance/Revenue/Business-Operation-Tax/Apply-for-a-Business-Operation-Tax-Account)

Fire Prevention Information/Inspection

city

Businesses may be subject to a yearly inspection of facility - annual fee may be charged.

applies to:
Optometry

City of Sacramento
City Fire Department
5770 Freeport Blvd, Suite 200
Sacramento, CA, 95822
Phone: 916-808-1300
website (http://www.sacfire.org/prevention-safety/fire-prevention/)

Land Use Permit/Zoning Clearance

city

Example: zone change, variance, conditional use permit. Required if business located within incorporated city limits.

applies to:
Optometry

City of Sacramento
City Planning Services
Planning Services
300 Richards Boulevard, 3rd Floor
Sacramento, CA, 95814
Phone: 916-264-5011
website (http://portal.cityofsacramento.org/Economic-Development/Business-Resources/Permitting-Zoning)

Police Regulations/Public Safety Issues

city

Some city police departments offer business crime prevention programs and may also issue permits for certain activities i.e. burglar alarm, solicitors etc. - requirements vary from city to city.

applies to:
Optometry

City of Sacramento
Police Department
5770 Freeport Blvd, Suite 100
Sacramento, CA, 95822
Phone: 916-808-1300
Fax: 916-808-1629
website (http://www.sacpd.org/faq/permits/)

Business Property Statement

county

Businesses are required to report all equipment, fixtures, supplies, and leasehold improvements held for business use at each location.

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agency note:
Property Statements are due January 1 of each year

applies to:
Optometry

County of Sacramento
Assessor's Office
3701 Power Inn Road, Suite 3000
Sacramento, CA, 95826
Phone: 916-875-0730
website (http://www.assessor.saccounty.net/Pages/Forms-BusinessPersonalProperty.aspx)

Fictitious Business Name - Doing Business As Statement

county

A Fictitious Business Name (FBN) or Doing Business As (DBA) statement is required when the business name does not include the surname of the individual owner(s) and each of the partners; or the business name suggests the existence of additional owners; or the nature of the business in not clearly evident by the name of the business. For example Bill Smith and Sons Plumbing would require a FBN because the name implies additional owners, Bill Smith Plumbing does not require a FBN. Bill Smith Industries would require a FBN because it does not identify the nature of the business.

applies to:
Optometry

County of Sacramento
Treasurer Tax Collector's Office
Fictitious Business Name
700 H Street, Room 1710
PO Box 508
Sacramento, CA, 95814
Phone: 916-874-6644
Fax: 916-874-8909
website (http://www.finance.saccounty.net/Tax/Pages/BusLicForms.aspx)

Air Tanks Permit

state

Required of all businesses using (1) pressurized tanks with a volume greater than 1.5 cubic feet and containing greater than 150 PSI (pounds per square inch) of air; (2) Steam boilers over 15 PSI; or (3) retail stationary propane tanks.

agency note:
"To apply for a "Permit to Operate" for an air tank, liquefied petroleum tank or a boiler, click on the link Pressure Vessel Inspection Request Form."

applies to:
Optometry

Department of Industrial Relations
Pressure Vessel Unit-North
1515 Clay Street, Suite 1302
Oakland, CA, 94612
Phone: 510-622-3066
Fax: 510-622-3063
website (http://www.dir.ca.gov/dosh/pressure.html)

Corporation, Company or Partnership Filings

state

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

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

applies to:
Optometry

Secretary of State
California Business Portal
1500 11th Street
Sacramento, CA, 95814
Phone: 916-657-5448
website (http://www.sos.ca.gov/business/be/forms.htm)

Discrimination Law

state

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

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

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

applies to:
Optometry

Facility Licensing and Certification

state

Department of Public Health
Licensing and Certification Program
12440 E. Imperial Highway, Room 522
Norwalk, CA, 90650
Phone: 562-345-6884
Fax: 562-409-5096
website (http://www.cdph.ca.gov/programs/LnC/Pages/LnCContact.aspx)
For more information... (http://www.cdph.ca.gov/certlic/facilities/Pages/LCDistrictOffices.aspx)

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

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

applies to:
Optometry

Medical Waste Generator Registration and Treatment/Transfer Station Permitting

state

Department of Public Health
Medical Waste Management Program
PO Box 997377, MS 0500
Sacramento, CA, 95899
Phone: 916-558-1784
website (http://www.dhs.ca.gov/ps/ddwem/environmental/Med_Waste/default.htm)

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

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

applies to:
Optometry

Occupational Safety and Health Information

state

Department of Industrial Relations
Cal/OSHA Consultation Services
2424 Arden Way, Ste. 300
Sacramento, CA, 95825
Phone: 916-263-2803
Fax: 916-263-2824
website (http://www.dir.ca.gov/occupational_safety.html)

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

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

applies to:
Optometry

Radiation Source Registration

state

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

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

applies to:
Optometry

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

Registered Contact Lens Dispenser

state

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

applies to:
Optometry

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

Registered Dispensing Optician

state

Optician stores that fit, adjust, and dispense eyeglass and contact lens prescriptions must obtain this certificate

applies to:
Optometry

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

Registered Spectacle Lens Dispenser

state

Persons who fill, adjust, and dispense eyeglass lenses with prescription must be registered.

applies to:
Optometry

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

Registration Form for Employers

state

Required to file a registration form within 15 days after paying more than $100.00 in wages to one or more employees. No distinction is made between full-time and part-time or permanent and temporary employees in meeting this requirement.

applies to:
Optometry

Employment Development Department
Employment Tax Customer Service Office
P.O. Box 2068
Rancho Cordova, CA, 95741
Phone: 888-745-3886
website (http://www.edd.ca.gov/payroll_taxes/am_i_required_to_register_as_an_emplo
For more information...
(http://www.edd.ca.gov/Office_Locator/)

Sales & Use Permit (Seller's Permit)

state

All businesses selling or leasing tangible property must obtain a Seller's Permit.

agency note:
For Additional information about RESALE CERTIFICATE go to this website: www.boe.ca.gov/sutax /faqresale.htm

applies to:
Optometry

State Board of Equalization
Sales/Use Tax Division
PO Box 942879
Sacramento, CA, 94279
Phone: 800-400-7115
website (http://www.boe.ca.gov /info/reg.htm)
For more information... (http://www.boe.ca.gov/info/phone.htm)

State EPA Identification Number

state

Required of businesses that generate, surrender to be transported, transport, treat, or dispose of hazardous waste.

agency note:
DTSC issues State Generator EPA ID Numbers. You may be referred to Federal EPA if you generate over 100 kg per month of RCRA waste (1-415-495-8895) or 1 *800) 6186942 or outside California (916) 255=1136

applies to:
Optometry

Department of Toxic Substances Control
Generator Information Services
1001 I Street
Sacramento, CA, 95814
Phone: 800-728-6942
website (http://www.dtsc.ca.gov /contactDTSC/regulatory-assistance-officers.cfm)

State Income Tax Information

state

Businesses should obtain the appropriate State income tax forms from the Franchise Tax Board.

agency note:
All businesses are required to submit a Business Income Tax statement annually.

applies to:
Optometry

Franchise Tax Board
Business Entities Division
PO Box 1468
Sacramento, CA, 95812
Phone: 800-338-0505
website (https://www.ftb.ca.gov /businesses /index.shtml?WT.mc_id=Global_Businesse

Wage/Hour Laws

state

Businesses with employees must comply with laws establishing minimum standards for wages, hours and working conditions.

applies to:
Optometry

Department of Industrial Relations
Labor Commissioner's Office
1515 Clay Street, STE 401, Oakland, CA, 94612
Oakland, CA, 94612
Phone: 510-285-3502
Fax: 510-286-1366
website (http://www.dir.ca.gov /DLSE/dlse.html)

Workers' Compensation Information

state

Businesses with employees must maintain Workers' Compensation Insurance coverage on either a self-insured basis, or provided through a commercial carrier, or the State Workers' Compensation Insurance Fund.

applies to:
Optometry

Department of Industrial Relations
Division of Workers' Compensation
160 Promenade Circle, Suite 300
Sacramento, CA, 95834
Phone: 916-928-3101
website (http://www.dir.ca.gov /DWC/dwc_home_page.htm)

Employer Identification Number (EIN or SSN)

federal

Employers with employees, business partnerships, and corporations, must obtain an Employer Identification Number from the I.R.S. Businesses can obtain appropriate Federal income tax forms from this location.

agency note:
Additional office locations: http://www.irs.gov/uac/Contact-My-Local-Office-in-California

applies to:
Optometry

U.S. Department of Treasury
Internal Revenue Service
4330 Watt Avenue
Sacramento, CA, 95821
Phone: 800-829-4933
website (http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Apply-for-an-Employer-Identification-Number-(EIN)-Online)

Proof of Residency Requirement

federal

Employees hired after November 6, 1986 must provide proof of eligibility to work in the United States.

applies to:
Optometry

U.S. Immigration and Naturalization Service
Sacramento Field Office
650 Capitol Mall
Sacramento, CA, 95814
Phone: 800-375-5283
website (http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a75/?vgnextoid=84c267ee5cb38210VgnVCM vgnextchannel=84c267ee5cb38210VgnV(

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 1116** **VERSION:** **AMENDED MARCH 29, 2017**

AUTHOR: **GRAYSON** **SPONSOR:** **CALIFORNIA PROFESSIONAL FIREFIGHTERS**

RECOMMENDED POSITION: **NONE**

SUBJECT: **PEER SUPPORT AND CRISIS REFERRAL SERVICES ACT**

Summary: Existing law provides a definition of a "psychotherapist" for purposes of establishing the psychotherapist-patient privilege. This bill adds a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel to the definition of a "psychotherapist" for purposes of a noncriminal proceeding.

Existing Law:

1) Establishes that a patient has privilege to refuse to disclose and to prevent another from disclosing a confidential communication between the patient and a psychotherapist under certain circumstances. (Evidence Code (EC) §1014)

2) Defines "confidential communication between patient and psychotherapist" as information, including that obtained by examination of the patient, transmitted between the patient and the psychotherapist in the course of that relationship and in confidence by a means which, so far as the patient is aware, discloses the information to not third persons other than those who further the interest of the patient. It includes the diagnosis made and advice given by the psychotherapist. (EC §1012)

3) Defines a "psychotherapist" as including the following persons (EC §1010):

- A person authorized to practice medicine who practices psychiatry;
- A licensed psychologist;
- A licensed clinical social worker;
- A credentialed school psychologist;
- A licensed marriage and family therapist;
- A registered psychological assistant;
- A marriage and family therapist intern;

- An associate clinical social worker;
- A registered psychologist;
- A psychological intern;
- An MFT trainee;
- A registered nurse listed as a psychiatric-mental health nurse;
- An advanced practice registered nurse certified as a clinical nurse specialist, who participates in expert clinical practice in the specialty of psychiatric-mental health nursing;
- A person rendering mental health treatment or counseling services authorized by §6924 of the Family Code. (This section specifies the professional persons who may provide mental health treatment or counseling to a consenting minor age 12 or older.)
- A licensed professional clinical counselor;
- A clinical counselor intern;
- A clinical counselor trainee.

4) Allows a communication between a patient and a licensed educational psychologist to be privileged to the same extent as a communication with a psychotherapist. (EC §1010.5)

<u>This Bill:</u>

1) Establishes the "Peer Support and Crisis Referral Services Act." (Government Code (GC) §8669 et seq.)

2) Specifies that a communication made by emergency service personnel to a crisis hotline or crisis referral service is confidential and cannot be disclosed in a civil or administrative proceeding. However, the crisis hotline or referral service may reveal information to prevent reasonable certain death, substantial bodily harm, or commission of a crime. (GC §8669.5 (a) and (b))

3) Establishes that a person or volunteer staffing a crisis hotline or crisis referral service is a "psychotherapist" for purposes of a noncriminal proceeding, for purposes of psychotherapist-patient privilege in Article 7 of Chapter 4 of the Evidence Code (beginning with section 1010).

4) States that except under certain specified circumstances, a communication made by emergency service personnel to a peer support team member while receiving peer support services is confidential and cannot be disclosed in a civil or administrative proceeding. A record kept pursuant to such services is also confidential and not

subject to subpoena, discovery, or introduction into evidence in a civil or administrative proceeding. (GC §8669.2(a))

Definitions

5) Defines "emergency service personnel" as a person who provides emergency response services, including a law enforcement officer, correctional officer, firefighter, paramedic, emergency medical technician, dispatcher, emergency response communication employee, or rescue service personnel. (GC §8669.1(d))

6) Defines "peer support services" to include services provided by a peer support team or team member to emergency service personnel affected by a critical incident or accumulation of multiple incidents. They include the following (GC §8669.1(e)):

- Precrisis education;
- Critical incident stress defusings and debriefings;
- On-scene support services;
- One-on-one support services;
- Consultation;
- Referral services;
- Confidentiality obligations
- The impact of toxic stress on health and well-being;
- Grief support
- Substance abuse identification and approaches; and
- Active listening skills.

7) Defines a "peer support team" as a local critical incident response team comprised of individuals from emergency service professions, emergency medical services, hospital staff, clergy, educators, and mental health professionals who have completed a peer support training course developed by the Office of Emergency Services, California Firefighter Joint Apprenticeship Committee, or the Commission on Correctional Peace Officer Standards and Training. (GC §8669.1(f))

Comments:

1) **Intent.** The author states it is critical to provide first responders and law enforcement officials with an opportunity to address critical incidents of stress through peer support and other means to ensure they receive the help they need.

2) **Implications of Defining Crisis Hotline or Crisis Referral Service Staffers as a "Psychotherapist."** This bill provides that staffers of a crisis hotline or crisis referral service for emergency service personnel are considered a "psychotherapists" and are granted the psychotherapist-patient privilege under Article 7 of Chapter 4 of Division 8 of the Evidence Code (which commences with section 1010) for purposes of a noncriminal proceeding only.

The Board may wish to discuss whether allowing crisis hotline or referral staffers to be considered psychotherapists who are granted the psychotherapist-patient privilege under certain circumstances would create any unintended consequences.

Previous Legislation:

- **AB 1629 (Bonta, Chapter 535, Statutes of 2014)** made costs incurred for certain services provided by violence peer counselors reimbursable to crime victims through the California Victim Compensation Board.

- **AB 1140 (Bonta, Chapter 569, Statutes of 2015)** made some additional amendments to the language of the previous year's AB 1629, at the request of this Board. The amendments clarified that a violence peer counselor may not perform services that full under the scope of practice of any of the professions that the Board regulates, unless those services take place in an exempt setting.

3) **Support and Opposition.**

Support:
- California Professional Firefighters (Co-Sponsor)
- American Red Cross
- California Correctional Peace Officers Association

Opposition:
- None at this time.

4) **History**

2017

04/05/17	From committee: Do pass and re-refer to Com. on JUD. (Ayes 14. Noes 0.) (April 4). Re-referred to Com. on JUD.
03/30/17	Re-referred to Com. on HEALTH.
03/29/17	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
03/09/17	Referred to Coms. on HEALTH and JUD.
02/19/17	From printer. May be heard in committee March 21.
02/17/17	Read first time. To print.

AMENDED IN ASSEMBLY MARCH 29, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1116

Introduced by Assembly Member Grayson

February 17, 2017

An act to *amend Section 1010 of the Evidence Code, and to* add Article 21 (commencing with Section 8669) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as amended, Grayson. ~~Critical Incident Stress Management Services Act.~~ *Peer Support and Crisis Referral Services Act.*

Under existing law, the California Emergency Services Act, the Governor is authorized to proclaim a state of emergency, as defined, under specified circumstances. The California Emergency Services Act also authorizes the governing body of a city, county, city ~~or~~ *and* county, or an official designated by ordinance adopted by that governing body, to proclaim a local emergency, as defined.

This bill would create the ~~Critical Incident Stress Management~~ *Peer Support and Crisis Referral* Services Act. The bill would, for purposes of the act, define a ~~"critical incident stress management team" or "CISM team"~~ *"peer support team"* as a local ~~crisis~~ *critical incident* response team ~~that is~~ comprised of individuals from ~~law enforcement, fire protection, and~~ *emergency services professions,* emergency medical services, hospital staff, clergy, educators, and mental health ~~providers~~ *professionals* who have completed a ~~CISM~~ *peer support* training course ~~established~~ *developed* by the Office of Emergency ~~Services.~~ *Services, the California Firefighter Joint Apprenticeship Committee, or the Commission on Correctional Peace Officer Standards and Training,*

as specified. The bill would provide that a communication made by ~~an emergency service provider to a CISM~~ *emergency service personnel to a peer support* team member while the emergency service ~~provider~~ *personnel* receives ~~CISM~~ *peer support* services, as defined, is confidential and shall not be disclosed in a ~~civil, criminal,~~ *civil* or administrative proceeding, except as specified. The bill would also provide that, except for an action for medical malpractice, a ~~CISM~~ *peer support* team or a ~~CISM~~ *peer support* team member providing ~~CISM~~ *peer support* services is not liable for damages, as specified, relating to the team's or team member's act, error, or omission in performing ~~CISM~~ *peer support* services, unless the act, error, or omission constitutes wanton, willful, or intentional misconduct. *The bill would provide that a communication made by emergency service personnel to a crisis hotline or crisis referral service, as defined, is confidential and shall not be disclosed in a civil or administrative proceeding, except as specified.*

Existing law provides that a person has a privilege to refuse to disclose, and prevent another from disclosing, a confidential communication with a psychotherapist, except in specified circumstances.

This bill would expand the definition of psychotherapist, for the purposes of the privilege described above in a noncriminal proceeding, to include a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel.

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. The Legislature finds and declares all of the following:

(a) Emergency service personnel frequently respond to traumatic incidents and dangerous circumstances, including, but not limited to, fires, stabbings, gun battles and shootings, domestic violence, terrorist acts, riots, automobile accidents, airplane crashes, and earthquakes. They are exposed to harmful substances, such as blood, urine, and vomit. They witness grave injuries, death, and grief. They are frequently placed in harm's way, with significant risk of bodily harm or physical assault while performing the duties of their jobs.

(b) The traumatic and unpredictable nature of emergency services results in a high-stress working environment that can take an overwhelming mental, emotional, and physical toll on personnel. Chronic exposure to traumatic events and critical incidents increases the risk for post-traumatic stress and other stress-induced symptoms.

(c) While most emergency service personnel survive the traumas of their jobs, sadly, many experience the impacts of occupational stressors when off duty. The psychological and emotional stress of their professions can have a detrimental impact long after their shift is over.

(d) Such trauma-related injuries can become overwhelming, manifesting in post-traumatic stress, substance abuse, and even, tragically, suicide. The fire service, as an example, is four times more likely to experience a suicide than a "traditional" death in the line of duty in any year.

(e) Similar to military personnel, California's emergency service personnel and first responders face unique and uniquely dangerous risks in their mission to keep the public safe. These professionals rely on each other for survival while placing their lives on the line every day to protect the communities they serve.

(f) The culture of emergency services has often inhibited its personnel from asking for assistance in battling their psychological stress for fear it will cause ridicule, shame, or adverse job action.

(g) California has a responsibility to ensure that its emergency service and public safety agencies are equipped with the tools necessary for assisting emergency service personnel in mitigating the occupational stress that they incur as a result of performing their job duties and protecting the public.

(h) It is, therefore, the intent of the Legislature in enacting this act to enable critically needed, confidential peer support and crisis referral services for California's emergency service personnel.

SEC. 2. Section 1010 of the Evidence Code is amended to read:

1010. As used in this article, "psychotherapist" means a person who is, or is reasonably believed by the patient to be:

(a) A person authorized to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.

(b) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(c) A person licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code, when he or she is engaged in applied psychotherapy of a nonmedical nature.

(d) A person who is serving as a school psychologist and holds a credential authorizing that service issued by the state.

(e) A person licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(f) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code, or a person registered as a marriage and family therapist intern who is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code.

(g) A person registered as an associate clinical social worker who is under supervision as specified in Section 4996.23 of the Business and Professions Code.

(h) A person registered with the Board of Psychology as a registered psychologist who is under the supervision of a licensed psychologist or board certified psychiatrist.

(i) A psychological intern as defined in Section 2911 of the Business and Professions Code who is under the supervision of a licensed psychologist or board certified psychiatrist.

(j) A trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 of, or subdivision (c) of Section 4980.37 of, the Business and Professions Code and is supervised by a licensed psychologist, a board certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.

(k) A person licensed as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business

and Professions Code, who possesses a master's degree in psychiatric-mental health nursing and is listed as a psychiatric-mental health nurse by the Board of Registered Nursing.

(*l*) An advanced practice registered nurse who is certified as a clinical nurse specialist pursuant to Article 9 (commencing with Section 2838) of Chapter 6 of Division 2 of the Business and Professions Code and who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.

(m) A person rendering mental health treatment or counseling services as authorized pursuant to Section 6924 of the Family Code.

(n) A person licensed as a professional clinical counselor under Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(o) A person registered as a clinical counselor intern who is under the supervision of a licensed professional clinical counselor, a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in Sections 4999.42 to 4999.46, inclusive, of the Business and Professions Code.

(p) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by paragraph (3) of subdivision (c) of Section 4999.32 of, or paragraph (3) of subdivision (c) of Section 4999.33 of, the Business and Professions Code, and is supervised by a licensed psychologist, a board-certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.

(q) For purposes of a noncriminal proceeding only, a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel, as described in subdivision (c) of Section 8669.5 of the Government Code.

~~SECTION 1.~~

SEC. 3. Article 21 (commencing with Section 8669) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 21. ~~Critical Incident Stress Management Services Act~~
Peer Support and Crisis Referral Services Act

8669. This article shall be known, and may be cited, as the ~~Critical Incident Stress Management Services Act.~~ *Peer Support and Crisis Referral Services Act.*

8669.1. For purposes of this article, the following terms have the following meanings:

(a) "Crisis referral services" include all public or private organizations that advise employees and volunteers of agencies employing emergency service personnel about consultation and treatment sources for personal problems, including mental health issues, chemical dependency, domestic violence, gambling, financial problems, and other personal crises.

~~(a)~~

(b) "Critical incident" means an actual or perceived event or situation that involves crisis, disaster, trauma, or emergency.

~~(b)~~

(c) "Critical incident stress" means the acute or cumulative psychological stress or trauma that ~~an~~ emergency service ~~provider~~ *personnel* may experience in providing emergency services in response to a critical incident. The stress or trauma is an unusually strong emotional, cognitive, behavioral, or physical reaction that may interfere with normal functioning, including, but not limited to, one or more of the following:

(1) Physical and emotional illness.

(2) Failure of usual coping mechanisms.

(3) Loss of interest in the job or normal life activities.

(4) Personality changes.

(5) Loss of ability to function.

(6) Psychological disruption of personal life, including his or her relationship with a spouse, child, or friend.

(d) "Emergency service personnel" means an individual who provides emergency response services, including a law enforcement officer, correctional officer, firefighter, paramedic, emergency medical technician, dispatcher, emergency response communication employee, or rescue service personnel.

~~(c) "Critical incident stress management services" or "CISM services" means~~

(e) "Peer support services" include services provided by a ~~critical incident stress management~~ *peer support* team or a ~~critical incident stress management~~ *peer support* team member to ~~an~~ emergency service ~~provider~~ *personnel* affected by a critical ~~incident. Critical incident stress management~~ *incident or the accumulation of witnessing multiple incidents. Peer support* services ~~are designed to assist an emergency service provider~~ *assist emergency service personnel* affected by a critical incident ~~to cope~~ *in coping* with critical incident stress or ~~to mitigate~~ *mitigating* reactions to critical incident stress. ~~Critical incident stress management~~ *Peer support* services include one or more of the following:

(1) Precrisis education.

(2) Critical incident stress defusings.

(3) Critical incident stress debriefings.

(4) On-scene support services.

(5) One-on-one support services.

(6) Consultation.

(7) Referral services.

~~(d) "Critical incident stress management team" or "CISM team"~~

(8) Confidentiality obligations.

(9) The impact of toxic stress on health and well-being.

(10) Grief support.

(11) Substance abuse identification and approaches.

(12) Active listening skills.

(f) "Peer support team" means a local ~~crisis~~ *critical incident* response team ~~that is~~ comprised of individuals from ~~law enforcement, fire, and~~ *emergency services professions,* emergency medical services, hospital staff, clergy, educators, and mental health ~~providers~~ *professionals* who have completed a ~~CISM~~ *peer support* training course ~~created~~ *developed* by the Office of Emergency ~~Services.~~ *Services, the California Firefighter Joint Apprenticeship Committee, or the Commission on Correctional Peace Officer Standards and Training, as described in Section 8669.4.*

~~(e) "Critical incident stress management team member" or "CISM team member"~~

(g) "Peer support team member" means an individual who is specially trained to provide ~~critical incident stress management~~

peer support services as a member of a ~~critical incident stress management~~ *peer support* team.

~~(f) "Emergency service provider" means an individual who provides emergency response services, including a law enforcement officer, corrections officer, firefighter, emergency medical services provider, dispatcher, emergency response communication employee, or rescue service provider.~~

8669.2. (a) Except as otherwise provided in this section, a communication made by ~~an~~ emergency service ~~provider~~ *personnel* to a ~~CISM~~ *peer support* team member while the emergency service ~~provider~~ *personnel* receives ~~CISM~~ *peer support* services is confidential and shall not be disclosed in a ~~civil, criminal,~~ *civil* or administrative proceeding. A record kept by a ~~CISM~~ *peer support* team member relating to the provision of ~~CISM~~ *peer support* services to ~~an~~ emergency service ~~provider~~ *personnel* by the ~~CISM~~ *peer support* team or a ~~CISM~~ *peer support* team member is confidential and is not subject to subpoena, discovery, or introduction into evidence in a ~~civil, criminal,~~ *civil* or administrative proceeding.

(b) A communication or record described in subdivision (a) is not confidential if any of the following circumstances exist:

(1) The ~~CISM~~ *peer support* team member reasonably ~~needs to~~ *must* make an appropriate referral of the emergency service ~~provider~~ *personnel* to, or consult about the emergency service ~~provider~~ *personnel* with, another member of the ~~CISM~~ *peer support* team or an appropriate professional associated with the ~~CISM~~ *peer support* team.

~~(2) The communication conveys information that the emergency service provider is or appears to be an imminent threat to himself or herself, a CISM team member, or any other individual.~~

(2) Revealing the communication by the emergency service personnel may prevent reasonably certain death, substantial bodily harm, or commission of a crime.

~~(3) The communication conveys information relating to child or elder abuse.~~

~~(4)~~

(3) The emergency service ~~provider~~ *personnel* or the legal representative of the emergency service ~~provider~~ *personnel* expressly agrees *in writing* that the emergency service ~~provider's~~ *personnel* communication is not confidential.

(c) If the confidentiality of a communication is removed under paragraph (1) or (2) of subdivision (b), the peer support team member shall notify the emergency service personnel of the removal in writing.

8669.3. (a) Except as otherwise provided in subdivision (b), a ~~CISM~~ *peer support* team or a ~~CISM~~ *peer support* team member providing ~~CISM~~ *peer support* services is not liable for damages, including personal injury, wrongful death, property damage, or other loss related to the ~~CISM~~ *peer support* team's or ~~CISM~~ *peer support* team member's act, error, or omission in performing ~~CISM~~ *peer support* services, unless the act, error, or omission constitutes wanton, willful, or intentional misconduct.

(b) Subdivision (a) does not apply to an action for medical malpractice.

8669.4. *(a)* The Office of Emergency Services shall ~~establish a CISM~~ *develop a peer support* training course that each ~~CISM~~ *peer support* team member must complete ~~in order~~ to be eligible for the protections of this article.

(b) (1) Notwithstanding subdivision (a), the Office of Emergency Services shall contract with the California Firefighter Joint Apprenticeship Committee to develop and deliver a fire service-specific peer support training course for a peer support team member who will provide peer support services for firefighters and other fire service emergency response personnel.

(2) This fire service-specific peer support training course shall be developed by the California Firefighter Joint Apprenticeship Committee in consultation with individuals knowledgeable about fire service first responder peer support services. The course shall include topics on peer support and stress management, including, but not limited to, all of the following:

(A) Precrisis education.

(B) Critical incident stress defusings.

(C) Critical incident stress debriefings.

(D) On-scene support services.

(E) One-on-one support services.

(F) Consultation.

(G) Referral services.

(H) Confidentiality obligations.

(I) The impact of toxic stress on health and well-being.

(J) Grief support.

(K) Substance abuse identification and approaches.
(L) Active listening skills.
(3) The contract shall provide for the delivery of training by the California Firefighter Joint Apprenticeship Committee through contracts with state, local, and regional public fire agencies.
(c) (1) Notwithstanding subdivision (a), the Commission on Correctional Peace Officer Standards and Trainings shall develop and deliver a peer support training course for a peer support team member who will be operating in correctional facilities such as the state prison or a county jail.
(2) This peer support training course shall include topics on peer support and stress management, including, but not limited to, all of the following:
(A) Precrisis education.
(B) Critical incident stress defusings.
(C) Critical incident stress debriefings.
(D) On-scene support services.
(E) One-on-one support services.
(F) Consultation.
(G) Referral services.
(H) Confidentiality obligations.
(I) The impact of toxic stress on health and well-being.
(J) Grief support.
(K) Substance abuse identification and approaches.
(L) Active listening skills.
8669.5. (a) Except as otherwise provided in this section, a communication made by emergency service personnel to a crisis hotline or crisis referral service is confidential and shall not be disclosed in a civil or administrative proceeding.
(b) A crisis hotline or crisis referral service may reveal information communicated by emergency service personnel to prevent reasonably certain death, substantial bodily harm, or commission of a crime.
(c) A person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel is a "psychotherapist," as described in subdivision (q) of Section 1010 of the Evidence Code, for purposes of Article 7 (commencing with

Section 1010) of Chapter 4 of Division 8 of the Evidence Code, for purposes of a noncriminal proceeding.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 1188** **VERSION:** **AMENDED APRIL 5, 2017**

AUTHOR: **NAZARIAN** **SPONSOR:**

- **CALIFORNIA ASSOCIATION FOR LICENSED PROFESSIONAL CLINICAL COUNSELORS (CALPCC)**
- **NATIONAL ASSOCIATION OF SOCIAL WORKERS – CALIFORNIA CHAPTER (NASW-CA)**

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 and PCC interns to apply for the 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, 4996.3, 4996.6, 4999.102, 4999.120)

2) Sets the amount for the LMFT renewal fee at $130 (California Code of Regulations (CCR) Title 16, Section 1816(d)).

3) Sets the amount for the LCSW renewal fee at $100 (16 CCR §1816(f)).

4) Sets the amount for the LPCC renewal fee at $175 (16 CCR §1816(g))

5) Requires that in addition to the regular biennial license renewal fee, LMFTs and LCSWs must pay an additional $10 biennial fee at renewal, 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))

<u>This Bill:</u>

1) Increases the biennial 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 biennial Mental Health Practitioner Education Fund Fee of $20 upon license renewal. (BPC §4999.121)

3) Allows LPCCs and PCC interns 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)

<u>Comment:</u>

1) Author's Intent. The purpose of this bill is to increase the number of mental health professionals willing to work in medically underserved areas by making LPCCs eligible for educational loan reimbursements through the Licensed Mental Health Services Provider Education Program.

2) Change "MFT Intern" title to "Associate MFT." The "MFT intern" title will be changing to "associate MFT" on January 1, 2018 (SB 1478, Chapter 489, Statutes of 2016). Therefore, the "marriage and family therapist intern" reference in HSC §128484 should be changed to "associate marriage and family therapist."

3) **Minor Reference Correction in BPC Sections 4996.65 and 4999.121 Recommended.** Staff recommends that minor technical amendments be made to BPC §§4996.65 (LCSW statute) and 4999.121(LPCC statute) in order to reference both the biennial renewal fee and the authority for the biennial renewal fee. This is consistent with how LMFT statute (BPC §4984.75) is already written. The suggested amendments would read as follows (shown in highlight):

BPC §4996.65

In addition to the fees charged pursuant to Section ~~4996.6~~4996.3 for the biennial renewal of a license pursuant to Section 4996.6, 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.

BPC §4999.121.

In addition to the fees charged pursuant to Section 4999.120 for the biennial renewal of a license pursuant to Section 4999.102, 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.

4) **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**

5) **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.

As of January 1, 2017, the Board's total population of LMFTs, LCSWs, and LPCCs is approximately 67,000. Board staff estimates that the proposed increase in the Mental Health Practitioner Education Fund Fee would generate approximately an extra $342,000 per year.

On its website, OSHPD states that the grant award can be up to $15,000 (but it can be less). Therefore, the extra revenue generated could fund several new awards.

6) **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. Based on discussions with DCA's Office of Information Services, which oversees programming of the Department's Breeze system, delaying implementation until July 1, 2018 would allow sufficient time to make the needed changes. Therefore, staff recommends that the Board consider asking for this delayed implementation date.

7) Support and Opposition.

Support:

- California Association for Licensed Professional Clinical Counselors (CALPCC) (Sponsor)
- National Association of Social Workers – California Chapter (NASW-CA) (Sponsor)
- American Association for Marriage and Family Therapy – California Division (AAMFT-CA)
- California Psychological Association (CPA)
- Mental Health America of Los Angeles

Opposition:

- None at this time.

8) History

2017

04/06/17 Re-referred to Com. on HEALTH.
04/05/17 Read second time and amended.
04/04/17 From committee: Amend, and do pass as amended and re-refer to Com. on HEALTH. (Ayes 14. Noes 0.) (April 4).
03/09/17 Referred to Coms. on B. & P. and HEALTH.
02/19/17 From printer. May be heard in committee March 21.
02/17/17 Read first time. To print.

AMENDED IN ASSEMBLY APRIL 5, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1188

Introduced by Assembly Member Nazarian

February 17, 2017

An act to amend Sections 2987.2, 4984.75, and 4996.65 of, and to add Section 4999.121 to, the Business and Professions Code, and to amend Section 128454 of the Health and Safety Code, relating to health professions development, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1188, as amended, Nazarian. Health professions development: loan repayment.

(1) 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, and 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 specified. Existing law establishes the Mental Health Practitioner Education Fund and provides that moneys in that fund are available, upon appropriation, for purposes of the Licensed Mental Health Service Provider Education Program.

This bill would add licensed professional clinical counselors *and licensed professional clinical counselor interns* to those licensed mental

health service providers eligible for grants to reimburse educational loans.

(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 also requires the board to collect an additional fee of $10 at the time of renewal and directs the deposit of that fee into the Mental Health Practitioner Education Fund.

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 into 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 Mental Health Practitioner Education Fund.

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

Vote: ⅔. 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 2987.2 of the Business and Professions
2 Code is amended to read:
3 2987.2. In addition to the fees charged pursuant to Section
4 2987 for the biennial renewal of a license, the board shall collect
5 an additional fee of twenty dollars ($20) at the time of renewal.
6 The board shall transfer this amount to the Controller who shall
7 deposit the funds in the Mental Health Practitioner Education Fund.

SEC. 2. 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 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. 3. 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 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. 4. 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. 5. 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, associate clinical social worker,

~~and~~ licensed professional clinical ~~counselor.~~ *counselor, and licensed professional clinical counselor intern.*

(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. 6. 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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the urgent need for 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: **AB 89** **VERSION:** **INTRODUCED JANUARY 9, 2017**

AUTHOR: **LEVINE** **SPONSOR:** **CALIFORNIA BOARD OF PSYCHOLOGY**

RECOMMENDED POSITION: **NONE**

SUBJECT: **PSYCHOLOGISTS: SUICIDE PREVENTION TRAINING**

Overview:

This bill would require, beginning January 1, 2020, an applicant for licensure as a psychologist, or a licensed psychologists, upon renewal of his or her license, to demonstrate completion of at least six hours of coursework or supervised experience in suicide risk assessment and intervention.

Existing Law:

1) Requires the director of the Department of Consumer Affairs to establish, by regulation, guidelines to prescribe components for mandatory continuing education programs administered by any board within the department. The guidelines shall be developed to ensure that mandatory continuing education is used as a means to create a more competent licensing population, thereby enhancing public protection. (Business and Professions Code (BPC §166)

2) Requires a licensed psychologist to show completion of 36 hours of approved continuing professional development upon the biennial renewal of his or her license. (BPC §2915(a))

This Bill:

1) Beginning January 1, 2020, requires an applicant for licensure as a psychologist to demonstrate completion of at least six hours of coursework or applied supervised experience in suicide risk assessment and intervention. The coursework or experience must be gained via one of the following methods (BPC §2915.4(a)):

a) It was obtained as part of the qualifying degree. The applicant must provide a written certification from the registrar or training director of the educational institution or program stating the coursework was included; or

b) It was obtained as part of the applicant's applied experience via practicum, internship, formal doctoral placement, or other supervised experience. The applicant must submit a written certification from the director of training for the program, or from the primary supervisor, stating the required training was included; or

c) It was obtained via a continuing education course specified as acceptable by the Board of Psychology. The applicant must submit a certificate of course completion.

2) Beginning January 1, 2020, requires a licensee, upon his or her license renewal, reactivation, or reinstatement, to have completed at least six hours of coursework or applied supervised experience in suicide risk assessment and intervention, as a one-time requirement. Proof of compliance must be certified under penalty of perjury, and must have been gained via one of the methods described in Item 1 above. (BPC §2915.4(b))

Comments:

1) Author's Intent. The purpose of this bill is to establish a baseline requirement for all licensed psychologists in suicide risk assessment and intervention. According to the author's office, suicide is the 11th leading cause of death. They state that national research has shown that 77% of those who die by suicide have had contact with their primary care provider in the year before their death, and approximately 33% have had contact with a mental health professional within a year of their death.

The author states that the Board of Psychology conducted two surveys of its graduate programs, internship programs, and post-doctoral training programs. These surveys found that the majority of survey respondents provided some education and training on suicide risk assessment and intervention. However, the amount of education and training varied widely.

2) Previous Legislation and Governor's Directive. During the 2013-2014 Legislative Session, AB 2198 (Levine) was introduced in an effort to ensure that licensed mental health professionals were receiving adequate training in suicide assessment, treatment, and management. The bill would have required licensees of the Board of Behavioral Sciences (Board) and the Board of Psychology to complete a six hour training course in the subject. New applicants for licensure would have been required to complete a 15 hour course in the subject.

While the Board shared the author's concerns that some health care professionals may lack training in suicide assessment, treatment and management, it indicated that it did not believe the bill, as written, would accomplish its objective. At its May 2014 meeting, the Board took an "oppose unless amended" position on the bill, and asked that it be amended to instead form a task force to include members of the Board, stakeholders, the Board of Psychology, county mental health officials, and university educators. However, the bill was not amended per the Board's request.

The Governor vetoed AB 2198 in September 2014 (**Attachment A**). In his veto message, he asked that the licensing boards evaluate the issues the bill raised, and take any needed actions.

3) BBS Response to Governor's Directive. In response to the Governor's veto message, the Board designed a survey for schools in California offering a degree program intended to lead to Board licensure. The purpose of the survey was to determine the extent of exposure to the topics of suicide assessment, treatment, and management for students enrolled in these degree programs. These programs were asked to report courses required by the program covering these topics, and the number of hours or units devoted to the subject.

A total of 28 Master's degree programs responded to the survey. In spring of 2015, the Board released the survey findings. The Board found that schools commonly integrate the topic of suicide assessment across a variety of courses, including in practicum. In addition, several schools offered additional elective coursework for students wanting further specialization on this topic.

As a result of these findings, the Board concluded that mandating a specific number of hours of suicide assessment coursework is unlikely to be effective in reducing suicides, because degree programs are already providing coverage of the topic. It offered alternative solutions as follows:

- Ensuring front-line health care professionals, such as nurses, physicians assistants, and unlicensed school and county mental health workers, have adequate training on the topic;

- Formation of a task force to discuss the latest research in suicidality and to develop a model curriculum;

- Assess resources at the county mental health level to determine if there is an adequate level of support for suicidal individuals; and

- Increase public awareness through media campaigns to reduce stigma of seeking mental health services, and to identify available local resources.

Attachment B contains the letter written by Board staff to the Department of Consumer Affairs' (DCA's) Division of Legislative and Regulatory Review summarizing the survey findings. **Attachment C** summarizes the survey responses.

4) Support and Opposition.

Support:
- Board of Psychology (sponsor)
- California Professional Firefighters
- California State Sheriffs' Association
- Children Now
- County Behavioral Health Directors Association of California
- Didi Hirsch Mental Health Services
- National Alliance on Mental Illness
- Three individuals

Opposition:
- California Psychological Association

5) History.

2017
04/06/17 Read second time. Ordered to third reading.
04/05/17 From committee: Do pass. (Ayes 17. Noes 0.) (April 5).
03/28/17 From committee: Do pass and re-refer to Com. on APPR. (Ayes 14. Noes 1.) (March 28). Re-referred to Com. on APPR.
03/22/17 Coauthors revised.
01/19/17 Referred to Com. on B. & P.
01/10/17 From printer. May be heard in committee February 9.
01/09/17 Read first time. To print.

6) Attachments.

- **Attachment A:** Governor's Veto Message: AB 2198

- **Attachment B:** BBS Letter to DCA Division of Legislative and Regulatory Review (Summarizing Survey Findings), March 3, 2015

- **Attachment C:** BBS Master's Degree Program Survey Results: Coverage of Suicide Assessment, Treatment, and Management (March 2015)

ASSEMBLY BILL No. 89

Introduced by Assembly Member Levine
(Coauthor: Assembly Member Berman)

January 9, 2017

An act to add Section 2915.4 to the Business and Professions Code, relating to psychologists.

LEGISLATIVE COUNSEL'S DIGEST

AB 89, as introduced, Levine. Psychologists: suicide prevention training.

Existing law, the Psychology Licensing Law, provides for the licensing and regulation of psychologists and requires a person applying for licensure as a psychologist to have completed specified coursework or training. Existing law also requires licensed psychologists to participate in continuing professional development as a prerequisite for renewing their licenses. Existing law requires a person applying for relicensure or for reinstatement to an active license status to certify under penalty of perjury that he or she has fulfilled the continuing professional development requirements. Existing law defines "continuing professional development" as certain continuing education learning activities and provides requirements for continuing education courses approved to meet the continuing professional development requirements.

This bill, effective January 1, 2020, would require an applicant for licensure as a psychologist to complete a minimum of 6 hours of coursework or applied experience under supervision in suicide risk assessment and intervention. The bill would also require, effective January 1, 2020, as a one-time requirement, a licensed psychologist to

have completed this suicide risk assessment and intervention training requirement prior to the time of his or her first renewal. The bill would also require, effective January 1, 2020, a person applying for reactivation or for reinstatement to have completed this suicide risk assessment and intervention training requirement. The bill would require that proof of compliance with this provision be certified under penalty of perjury that he or she is in compliance with this provision and be retained for submission to the board upon request. By expanding the crime of perjury, the bill would impose a state-mandated local program.

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

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

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 2915.4 is added to the Business and
2 Professions Code, to read:
3 2915.4. (a) Effective January 1, 2020, an applicant for licensure
4 as a psychologist shall show, as part of the application, that he or
5 she has completed a minimum of six hours of coursework or
6 applied experience under supervision in suicide risk assessment
7 and intervention. This requirement shall be met in one of the
8 following ways:
9 (1) Obtained as part of his or her qualifying graduate degree
10 program. To satisfy this requirement, the applicant shall submit
11 to the board a written certification from the registrar or training
12 director of the educational institution or program from which the
13 applicant graduated stating that the coursework required by this
14 section is included within the institution's curriculum required for
15 graduation at the time the applicant graduated, or within the
16 coursework that was completed by the applicant.
17 (2) Obtained as part of his or her applied experience. Applied
18 experience can be met in any of the following settings: practicum,
19 internship, or formal postdoctoral placement that meets the
20 requirement of Section 2911, or other qualifying supervised
21 professional experience. To satisfy this requirement, the applicant

shall submit to the board a written certification from the director of training for the program or primary supervisor where the qualifying experience has occurred stating that the training required by this section is included within the applied experience.

(3) By taking a continuing education course that meets the requirements of subdivision (e) or (f) of Section 2915 and that qualifies as a continuing education learning activity category specified in paragraph (2) or (3) of subdivision (c) of Section 2915. To satisfy this requirement, the applicant shall submit to the board a certification of completion.

(b) Effective January 1, 2020, as a one-time requirement, a licensee prior to the time of his or her first renewal after the operative date of this section, or an applicant for reactivation or reinstatement to an active license status, shall have completed a minimum of six hours of coursework or applied experience under supervision in suicide risk assessment and intervention, as specified in subdivision (a). Proof of compliance with this section shall be certified under penalty of perjury that he or she is in compliance with this section and shall be retained for submission to the board upon request.

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.

REVISIONS:

Heading—Line 2.

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ATTACHMENT A

BILL NUMBER: AB 2198
VETOED DATE: 09/18/2014

To the Members of the California State Assembly:

I am returning Assembly Bill 2198 without my signature.
This bill would require certain mental health professionals to complete a training program in "suicide assessment, treatment, and management."
California has an extensive regulatory scheme that aims to ensure that California physicians, psychologists and counselors are skilled in the healing arts to which they have committed their lives. Rather than further legislating in this field, I would ask our licensing boards to evaluate the issues which this bill raises and take whatever actions are needed.

Sincerely,

Edmund G. Brown Jr.

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ATTACHMENT B

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: Justin Paddock
Assistant Deputy Director Legislation Regulatory Review

Date: March 3, 2015

From: Kim Madsen
Executive Officer

Telephone: (916) 574-7841

Subject: **Mental Health Professionals: Suicide Prevention Training**

Background

During the 2013-2014 Legislative Session, AB 2198 (Levine) was introduced in an effort to ensure that licensed mental health professionals were receiving adequate training in suicide assessment, treatment, and management. The bill would have required licensees of the Board of Behavioral Sciences (Board) and the Board of Psychology to complete a six-hour training course in suicide assessment, treatment, and management. Applicants for licensure would have been required to complete a 15-hour course in this subject area.

While the Board shared the author's concerns that some health care professionals may lack training in in suicide assessment, treatment, and management, it did not believe that the bill, in its current form, would accomplish its objective.

Upon veto of the bill, the Governor asked the licensing boards to evaluate the issues raised and take any needed actions.

Survey of Master's Degree Programs

The Board wanted to determine the extent of exposure to the topics of suicide assessment, treatment, and management, for a student enrolled in a Master's degree program intended to lead to licensure. In order to assess this, the Board designed a survey for schools in California offering a degree program leading to Board licensure. The Board conducted outreach to both stakeholder groups and mental health educator consortiums, in order to emphasize the importance of the topic and encourage participation in the survey.

Degree programs were asked to report the following:

- Courses required by the degree which cover the topic of suicide assessment, treatment, and management;
- Number of units or hours each required course spends on these topics;

- A description of the topics or methods covered by each required course; and

- Additional relevant courses offered as electives in the degree program.

A total of 28 Master's degree programs responded to the survey.

Survey Findings

The survey results strongly indicate that schools are providing adequate training of suicide assessment, treatment, and management:

- The data support the claim by the schools that they commonly integrate the topic across a variety of courses, discussing it as it is relevant to the particular focus of a course.

- Many schools also indicated that the topics in question are discussed in practicum, where the students are doing the most hands-on portion of their learning.

- Several schools offer additional elective coursework on the topic, for students seeking further specialization.

- Schools consistently reported teachings of a wide range of aspects of suicidality, including legal and ethical issues, crisis intervention, assessment instruments for suicide risk factors, and role playing activities.

Conclusion

Mandating a specific number of hours of suicide coursework in a degree program is unlikely to be effective in reducing suicides in the general population, because the degree programs are already providing coverage of the topic. Some of the following solutions may be more effective in addressing the treatment of suicidal individuals:

- Ensuring front-line health care professionals (such as registered and vocational nurses, physician's assistants, and unlicensed school and county mental health care or medical care workers) have adequate training in suicide assessment, treatment, and management.

- Formation of a task force among mental health educators and suicide experts to discuss the latest research in suicidology, and to develop model curriculum so that educators can ensure they are covering the latest suicide assessment techniques and concepts in their programs.

- Assessment of resources at the county mental health care level to determine if there is an adequate level of support for suicidal individuals. Consider seeking additional funding to adequately staff county mental health facilities.

- Increase public awareness through various media campaigns in an effort to reduce the stigma of seeking mental health services and to identify available local resources.

Attachment C
BBS Master's Degree Programs Survey Results
Coverage of Suicide Assessment, Treatment, and Management (Spring 2015)

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses *(Not Required)*
Alliant International University - Couple and Family Therapy Program [1]			
PSY 6310 Law & Ethics	3 hours	Patient rights and responsibilities when patient is danger to self. Voluntary and involuntary hospitalization (5150 holds).	
PSY 6325 Crisis & Trauma	3 hours	Principles & processes of crisis intervention and treatment. Clinical management and treatment of suicidality.	
PSY 6322 MFT Theory and Technique II	2 hours	Clinical assessment of suicidality.	
PSY 6323 MFT Theory and Technique II Lab	2 hours	Students role-play to practice skills at clinical assessment and intervention in suicide.	
PSY 6360 Preparation for Community Practice	3 hours	Community resources for suicidal clients.	
PSY 7314 MFT Assessment	2 hours	Assessment instruments for depression and suicide risk.	
Azusa Pacific University - Master of Social Work Program			
SOCW 514 Practice I - Interviewing and Assessment	5 hours	Students trained using Applied Suicide Intervention Skills Training model as a framework for suicide intervention. Discussion of risk factors, signs. Role playing.	
SOCW 550 Intermediate Praxis	2 hours	Review of risk assessment and intervention	
SOCW 513 Micro Theory and Human Development	3 hours	Suicidality and risk across the life course	
SOCW 534/544 Field Seminar III & IV	3 hours	Risk assessment and intervention reviewed as part of internship training.	
			-SOCW 536 Advanced Practice I: Adult Mental Health (2 hours); Suicide risk associated with various mental health conditions. -SOCW Child and Adolescents (2 hours); Suicide risk & assessment unique to children/adolescents.
California Southern University - MA in Psychology w/ Emphasis in Marriage and Family Therapy			
PSY86502 Counseling Theories and Strategies MFT 86504 Ethical Issues in Marriage Family and Child Therapy PSY 86506 Psychopathology MFT 86510 Child and Adolescent Therapy PSY 86511 Alcoholism/Chemical Dependency Detection and Treatment PSY 86512 Group Psychology PSY 86517 Psychology of Aging MFT 86700 Psychopharmacology PSY 87519 Psychology of Trauma PSY 87534 Dual Diagnosis	Approx. 18 hours total	Risk assessment, suicidality, reporting, treatment, and prevention.	
California State University, Bakersfield - MS in Counseling Psychology			
CPSY 535 Domestic Violence CPSY 630 Clinical Ethics CPSY 631 Legal & Professional Issues in MFT			Suicide assessment, treatment & management is also highlighted in all 3 practicum and traineeships in reference to specific client situations.
California State University, Dominguez Hills - Masters of Science in Marital & Family Therapy			
MFT 530 Community Mental Health Practicum	Approx. 6 hours	-Legal and ethical courses talk about therapist's responsibilities when making clinical decision on suicide.	
MFT 584 Laws and Ethics	Approx. 6 hours		
MFT 511, 521, 531, 541 Fieldwork Practice	Approx. 6 hours	'-Suicidality among specific populations (does not look the same for each gender, culture, or ages)	
MFT 566 Psychopathology in MFT	Approx. 6 hours		
MFT 588 Treatment of Trauma	Approx. 6 hours	'-Clinical assessments, paperwork, documentation/reporting when conducting a suicide assessment.	

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses *(Not Required)*
California State University, Fullerton - Clinical Psychology Program			
501 Professional & Legal Issues	3 hours	Duty to warn and danger to self.	
561 Advanced Psychological Assessment	1.5 hours	Assessment of suicide risk.	
545 Advanced Psychopathology	.5 hours	General assessment and hospitalization.	
549 Marriage, Family, and Child Therapy	2-3 hours	Topic addressed generally in this course in the context of addiction.	
California State University, Fullerton - MS in Counseling			
COUN 511 Pre-Practicum	2 hours	Assessment & suicide prevention (reading, lecture & role plays)	
COUN 522 Techniques in Brief Treatment and Assessment	2 hours	Assessment & intervention management (reading, lecture & role plays)	
COUN 526 Professional, Ethical and Legal Issues in Counseling	1 hour	Ethical issues in suicide assessment, management & prevention (reading, lecture & case scenarios)	
COUN 538 Crisis and Trauma Counseling	2 hours	Suicide intervention & management (reading & role plays)	
COUN 530 Beginning Practicum	2-4 hours	Discussion of suicide assessment, management, and intervention	
COUN 534 Advanced Practicum	2-4 hours	Discussion of suicide assessment, management, and intervention	
California State University, Humboldt - Counseling Masters of Arts			
PSY 660 Law and Ethics in Psychology	2 hours	Assessment, voluntary & involuntary hospitalization.	
PSY 630 Advanced Psychopathology	1 hour	Adjustment w/ depression and disorders w/ suicide risk factors.	
PSY 653 Advanced Psychopathology with Children & Families	16 hours	Understanding suicidal ideation & behavior; understanding prevention practices; Suicide Intervention Model (Snyder) (connect, understand, assist), safe plan options, attitudes toward intervention.	
California State University, Northridge - MS in Counseling - MFT [1]			
659B - Practicum	Approx. 3 hours	These courses cover examples, case studies, intervention techniques, and warning signs.	
672 - Diagnosis	Approx. 3 hours		
California State University, Sacramento - MS in Counseling; specializations in Career Counseling (CC), Marriage & Family Therapy (MFT), School Counseling (SC)			
EDC 212 Gender Roles & Sexuality (required all specializations)	2 hours	law & ethics, 5150/harm to self, LBGTQ risk factors, domestic violence, child abuse, and terminal illness prevalence/risk factors for suicide.	
EDC 216 Counseling Theory (required all specializations)	1 hour	Limits of confidentiality, 5150 harm to self, law & ethics regarding suicide, brief overview of assessment of suicidality.	
EDC 218 Assessment in Counseling (required all specializations)	6 hours	Assessment models of suicide/self-harm, assessment tools for evaluating risk factors, review of legal & ethical responsibilities.	
EDC 231 Diagnosis & Treatment Planning (required all specializations)	6 hours	Discussion of risk factors & their treatment.	
EDC 233 Substance Abuse and the Family (required all specializations)	6 hours	Discussion of risk factors associated with substance abuse & their treatment.	
EDC 242 Play and Art Therapy (Required SC, elective for MFT)	1 hour	Suicidality in young children, treatment of children who have attempted suicide/self harm.	
EDC 244 Trauma & Crisis Counseling (Required CC & MFT, elective for S	6 hours	Coping strategies to prevent suicide, assessment for risk factors.	
EDC 252 Legal & Ethical Issues in Prof. Counseling (req'd all specializatio	6 hours	In depth discussion of legal/ethical responsibilities, analysis of case studies, assessment/evaluation, community resources.	
EDC 254 Counseling & Psychotropic Medicine (Req'd MFT, elective SC and CC	3 hours	prevalence by age group, risk increase for prescription use, increased suicidality as side effect of prescription use, suicide safety contracts, co-occurring conditions that increase risk.	
EDC 268 Career/Job Search (Required for CC)	3 hours	Impact of unemployment /job loss risk factors	

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses *(Not Required)*
EDC 272 Counseling Children & Youth (Required MFT and SC)	6 hours	Suicide assessment in children/adolescents, assessment & treatment of risk factors, legal/ethical responsibilities, community resources.	
EDC 274 Guidance & Consultation in School Counseling (Required for SC	3 hours	Prevention of suicide through assessment and treatment of risk factors; explore community resources.	
EDC 475 Practicum in Counseling (Required all specializations)	3 hours min.	Discuss practicum cases, review of assessment, treatment, risk factors, legal/ethical responsibilities, discussion of self harm assessment/treatment.	
EDC 480 Field Study in Counseling (Required all specializations)	3 hours min.	Discussion of internship cases, review of assessment techniques, risk factors, treatment protocol for those who have attempted suicide, legal/ethical responsibilities.	
California State University, San Francisco - Master of Science in Marriage, Family & Child Counseling			
COUN 706 Practicum & Counseling Process	3 hours	dangerousness (suicide/homicide) assessment & treatment. Readings, demonstration, role playing, case study.	
COUN 715 Assessment in Counseling	2 assignments	Two homework assignments: identification of psychological tests & reviews that assess suicide/homicide potential. Development of an instrument to measure counselor competence in managing crisis (suicide/homicide).	
COUN 857 Law and Ethics in Counseling	3 hours	Dangerousness (suicide/homicide) assessment & management.	
COUN 858 Couple and Family Counseling		Impact of suicidality within context of families, including prevention strategies.	
COUN 705, 736, 890, 891 Counseling Practicum and Internship		Practicum/internship training program must have an agency crisis protocol, where trainees receive training in assessing/managing suicidal clients.	
California State University, San Jose - MS in Clinical Psychology			
PSY 203A Assessment	3 unit course	Lecture on suicide assessment.	
PSYC 228 Ethics	3 unit course	Discussion of the topic.	
PSYC 211 Child Psychopathology	3 unit course	Topic repeatedly discussed.	
PSYC 260 Crisis and Trauma Counseling	3 unit course	Topic is a focus of a section of the course.	
Chapman University - Master of Arts in Marriage and Family Therapy			
MFT 516 Assessment of Individuals and Families	Approx. 2 hours	Suicide risk assessment methods	
MFT 573 Crisis Management and Clinical Process	6 hours	Suicide assessment & management (handouts & lectures)	
MFT 578 Ethics and Professional Issues for MFTs	1.5 hours	Suicide assessment, relevant CA laws/regulations, ethical code, resources	
The Chicago School of Professional Psychology - Masters in Clinical Psychology w/ Marital & Family Therapy Specialization			
MM520 Adult Psychopathology	6 hours	Mental status exams, risk factors associated with suicide and aggressive behaviors	
MM 511 Law and Professional Ethics	6 hours	Danger to self, danger to others, Tarasoff & Ewing ruling	
Fuller Theological Seminary - Master of Science in Marital and Family Therapy			
FT 530B Clinical Foundations II	3.5 hours		
FT 522 Assessment of Individuals/Couples/Families	2.5 hours		
FT 502 Legal & Ethical Issues in Family Practice	2 hours		
FT 549 Psychopharmacology	0.5 to 1 hour	The use of anti-depressants and their risk of suicidal tendencies in consumers.	
Holy Names University - MA in Counseling Psychology/Dual Counseling and Forensic Psychology			
CPSY 200	1.5 hours	Assessment	
CPSY 215	3 hours	Legal/ethical./reporting/therapeutic approaches: treatment and management	
CPSY 220	3 hours	Human development research on suicidality across lifespan: assessment	
CPSY 271	4 hours	Working with families of traumatic event; management and treatment	
			-CPSY 270 Trauma Types and Transformation: Assessment; Management

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses *(Not Required)*
Hope International University - MA in Marriage & Family Therapy			
PSY 5240 Disaster Trauma & Abuse Response	2 units	Courses cover suicide assessment via vignettes and readings from text.	
PSY 5230 Family Violence	2 units		
PSY 6800 Practicum Course	2 units		
PSY 8120 Professional Ethics & Law	2 units		
Northcentral University; School of Marriage and Family Sciences - MA in Marriage and Family Therapy			
MFT 6201 California Law and Professional Ethics	5 hours	Legal/ethical responsibilities of therapist facing a client expressing suicidal ideations.	
MFT 5103 Systemic Evaluation and Case Management	15 hours	Methods of client risk assessment/assessing issues of safety; case management in crisis situation	
MFT 6106 Families in Crisis	8 hours	Adolescent self harm, suicidal ideations and behaviors, suicide in the elderly, assessment and etiology of suicide.	
Phillips Graduate Institute - MA in Psychology, Emphasis Marriage and Family Therapy [2]			
PSY 520A Abnormal Psychology	2 unit course	Suicidal gestures, self harming behavior, and aggression. Crisis intervention and other levels of counseling intervention are discussed.	
PSY 503 Developmental Psychology	3 unit course	Suicide risk covered with developmental issues.	
PSY 539 Legal, Ethical, & Professional Issues	3 unit course	Managing confidentiality when clients are dangerous to themselves.	
PSY 531A and 531B Applied Therapeutic Methodology	1 unit each	Common clinical emergencies, including assessment and treatment of suicidality and self-harm.	
PSY 533A and 533B Practicum	2 units each	Case discussions, which usually involve experience with crisis situation such as suicide	
Saybrook University - Marriage and Family Therapy License Program			
MFT 2562 (CO) Crisis and Trauma Intervention	Approx. 6 hours	Stages of assessment and intervention; emphasizes interventions for crisis and trauma.	
Touro University Worldwide - Masters of Arts in Marriage and Family Therapy			
MFT 611 Foundation of Psychopathology	5 hours	Covers suicide assessment, treatment, and management	
University of La Verne - Marriage and Family Therapy MS			
PSY 512 Clinical Psychopathology	6 hours	Suicide assessment for high risk diagnostic categories	
PSY 544 Trauma Focused Treatment	2 hours	Trauma response and harm assessment, hospitalization, collaboration of care	
PSY 509 Psychological Testing	3 hours	Suicide assessment/interview techniques	
PSY 550 Community Mental Health Counseling	2 hours	Disaster/trauma response. Harm assessment.	
PSY 580 Fieldwork I	6 hours	Discussion of clinical cases, suicide assessment techniques/steps needed when clients require hospitalization	
PSY 581 Fieldwork II	6 hours		
University of Phoenix (Southern California Campus) - MSC/MFCT			
Legal and Ethical Issues in MFT	3 hours	Duty to warn/protect in cases of danger to self and others	
Introduction to Clinical Assessment	4 hours	Prevalence of suicidal behavior in individuals with mental disorders, evaluation criteria, assessment techniques and strategies for suicidal clients, interventions with suicidal clients.	
Pre-practicum	2 hours	Suicide prevention; strategies of risk assessment of self harm.	
			Students can take additional seminars that are offered on MFT related topics. One of these is a 4 hour suicide assessment workshop.
University of San Diego - MA in Marital and Family Therapy			
MFTS 528 Psychopathology	1 hour	Video and discussion on suicide assessment.	
MFTS 529 Ethical and Legal Issues in Family Therapy	2 hours	interviewing techniques for suicidal clients, assessment, risk factors, and treatment options.	
EDU 704i Treatment of Severe Mental Illness	5 hours	Suicide risk assessment, treatment, and intervention. Final assignment is treatment plan based on vignette for suicidal patient.	

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses *(Not Required)*

Required Courses in Degree Covering Topic	Units or Hours Courses Spend on Topic	Topic Areas Covered	Additional Elective Courses *(Not Required)*
USC - Masters in Marriage and Family Therapy			
EDUC 507 Professional Identity and Law and Ethics for Counselors	3 hours	Duties around suicide assessment, suicide assessment practices, suicidal ideation intervention	
EDUC 644 Practicum in Counseling	3 hours		
Other: Fieldwork A and B	Approx. 9 hours	Suicidality discussed throughout fieldwork; hours shown is an estimate.	
USC School of Social Work - Master of Social Work			
SOWK 543 Social Work Practice With Individuals	4 hours	Assessing suicide across the lifespan. Suicide viewed from a micro, mezzo and macro level.	
			-SOWK 631 Advanced Theories and Clinical Interventions in Health Care (Approx. 1 hr. covering suicide ideation, assessment, & resources) -SOWK 612 Psychopathology and Diagnosis of Mental Disorders (Approx. 4 hrs.) -SOWK 615 Brief Therapy and Crisis Intervention (Approx. 4 hrs.) -SOWK 617 Substance Abuse w/ Consideration of Other Addictive Disorders (Approx. 4 hrs.) -SOWK 618 Systems of Recovery from Mental Illness in Adults (Approx. 4 hrs.) -SOWK 645 Clinical Practice in Mental Health Settings (Approx. 4 hrs.)
Vanguard University - Graduate Program in Clinical Psychology			
PSYG 601, 603, 604, 626, 724, and 726	Lectured in these courses, but no required number of hours. Also discussed in clinical work in practicum course.		
			PSYG 618 - This course changes each semester, but one offering of this course is specifically on suicide assessment, treatment, and management.
Western Seminary (Sacramento Campus) - Master of Arts in Marriage and Family Therapy			
Tests and Measurements	2 hours	Uses a book teaching clinical and legal standards of care for suicidal patients; students learn instruments for assessment of suicidal clients.	
Psychopathology	5 hours	Studies the dangers of suicide with mentally ill clients, students develop a treatment plan regarding suicide and mental illness.	
Legal and Ethical Issues	3 hours	Studies legal and ethical issues around a suicide crisis, breaking confidentiality, reporting, & hospitalization when patent is a danger to themselves.	
Counseling for Addictions	3 hours	Discussion of drugs & alcohol use/abuse/addiction as risk factors for suicide.	
Emergency Preparedness: Crisis Management	12 hours	Suicide crisis, assessment, prevention, and treatment. Text is focused on developing clinical skills in these areas.	

[1] These programs note that the topic is covered in other elective courses as well, for example, suicidality in specific populations.
[2] This program also offers an emphasis in Art Therapy and School Counseling along with the Marriage and Family Therapy emphasis. All of these programs are required to complete the courses shown.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER:	**AB 1372**	**VERSION:**	**AMENDED MARCH 30, 2017**
AUTHOR:	**LEVINE**	**SPONSOR:**	**COUNTY BEHAVIORAL HEALTH DIRECTORS ASSOCIATION OF CALIFORNIA**

RECOMMENDED POSITION: **NONE**

SUBJECT: **CRISIS STABILIZATION UNITS: PSYCHIATRIC PATIENTS**

Summary: This bill allows a crisis stabilization unit that provides specialty mental health services, at its discretion, to provide medically necessary crisis stabilization services to individuals beyond the allowable treatment time of 24 hours under certain circumstances.

Existing Law:

1) Establishes standardized guidelines to govern the provisions of Medi-Cal specialty mental health services that are provided at the local level. These guidelines are also required to be consistent with federal Medicaid requirements to ensure federal reimbursement. (Welfare and Institutions Code (WIC) §14680)

2) Designates the state's Department of Health Care Services (DHCS) as the state agency that is responsible for overseeing mental health plans for Medi-Cal beneficiaries. (WIC §14682.1)

3) Sets guidelines to govern public and privately administered mental health plans, including that Medi-Cal covered mental health services shall be provided in the beneficiary's home community, or as close as possible to it. (WIC §14684)

4) Defines "specialty mental health services," under the Department of Mental Health Medi-Cal specialty mental health services regulations, as rehabilitative mental health services, which include, among other things, crisis intervention and crisis stabilization. (California Code of Regulations (CCR) Title 9 §1810.247)

5) Defines "crisis stabilization," under the Department of Mental Health Medi-Cal specialty mental health services regulations, as a service lasting less than 24 hours for a condition that requires a more timely response than a regularly scheduled visit. This can include, but is not limited to assessment, collateral, and therapy. (9 CCR §1810.210)

6) Sets the following requirements for crisis stabilization services (9 CCR §1840.338):

a) Services must be provided on site at a licensed 24-hour health care facility, hospital based outpatient program, or a department-certified site to perform crisis stabilization;

b) Medical backup services must be available and medications must be available on an as-needed basis; and

c) Beneficiaries of crisis stabilization must receive an assessment of their physical and mental health.

7) Specifies staffing requirements for crisis stabilization services (9 CCR §1840.348).

This Bill:

1) Permits a crisis stabilization unit designated by a mental health plan that provides Medi-Cal specialty mental health services, under the discretion of the plan, to provide medically necessary crisis stabilization services to individuals beyond the allowable service time of 24 hours under the following circumstances (WIC §14724(a)):

a) The individual needs inpatient or outpatient psychiatric care; and

b) Crisis stabilization beds or outpatient services are not reasonably available.

2) Requires each mental health plan to establish treatment protocols, documentation standards and administrative procedures that a crisis stabilization unit must follow for individuals who are provided crisis stabilization services for more than 24 hours. The established protocols, standards, and procedures must be consistent with best practices and must be evidence-based. (WIC §14724(b))

Comment:

1) **Author's Intent.** According to the author's office, "AB 1372 would give Crisis Stabilization Units more flexibility in caring for emotionally distressed individuals by allowing them to continue to care for patients beyond the current 24 hour limitation."

Currently, crisis stabilization units may provide services to a patient for up to 24 hours. When a patient comes in, they work to stabilize the crisis and determine if a referral to outpatient or inpatient treatment is needed. Some of these patients are treated voluntarily, and others are involuntary "5150" holds. However, if the patient needs continued service but there are no continuing services available to refer them to, the units are forced to release the patient when the 24 hours is up.

The author states that this bill would allow extra time for a crisis stabilization unit to find inpatient psychiatric care or outpatient care for someone who needs it beyond the 24 hours they are allowed to treat for.

2) **Previous Legislation.**

- **SB 82 (Chapter 34, Statutes of 2013)** This bill, titled the "Investment in Mental Health Wellness Act of 2013," appropriated funds to be made available to selected counties to increase capacity for client assistance and services in crisis intervention, crisis stabilization, crisis residential treatment, rehabilitative mental health services, and mobile crisis support teams.

- **AB 2198 (Levine, 2014)** This bill proposed requiring licensees of this Board and the Board of Psychology to complete a six-hour training course in suicide assessment, treatment, and management. It would also have required new applicants who began graduate study after January 1, 2016 to take a 15-hour course in this subject area.

  While the Board noted that it shared the author's concerns regarding the prevalence of suicide, it did not believe AB 2198 would accomplish its objective. Therefore, the Board took an "oppose unless amended" position on the bill. A copy of the Board's position letter to the Governor, which includes alternative suggested actions, is shown in **Attachment A.**

  AB 2198 was vetoed by the Governor. In his veto message, the Governor asked the licensing boards to evaluate the issues raised and take any needed actions. The Board responded to this request by conducting a survey of Master's degree programs intended to lead to Board licensure, to determine if degree programs were providing coursework in suicide assessment. It determined that schools were providing coverage of the topic.

3) **Consistency with Previous Board Recommendation.** It appears that one goal of AB 1372 is to help ensure that a suicidal patient needing treatment is not required to be released in a situation where the crisis stabilization unit's 24 treatment hours are up, but there are no available inpatient beds or outpatient services to help the patient before that time is up. This bill provides the treating crisis stabilization unit with an option, if it so chooses, to have extra time to find the person the care he or she needs before being released.

   The Board discussed the issue of suicide prevention and treatment extensively during its consideration of AB 2198 (Levine) in 2014. When considering that bill, the Board noted that it shared the author's concern about deficiencies in suicide assessment, treatment, and management training for professionals who may encounter suicidal individuals. It did not believe the course of action in AB 2198 would accomplish its objective, but instead recommended the formation of a task force of experts who would examine the issue further.

   One of the issues the Board identified in its position letter to the Governor (shown in **Attachment A** and dated August 20, 2014) was the need for further discussion regarding lack of resources at the county mental health care level which may be impeding treatment for those who need it. AB 1372 may be a step toward addressing the Board's suggestion.

4) Support and Opposition.

Support:

- County Behavioral Health Directors Association of California (Sponsor)

Opposition:

- None at this time.

5) History.

2017

04/03/17	Re-referred to Com. on HEALTH.
03/30/17	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
03/30/17	Referred to Com. on HEALTH.
02/19/17	From printer. May be heard in committee March 21.
02/17/17	Read first time. To print.

6) Attachments.

Attachment A: BBS Position Letter to the Governor: AB 2198 (August 20, 2014)

AMENDED IN ASSEMBLY MARCH 30, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1372

Introduced by Assembly Member Levine

February 17, 2017

An act *to add Section 14724 to the Welfare and Institutions Code,* relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1372, as amended, Levine. Crisis stabilization units: psychiatric patients.

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. Under existing law, the department and counties provide specialty mental health services for Medi-Cal beneficiaries through mental health managed care plans, as specified. Under existing law, these services may include crisis stabilization services and inpatient psychiatric care.

~~This bill would declare the intent of the Legislature to enact legislation to establish a process by which a certified crisis stabilization unit may be authorized to provide medically necessary crisis stabilization services to beneficiaries for an extended period in those cases in which a beneficiary in the unit needs inpatient psychiatric care, but an appropriate inpatient bed is not available.~~

This bill would authorize a crisis stabilization unit designated by a mental health managed care plan, at the discretion of the mental health managed care plan, to provide medically necessary crisis stabilization

services to individuals beyond the service time of 24 hours in those cases in which the individual needs inpatient psychiatric care or outpatient care and crisis stabilization beds or outpatient services are not reasonably available. The bill would require a mental health plan that elects to provide crisis stabilization services as described in these provisions to amend its mental health plan contract to include a provision authorizing the provision of crisis stabilization services for more than 24 hours. The bill would require the department to require these mental health plans to establish treatment protocols, documentation standards, and administrative procedures, consistent with best practices and other evidence-based medicine, to be followed by a crisis stabilization unit for appropriate treatment to individuals who are provided crisis stabilization services for more than 24 hours. The bill would require the department to seek any state plan amendments or waivers, or amendments to existing waivers, that are necessary to implement these provisions.

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

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

1 *SECTION 1. Section 14724 is added to the Welfare and*
2 *Institutions Code, to read:*
3 *14724. (a) A crisis stabilization unit designated by a mental*
4 *health plan under Article 5 (commencing with Section 14680) or*
5 *this chapter, and authorized pursuant to Sections 14021.4, 14680,*
6 *and 14684, may, at the discretion of the mental health plan, provide*
7 *medically necessary crisis stabilization services to individuals*
8 *beyond the service time of 24 hours in those cases in which the*
9 *individual needs inpatient psychiatric care or outpatient care and*
10 *crisis stabilization beds or outpatient services are not reasonably*
11 *available. A mental health plan that elects to provide crisis*
12 *stabilization services as described in this section shall amend its*
13 *mental health plan contract entered into pursuant to this chapter*
14 *to include a provision authorizing the provision of crisis*
15 *stabilization services as described in this section.*
16 *(b) The department shall require each mental health plan to*
17 *establish treatment protocols, documentation standards, and*
18 *administrative procedures, consistent with best practices and other*
19 *evidence-based medicine, to be followed by a crisis stabilization*

unit for appropriate treatment to individuals who are provided crisis stabilization services for more than 24 hours.

(c) The department shall seek any state plan amendments or waivers, or amendments to existing waivers, that are necessary to implement this section.

~~SECTION 1. It is the intent of the Legislature to enact legislation to establish a process by which a certified crisis stabilization unit, as authorized by Sections 14021.4, 14680, and 14684 of the Welfare and Institutions Code, may be authorized to provide medically necessary crisis stabilization services to beneficiaries beyond the current time limit of under 24 hours in those cases in which a beneficiary in the unit needs inpatient psychiatric care, but an appropriate inpatient bed is not available.~~

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Board of Behavioral Sciences

ATTACHMENT A -

1625 North Market Blvd., Suite S-200, Sacramento, CA 95834
(916) 574-7830, (800) 326-2297 TTY, (916) 574-8625 Fax
www.bbs.ca.gov

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

August 20, 2014

Governor Jerry Brown
State Capitol
Sacramento, CA 95814

RE: AB 2198 - Oppose

Dear Governor Brown:

At its May 22, 2014 meeting, the Board of Behavioral Sciences (Board) discussed and took a position of "oppose unless amended" on AB 2198 (Levine) (As Amended April 21, 2014).

The Board shared the author's concerns regarding the need to address deficiencies in suicide assessment, treatment, and management training for professionals who may encounter suicidal individuals. However, it did not believe that the bill, in its current form, would accomplish this objective.

Instead, the Board recommended the bill be amended to form a task force to include members of this Board, its stakeholders, the Board of Psychology, county mental health officials, and university educators. This group should discuss the following areas of concern to determine the best course of action:

1. Current coverage of the topic of suicide assessment, treatment, and management in Master's level mental health degree programs, including identifying courses that typically include the topic, aspects of the topic that are already being addressed, and aspects of the topic where improved training is needed.

2. Whether college campus mental health care workers and others who are likely to encounter suicidal individuals are likely to be licensed mental health care professionals, and if not, how to address their training needs; and

3. Lack of resources at the county mental health care level which may be impeding treatment for those who need it.

This bill was not amended to create such a task force, and therefore the Board is in opposition to this bill, in its current form.

It is the Board's hope that through a future series of stakeholder meetings, a model "Best Practice" training curriculum can be developed for Master's level mental health programs, and effective training for non-licensed workers encountering suicidal individuals can be developed as well.

Please feel free to contact my Legislative Analyst, Rosanne Helms, at (916) 574-7897 if you have any questions.

Board of Behavioral Sciences

1625 North Market Blvd., Suite S-200, Sacramento, CA 95834
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Governor Edmund G. Brown Jr.
State of California
Business, Consumer Services and Housing Agency
Department of Consumer Affairs

Sincerely,

Steve Sodergren
Acting Executive Officer

CC: Division of Legislative and Policy Review, Department of Consumer Affairs

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **AB 1591** **VERSION:** **AMENDED MARCH 28, 2017**

AUTHOR: **BERMAN** **SPONSOR:** **CALIFORNIA ASSOCIATION FOR LICENSED PROFESSIONAL CLINICAL COUNSELORS**

RECOMMENDED POSITION: **NONE**

SUBJECT: **MEDI-CAL: FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CENTERS: LICENSED PROFESSIONAL CLINICAL COUNSELOR**

Summary:

This bill would allow Medi-Cal reimbursement for covered mental health services provided by a licensed professional clinical counselor 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;
    - A physician assistant;
    - A nurse practitioner;
    - A certified nurse-midwife;
    - A clinical psychologist;
    - A licensed clinical social worker;
    - A visiting nurse;
    - A dental hygienist; or
    - A marriage and family therapist.

This Bill:

1) Adds a licensed professional clinical counselor 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) Describes technical procedures for how an FQHC or RHC that employs licensed professional clinical counselors 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 licensed professional clinical counselor and be reimbursed through Medi-Cal for covered mental health services. Under current law, only clinical psychologists, licensed clinical social workers, or marriage and family therapists may receive Medi-Cal reimbursement for covered services in such settings.

   Marriage and family therapists are the most recent addition to the list of mental health providers whose services may be reimbursed. AB 1863 (Chapter 610, Statutes of 2016) was signed into law in 2016. At that time, the bill's author and sponsors argued that the inability of marriage and family therapists to receive Medi-Cal reimbursement served as a disincentive for a FQHC or a RHC to consider hiring them, and that allowing services provided by LMFTs to be reimbursed would maximize the availability of mental health services in rural areas.

3) **Previous Legislation.**

   - A bill was run as AB 1785 (B. Lowenthal) in 2012, and proposed to add marriage and family therapists to the list of health care professionals that are able to provide Medi-Cal reimbursable services for an FQHC or RHC visit. The Board took a "support" position on AB 1785. However, the bill died in the Assembly Appropriations Committee.

   - The 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.

- As mentioned above, the bill was again run in 2016 as AB 1863 (Wood). The Board took a “support” position on the bill. AB 1863 was signed into law; however, LPCCs were not included on the list of reimbursable providers.

4) Support and Opposition.

Support:

- California Association for Licensed Professional Clinical Counselors (CALPCC) (Sponsor)

Oppose:

- None at this time.

5) History

2017

03/29/17	Re-referred to Com. on HEALTH.
03/28/17	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
03/27/17	Referred to Com. on HEALTH.
02/19/17	From printer. May be heard in committee March 21.
02/17/17	Read first time. To print.

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AMENDED IN ASSEMBLY MARCH 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 1591

Introduced by Assembly Member Berman

February 17, 2017

An act to amend Section ~~1785.1 of the Civil Code,~~ *14132.100 of the Welfare and Institutions Code,* relating to ~~consumer credit reporting.~~ *Medi-Cal.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1591, as amended, Berman. ~~Consumer credit reporting.~~ *Medi-Cal: federally qualified health centers and rural health centers: licensed professional clinical counselor.*

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 licensed professional clinical counselor within those health care professionals covered under that definition. The bill would require an FQHC or RHC that currently includes the

cost of the services of a licensed professional clinical counselor 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 for these services as a separate visit, as specified. The bill would require an FQHC or RHC that does not provide the services of a licensed professional clinical counselor, and later elects to add this service and bill these services as a separate visit, to process the addition of these services as a change in scope of service.

~~Existing state and federal law regulates the activities of consumer credit reporting agencies. Existing state law, the Consumer Credit Reporting Agencies Act, codifies legislative findings and declarations in this regard. The act states that its purpose is to require consumer credit reporting agencies to adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, hiring of a dwelling unit, and other information in a manner that is fair and equitable to the consumer, as specified.~~

~~This bill would make nonsubstantive changes to these provisions.~~

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

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

SECTION 1. Section 14132.100 of the Welfare and Institutions Code is amended to read:

14132.100. (a) The federally qualified health center services described in Section 1396d(a)(2)(C) of Title 42 of the United States Code are covered benefits.

(b) The rural health clinic services described in Section 1396d(a)(2)(B) of Title 42 of the United States Code are covered benefits.

(c) Federally qualified health center services and rural health clinic services shall be reimbursed on a per-visit basis in accordance with the definition of “visit” set forth in subdivision (g).

(d) Effective October 1, 2004, and on each October 1 thereafter, until no longer required by federal law, federally qualified health center (FQHC) and rural health clinic (RHC) per-visit rates shall be increased by the Medicare Economic Index applicable to primary care services in the manner provided for in Section

1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to January 1, 2004, FQHC and RHC per-visit rates shall be adjusted by the Medicare Economic Index in accordance with the methodology set forth in the state plan in effect on October 1, 2001.

(e) (1) An FQHC or RHC may apply for an adjustment to its per-visit rate based on a change in the scope of services provided by the FQHC or RHC. Rate changes based on a change in the scope of services provided by an FQHC or RHC shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of 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 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 year.

(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 sufficient

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 both 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 Qualified 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 practitioner, as defined in Section 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, a dental

hygienist in alternative practice, *a licensed professional clinical counselor,* or a marriage and family therapist.

(B) Notwithstanding subdivision (e), if an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice, *a licensed professional clinical counselor,* or a marriage and family therapist for the purposes of establishing its FQHC or RHC rate chooses to bill these services as a separate visit, the FQHC or RHC 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~~ *professionals, licensed professional clinical counselors,* 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'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, a dental hygienist in alternative practice, *a licensed professional clinical counselor,* 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, dental hygienist in alternative practice, *licensed professional clinical counselor services,* or marriage and family therapist services, and later elects to add these services and bill these services as a separate visit, 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 first 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 Office 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 FQHC or 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 Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with applicable 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, 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 extent that any element or requirement of this section is not approved, the department shall submit a request to the federal Centers for Medicare and Medicaid Services for any waivers that would be necessary to implement this section.

(n) The department shall implement this section only to the extent that federal financial participation is obtained.

~~SECTION 1. Section 1785.1 of the Civil Code is amended to read:~~

~~1785.1. The Legislature finds and declares as follows:~~

~~(a) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, and general reputation of consumers.~~

~~(b) Consumer credit reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.~~

~~(c) There is a need to insure that consumer credit reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.~~

~~(d) It is the purpose of this title to require that consumer credit reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, hiring of a dwelling unit, and other information in a manner that is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of the information in accordance with the requirements of this title.~~

~~(e) The Legislature hereby intends to regulate consumer credit reporting agencies pursuant to this title in a manner that will best protect the interests of the people of the State of California.~~

~~(f) The extension of credit is a privilege and not a right. Nothing in this title shall preclude a creditor from denying credit to any applicant providing the denial is based on factors not inconsistent with present law.~~

~~(g) Any clauses in contracts that prohibit any action required by this title are not in the public interest and shall be considered unenforceable. This shall not invalidate the other terms of the contract.~~

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **SB 27** **VERSION:** **INTRODUCED DECEMBER 5, 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 an initial license to an applicant who has served as an active duty member of the California National Guard or the U.S. Armed Forces and was honorably discharged.

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 current and 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 licensure process for applicants who are honorably discharged from the military, or who are spouses of active military members and who are already licensed in the same profession 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 an initial license to an applicant who has served as an active duty member of the California National Guard or the U.S. Armed Forces and was honorably discharged. (BPC §114.6(a))

2) In order to qualify for the fee waiver, the applicant must provide the Board with a completed "Certificate of Release or Discharge from Active Duty" (DD Form 214). (BPC §114.6(a))

3) Allows only one fee waiver to be granted. However, if a board charges both an application fee and a license issuance fee, the applicant is to be granted both waivers. (BPC §114.6(b))

4) Prohibits a fee waiver from being granted for any of the following (BPC §114.6(b)):

a) A license renewal;

b) The application for and issuance of an additional license or a registration; or

c) An application for examination.

Comments:

1) **Author's Intent.** The author's office states that initial application and occupational license fees can act as barriers of entry to the workforce for veterans. They state that between 240,000 to 360,000 veterans separate from the military each year, and 1.9 million veterans currently live in California.

The author's office also notes that the states of Wisconsin, Florida, and Texas have passed legislation granting fee waivers for initial occupational licensure for honorably discharged veterans.

2) **Fiscal Impact.** This bill requires fee waivers for the application of a license and for the issuance of a license, if a board charges both fees. This board only charges an initial license fee. (Applicants also typically have to pay a registration application fee, registration renewal fees, and exam application fees, but these fees are not waived under this bill.)

The fees that this board charges 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

Average BBS Initial License Fee (average of the 4 license types) = $128

The Board began tracking data about the number of applicants in who applied for an expedited application or license due to military service at the end of 2014. Therefore, two full years of this data (2015 and 2016) is available.

Many of the expedited applications in 2015 and 2016 were for a registration. Because a high number of registrants may not go on to receive a license, or it may be many years before they do so, the number of applications for a registration is likely not indicative of the number of persons who will eventually ask for an initial license fee to be waived. Instead, staff only looked at exam eligibility applications, and initial license requests that were expedited in 2015 and 2016.

- In 2015, there were 58 requests for an expedited exam eligibility application or initial license issuance due to military service.

- In 2016, there were 92 requests for an expedited exam eligibility or initial license issuance due to military service.

Because the military expedite process for licensure is relatively new, it is possible that these requests could increase in the future as more applicants learn that military veterans are eligible for expedited licenses. However, at this time, the fiscal impact would be $128 (the average amount of the waived fee) per applicant. Therefore, the cost of waiving these fees in 2016 ($128 average fee x 92 qualifying military spouses = $11,776 in waived fees) would have been approximately $12,000.

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) **Tracking Previous Fee Waivers.** This bill states that applicants can only be granted one fee waiver. If an applicant is applying for more than one license, they cannot obtain fee waivers for those other licenses.

   It may be difficult for the Board to ascertain whether an applicant has already been granted a fee waiver if he or she applying for multiple licenses.

5) **Previous Legislation.**

   SB 1155 (Morrell, 2016) would have required licensing boards to grant fee waivers for the application for and issuance of a license to persons who are honorably discharged veterans. The Board had decided not to take a position on this bill. SB 1155 died in the Assembly Appropriations Committee.

AB 1057 (Medina, Chapter 693, Statutes of 2013), requires each board to inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

6) **Related Legislation.** AB 703 (Flora) would require licensing boards to grant fee waivers for the application for and issuance of an initial license to a person who holds a current license in the same profession in another state and who is a spouse of an active duty member of the military.

7) **Support and Opposition.**

Support:

- American Council of Engineering Companies, California
- American G.I. Forum of California
- American Legion-Department of California
- AMVETS-Department of California
- California Association of County Veterans Service Officers
- California Association of Licensed Investigators, Inc.
- California Optometric Association
- California State Commanders Veterans Council
- Military Officers Association of America, California Council of Chapters
- Vietnam Veterans of America-California State Council
- Veterans of Foreign Wars, California Department

Opposition:

- None at this time.

8) **History**

2017
04/03/17 From committee: Do pass and re-refer to Com. on V.A. (Ayes 9. Noes 0.) (April 3). Re-referred to Com. on V.A.
03/21/17 Set for hearing April 3.
01/12/17 Referred to Coms. on B., P. & E.D. and V.A.
12/06/16 From printer. May be acted upon on or after January 5.
12/05/16 Introduced. Read first time. To Com. on RLS. for assignment. To print.

SENATE BILL No. 27

Introduced by Senator Morrell

December 5, 2016

An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as introduced, 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 or registrant 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 or registration 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 requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist with, the initial licensure process for an applicant who has served as an active duty member of the United States Armed Forces and was honorably discharged.

This bill would require 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 applicant who supplies satisfactory evidence, as defined, to the board that the applicant has served as an

active duty member of the California National Guard or the United States Armed Forces and was honorably discharged. The bill would require that a veteran be granted only one fee waiver, except 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:

SECTION 1. Section 114.6 is added to the Business and Professions Code, to read:

114.6. (a) (1) Notwithstanding any other law, every board within the department shall grant a fee waiver for the application for and issuance of an initial license to an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the California National Guard or the United States Armed Forces and was honorably discharged.

(2) For purposes of this section, "satisfactory evidence" means a completed "Certificate of Release or Discharge from Active Duty" (DD Form 214).

(b) (1) A veteran shall be granted only one fee waiver, except as specified in paragraph (2). After a fee waiver has been issued by any board within the department, the veteran is no longer eligible for a waiver.

(2) If a board charges a fee for the application for a license and another fee for the issuance of a license, the veteran shall be granted fee waivers for both the application for and issuance of a license.

(3) The fee waiver shall apply only to an application of and a license issued to an individual veteran and not to an application of or a license issued to an individual veteran on behalf of a business or other entity.

(4) A fee waiver shall not be issued for any of the following:

(A) Renewal of a license.

(B) The application for and issuance of an additional license, a certificate, a registration, or a permit associated with the initial license.

(C) The application for an examination.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **SB 244** **VERSION:** **AMENDED APRIL 3, 2017**

AUTHOR: **LARA** **SPONSOR:** **AUTHOR**

RECOMMENDED POSITION: **NONE**

SUBJECT: **PRIVACY: AGENCIES: PERSONAL INFORMATION**

Summary

This bill would provide additional privacy protections for personal information that is submitted to state agencies from an applicant for public services or programs.

Existing Law:

1) Requires entities under the Department of Consumer Affairs (DCA) to collect either the federal employer identification number (for partnerships), the individual taxpayer identification number, or the social security number of all applicants. (Business and Professions Code (BPC) §30)

2) States that the federal employer identification number, individual taxpayer identification number, or the social security number collected by a licensing board is not a public record and is not open to the public for inspection. (BPC §30)

3) Requires that DCA entities provide information on the internet regarding the status of every license issued by that entity. This may not include personal information, including home telephone number, date of birth, or social security number. An address of record is required to be disclosed, however, a licensee may opt to provide a post office box number or alternate address instead of a home address. (BPC §27)

4) Establishes the Mental Health Practitioner Education Fund, which provides loan repayment grants to certain mental health services providers who agree to work in a mental health professional shortage area. (Health and Safety Code (HSC) §§128454, 128458)

5) Prohibits the Mental Health Practitioner Education Fund, as well as other specified loan repayment funds, from denying an application based on the citizenship or immigration status of the applicant. Permits the applicant to apply using either his or her social security number or individual tax identification number. (HSC §128371)

This Bill:

1) States that information submitted by applicants for licenses, including a federal employer identification number, taxpayer identification number, or social security number, may be collected, recorded, and used only for the purposes of determining eligibility for a license. (BPC §30)

2) States that the federal employer identification number, individual taxpayer identification number, or the social security number collected by a licensing board is confidential and cannot be disclosed except to administer the licensing program or as otherwise required by California law or federal court order. (BPC §30)

3) States that personal information collected or obtained by any state agency is to be used only for the purposes for which it was obtained and is not a public record for purposes of the California Public Records Act. (Civil Code (CC) §1798.785)

4) States that personal information collected or obtained by a state agency may only be disclosed as follows (CC §1798.785):

a) If it is required to administer the requested public service or programs;

b) If disclosure is required by California law;

c) If disclosure is required by a state or federal order;

d) If it is shared as aggregate data containing no personal information;

e) If the applicant provides a signed consent form to share the data.

5) Defines "personal information" as including name, address, birthplace, religion, sex, age, marital status, citizenship or immigration status, social security number, political affiliation, status as a recipient of public services, health information, income, or credit information of the applicant or of any family members or individuals provided in support of the application. (CC §1798.785)

6) Prohibits information provided by an applicant for a Mental Health Practitioner Education Fund loan repayment grant, and for applicants of other specified similar programs, from being considered a public record for purposes of the California Public Records Act. Specifies applicant information provided is confidential and is to be used only to assess eligibility, and may not be disclosed for any other purpose without written consent of the applicant, except as required by California law or court order. (HSC§128371)

Comments:

1) **Author's Intent.** The author's office is seeking to protect the personal information of individuals that is collected or obtained by state and local agencies for the administration of public programs. They state that the following: "While state and federal privacy protection laws provide many safeguards for state residents, their private information may be vulnerable to new threats, and misuse of this information

could have devastating consequences"…"The misuse of private information gathered for the purpose of administering these programs would undermine the public safety and health goals of our laws."

The author also notes that a goal of this bill is to "ensure that all residents, regardless of religion, health condition, gender, gender identity, citizenship, immigration status or status as a survivor of crime feel comfortable interacting with government agencies, with an expectation that their information will be confidential."

2) Support and Opposition.

Support:
- None at this time.

Opposition:
- None at this time.

3) History

2017
04/03/17 From committee with author's amendments. Read second time and amended. Re-referred to Com. on JUD.
03/28/17 Set for hearing April 18.
02/16/17 Referred to Com. on JUD.
02/07/17 From printer. May be acted upon on or after March 9.
02/06/17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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AMENDED IN SENATE APRIL 3, 2017

SENATE BILL No. 244

Introduced by Senator Lara

February 6, 2017

An act to *amend Section 30 of the Business and Professions Code, to* add Chapter 2 (commencing with Section 1798.785) to Title 1.8 of Part 4 of Division 3 of the Civil Code, ~~and~~ *to amend Sections 48204.1, 49073.1, 66021.6, 66021.7, 68130.5, 69508.5, 70036, and 99155 of the Education Code, to amend Section 128371 of the Health and Safety Code,* to amend Sections 12800.7 and 12801.9 of the Vehicle Code, *and to amend Sections 204, 1905, and 14007.8 of, and to add Section 17852 to, the Welfare and Institutions Code,* relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as amended, Lara. Privacy: agencies: personal information.

(1) The Information Practices Act of 1977 requires an agency to maintain in its records only that personal information, as defined, that is relevant and necessary to accomplish a purpose of the agency required or authorized by the California Constitution or statute or mandated by the federal government, as provided. The act defines "agency" for these purposes as every state office, officer, department, division, bureau, board, commission, or other state agency, but excluding the Legislature, judicial branch entities, the State Compensation Insurance Fund, except as provided, and local agencies.

This bill would require that personal information, as defined, and records containing personal information that are collected or obtained by the state, any state agency, or any subdivision of the state, including agents of the California State University and the California Community Colleges, as well as any private persons contracted to administer public

services or ~~programs,~~ *programs or maintain data for state or local agencies,* from an applicant for public services or programs ~~only~~ be collected, ~~used, and retained~~ *recorded, or used only* for the purpose of assessing eligibility for and providing those public services and programs for which the application has been submitted. The bill would provide that personal information subject to these provisions is not a public record for purposes of the California Public Records Act and would prohibit disclosure of that personal information to any other person, except as provided.

By imposing new duties on local officials with respect to collecting, maintaining, and disclosing personal information, this bill would impose a state-mandated local program.

(2) Existing law regulates various professions and vocations by various boards within the Department of Consumer Affairs. Existing law requires those boards, the State Bar of California, and the Department of Real Estate to require a licensee, at the time of issuance of a license, to provide specified information, including the applicant's date of birth, and the licensee's federal employer identification number, if the licensee is a partnership, or his or her social security number or individual taxpayer identification number. Existing law provides that the applicant's federal employer identification number, social security number, or individual taxpayer identification number information is not a public record and, as such, is not open to the public for inspection.

This bill would revise this provision to provide that any information submitted by applicants for licenses shall be collected, recorded, and used only for the purpose of determining eligibility for a license and administering the provisions described above, would expand the public records exception to include all of this information, and would provide all this information is confidential.

(3) Existing law provides for the collection of personally identifiable information by educational entities, including, but not limited to, local educational agencies, the California Community Colleges, the University of California, and the California State University, for the purposes of providing specified educational services and benefits.

This bill would establish that personal information collected or obtained pursuant to these provisions is confidential, is not a public record for purposes of the California Public Records Act, and shall only be collected, used, and retained to administer the public services or programs for which that information was collected or obtained, and

would prohibit disclosure of that personal information to any other person, except as provided.

(4) Existing law establishes several education programs to promote and fund the education of health professionals. Existing law prohibits these programs from denying an application based on the citizenship status or immigration status of the applicant.

This bill would provide that information submitted by applicants for these programs is not a public record and is confidential, and may be used only as required to assess eligibility for these programs, as specified.

~~(2)~~

(5) Existing law requires that each application for an original or a renewal of a driver's license contain specified information. Under existing law, any document provided by the applicant to the department for purposes of proving his or her identity, true, full name, California residency, or that the applicant's presence in the United States is authorized under federal law, is not a public record and prohibits the department from disclosing this information except when requested by a law enforcement agency as part of an investigation.

This bill would instead prohibit the department from disclosing this information except in response to a ~~warrant issued by a state or federal court in an individual criminal prosecution.~~ *subpoena for individual records in a state criminal proceeding or a court order. The bill would also expand this prohibition to apply to any photograph taken of the applicant by the department, as specified.*

~~(3)~~

(6) Existing law requires the Department of Motor Vehicles to issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identity and California residency. Under existing law, it is a violation of specified antidiscrimination provisions for a state or local governmental authority, agent, or person acting on behalf of a state or local governmental authority, or a program or activity that is funded directly or receives financial assistance from the state, to discriminate against an individual because he or she holds or presents a license issued pursuant to these provisions.

This bill would specify that discrimination for these purposes includes notifying another law enforcement agency of the individual's identity

or that the individual carries a license issued under these provisions if a notification would not otherwise be provided.

Existing law specifies that information collected under this provision is not a public record and prohibits disclosure, except as required by law.

This bill would instead prohibit disclosure except in response to a ~~warrant issued by a state or federal court in an individual criminal prosecution.~~ *subpoena for individual records in a state criminal proceeding or a court order.*

Existing law prohibits use of a driver's license issued under these provisions to consider an individual's citizenship or immigration status as a basis for an investigation, arrest, citation, or detention.

This bill would instead prohibit use of a driver's license issued under these provisions as evidence of or a basis to infer an individual's citizenship or immigration status ~~as a basis~~ for any purpose.

(7) Existing law requires a family law court and a court hearing a probate guardianship matter, upon request from the juvenile court in any county, to provide to the court all available information the court deems necessary to make a determination regarding the best interest of the child, as specified. Existing law also requires the information to be released to a child protective services worker or a juvenile probation officer acting within the scope of his or her duties in that proceeding. Existing law provides that any information released pursuant to these provisions that is confidential pursuant to any other law shall remain confidential.

This bill would instead provide that any information released pursuant to these provisions is confidential, and may be used only for the purpose of serving the best interest of the child in juvenile court.

(8) Existing law requires youth service bureaus funded by specified provisions to maintain accurate and complete case records, reports, statistics, and other information necessary for the conduct of its programs.

This bill would require these youth service bureaus to collect, use, and retain individual client information and records only for the purpose of administering youth services. The bill would provide that client information and records are not public records, are confidential, and may not be disclosed except as required to administer youth services or as required by law or court order. By imposing new duties on local officials with respect to collecting, maintaining, and disclosing personal information, this bill would impose a state-mandated local program.

(9) 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 extends eligibility for full-scope Medi-Cal benefits to individuals under 19 years of age who do not have, or are unable to establish, satisfactory immigration status, commencing after the Director of Health Care Services determines that systems have been programmed for implementation of this extension.

This bill would provide that information provided by individuals eligible for Medi-Cal pursuant to these provisions to determine eligibility is not a public record and is confidential, and may be used only as required to assess eligibility for Medi-Cal, as specified.

(10) Federal law, the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), provides that certain persons are not eligible for defined state and local public benefits unless a state law is enacted subsequent to the effective date of the act, August 22, 1996, that affirmatively provides for that eligibility. Existing law authorizes a city, county, city and county, or hospital district to provide aid, including health care, to persons who, but for the above-referred to provision of the federal PRWORA, would meet the eligibility requirements for any program of that entity.

This bill would authorize a city, county, city and county, or hospital district to collect personal information for these purposes only as strictly necessary to assess eligibility for, or to administer, the program or services, as specified.

~~(4)~~

(11) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

~~(5)~~

(12) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

~~(6)~~

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

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

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

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

SECTION 1. Section 30 of the Business and Professions Code is amended to read:

30. (a) (1) Notwithstanding any other law, any board, as defined in Section 22, and the State Bar and the Bureau of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2) No later than January 1, 2016, in accordance with Section 135.5, a board, as defined in Section 22, and the State Bar and the Bureau of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for purposes of this subdivision.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar, and the Bureau of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

(g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

(h) *Information submitted by applicants for licenses, including any federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall be collected, recorded, and used only for the purpose of determining eligibility for a license and administering the provisions of this section.* Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a federal employer identification number,

individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public ~~record and~~ *record,* shall not be open to the public for ~~inspection.~~ *inspection, is confidential, and shall not be disclosed except as required to administer the licensing program, the requirements of this section, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information.*

(i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of his or her employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section to the Franchise Tax Board, the Employment Development Department, or the Office of the Chancellor of the California Community Colleges, or as provided in subdivision (k).

(j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, and for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(*l*) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as

defined in Section 22, and the State Bar and the Bureau of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar, the Bureau of Real Estate, and the Department of Motor Vehicles.

(m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(3) Date of birth.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

(1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

(2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

(3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

(4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

(5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(r) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

~~SECTION 1.~~

SEC. 2. Chapter 2 (commencing with Section 1798.785) is added to Title 1.8 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2. APPLICATIONS FOR PUBLIC SERVICES OR PROGRAMS

1798.785. (a) Notwithstanding any other law, personal information and records containing personal information that are collected or obtained by the state, any state agency, or any subdivision of the state, including agents of the California State University and the California Community Colleges, as well as any private persons contracted to administer public services or ~~programs,~~ *programs or maintain data for state or local agencies,* from an applicant for public services or programs shall ~~only~~ be collected, ~~used, and retained~~ *recorded, or used only* for the purpose of assessing eligibility for and providing those public services and programs for which the application has been submitted. Personal information subject to this section is not a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall not be disclosed to any other person, including, but not limited to, any other state or federal agency or official, except as follows:

(1) If disclosure is required to administer the requested public services or programs.

(2) If disclosure is otherwise required by *California* law.

(3) If the disclosure is pursuant to a state or federal court order.

(4) If the disclosure is made as provided in subdivision (c) or (d).

(5) This section shall not prohibit the sharing of personal information where the subject of that information has provided signed, written consent allow the information to be provided to the requestor or his or her legal representative.

(b) As used in this section, the following definitions shall apply:

(1) "Personal information" means any of the ~~following:~~ *following information about the applicant or recipient of services or programs, and information about any family members or other individuals provided in support of the application:*

(A) Name.

(B) Residential, business, or other address.

(C) Date and place of birth.

(D) Religion.

(E) Sex, sexual orientation, gender, and gender identity.

(F) Marital status.

(G) Age.

(H) Citizenship or immigration status.

(I) Social security number, issued by the Social Security Administration, or individual taxpayer identification number, issued by the Internal Revenue Service.

(J) Records of criminal or juvenile arrests, convictions, or adjudications.

(K) Status as a victim of crime.

(L) Known or suspected political or organizational affiliations.

(M) Status as a recipient of public services or programs.

(N) Health information.

(O) Income, assets, and debt.

(P) Credit information of the applicant for public services or ~~programs and any family members or other individuals whose names are provided in support of the application.~~ *programs.*

(2) "Applicant for public services or programs" means any *natural* person who applies for, receives, or uses any government service or benefit on his or her own behalf or on behalf of a dependent.

(3) "Public services or programs" includes, but is not limited to, veterans' services, job training, education, financial aid, health care, unemployment benefits, income assistance, nutrition assistance, housing, counseling, law enforcement assistance, library access, identification cards, driver's licenses, professional or business licenses, and court services that are provided by a state or local public entity.

(c) This section shall not prohibit the sharing of aggregate data, provided that any personal information is redacted or removed.

(d) This section shall not prohibit the sharing of personal information in response to a request from the applicant for public services or programs upon receipt of a signed consent form.

SEC. 3. Section 48204.1 of the Education Code is amended to read:

48204.1. (a) A school district shall accept from the parent or legal guardian of a pupil reasonable evidence that the pupil meets the residency requirements for school attendance in the school district as set forth in Sections 48200 and 48204. Reasonable evidence of residency for a pupil living with his or her parent or legal guardian shall be established by documentation showing the name and address of the parent or legal guardian within the school district, including, but not limited to, any of the following documentation:

(1) Property tax payment receipts.

(2) Rental property contract, lease, or payment receipts.

(3) Utility service contract, statement, or payment receipts.

(4) Pay stubs.

(5) Voter registration.

(6) Correspondence from a government agency.

(7) Declaration of residency executed by the parent or legal guardian of a pupil.

(b) Nothing in this section shall be construed to require a parent or legal guardian of a pupil to show all of the items of documentation listed in paragraphs (1) to (7), inclusive, of subdivision (a).

(c) If an employee of a school district reasonably believes that the parent or legal guardian of a pupil has provided false or unreliable evidence of residency, the school district may make reasonable efforts to determine that the pupil actually meets the residency requirements set forth in Sections 48200 and 48204.

(d) Nothing in this section shall be construed as limiting access to pupil enrollment in a school district as otherwise provided by federal and state statutes and regulations. This includes immediate enrollment and attendance guaranteed to a homeless child or youth, as defined in Section 11434a(2) of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2) et seq.), without any proof of residency or other documentation.

(e) Consistent with Section 11432(g) of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), proof of residency of a parent within a school district shall not be required for an unaccompanied youth, as defined in Section 11434a(6) of Title 42 of the United States Code. A school district shall accept a declaration of residency executed by the unaccompanied youth in lieu of a declaration of residency executed by his or her parent or legal guardian.

(f) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a pupil record provided by a parent or legal guardian of a pupil for the purpose of establishing residency is confidential, is not a public record, shall be used only for the purpose of establishing residency, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the parent or legal guardian of the pupil, except as to establish residency, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the pupil.

SEC. 4. Section 49073.1 of the Education Code is amended to read:

49073.1. (a) A local educational agency may, pursuant to a policy adopted by its governing board or, in the case of a charter school, its governing body, enter into a contract with a third party for either or both of the following purposes:

(1) To provide services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.

(2) To provide digital educational software that authorizes a third-party provider of digital educational software to access, store, and use pupil records in accordance with the contractual provisions listed in subdivision (b).

(b) A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following:

(1) A statement that pupil records continue to be the property of and under the control of the local educational agency.

(2) Notwithstanding paragraph (1), a description of the means by which pupils may retain possession and control of their own pupil-generated content, if applicable, including options by which a pupil may transfer pupil-generated content to a personal account.

(3) A prohibition against the third party using any information in the pupil record for any purpose other than those required or specifically permitted by the contract.

(4) A description of the procedures by which a parent, legal guardian, or eligible pupil may review personally identifiable information in the pupil's records and correct erroneous information.

(5) A description of the actions the third party will take, including the designation and training of responsible individuals, to ensure the security and confidentiality of pupil records. Compliance with this requirement shall not, in itself, absolve the third party of liability in the event of an unauthorized disclosure of pupil records.

(6) A description of the procedures for notifying the affected parent, legal guardian, or eligible pupil in the event of an unauthorized disclosure of the pupil's records.

(7) (A) A certification that a pupil's records shall not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced.

(B) The requirements provided in subparagraph (A) shall not apply to pupil-generated content if the pupil chooses to establish or maintain an account with the third party for the purpose of storing that content pursuant to paragraph (2).

(8) A description of how the local educational agency and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).

(9) A prohibition against the third party using personally identifiable information in pupil records to engage in targeted advertising.

(c) In addition to any other penalties, a contract that fails to comply with the requirements of this section shall be rendered

void if, upon notice and a reasonable opportunity to cure, the noncompliant party fails to come into compliance and cure any defect. Written notice of noncompliance may be provided by any party to the contract. All parties subject to a contract voided under this subdivision shall return all pupil records in their possession to the local educational agency.

(d) For purposes of this section, the following terms have the following meanings:

(1) "Deidentified information" means information that cannot be used to identify an individual pupil.

(2) "Eligible pupil" means a pupil who has reached 18 years of age.

(3) "Local educational agency" includes school districts, county offices of education, and charter schools.

(4) "Pupil-generated content" means materials created by a pupil, including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, and account information that enables ongoing ownership of pupil content. "Pupil-generated content" does not include pupil responses to a standardized assessment where pupil possession and control would jeopardize the validity and reliability of that assessment.

(5) (A) "Pupil records" means both of the following:

(i) Any information directly related to a pupil that is maintained by the local educational agency.

(ii) Any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other local educational agency employee.

(B) "Pupil records" does not mean any of the following:

(i) Deidentified information, including aggregated deidentified information, used by the third party to improve educational products, for adaptive learning purposes, and for customizing pupil learning.

(ii) Deidentified information, including aggregated deidentified information, used to demonstrate the effectiveness of the operator's products in the marketing of those products.

(iii) Deidentified information, including aggregated deidentified information, used for the development and improvement of educational sites, services, or applications.

(6) "Third party" refers to a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.

(e) If the provisions of this section are in conflict with the terms of a contract in effect before January 1, 2015, the provisions of this section shall not apply to the local educational agency or the third party subject to that agreement until the expiration, amendment, or renewal of the agreement.

(f) Nothing in this section shall be construed to impose liability on a third party for content provided by any other third party.

(g) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, access, storage, management, retrieval, and use of pupil records pursuant to this section is confidential, is not a public record, shall be used only to administer services provided under the applicable contract entered into pursuant to this section, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the parent or legal guardian of the pupil, except as to administer services provided under the contract, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the pupil.

SEC. 5. Section 66021.6 of the Education Code is amended to read:

66021.6. (a) Notwithstanding any other law, and except as provided for in subdivision (b), the Trustees of the California State University and the Board of Governors of the California Community Colleges shall, and the Regents of the University of California are requested to, establish procedures and forms that enable persons who are exempt from paying nonresident tuition under Section 68130.5, or who meet equivalent requirements adopted by the regents, to apply for, and participate in, all student aid programs administered by these segments to the full extent permitted by federal law. The Legislature finds and declares that this section is a state law within the meaning of Section 1621(d) of Title 8 of the United States Code.

(b) The number of financial aid awards received by California resident students from financial aid programs administered by the segments shall not be diminished as a result of the application of

subdivision (a). The University of California is requested to comply with this subdivision.

~~(c) This section shall become operative on January 1, 2013.~~

(c) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information provided by applicants for, or by recipients of, student aid programs administered by the segments is confidential, is not a public record, shall be used only to administer these programs, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the applicant or recipient of the aid, except as to administer these programs, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the applicant or recipient.

SEC. 6. Section 66021.7 of the Education Code is amended to read:

66021.7. *(a)* Notwithstanding any other law, on and after January 1, 2012, a student attending the California State University, the California Community Colleges, or the University of California who is exempt from paying nonresident tuition under Section 68130.5 shall be eligible to receive a scholarship that is derived from nonstate funds received, for the purpose of scholarships, by the segment at which he or she is a student. The Legislature finds and declares that this section is a state law within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information provided by an applicant for, or by a recipient of, a scholarship pursuant to this section is confidential, is not a public record, shall be used only to administer the scholarship, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the applicant or recipient, except as to administer the scholarship, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the student.

SEC. 7. Section 68130.5 of the Education Code, as amended by Section 1 of Chapter 675 of the Statutes of 2014, is amended to read:

68130.5. Notwithstanding any other law:

(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges:

(1) Satisfaction of either of the following:

(A) High school attendance in California for three or more years.

(B) Attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of those schools.

(2) Graduation from a California high school or attainment of the equivalent thereof.

(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year.

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

(b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) ~~Student~~ *Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code,* information obtained in the implementation of this section is ~~confidential.~~ *confidential, is not a public record, shall be used only to administer tuition payments pursuant to this section, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the student, except as to administer this section, or as otherwise required by California law or a state*

or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the student.

SEC. 8. Section 69508.5 of the Education Code is amended to read:

69508.5. (a) Notwithstanding any other law, and except as provided for in subdivision (c), a student who meets the requirements of subdivision (a) of Section 68130.5, or who meets equivalent requirements adopted by the Regents of the University of California, is eligible to apply for, and participate in, any student financial aid program administered by the State of California to the full extent permitted by federal law. The Legislature finds and declares that this section is a state law within the meaning of Section 1621(d) of Title 8 of the United States Code.

(b) Notwithstanding any other law, the Student Aid Commission shall establish procedures and forms that enable students who are exempt from paying nonresident tuition under Section 68130.5, or who meet equivalent requirements adopted by the regents, to apply for, and participate in, all student financial aid programs administered by the State of California to the full extent permitted by federal law.

(c) A student who is exempt from paying nonresident tuition under Section 68130.5 shall not be eligible for Competitive Cal Grant A and B Awards unless funding remains available after all California students not exempt pursuant to Section 68130.5 have received Competitive Cal Grant A and B Awards for which they are eligible.

~~(d) This section shall become operative on January 1, 2013.~~

(d) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information provided by an applicant for, or by a recipient of, a student financial aid program administered by the state is confidential, is not a public record, shall be used only to administer the program, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the applicant or recipient of the aid, except as to administer the program, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the student.

SEC. 9. Section 70036 of the Education Code is amended to read:

70036. Each participating institution is responsible for all the following:

(a) The participating institution shall determine a student's eligibility for a DREAM loan.

(b) The participating institution shall award DREAM loan funds to students.

(c) The participating institution shall provide entrance and exit loan counseling to borrowers that is generally comparable to that required by federal student loan programs.

(d) The participating institution shall service DREAM loans, collect DREAM loan repayments, and perform all of the due diligence required by the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

(e) The participating institution shall establish mechanisms for recording the annual amount of the DREAM loan borrowed by each recipient, and the aggregate amount of DREAM loans borrowed by each recipient, in order to comply with the annual and aggregate borrowing limits set forth in Section 70034.

(f) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, student information obtained through the application, receipt, or use of DREAM loans pursuant to this article is confidential, is not a public record, shall be used only to administer DREAM loans, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the student, except as to administer DREAM loans, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the student.

SEC. 10. Section 99155 of the Education Code is amended to read:

99155. (a) A test sponsor shall provide alternative methods to verify the identity of those test subjects who are unable to provide the required identification for purposes of admitting a test subject to take a standardized test administered by the sponsor.

(b) A test sponsor shall clearly post on the test sponsor's Internet Web site contact information for test subjects who are unable to provide the required identification and who need further assistance.

(c) Test sponsors may require test subjects to obtain approval from the test sponsor in advance of the test registration deadline in order to be admitted to the test with an alternative form of identification.

(d) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information obtained from test subjects to verify identity is confidential, is not a public record, shall be used only to administer the tests, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the test subject, except as to administer the tests, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the student.

SEC. 11. Section 128371 of the Health and Safety Code is amended to read:

128371. (a) The Legislature finds and declares that it is in the best interest of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by those programs listed in subdivision (d), and therefore, enacts this section pursuant to Section 1621(d) of Title 8 of the United States Code.

(b) A program listed in subdivision (d) shall not deny an application based on the citizenship status or immigration status of the applicant.

(c) For any program listed in subdivision (d), when mandatory disclosure of a social security number is required, an applicant shall provide his or her social security number, if one has been issued, or an individual tax identification number that has been or will be submitted. *Information provided by an applicant for a program listed in subdivision (d) is not a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and is confidential, and shall be used only as required to assess eligibility for the programs, and may not be disclosed for any other purpose without the written consent of the applicant, except as required by California law or pursuant to court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the applicant or recipient.*

(d) This section shall apply to all of the following:

(1) Programs supported through the Health Professions Education Fund pursuant to Section 128355.

(2) The Registered Nurse Education Fund created pursuant to Section 128400.

(3) The Mental Health Practitioner Education Fund created pursuant to Section 128458.

(4) The Vocational Nurse Education Fund created pursuant to Section 128500.

(5) The Medically Underserved Account for Physicians created pursuant to Section 128555.

(6) Loan forgiveness and scholarship programs created pursuant to Section 5820 of the Welfare and Institutions Code.

(7) The Song-Brown Health Care Workforce Training Act created pursuant to Article 1 (commencing with Section 128200) of Chapter 4.

(8) To the extent permitted under federal law, the program administered by the office pursuant to the federal National Health Service Corps State Loan Repayment Program (42 U.S.C. Sec. 254q-1), commonly known as the California State Loan Repayment Program.

(9) The programs administered by the office pursuant to the Health Professions Career Opportunity Program (Section 127885), commonly known as the Mini Grants Program, and California's Student/Resident Experiences and Rotations in Community Health, commonly known as the Cal-SEARCH program.

~~SEC. 2.~~

SEC. 12. Section 12800.7 of the Vehicle Code is amended to read:

12800.7. (a) Upon application for an original or duplicate license the department may require the applicant to produce any identification that it determines is necessary in order to ensure that the name of the applicant stated in the application is his or her true, full name and that his or her residence address as set forth in the application is his or her true residence address.

(b) Notwithstanding any other law, any document provided by the applicant to the department *or photograph taken of the applicant by the department* for purposes of proving ~~his or her~~ *the applicant's* identity, true, full name, California residency, or that the applicant's presence in the United States is authorized under

federal law, is not a public record and may not be disclosed by the department except in response to a ~~warrant issued by a state or federal court in an individual criminal prosecution.~~ *subpoena for individual records in a state criminal proceeding or a court order.*

~~SEC. 3.~~

SEC. 13. Section 12801.9 of the Vehicle Code is amended to read:

12801.9. (a) Notwithstanding Section 12801.5, the department shall issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identity and California residency.

(b) The department shall adopt emergency regulations to carry out the purposes of this section, including, but not limited to, procedures for (1) identifying documents acceptable for the purposes of proving identity and California residency, (2) procedures for verifying the authenticity of the documents, (3) issuance of a temporary license pending verification of any document's authenticity, and (4) hearings to appeal a denial of a license or temporary license.

(c) Emergency regulations adopted for purposes of establishing the documents acceptable to prove identity and residency pursuant to subdivision (b) shall be promulgated by the department in consultation with appropriate interested parties, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including law enforcement representatives, immigrant rights representatives, labor representatives, and other stakeholders, which may include, but are not limited to, the Department of the California Highway Patrol, the California State Sheriffs' Association, and the California Police Chiefs Association. The department shall accept various types of documentation for this purpose, including, but not limited to, the following documents:

(1) A valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid, unexpired passport from the applicant's country of citizenship.

(2) An original birth certificate, or other proof of age, as designated by the department.

(3) A home utility bill, lease or rental agreement, or other proof of California residence, as designated by the department.

(4) The following documents, which, if in a language other than English, shall be accompanied by a certified translation or an affidavit of translation into English:

(A) A marriage license or divorce certificate.

(B) A foreign federal electoral photo card issued on or after January 1, 1991.

(C) A foreign driver's license.

(5) A United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal.

(6) An official school or college transcript that includes the applicant's date of birth, or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued.

(7) A United States Department of Homeland Security Form I-20 or Form DS-2019.

(8) A deed or title to real property.

(9) A property tax bill or statement issued within the previous 12 months.

(10) An income tax return.

(d) (1) A license issued pursuant to this section, including a temporary license issued pursuant to Section 12506, shall include a recognizable feature on the front of the card, such as the letters "DP" instead of, and in the same font size as, the letters "DL," with no other distinguishable feature.

(2) The license shall bear the following notice: "This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits."

(3) The notice described in paragraph (2) shall be in lieu of the notice provided in Section 12800.5.

(e) If the United States Department of Homeland Security determines a license issued pursuant to this section does not satisfy the requirements of Section 37.71 of Title 6 of the Code of Federal Regulations, adopted pursuant to paragraph (11) of subdivision (d) of Section 202 of the Real ID Act of 2005 (Public Law 109-13), the department shall modify the license only to the extent necessary to satisfy the requirements of that section.

(f) Notwithstanding Section 40300 or any other law, a peace officer shall not detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe the person driving is under 16 years of age.

(g) The inability to obtain a driver's license pursuant to this section does not abrogate or diminish in any respect the legal requirement of every driver in this state to obey the motor vehicle laws of this state, including laws with respect to licensing, motor vehicle registration, and financial responsibility.

(h) It is a violation of law to discriminate against a person because he or she holds or presents a license issued under this section, including, but not limited to, the following:

(1) It is a violation of the Unruh Civil Rights Act (Section 51 of the Civil Code), for a business establishment to discriminate against a person because he or she holds or presents a license issued under this section.

(2) (A) It is a violation of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) for an employer or other covered person or entity, pursuant to Section 12940 of the Government Code and subdivision (v) of Section 12926 of the Government Code, to discriminate against a person because the person holds or presents a driver's license issued pursuant to this section, or for an employer or other covered entity to require a person to present a driver's license, unless possessing a driver's license is required by law or is required by the employer and the employer's requirement is otherwise permitted by law. This section shall not be construed to limit or expand an employer's authority to require a person to possess a driver's license.

(B) Notwithstanding subparagraph (A), this section shall not be construed to alter an employer's rights or obligations under Section 1324a of Title 8 of the United States Code regarding obtaining documentation evidencing identity and authorization for employment. An action taken by an employer that is required by the federal Immigration and Nationality Act (8 U.S.C. Sec. 1324a) is not a violation of law.

(3) It is a violation of Section 11135 of the Government Code for a state or local governmental authority, agent, or person acting on behalf of a state or local governmental authority, or a program or activity that is funded directly or receives financial assistance

from the state, to discriminate against an individual because he or she holds or presents a license issued pursuant to this section, including by notifying another law enforcement agency of the individual's identity or that the individual carries a license issued under this section if a notification would not otherwise be provided.

(i) Driver's license information obtained by an employer shall be treated as private and confidential, is exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and shall not be disclosed to any unauthorized person or used for any purpose other than to establish identity and authorization to drive.

(j) Information collected pursuant to this section is not a public record and shall not be disclosed by the department, except in response to a ~~warrant issued by a state or federal court in an individual criminal prosecution.~~ *subpoena for individual records in a state criminal proceeding or a court order.*

(k) A license issued pursuant to this section shall not be used as evidence *of* or a basis to infer an individual's citizenship or immigration status for any purpose.

(*l*) On or before January 1, 2018, the California Research Bureau shall compile and submit to the Legislature and the Governor a report of any violations of subdivisions (h) and (k). Information pertaining to any specific individual shall not be provided in the report.

(m) In addition to the fees required by Section 14900, a person applying for an original license pursuant to this section may be required to pay an additional fee determined by the department that is sufficient to offset the reasonable administrative costs of implementing the provisions of the act that added this section. If this additional fee is assessed, it shall only apply until June 30, 2017.

(n) This section shall become operative on January 1, 2015, or on the date that the director executes a declaration pursuant to Section 12801.11, whichever is sooner.

(o) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found

unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

SEC. 14. Section 204 of the Welfare and Institutions Code is amended to read:

204. Notwithstanding any other ~~provision of~~ law, except ~~provisions of~~ law governing the retention and storage of data, a family law court and a court hearing a probate guardianship matter shall, upon request from the juvenile court in any county, provide to the court all available information the court deems necessary to make a determination regarding the best interest of a child, as described in Section 202, who is the subject of a proceeding before the juvenile court pursuant to this division. The information shall also be released to a child protective services worker or juvenile probation officer acting within the scope of his or her duties in that proceeding. Any information released pursuant to this section ~~that is confidential pursuant to any other provision of law shall remain confidential~~ *is confidential, shall be used only for the purpose of serving the best interest of the child in juvenile court,* and may not be released, except to the extent necessary to comply with this section. No records shared pursuant to this section may be disclosed to any party in a case unless the party requests the agency or court that originates the record to release these records and the request is granted. In counties that provide confidential family law mediation, or confidential dependency mediation, those mediations are not covered by this section.

SEC. 15. Section 1905 of the Welfare and Institutions Code is amended to read:

1905. Each youth service bureau funded under this article shall maintain accurate and complete case records, reports, statistics and other information necessary for the conduct of its programs; establish appropriate written policies and procedures to protect the confidentiality of individual client records; and submit monthly reports to the ~~Department~~ *Division* of ~~the Youth Authority~~ *Juvenile Justice* concerning services and activities. *Individual client information and records shall be collected, used, and retained only for the purpose of administering youth services. Client information and records are not public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code),*

are confidential, and may not be disclosed except as required to administer youth services or as required by law or court order.

SEC. 16. Section 14007.8 of the Welfare and Institutions Code is amended to read:

14007.8. (a) (1) After the director determines, and communicates that determination in writing to the Department of Finance, that systems have been programmed for implementation of this section, but no sooner than May 1, 2016, an individual who is under 19 years of age and who does not have satisfactory immigration status or is unable to establish satisfactory immigration status as required by Section 14011.2 shall be eligible for the full scope of Medi-Cal benefits, if he or she is otherwise eligible for benefits under this chapter.

(2) (A) Individuals under 19 years of age enrolled in Medi-Cal pursuant to subdivision (d) of Section 14007.5 at the time the director makes the determination described in paragraph (1) shall be enrolled in the full scope of Medi-Cal benefits, if otherwise eligible, pursuant to an eligibility and enrollment plan. This plan shall include outreach strategies developed by the department in consultation with interested stakeholders, including, but not limited to, counties, health care service plans, consumer advocates, and the Legislature. Individuals subject to this subparagraph shall not be required to file a new application for Medi-Cal.

(B) The effective date of enrollment into Medi-Cal for individuals described in subparagraph (A) shall be on the same day on which the systems are operational to begin processing new applications pursuant to the director's determination described in paragraph (1).

(C) Beginning January 31, 2016, and until the director makes the determination described in paragraph (1), the department shall provide monthly updates to the appropriate policy and fiscal committees of the Legislature on the status of the implementation of this section.

(b) To the extent permitted by state and federal law, an individual eligible under this section shall be required to enroll in a Medi-Cal managed care health plan. Enrollment in a Medi-Cal managed care health plan shall not preclude a beneficiary from being enrolled in any other children's Medi-Cal specialty program that he or she would otherwise be eligible for.

(c) The department shall seek any necessary federal approvals to obtain federal financial participation in implementing this section. Benefits for services under this section shall be provided with state-only funds only if federal financial participation is not available for those services.

(d) The department shall maximize federal financial participation in implementing this section to the extent allowable.

(e) This section shall be implemented only to the extent it is in compliance with Section 1621(d) of Title 8 of the United States Code.

(f) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time any necessary regulations are adopted. Thereafter, the department shall adopt regulations 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.

(2) Commencing six months after the effective date of this section, and notwithstanding Section 10231.5 of the Government Code, the department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

(g) In implementing this section, the department may contract, as necessary, on a bid or nonbid basis. This subdivision establishes an accelerated process for issuing contracts pursuant to this section. Those contracts, and any other contracts entered into pursuant to this subdivision, may be on a noncompetitive bid basis and shall be exempt from the following:

(1) Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and any policies, procedures, or regulations authorized by that part.

(2) Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(3) Review or approval of contracts by the Department of General Services.

(h) Information provided by an individual who is eligible pursuant to this section to determine eligibility for Medi-Cal is not a public record for purposes of the California Public Records

Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and is confidential, and shall be used only as required to assess eligibility, and may not be disclosed for any other purpose without the written consent of the applicant, except as required by California law or pursuant to court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about the applicants or recipients.

SEC. 17. Section 17852 is added to the Welfare and Institutions Code, to read:

17852. (a) A city, county, city and county, or hospital district may collect personal information for the purposes of this part only as strictly necessary to assess eligibility for, or to administer, the program or services authorized by this part. This information is not a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), is confidential, and may not be disclosed except as required to administer the services or as required by California law or court order.

(b) As used in this section, "personal information" means any of the following information about the applicant or recipient of services or programs, and information about any family members or other individuals provided in support of the application:

(1) Name.

(2) Residential, business, or other address.

(3) Date and place of birth.

(4) Religion.

(5) Sex, sexual orientation, gender, and gender identity.

(6) Marital status.

(7) Age.

(8) Citizenship or immigration status.

(9) Social security number issued by the Social Security Administration, or individual taxpayer identification number issued by the Internal Revenue Service.

(10) Records of criminal or juvenile arrests, convictions, or adjudications.

(11) Status as a victim of crime.

(12) Known or suspected political or organizational affiliations.

(13) Status as a recipient of public services or programs.

(14) Health information.

(15) Income, assets, and debt.

(16) Credit information.

(c) This section shall not prohibit the sharing of aggregate data as long as it is disclosed in a manner that could not be used to determine the identities of the persons upon whom the data is based.

(d) This section shall not prohibit the sharing of personal information when the subject of that information has provided signed, written consent allowing the information to be provided to the person requesting the information.

~~SEC. 4.~~

SEC. 18. The Legislature finds and declares that ~~Section 1 of this act, which adds Section 1798.785 of the Civil Code,~~ *this act* imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act strikes an appropriate balance between the public's right to access information about the conduct of their government agencies and the need to protect the personal information of private individuals who participate in public programs or receive public services.

~~SEC. 5.~~

SEC. 19. The Legislature finds and declares that ~~Section 1 of this act, which adds Section 1798.785 of the Civil Code, furthers,~~ *Sections 1 to 7, inclusive, and Sections 15 and 17 of this act, which amend Section 30 of the Business and Professions Code, add Chapter 2 (commencing with Section 1798.785) to Title 1.8 of Part 4 of Division 3 of the Civil Code, amend Sections 48204.1, 49073.1, 66021.6, 66021.7, and 68130.5 of the Education Code, and amend Section 1905 of, and add Section 17852 to, the Welfare and Institutions Code, respectively, further,* within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section

3 of Article I of the California Constitution, the Legislature makes the following findings:

This act strikes an appropriate balance between the public's right to access information about the conduct of their government agencies and the need to protect the personal information of private individuals who participate in public programs or receive public services.

~~SEC. 6.~~

SEC. 20. 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 under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **SB 374** **VERSION:** **AMENDED APRIL 3, 2017**

AUTHOR: **NEWMAN** **SPONSOR:**

- **CALIFORNIA ASSOCIATION OF MARRIAGE AND FAMILY THERAPISTS (CAMFT)**
- **CALIFORNIA PSYCHIATRIC ASSOCIATION**
- **CALIFORNIA PSYCHOLOGICAL ASSOCIATION**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALTH INSURANCE: DISCRIMINATORY PRACTICES: MENTAL HEALTH**

Summary: This bill grants the Department of Insurance the authority to require that large group health insurance policies and individual or small group health insurance policies must provide all covered mental health and substance use disorder benefits in compliance with federal law. This is parallel to current authority already given to the Department of Managed Health Care for its regulation of large, individual or small group health care service plans.

Existing Law:

1) Requires every health care service plan and disability insurance plan that covers hospital, medical, or surgical expenses to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and for severe emotional disturbances of a child, under the same terms and conditions applied to other medical conditions. (Health and Safety Code (HSC) §1374.72, Insurance Code (IC) §10144.5)

2) Requires every health care service plan and health insurance policy to also provide coverage for behavioral health treatment for pervasive development disorder or autism under the same terms and conditions applied to other medical conditions, by no later than July 1, 2012. (HSC §1374.73(a), IC §10144.51(a))

3) Requires an individual or small group health insurance policy (meaning a policy issued to a small employer) issued, amended, or renewed on or after January 1, 2017 to include coverage for essential health benefits pursuant to the federal Patient Protection and Affordable Care Act. This includes behavioral health conditions. (IC §10112.27)

4) Sets federal requirements for parity in mental health and substance use disorder benefits (Section 2726 of the Public Health Service Act (42 U.S.C. Sec. 300gg-26) **(Attachment B).**

5) Establishes the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), which is a federal law that generally prevents group health plans and health insurers that provide mental health or substance use disorder benefits from imposing less favorable benefit limitations on those benefits than on medical/surgical benefits. (Public Law 110-343) **(Attachment A)**.

6) Requires a large group health service plan (regulated by DMHC) to provide all covered mental health and substance use disorder benefits in compliance with the MHPAEA and the Public Health Service Act. (HSC §1374.76(a))

7) Requires an individual or small group health care service plan (regulated by DMHC) to provide all covered mental health and substance use disorder benefits in compliance with the MHPAEA, the Public Health Service Act, and HSC §1367.005. (HSC §1374.76(b))

This Bill:

1) Requires a large group health insurance policy (regulated by Department of Insurance) must provide all covered mental health and substance use disorder benefits in compliance with the MHPAEA and the Public Health Service Act. (IC §10144.4(a))

2) Requires an individual or small group health insurance policy (regulated by Department of Insurance) must provide all covered mental health and substance use disorder benefits in compliance with the MHPAEA, the Public Health Service Act, and IC §10112.27. (IC §10144.4(b))

Comment:

1) **Background.** Under current law, health care service plans are regulated by the Department of Managed Health Care (DMHC) via the Health and Safety Code. Health insurers are regulated by the Department of Insurance via the Insurance Code.

2) **Previous Legislation: SB 857 (Chapter 31, Statutes of 2014).** SB 857 added language to state law via the Health and Safety Code (§1374.76) that requires large group health care service plans and individual or small group health care service plans to comply with federal laws regarding mental health parity (the MHPAEA and the Public Health Service Act). However, it did not add corresponding law to the state's Insurance Code requiring the same of health insurance policies.

3) **Author's Intent.** According to the author's office, the current requirement in the Insurance Code to comply with the federal MHPAEA only applies to non-grandfathered individual and small group health insurance policies. This means the Department of Insurance does not currently have statutory authority to enforce the MHPAEA in all market segments like the Department of Managed Health Care does. Because of this, approximately 20 percent of health insurance policies in the state are not subject to state enforcement of federal mental health parity requirements, which risks ceding state enforcement authority to the federal government.

This bill adds a section to the Insurance Code that is parallel to the code section given to DMHC via SB 857 in 2014. The author's office states that by giving the Department of Insurance the same authority that has been given to the Department of Managed Health Care, they are ensuring that all types of health insurance coverage that MHPAEA applies to are required by state law to comply with MHPAEA.

4) Previous Legislation.

- **AB 88 (Chapter 534, Statutes of 1999)** required health care service plans or disability insurance policy issued, amended, or renewed on or after July 1, 2000, to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and of serious emotional disturbances of a child, under the same terms and conditions applied to other medical conditions.

- **SB 946 (Chapter 650, Statues of 2011)** required, no later than July 1, 2012, that every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive development disorder or autism.

- **SB 126 (Chapter 680, Statutes of 2013)** extended the requirement that health care service plans and health insurance policies provide coverage for pervasive development disorder or autism, until January 1, 2017.

- **SB 857 (Chapter 31, Statutes of 2014)** granted the DMHC the authority to require large group health care service plans and individual or small group health care service plans to comply with federal laws regarding mental health parity.

- **AB 796 (Chapter 493, Statutes of 2016)** eliminated the sunset date on the law requiring health care service plans or insurance policies to provide coverage for pervasive development disorder or autism.

5) Support and Opposition.

Support:

- California Association of Marriage and Family Therapists (co-sponsor)
- California Coalition for Mental Health
- California Psychiatric Association (co-sponsor)
- California Psychological Association (co-sponsor)
- Autism Speaks
- California Access Coalition
- California Chapter of the American College of Emergency Physicians
- California Coalition for Mental Health
- CaliforniaHealth + Advocates
- California Coalition for Mental Health
- Center for Autism and Related Disorders

- NAMI California
- National Alliance on Mental Illness
- National Association of Social Workers, California Chapter

Opposition:

- California Association of Health Underwriters

6) History.

2017

04/05/17	Set for hearing April 17.
04/03/17	Read second time and amended. Re-referred to Com. on APPR.
03/30/17	From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (March 29).
03/07/17	Set for hearing March 29.
02/23/17	Referred to Com. on HEALTH.
02/15/17	From printer. May be acted upon on or after March 17.
02/14/17	Introduced. Read first time. To Com. on RLS. for assignment. To print.

7) Attachments.

Attachment A: Description of the Mental Health Parity and Addiction Equity Act (From the Centers for Medicare & Medicaid Services (CMS.gov), Center for Consumer Information & Insurance Oversight)

Attachment B: 42 U.S.C. 300gg-26: Parity in Mental Health and Substance Use Disorder Benefits

Attachment C: State of CA Insurance Code §10112.27

Attachment D: State of CA Health & Safety Code §1374.76

AMENDED IN SENATE APRIL 3, 2017

SENATE BILL No. 374

Introduced by Senator Newman

February 14, 2017

An act to add Section 10144.4 to the Insurance Code, relating to health insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 374, as amended, Newman. Health insurance: discriminatory practices: mental health.

Existing *federal law generally requires a health insurance issuer that offers group or individual health insurance coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits to establish parity in the terms and conditions applicable to medical and mental health benefits, as specified. Existing state law subjects nongrandfathered individual and small group health insurance policies that provide coverage for essential health benefits to those provisions of federal law governing mental health parity. Existing* law requires every policy of disability insurance that covers hospital, medical, or surgical expenses in this state to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and of serious emotional disturbances of a child, as specified.

This bill would require large group, individual, and small group health insurance policies to provide all covered mental health and substance use disorder benefits in compliance with ~~the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, and all rules, regulations, and guidance issued pursuant to applicable provisions of the federal Public Health Service Act.~~ *those provisions*

of federal law governing mental health parity. The bill would authorize the Insurance Commissioner to issue guidance to health insurers, until January 1, 2019, regarding compliance with these requirements.

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 10144.4 is added to the Insurance Code, to read:

10144.4. (a) A large group health insurance policy shall provide all covered mental health and substance use disorder benefits in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) and all rules, regulations, and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

(b) An individual or small group health insurance policy shall provide all covered mental health and substance use disorder benefits in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), ~~and~~ all rules, regulations, and guidance issued pursuant to Section 2726 of the federal Public Health Service Act ~~(42 U.S.C. Sec. 300gg-26).~~ *(42 U.S.C. Sec. 300gg-26), and Section 10112.27.*

(c) Until January 1, 2019, the commissioner may issue guidance to health insurers regarding compliance with this section. This guidance shall not be subject 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). Any guidance issued pursuant to this subdivision shall be effective only until the commissioner adopts regulations pursuant to the Administrative Procedure Act. The department shall consult with the Department of Managed Health Care in issuing guidance under this subdivision.

O

ATTACHMENT A -

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Centers for Medicare & Medicaid Services

The Center for Consumer Information & Insurance Oversight

The Mental Health Parity and Addiction Equity Act (MHPAEA)

Contents

- Introduction
- Summary of MHPAEA Protections
- Key changes made by MHPAEA
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Introduction

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) is a federal law that generally prevents group health plans and health insurance issuers that provide mental health or substance use disorder (MH/SUD) benefits from imposing less favorable benefit limitations on those benefits than on medical/surgical benefits.

MHPAEA originally applied to group health plans and group health insurance coverage and was amended by the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the “Affordable Care Act”) to also apply to individual health insurance coverage. HHS has jurisdiction over public sector group health plans (referred to as “non-Federal governmental plans”), while the Departments of Labor and the Treasury have jurisdiction over private group health plans.

Employment-related group health plans may be either “insured” (purchasing insurance from an issuer in the group market) or “self-funded.” The insurance that is purchased, whether by an insured group health plan or in the individual market, is regulated by the State’s insurance department. Group health plans that pay for coverage directly, without purchasing health insurance from an issuer, are called self-funded group health plans. Private employment-based group health plans are regulated by the Department of Labor. Non-Federal governmental plans are regulated by HHS. Contact your employer’s plan administrator to find out if your group coverage is insured or self-funded and to determine what entity or entities regulate your benefits.

MHPAEA does not apply directly to small group health plans, although its requirements are applied indirectly in connection with the Affordable Care Act’s essential health benefit (EHB) requirements as noted below. The Protecting Affordable Coverage for Employees Act amended the definition of small employer in section 1304(b) of the Affordable Care Act and section 2791(e) of the Public Health Service Act to mean generally an employer with 1-50 employees, with the option for states to expand the definition of small employer to 1-100 employees. The Employee Retirement and Income Security Act and the Internal Revenue Code also define a small employer as one that has 50 or fewer employees. (Some states may have mental health parity requirements that are stricter than federal requirements. To view State specific information visit www.ncsl.org, and on the right hand side of the page enter "mental health parity" then select "State Laws Mandating or Regulating Mental Health Benefits".)

Summary of MHPAEA Protections

The Mental Health Parity Act of 1996 (MHPA) provided that large group health plans cannot impose annual or lifetime dollar limits on mental health benefits that are less favorable than any such limits imposed on medical/surgical benefits.

MHPAEA preserves the MHPA protections and adds significant new protections, such as extending the parity requirements to substance use disorders. Although the law requires a general equivalence in the way MH/SUD and medical/surgical benefits are treated with respect to annual and lifetime dollar limits, financial requirements and treatment limitations, MHPAEA does NOT require large group health plans or health insurance issuers to cover MH/SUD benefits. The law's requirements apply only to large group health plans and health insurance issuers that choose to include MH/SUD benefits in their benefit packages. However, the Affordable Care Act builds on MHPAEA

and requires coverage of mental health and substance use disorder services as one of ten EHB categories in non-grandfathered individual and small group plans.

Key changes made by MHPAEA

Key changes made by MHPAEA, which is generally effective for plan years beginning after October 3, 2009, include the following:

- If a group health plan or health insurance coverage includes medical/surgical benefits and MH/SUD benefits, the financial requirements (e.g., deductibles and co-payments) and treatment limitations (e.g., number of visits or days of coverage) that apply to MH/SUD benefits must be no more restrictive than the predominant financial requirements or treatment limitations that apply to substantially all medical/surgical benefits (this is referred to as the “substantially all/predominant test”).This test is discussed in greater detail in the MHPAEA regulation (linked below) and the summary of the MHPAEA regulation found below.
- MH/SUD benefits may not be subject to any separate cost-sharing requirements or treatment limitations that only apply to such benefits;
- If a group health plan or health insurance coverage includes medical/surgical benefits and MH/SUD benefits, and the plan or coverage provides for out-of-network medical/surgical benefits, it must provide for out-of-network MH/SUD benefits; and
- Standards for medical necessity determinations and reasons for any denial of benefits relating to MH/SUD benefits must be disclosed upon request.

Exceptions

There are certain exceptions to the MHPAEA requirements.

Except as noted below, MHPAEA requirements do not apply to:

- Self-insured non-Federal governmental plans that have 50 or fewer employees;
- Self-insured small private employers that have 50 or fewer employees;
- Group health plans and health insurance issuers that are exempt from MHPAEA based on their increased cost (except as noted below). Plans and issuers that make changes to comply with MHPAEA and incur an increased cost of at least two percent in the first year that MHPAEA applies to the plan or coverage or at least one percent in any subsequent plan year may claim an exemption from MHPAEA based on their increased cost. If such a cost is incurred, the plan or coverage is exempt from MHPAEA requirements for the plan or policy year following the year the cost was incurred. The plan sponsors or issuers must notify the plan beneficiaries that MHPAEA does not apply to their coverage. These exemptions last one year. After that, the plan or coverage is required to comply again; however, if the plan or coverage incurs an increased cost of at least one percent in that plan or policy year, the plan or coverage could claim the exemption for the following plan or policy year; and
- Large, self-funded non-Federal governmental employers that opt-out of the requirements of MHPAEA. Non-Federal governmental employers that provide self-funded group health plan coverage to their employees (coverage that is not provided through an insurer) may elect to exempt their plan (opt-out) from the requirements of MHPAEA by following the Procedures & Requirements for HIPAA Exemption Election posted on the Self-Funded Non-Federal Governmental Plans webpage (See http://www.cms.gov/CCIIO/Resources/Files /hipaa_exemption_election_instructions_04072011.html) and issuing a notice of opt-out to enrollees at the time of enrollment and on an annual basis. The employer must also file the opt-out notification with CMS.

Note, these exceptions do not apply to those non-grandfathered plans in the individual and small group markets that are required by Affordable Care Act regulations to provide EHB that comply with the requirements of the MHPAEA regulations.

MHPAEA Regulation

A final regulation implementing MHPAEA was published in the Federal Register on November 13, 2013. The regulation is effective January 13, 2014 and generally applies to plan years (in the individual market, policy years) beginning on or after July 1, 2014. See http://www.gpo.gov/fdsys/pkg/FR-2013-11-13/pdf/2013-27086.pdf for the full text of the final regulation. This followed an interim final regulation, which was published in the Federal Register on February 2, 2010 and generally applies to plan years beginning on or after July 1, 2010. See http://edocket.access.gpo.gov/2010/pdf /2010-2167.pdf for the full text of the regulation.

The final regulation applies to non-Federal governmental plans with more than 50 employees, and to group health plans of private employers with more than 50 employees. It also applies to health insurance coverage in the individual health insurance market. It does not apply to group health plans of small employers (except as noted above in connection with the EHB requirements). Like the statute, it does not require group health plans to provide MH/SUD benefits. If they do, however, the financial requirements and treatment limitations that apply to MH/SUD benefits cannot be more restrictive than the predominant requirements and limitations that apply to substantially all of the medical/surgical benefits.

The provisions of the regulation include the following:

1. The substantially all/predominant test outlined in the statute must be applied separately to six classifications of benefits: inpatient in-network; inpatient out-of-network; outpatient in-network; outpatient out-of-network; emergency; and prescription drug. Sub-classifications are permitted for office visits separate from all other outpatient services, as well as for plans that use multiple tiers of in-network providers. The regulation includes examples for each classification. Additionally, although the regulation does not require plans to cover MH/SUD benefits, if they do, they must provide MH/SUD benefits in all classifications in which medical/surgical benefits are provided.

2. The regulation requires that all cumulative financial requirements, including deductibles and out-of-pocket limits, in a classification must combine both medical/surgical and MH/SUD benefits in the classification. The regulation includes examples of permissible and impermissible cumulative financial requirements.

3. The regulation distinguishes between quantitative treatment limitations and nonquantitative treatment limitations. Quantitative treatment limitations are numerical, such as visit limits and day limits. Nonquantitative treatment limitations include but are not limited to medical management, step therapy and pre-authorization. There is an illustrative list of nonquantitative treatment limitations in the regulation. A group health plan or coverage cannot impose a nonquantitative treatment limitation with respect to MH/SUD benefits in any classification unless, under the terms of the plan (or coverage) as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the nonquantitative treatment limitation to MH/SUD benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation with respect to medical surgical/benefits in the classification. The final regulation eliminated an exception that allowed for different nonquantitative treatment limitations “to the extent that recognized clinically appropriate standards of care may permit a difference.”

4. The regulation provides that all plan standards that limit the scope or duration of benefits for services are subject to the nonquantitative treatment limitation parity requirements. This includes restrictions such as geographic limits, facility-type limits, and network adequacy.

Medicare, Medicaid, and the Children's Health Insurance Program (CHIP) are not group health plans or issuers of health insurance. They are public health plans through which individuals obtain health coverage. However, provisions of the Social Security Act that govern CHIP plans, Medicaid benchmark benefit plans, and managed care plans that contract with State Medicaid programs to provide services require compliance with certain requirements of MHPAEA. See https://www.federalregister.gov/articles/2016/03/30/2016-06876/medicaid-and-childrens-health-insurance-programs-mental-health-parity-and-addiction-equity-act-of for the final rule regarding application of requirements of MHPAEA to Medicaid MCOs, CHIP, and Alternative Benefit (Benchmark) Plans.

We anticipate issuing further responses to questions and other guidance in the future. We hope this guidance will be helpful by providing additional clarity and assistance.

If you have concerns about your plan's compliance with MHPAEA, contact our help line at 1-877-267-2323 extension 6-1565 or at phig@cms.hhs.gov. You may also contact a benefit advisor in one of the Department of Labor’s regional offices at www.askebsa.dol.gov or by calling toll free at 1-866-444-3272.

Fact Sheets and FAQs

Regulations and Guidance

CMS.gov

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ATTACHMENT B

42 USC 300gg-26: Parity in mental health and substance use disorder benefits
Text contains those laws in effect on April 4, 2017

From Title 42-THE PUBLIC HEALTH AND WELFARE
CHAPTER 6A-PUBLIC HEALTH SERVICE
SUBCHAPTER XXV-REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE
Part A-Individual and Group Market Reforms
Subpart 2-Exclusion of Plans; Enforcement; Preemption

Jump To:

Source Credit
Codification
Amendments
Effective Date
Regulations
Miscellaneous
Executive Documents

§300gg–26. Parity in mental health and substance use disorder benefits

(a) In general

(1) Aggregate lifetime limits

In the case of a group health plan or a health insurance issuer offering group or individual health insurance coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits-

(A) No lifetime limit

If the plan or coverage does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan or coverage may not impose any aggregate lifetime limit on mental health or substance use disorder benefits.

(B) Lifetime limit

If the plan or coverage includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the "applicable lifetime limit"), the plan or coverage shall either-

(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health and substance use disorder benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health and substance use disorder benefits; or

(ii) not include any aggregate lifetime limit on mental health or substance use disorder benefits that is less than the applicable lifetime limit.

(C) Rule in case of different limits

In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health and substance use disorder benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

(2) Annual limits

In the case of a group health plan or a health insurance issuer offering group or individual health insurance coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits-

(A) No annual limit

If the plan or coverage does not include an annual limit on substantially all medical and surgical benefits, the plan or coverage may not impose any annual limit on mental health or substance use disorder benefits.

(B) Annual limit

If the plan or coverage includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the "applicable annual limit"), the plan or coverage shall either-

(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply

and to mental health and substance use disorder benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health and substance use disorder benefits; or

(ii) not include any annual limit on mental health or substance use disorder benefits that is less than the applicable annual limit.

(C) Rule in case of different limits

In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health and substance use disorder benefits by substituting for the applicable annual limit an average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

(3) Financial requirements and treatment limitations

(A) In general

In the case of a group health plan or a health insurance issuer offering group or individual health insurance coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan or coverage shall ensure that-

(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

(B) Definitions

In this paragraph:

(i) Financial requirement

The term "financial requirement" includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2).

(ii) Predominant

A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

(iii) Treatment limitation

The term "treatment limitation" includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

(4) Availability of plan information

The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits (or the health insurance coverage offered in connection with the plan with respect to such benefits) shall be made available by the plan administrator (or the health insurance issuer offering such coverage) in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan (or coverage) of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator (or the health insurance issuer offering such coverage) to the participant or beneficiary in accordance with regulations.

(5) Out-of-network providers

In the case of a plan or coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan or coverage provides coverage for medical or surgical benefits provided by out-of-network providers, the plan or coverage shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.

(6) Compliance program guidance document

(A) In general

Not later than 12 months after December 13, 2016, the Secretary, the Secretary of Labor, and the Secretary

of the Treasury, in consultation with the Inspector General of the Department of Health and Human Services, the Inspector General of the Department of Labor, and the Inspector General of the Department of the Treasury, shall issue a compliance program guidance document to help improve compliance with this section, section 1185a of title 29, and section 9812 of title 26, as applicable. In carrying out this paragraph, the Secretaries may take into consideration the 2016 publication of the Department of Health and Human Services and the Department of Labor, entitled "Warning Signs - Plan or Policy Non-Quantitative Treatment Limitations (NQTLs) that Require Additional Analysis to Determine Mental Health Parity Compliance".

(B) Examples illustrating compliance and noncompliance

(i) In general

The compliance program guidance document required under this paragraph shall provide illustrative, de-identified examples (that do not disclose any protected health information or individually identifiable information) of previous findings of compliance and noncompliance with this section, section 1185a of title 29, or section 9812 of title 26, as applicable, based on investigations of violations of such sections, including-

(I) examples illustrating requirements for information disclosures and nonquantitative treatment limitations; and

(II) descriptions of the violations uncovered during the course of such investigations.

(ii) Nonquantitative treatment limitations

To the extent that any example described in clause (i) involves a finding of compliance or noncompliance with regard to any requirement for nonquantitative treatment limitations, the example shall provide sufficient detail to fully explain such finding, including a full description of the criteria involved for approving medical and surgical benefits and the criteria involved for approving mental health and substance use disorder benefits.

(iii) Access to additional information regarding compliance

In developing and issuing the compliance program guidance document required under this paragraph, the Secretaries specified in subparagraph (A)-

(I) shall enter into interagency agreements with the Inspector General of the Department of Health and Human Services, the Inspector General of the Department of Labor, and the Inspector General of the Department of the Treasury to share findings of compliance and noncompliance with this section, section 1185a of title 29, or section 9812 of title 26, as applicable; and

(II) shall seek to enter into an agreement with a State to share information on findings of compliance and noncompliance with this section, section 1185a of title 29, or section 9812 of title 26, as applicable.

(C) Recommendations

The compliance program guidance document shall include recommendations to advance compliance with this section, section 1185a of title 29, or section 9812 of title 26, as applicable, and encourage the development and use of internal controls to monitor adherence to applicable statutes, regulations, and program requirements. Such internal controls may include illustrative examples of nonquantitative treatment limitations on mental health and substance use disorder benefits, which may fail to comply with this section, section 1185a of title 29, or section 9812 of title 26, as applicable, in relation to nonquantitative treatment limitations on medical and surgical benefits.

(D) Updating the compliance program guidance document

The Secretary, the Secretary of Labor, and the Secretary of the Treasury, in consultation with the Inspector General of the Department of Health and Human Services, the Inspector General of the Department of Labor, and the Inspector General of the Department of the Treasury, shall update the compliance program guidance document every 2 years to include illustrative, de-identified examples (that do not disclose any protected health information or individually identifiable information) of previous findings of compliance and noncompliance with this section, section 1185a of title 29, or section 9812 of title 26, as applicable.

(7) Additional guidance

(A) In general

Not later than 12 months after December 13, 2016, the Secretary, the Secretary of Labor, and the Secretary of the Treasury shall issue guidance to group health plans and health insurance issuers offering group or individual health insurance coverage to assist such plans and issuers in satisfying the requirements of this section, section 1185a of title 29, or section 9812 of title 26, as applicable.

(B) Disclosure

(i) Guidance for plans and issuers

The guidance issued under this paragraph shall include clarifying information and illustrative examples of methods that group health plans and health insurance issuers offering group or individual health insurance coverage may use for disclosing information to ensure compliance with the requirements under this section, section 1185a of title 29, or section 9812 of title 26, as applicable, (and any regulations promulgated pursuant to such sections, as applicable).

(ii) Documents for participants, beneficiaries, contracting providers, or authorized representatives

The guidance issued under this paragraph shall include clarifying information and illustrative examples of methods that group health plans and health insurance issuers offering group or individual health insurance coverage may use to provide any participant, beneficiary, contracting provider, or authorized representative, as applicable, with documents containing information that the health plans or issuers are required to disclose to participants, beneficiaries, contracting providers, or authorized representatives to ensure compliance with this section, section 1185a of title 29, or section 9812 of title 26, as applicable, compliance with any regulation issued pursuant to such respective section, or compliance with any other applicable law or regulation. Such guidance shall include information that is comparative in nature with respect to-

(I) nonquantitative treatment limitations for both medical and surgical benefits and mental health and substance use disorder benefits;

(II) the processes, strategies, evidentiary standards, and other factors used to apply the limitations described in subclause (I); and

(III) the application of the limitations described in subclause (I) to ensure that such limitations are applied in parity with respect to both medical and surgical benefits and mental health and substance use disorder benefits.

(C) Nonquantitative treatment limitations

The guidance issued under this paragraph shall include clarifying information and illustrative examples of methods, processes, strategies, evidentiary standards, and other factors that group health plans and health insurance issuers offering group or individual health insurance coverage may use regarding the development and application of nonquantitative treatment limitations to ensure compliance with this section, section 1185a of title 29, or section 9812 of title 26, as applicable, (and any regulations promulgated pursuant to such respective section), including-

(i) examples of methods of determining appropriate types of nonquantitative treatment limitations with respect to both medical and surgical benefits and mental health and substance use disorder benefits, including nonquantitative treatment limitations pertaining to-

(I) medical management standards based on medical necessity or appropriateness, or whether a treatment is experimental or investigative;

(II) limitations with respect to prescription drug formulary design; and

(III) use of fail-first or step therapy protocols;

(ii) examples of methods of determining-

(I) network admission standards (such as credentialing); and

(II) factors used in provider reimbursement methodologies (such as service type, geographic market, demand for services, and provider supply, practice size, training, experience, and licensure) as such factors apply to network adequacy;

(iii) examples of sources of information that may serve as evidentiary standards for the purposes of making determinations regarding the development and application of nonquantitative treatment limitations;

(iv) examples of specific factors, and the evidentiary standards used to evaluate such factors, used by such plans or issuers in performing a nonquantitative treatment limitation analysis;

(v) examples of how specific evidentiary standards may be used to determine whether treatments are considered experimental or investigative;

(vi) examples of how specific evidentiary standards may be applied to each service category or classification of benefits;

(vii) examples of methods of reaching appropriate coverage determinations for new mental health or substance use disorder treatments, such as evidence-based early intervention programs for individuals with a serious mental illness and types of medical management techniques;

(viii) examples of methods of reaching appropriate coverage determinations for which there is an indirect relationship between the covered mental health or substance use disorder benefit and a traditional covered medical and surgical benefit, such as residential treatment or hospitalizations involving voluntary or involuntary commitment; and

(ix) additional illustrative examples of methods, processes, strategies, evidentiary standards, and other factors for which the Secretary determines that additional guidance is necessary to improve compliance with this section, section 1185a of title 29, or section 9812 of title 26, as applicable.

(D) Public comment

Prior to issuing any final guidance under this paragraph, the Secretary shall provide a public comment period of not less than 60 days during which any member of the public may provide comments on a draft of the guidance.

(b) Construction

Nothing in this section shall be construed-

(1) as requiring a group health plan or a health insurance issuer offering group or individual health insurance coverage to provide any mental health or substance use disorder benefits; or

(2) in the case of a group health plan or a health insurance issuer offering group or individual health insurance coverage that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan or coverage relating to such benefits under the plan or coverage, except as provided in subsection (a).

(c) Exemptions

(1) Small employer exemption

This section shall not apply to any group health plan and a health insurance issuer offering group or individual health insurance coverage for any plan year of a small employer (as defined in section 300gg–91(e)(4) of this title, except that for purposes of this paragraph such term shall include employers with 1 employee in the case of an employer residing in a State that permits small groups to include a single individual).

(2) Cost exemption

(A) In general

With respect to a group health plan or a health insurance issuer offering group or individual health insurance coverage, if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

(B) Applicable percentage

With respect to a plan (or coverage), the applicable percentage described in this subparagraph shall be-

(i) 2 percent in the case of the first plan year in which this section is applied; and

(ii) 1 percent in the case of each subsequent plan year.

(C) Determinations by actuaries

Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under subparagraph (E).

(D) 6-month determinations

If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

(E) Notification

(i) In general

A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

(ii) Requirement

A notification to the Secretary under clause (i) shall include-

(I) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan (or coverage);

(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

(iii) Confidentiality

A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes-

(I) a breakdown of States by the size and type of employers submitting such notification; and

(II) a summary of the data received under clause (ii).

(F) Audits by appropriate agencies

To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan or health insurance issuer relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.

(d) Separate application to each option offered

In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

(e) Definitions

For purposes of this section-

(1) Aggregate lifetime limit

The term "aggregate lifetime limit" means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit.

(2) Annual limit

The term "annual limit" means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan or health insurance coverage with respect to an individual or other coverage unit.

(3) Medical or surgical benefits

The term "medical or surgical benefits" means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health or substance use disorder benefits.

(4) Mental health benefits

The term "mental health benefits" means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

(5) Substance use disorder benefits

The term "substance use disorder benefits" means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.

(July 1, 1944, ch. 373, title XXVII, §2726, formerly §2705, as added Pub. L. 104–204, title VII, §703(a), Sept. 26, 1996, 110 Stat. 2947 ; amended Pub. L. 107–116, title VII, §701(b), Jan. 10, 2002, 115 Stat. 2228 ; Pub. L. 107–313, §2(b), Dec. 2, 2002, 116 Stat. 2457 ; Pub. L. 108–197, §2(b), Dec. 19, 2003, 117 Stat. 2898 ; Pub. L. 108–311, title III, §302(c), Oct. 4, 2004, 118 Stat. 1179 ; Pub. L. 109–151, §1(b), Dec. 30, 2005, 119 Stat. 2886 ; Pub. L. 109–432, div. A, title I, §115(c), Dec. 20, 2006, 120 Stat. 2941 ; Pub. L. 110–245, title IV, §401(c), June 17, 2008, 122 Stat. 1650 ; Pub. L. 110–343, div. C, title V, §512(b), (g)(2), Oct. 3, 2008, 122 Stat. 3885 , 3892; renumbered §2726 and amended Pub. L. 111–148, title I, §§1001(2), 1563(c)(4), formerly §1562(c)(4), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 130 , 265, 911; Pub. L. 114–255, div. B, title XIII, §13001(a), (b), Dec. 13, 2016, 130 Stat. 1278, 1280.)

CODIFICATION

Section was formerly classified to section 300gg–5 of this title prior to renumbering by Pub. L. 111–148.

AMENDMENTS

2016-Subsec. (a)(6). Pub. L. 114–255, §13001(a), added par. (6).

Subsec. (a)(7). Pub. L. 114–255, §13001(b), added par. (7).

2010-Subsecs. (a), (b). Pub. L. 111–148, §1563(c)(4)(A), (B), formerly §1562(c)(4)(A), (B), as renumbered by Pub. L. 111–148, §10107(b)(1), substituted "or a health insurance issuer offering group or individual health insurance coverage" for "(or health insurance coverage offered in connection with such a plan)" wherever appearing.

Subsec. (c)(1). Pub. L. 111–148, §1563(c)(4)(C)(i), formerly §1562(c)(4)(C)(i), as renumbered by Pub. L. 111–148, §10107(b)(1), substituted "and a health insurance issuer offering group or individual health insurance coverage" for "(and group health insurance coverage offered in connection with a group health plan)".

Subsec. (c)(2)(A). Pub. L. 111–148, §1563(c)(4)(C)(ii), formerly §1562(c)(4)(C)(ii), as renumbered by Pub. L. 111–148, §10107(b)(1), substituted "or a health insurance issuer offering group or individual health insurance coverage" for "(or health insurance coverage offered in connection with such a plan)".

2008-Pub. L. 110–343, §512(g)(2), amended section catchline generally. Prior to amendment, catchline read as follows: "Parity in application of certain limits to mental health benefits".

Subsec. (a)(1), (2). Pub. L. 110–343, §512(b)(7), substituted "mental health or substance use disorder benefits" for "mental health benefits" wherever appearing in pars. (1)(introductory provisions), (A), and (B)(ii) and (2)(introductory provisions), (A), and (B)(ii).

Pub. L. 110–343, §512(b)(6), substituted "mental health and substance use disorder benefits" for "mental health benefits" wherever appearing in pars. (1)(B)(i) and (C) and (2)(B)(i) and (C).

Subsec. (a)(3) to (5). Pub. L. 110–343, §512(b)(1), added pars. (3) to (5).

Subsec. (b)(1). Pub. L. 110–343, §512(b)(7), substituted "mental health or substance use disorder benefits" for "mental health benefits".

Subsec. (b)(2). Pub. L. 110–343, §512(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a) of this section (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits)."

Subsec. (c)(1). Pub. L. 110–343, §512(b)(3)(A), inserted "(as defined in section 300gg–91(e)(4) of this title, except that for purposes of this paragraph such term shall include employers with 1 employee in the case of an employer residing in a State that permits small groups to include a single individual)" before period at end.

Subsec. (c)(2). Pub. L. 110–343, §512(b)(3)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent."

Subsec. (e)(3). Pub. L. 110–343, §512(b)(7), substituted "mental health or substance use disorder benefits" for "mental health benefits".

Subsec. (e)(4). Pub. L. 110–343, §512(b)(7), which directed substitution of "mental health or substance use disorder benefits" for "mental health benefits" wherever appearing in this section (other than in any provision amended by section 512(b)(6) of Pub. L. 110–343), was not executed to par. (4) as added by Pub. L. 110–343, §512(b)(4), to reflect the probable intent of Congress. See below.

Pub. L. 110–343, §512(b)(4), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan or coverage (as the case may be), but does not include benefits with respect to treatment of substance abuse or chemical dependency."

Subsec. (e)(5). Pub. L. 110–343, §512(b)(4), added par. (5).

Subsec. (f). Pub. L. 110–343, §512(b)(5), struck out subsec. (f). Text read as follows: "This section

shall not apply to benefits for services furnished-

"(1) on or after January 1, 2008, and before June 17, 2008, and

"(2) after December 31, 2008.."

Pub. L. 110–245 substituted "services furnished-" for "services furnished after December 31, 2007" and added pars. (1) and (2).

2006-Subsec. (f). Pub. L. 109–432 substituted "2007" for "2006".

2005-Subsec. (f). Pub. L. 109–151 substituted "December 31, 2006" for "December 31, 2005".

2004-Subsec. (f). Pub. L. 108–311 substituted "after December 31, 2005" for "on or after December 31, 2004".

2003-Subsec. (f). Pub. L. 108–197 substituted "December 31, 2004" for "December 31, 2003".

2002-Subsec. (f). Pub. L. 107–313 substituted "December 31, 2003" for "December 31, 2002".

Pub. L. 107–116 substituted "December 31, 2002" for "September 30, 2001".

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. C, title V, §512(e), Oct. 3, 2008, 122 Stat. 3891 , as amended by Pub. L. 110–460, §1, Dec. 23, 2008, 122 Stat. 5123 , provided that:

"(1) IN GENERAL.-The amendments made by this section [amending this section, section 9812 of Title 26, Internal Revenue Code, and section 1185a of Title 29, Labor] shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of enactment of this Act [Oct. 3, 2008], regardless of whether regulations have been issued to carry out such amendments by such effective date, except that the amendments made by subsections (a)(5), (b)(5), and (c)(5) [amending this section, section 9812 of Title 26, and section 1185a of Title 29], relating to striking of certain sunset provisions, shall take effect on January 1, 2009.

"(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.-In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act [Oct. 3, 2008], the amendments made by this section shall not apply to plan years beginning before the later of-

"(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

"(B) January 1, 2010.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement."

EFFECTIVE DATE

Pub. L. 104–204, title VII, §703(b), Sept. 26, 1996, 110 Stat. 2950 , provided that: "The amendments made by this section [enacting this section] shall apply with respect to group health plans for plan years beginning on or after January 1, 1998."

REGULATIONS

Pub. L. 110–343, div. C, title V, §512(d), Oct. 3, 2008, 122 Stat. 3891 , provided that: "Not later than 1 year after the date of enactment of this Act [Oct. 3, 2008], the Secretaries of Labor, Health and Human Services, and the Treasury shall issue regulations to carry out the amendments made by subsections (a), (b), and (c) [amending this section, section 9812 of Title 26, Internal Revenue Code, and section 1185a of Title 29, Labor], respectively."

IMPROVING COMPLIANCE

Pub. L. 114–255, div. B, title XIII, §13001(d), Dec. 13, 2016, 130 Stat. 1283, provided that:

"(1) IN GENERAL.-In the case that the Secretary of Health and Human Services, the Secretary of Labor, or the Secretary of the Treasury determines that a group health plan or health insurance issuer offering group or individual health insurance coverage has violated, at least 5 times, section 2726 of the Public Health Service Act (42 U.S.C. 300gg–26), section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a), or section 9812 of the Internal Revenue Code of 1986 [26 U.S.C. 9812], respectively, the appropriate Secretary shall audit plan documents for such health plan or issuer

in the plan year following the Secretary's determination in order to help improve compliance with such section.

"(2) RULE OF CONSTRUCTION.-Nothing in this subsection shall be construed to limit the authority, as in effect on the day before the date of enactment of this Act [Dec. 13, 2016], of the Secretary of Health and Human Services, the Secretary of Labor, or the Secretary of the Treasury to audit documents of health plans or health insurance issuers."

CLARIFICATION OF EXISTING PARITY RULES

Pub. L. 114–255, div. B, title XIII, §13007, Dec. 13, 2016, 130 Stat. 1287, provided that: "If a group health plan or a health insurance issuer offering group or individual health insurance coverage provides coverage for eating disorder benefits, including residential treatment, such group health plan or health insurance issuer shall provide such benefits consistent with the requirements of section 2726 of the Public Health Service Act (42 U.S.C. 300gg–26), section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a), and section 9812 of the Internal Revenue Code of 1986 [26 U.S.C. 9812]."

ASSURING COORDINATION

Pub. L. 110–343, div. C, title V, §512(f), Oct. 3, 2008, 122 Stat. 3892 , provided that: "The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may ensure, through the execution or revision of an interagency memorandum of understanding among such Secretaries, that-

"(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this section [amending this section, section 9812 of Title 26, Internal Revenue Code, and section 1185a of Title 29, Labor, and enacting provisions set out as notes under this section] (and the amendments made by this section) are administered so as to have the same effect at all times; and

"(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement."

MENTAL HEALTH AND SUBSTANCE USE DISORDER PARITY TASK FORCE

Memorandum of President of the United States, Mar. 29, 2016, 81 F.R. 19015, provided:

Memorandum for the Heads of Executive Departments and Agencies

My Administration has made behavioral health a priority and taken a number of steps to improve the prevention, early intervention, and treatment of mental health and substance use disorders. These actions are especially important in light of the prescription drug abuse and heroin epidemic as well as the suicide and substance use-related fatalities that have reversed increases in longevity in certain populations. One important response has been the expansion and implementation of mental health and substance use disorder parity protections to ensure that coverage for these benefits is comparable to coverage for medical and surgical care. The Affordable Care Act builds on the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act to expand mental health and substance use disorder benefits and Federal parity protections for more than 60 million Americans. To realize the promise of coverage expansion and parity protections in helping individuals with mental health and substance use disorders, executive departments and agencies need to work together to ensure that Americans are benefiting from the Federal parity protections the law intends. To that end, I hereby direct the following:

SECTION 1. *Mental Health and Substance Use Disorder Parity Task Force*. There is established an interagency Mental Health and Substance Use Disorder Parity Task Force (Task Force), which will identify and promote best practices for executive departments and agencies (agencies), as well as State agencies, to better ensure compliance with and implementation of requirements related to mental health and substance use disorder parity, and determine areas that would benefit from further guidance. The Director of the Domestic Policy Council shall serve as Chair of the Task Force.

(a) *Membership of the Task Force*. In addition to the Director of the Domestic Policy Council, the Task Force shall consist of the heads of the following agencies and offices, or their designees:

(i) the Department of the Treasury;

(ii) the Department of Defense;
(iii) the Department of Justice;
(iv) the Department of Labor;
(v) the Department of Health and Human Services;
(vi) the Department of Veterans Affairs;
(vii) the Office of Personnel Management;
(viii) the Office of National Drug Control Policy; and
(ix) such other agencies or offices as the President may designate.

At the request of the Chair, the Task Force may establish subgroups consisting exclusively of Task Force members or their designees under this section, as appropriate.

(b) *Administration of the Task Force*. The Department of Health and Human Services shall provide funding and administrative support for the Task Force to the extent permitted by law and within existing appropriations.

SEC. 2. *Mission and Functions of the Task Force*. The Task Force shall coordinate across agencies to:

(a) identify and promote best practices for compliance and implementation;

(b) identify and address gaps in guidance, particularly with regard to substance use disorder parity; and

(c) implement actions during its tenure and at its conclusion to advance parity in mental health and substance use disorder treatment.

SEC. 3. *Outreach*. Consistent with the objectives set out in section 2 of this memorandum, the Task Force, in accordance with applicable law, shall conduct outreach to patients, consumer advocates, health care providers, specialists in mental health care and substance use disorder treatment, employers, insurers, State regulators, and other stakeholders as the Task Force deems appropriate.

SEC. 4. *Transparency and Reports*. The Task Force shall present to the President a report before October 31, 2016, on its findings and recommendations, which shall be made public.

SEC. 5. *General Provisions*. (a) The heads of agencies shall assist and provide information to the Task Force, consistent with applicable law, as may be necessary to carry out the functions of the Task Force.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Secretary of Health and Human Services is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.5] *(Division 2 enacted by Stats. 1935, Ch. 145.)*

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] *(Part 2 enacted by Stats. 1935, Ch. 145.)*

CHAPTER 1. The Contract [10110 - 10198.10] *(Chapter 1 enacted by Stats. 1935, Ch. 145.)*

ARTICLE 1. General Provisions [10110 - 10127.19] *(Article 1 enacted by Stats. 1935, Ch. 145.)*

10112.27. (a) An individual or small group health insurance policy issued, amended, or renewed on or after January 1, 2017, shall, at a minimum, include coverage for essential health benefits pursuant to PPACA and as outlined in this section. This section shall exclusively govern what benefits a health insurer must cover as essential health benefits. For purposes of this section, “essential health benefits” means all of the following:

(1) Health benefits within the categories identified in Section 1302(b) of PPACA: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care.

(2) (A) The health benefits covered by the Kaiser Foundation Health Plan Small Group HMO 30 plan (federal health product identification number 40513CA035) as this plan was offered during the first quarter of 2014, as follows, regardless of whether the benefits are specifically referenced in the plan contract or evidence of coverage for that plan:

(i) Medically necessary basic health care services, as defined in subdivision (b) of Section 1345 of the Health and Safety Code and in Section 1300.67 of Title 28 of the California Code of Regulations.

(ii) The health benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in the following sections of the Health and Safety Code: Sections 1367.002, 1367.06, and 1367.35 (preventive services for children); Section 1367.25 (prescription drug coverage for contraceptives); Section 1367.45 (AIDS vaccine); Section 1367.46 (HIV testing); Section 1367.51 (diabetes); Section 1367.54 (alpha-fetoprotein testing); Section 1367.6 (breast cancer screening); Section 1367.61 (prosthetics for laryngectomy); Section 1367.62 (maternity hospital stay); Section 1367.63 (reconstructive surgery); Section 1367.635 (mastectomies); Section 1367.64 (prostate cancer); Section 1367.65 (mammography); Section 1367.66 (cervical cancer); Section 1367.665 (cancer screening tests); Section 1367.67 (osteoporosis); Section 1367.68 (surgical procedures for jaw bones); Section 1367.71 (anesthesia for dental); Section 1367.9 (conditions attributable to diethylstilbestrol); Section 1368.2 (hospice care); Section 1370.6 (cancer clinical trials); Section 1371.5 (emergency response ambulance or ambulance transport services); subdivision (b) of Section 1373 (sterilization operations or procedures); Section 1373.4 (inpatient hospital and ambulatory maternity); Section 1374.56 (phenylketonuria); Section 1374.17 (organ transplants for HIV); Section 1374.72 (mental health parity); and Section 1374.73 (autism/behavioral health treatment).

(iii) Any other benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in those statutes.

(iv) The health benefits covered by the plan that are not otherwise required to be covered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, to the extent otherwise required pursuant to Sections 1367.18, 1367.21, 1367.215, 1367.22, 1367.24, and 1367.25 of the Health and Safety Code, and Section 1300.67.24 of Title 28 of the California Code of Regulations.

(v) Any other health benefits covered by the plan that are not otherwise required to be covered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(B) If there are any conflicts or omissions in the plan identified in subparagraph (A) as compared with the

requirements for health benefits under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code that were enacted prior to December 31, 2011, the requirements of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code shall be controlling, except as otherwise specified in this section.

(C) Notwithstanding subparagraph (B) or any other provision of this section, the home health services benefits covered under the plan identified in subparagraph (A) shall be deemed to not be in conflict with Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(D) For purposes of this section, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) shall apply to a policy subject to this section. Coverage of mental health and substance use disorder services pursuant to this paragraph, along with any scope and duration limits imposed on the benefits, shall be in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), and all rules, regulations, and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

(3) With respect to habilitative services, in addition to any habilitative services and devices identified in paragraph (2), coverage shall also be provided as required by federal rules, regulations, or guidance issued pursuant to Section 1302(b) of PPACA. Habilitative services and devices shall be covered under the same terms and conditions applied to rehabilitative services and devices under the policy. Limits on habilitative and rehabilitative services and devices shall not be combined.

(4) With respect to pediatric vision care, the same health benefits for pediatric vision care covered under the Federal Employees Dental and Vision Insurance Program vision plan with the largest national enrollment as of the first quarter of 2014. The pediatric vision care services covered pursuant to this paragraph shall be in addition to, and shall not replace, any vision services covered under the plan identified in paragraph (2).

(5) With respect to pediatric oral care, the same health benefits for pediatric oral care covered under the dental benefit received by children under Medi-Cal as of 2014, including the provision of medically necessary orthodontic care provided pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009. The pediatric oral care benefits covered pursuant to this paragraph shall be in addition to, and shall not replace, any dental or orthodontic services covered under the plan identified in paragraph (2).

(b) Treatment limitations imposed on health benefits described in this section shall be no greater than the treatment limitations imposed by the corresponding plans identified in subdivision (a), subject to the requirements set forth in paragraph (2) of subdivision (a).

(c) Except as provided in subdivision (d), nothing in this section shall be construed to permit a health insurer to make substitutions for the benefits required to be covered under this section, regardless of whether those substitutions are actuarially equivalent.

(d) To the extent permitted under Section 1302 of PPACA and any rules, regulations, or guidance issued pursuant to that section, and to the extent that substitution would not create an obligation for the state to defray costs for any individual, an insurer may substitute its prescription drug formulary for the formulary provided under the plan identified in subdivision (a) as long as the coverage for prescription drugs complies with the sections referenced in clauses (ii) and (iv) of subparagraph (A) of paragraph (2) of subdivision (a) that apply to prescription drugs.

(e) A health insurer, or its agent, producer, or representative, shall not issue, deliver, renew, offer, market, represent, or sell any product, policy, or discount arrangement as compliant with the essential health benefits requirement in federal law, unless it meets all of the requirements of this section. This subdivision shall be enforced in the same manner as Section 790.03, including through the means specified in Sections 790.035 and 790.05.

(f) This section applies regardless of whether the policy is offered inside or outside the California Health Benefit Exchange created by Section 100500 of the Government Code.

(g) This section shall not be construed to exempt a health insurer or a health insurance policy from meeting other applicable requirements of law.

(h) This section shall not be construed to prohibit a policy from covering additional benefits, including, but not limited to, spiritual care services that are tax deductible under Section 213 of the Internal Revenue Code.

(i) Subdivision (a) does not apply to any of the following:

(1) A policy that provides excepted benefits as described in Sections 2722 and 2791 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-21; 42 U.S.C. Sec. 300gg-91).

(2) A policy that qualifies as a grandfathered health plan under Section 1251 of PPACA or any binding rules, regulation, or guidance issued pursuant to that section.

(j) This section shall not be implemented in a manner that conflicts with a requirement of PPACA.

(k) This section shall be implemented only to the extent essential health benefits are required pursuant to PPACA.

(l) An essential health benefit is required to be provided under this section only to the extent that federal law does not require the state to defray the costs of the benefit.

(m) This section does not obligate the state to incur costs for the coverage of benefits that are not essential health benefits as defined in this section.

(n) An insurer is not required to cover, under this section, changes to health benefits that are the result of statutes enacted on or after December 31, 2011.

(o) (1) The commissioner may adopt emergency regulations implementing this section. The commissioner may, on a one-time basis, readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations implementing this section and the readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(3) The initial adoption of emergency regulations implementing this section made during the 2015–16 Regular Session of the Legislature and the readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(4) The commissioner shall consult with the Director of the Department of Managed Health Care to ensure consistency and uniformity in the development of regulations under this subdivision.

(5) This subdivision shall become inoperative on July 1, 2018.

(p) Nothing in this section shall impose on health insurance policies the cost sharing or network limitations of the plans identified in subdivision (a) except to the extent otherwise required to comply with provisions of this code, including this section, and as otherwise applicable to all health insurance policies offered to individuals and small groups.

(q) For purposes of this section, the following definitions apply:

(1) “Habilitative services” means health care services and devices that help a person keep, learn, or improve skills and functioning for daily living. Examples include therapy for a child who is not walking or talking at the expected age. These services may include physical and occupational therapy, speech-language pathology, and other services for people with disabilities in a variety of inpatient or outpatient settings, or both. Habilitative services shall be covered under the same terms and conditions applied to rehabilitative services under the policy.

(2) (A) “Health benefits,” unless otherwise required to be defined pursuant to federal rules, regulations, or guidance issued pursuant to Section 1302(b) of PPACA, means health care items or services for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, disease, or a health condition, including a behavioral health condition.

(B) “Health benefits” does not mean any cost-sharing requirements such as copayments, coinsurance, or deductibles.

(3) “PPACA” means 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), and any rules, regulations, or guidance issued thereunder.

(4) “Small group health insurance policy” means a group health insurance policy issued to a small employer, as defined in Section 10753.

(Amended (as added by Stats. 2015, Ch. 648, Sec. 4) by Stats. 2016, Ch. 86, Sec. 203. Effective January 1, 2017.)

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HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.63] *(Division 2 enacted by Stats. 1939, Ch. 60.)*

CHAPTER 2.2. Health Care Service Plans [1340 - 1399.864] *(Chapter 2.2 added by Stats. 1975, Ch. 941.)*

ARTICLE 5.6. Point-of-Service Health Care Service Plan Contracts [1374.60 - 1374.76] *(Article 5.6 added by Stats. 1993, Ch. 987, Sec. 3.)*

1374.76. (a) No later than January 1, 2015, a large group health care service plan contract shall provide all covered mental health and substance use disorder benefits in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) and all rules, regulations, and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

(b) No later than January 1, 2015, an individual or small group health care service plan contract shall provide all covered mental health and substance use disorder benefits in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), all rules, regulations, and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26), and Section 1367.005.

(c) Until January 1, 2016, the director may issue guidance to health care service plans regarding compliance with this section. This guidance shall not be subject 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). Any guidance issued pursuant to this subdivision shall be effective only until the director adopts regulations pursuant to the Administrative Procedure Act. The department shall consult with the Department of Insurance in issuing guidance under this subdivision.

(Added by Stats. 2014, Ch. 31, Sec. 8. Effective June 20, 2014.)

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- **SPECIAL NEEDS NETWORK**
- **THE DIR/ FLOORTIME COALITION OF CALIFORNIA**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALTH CARE COVERAGE: PERVASIVE DEVELOPMENTAL DISORDER OR AUTISM**

Summary:

This bill seeks to close some of the loopholes that insurance companies use to deny treatment for behavioral health treatment. It also revises the definitions of a "qualified autism service professional" and a "qualified autism service paraprofessional."

Existing Law:

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

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

3) Defines "behavioral health treatment" as professional services and treatment programs, <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 or paraprofessional 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 or California Early Intervention 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 (17 CCR §54342):

a) Associate Behavior Analysts;

b) Behavior Analysts;

c) Behavior Management Assistants;

d) Behavior Management Consultants; and

e) Behavior Management Programs.

<u>This Bill:</u>

1) Removes the requirement qualified autism professionals and paraprofessionals must be employed by the qualified autism service provider who supervises them. (HSC §1374.73(c)((1)(B) and IC §10144.51(c)(1)(B))

2) Changes the requirement for review of the behavioral health treatment plan from no less than once every six months, to no more than once every six months or less than once every 12 months, unless a shorter period is recommended by the qualified autism service provider. (HSC §1374.73(c)(1)(C) and IC §10144.51(c)(1)(C))

3) Specifies that lack of parent or caregiver participation cannot be used to deny or reduce medically necessary behavioral health treatment. (HSC §1374.73(c)(1)(C) and IC §10144.51(c)(1)(C))

4) Specifies that the setting, location, or time of treatment cannot be used as a reason to deny the behavioral health treatment. (HSC §1374.73(c)(1)(E) and IC §10144.51(c)(1)(E))

5) Amends the law so that a "qualified autism service provider" can only be a person, not an entity or a group. (HSC §1374.73(c)(3) and IC §10144.51(c)(3))

6) Makes the following changes to the definition of a "qualified autism service professional" (HSC §1374.73(c)(4) and IC §10144.51(c)(4)):

a) Allows their provision of behavioral health treatment to include clinical management and case supervision under direction and supervision of a qualified autism service provider.

b) Specifically requires them to have training and experience providing services for pervasive developmental disorder or autism.

c) Requires them to either:

i. Meet the requirements to be approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program as defined in regulation, OR

ii. Have a bachelor of arts or science degree and one of the following:

- One year of experience in designing or implementing behavioral health treatment under supervision by a qualified autism service provider and 12 semester units from an accredited school in either applied behavior analysis or clinical coursework in behavioral health; or

- Two years of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider; or

- Be a registered psychological assistant or registered psychologist; or

- Be an associate clinical social worker, associate marriage and family therapist, or associate professional clinical counselor.

7) Makes the following changes to the definition of a "qualified autism service paraprofessional" (HSC §1374.73(c)(5) and IC §10144.51(c)(5)):

a) Allows them to be supervised by <u>either</u> a qualified autism service provider or a qualified autism service professional.

b) Requires them to either:

i. Meet the criteria set forth in the regulations regarding use of paraprofessionals in group practice providing behavioral intervention services; OR

ii. Meets all of the following:

- Has an associate's degree or two years of study from an accredited college with coursework in a related field of study; and

- Has six months experience working with persons with a developmental disability; and

- Has 40 hours of training in the specific form of evidence-based behavioral health treatment developed and administered by a qualified autism provider or professional; and

- Passes a background check by a state-approved agency.

Comments:

1) **Author's Intent.** The author's office states that currently, patients with pervasive development disorder or autism (PDD/A) are being denied treatment coverage for prescribed behavioral health treatment, due to loopholes in the law. Some of these loopholes include the requirement for parental participation, location requirements, vendorization requirements, only offering coverage for one form of behavioral health treatment, and requirements for professional and paraprofessional providers to be employed by their supervising qualified autism service provider. This bill seeks to remove these loopholes, and also to increase the requirements to qualify as an autism service paraprofessional.

2) **Effect on Board Licensees.** This bill would broaden the requirements to qualify as an autism service professional. Currently, to qualify, one must be recognized as a behavioral service provider approved by a regional center to provide services. This bill would remove the requirement for this regional center recognition, and would instead allow the Board's associate registrants to act as a qualified autism service professional if he or she has experience or training in providing treatment for PDD/A, even if he or she was not recognized as a provider by a regional center.

   This bill would also allow either qualified autism service providers <u>or professionals</u> to supervise qualified autism service paraprofessionals.

3) **Related Legislation.** AB 1074 (Maienschein, 2017) is a similar bill that is running this year. However, it does not close all of the loopholes closed by this bill. It also does not specify that associate registrants of this Board may serve as qualified autism service professionals.

4) **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.

   SB 1034 (Mitchell, 2016) would have made some adjustments to law to close some of the loopholes insurance companies use to deny behavioral health treatment. The Board took a "support" position on SB 1034 at its May 2016 meeting. However, the bill died in the Assembly Appropriations Committee.

   AB 796 (Chapter 493, Statutes of 2016) deleted the sunset date on the law that requires health care service plans or insurance policies to provide coverage for behavioral health treatment for PDD/A.

Support and Opposition.

Support:

- Autism Deserves Equal Coverage Foundation (Co-Sponsor)
- Autism Business Association (Co-Sponsor)
- California Psychological Association
- California Psychological Association
- Child Development Institute
- Greenhouse Therapy Center
- Newton Center for Affect Regulation
- Professional Child Development Associates
- Special Needs Network (Co-Sponsor)
- Special Needs Network, Inc.
- The DIR/Floortime Coalition of California (Co-Sponsor)
- The Office of Dr. Francisco Rocco
- 65 Individuals

Oppose:

- The California Association of Health Plans
- The California Association of Health Plans/ The Association of California Life and Health Insurance Companies/America's Health Insurance Plans
- The California Chamber of Commerce

History

2017

04/06/17	Set for hearing April 26.
04/05/17	From committee: Do pass and re-refer to Com. on HEALTH. (Ayes 3. Noes 1.) (April 4). Re-referred to Com. on HEALTH.
03/20/17	From committee with author's amendments. Read second time and amended. Re-referred to Com. on HUMAN S.
03/16/17	Set for hearing April 4.
03/14/17	Re-referred to Coms. on HUMAN S. and HEALTH.
03/14/17	Withdrawn from committee.
02/23/17	Referred to Coms. on HEALTH and HUMAN S.
02/16/17	From printer. May be acted upon on or after March 18.
02/15/17	Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE MARCH 20, 2017

SENATE BILL No. 399

Introduced by Senator Portantino

February 15, 2017

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

LEGISLATIVE COUNSEL'S DIGEST

SB 399, as amended, Portantino. Health care coverage: pervasive developmental disorder or autism.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law defines developmental disability for these purposes, to include, among other things, autism.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism, and defines "behavioral health treatment" to mean specified services provided by, among others, a qualified autism service professional *or a qualified autism service paraprofessional* supervised and employed by a qualified autism service provider. *A "qualified autism service provider" is defined as a person, entity, or group that*

meets certain certification and specialization criteria or a person licensed as a specified healing arts professional who meets certain specialization criteria. For purposes of this provision, existing law defines a "qualified autism service professional" to mean a person who, among other requirements, is a behavioral service provider approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program pursuant to specified regulations adopted under the Lanterman Developmental Disabilities Services Act. *Existing law also defines a "qualified autism service paraprofessional" to mean an unlicensed and uncertified individual who, among other things, meets the criteria set forth in regulations adopted pursuant to the provisions that require the State Department of Social Services to adopt emergency regulations regarding the use of paraprofessionals in group practice provider behavioral intervention services for developmentally disabled persons living in the community.*

This bill, among other things, would ~~instead define a "qualified autism service professional" to mean a person who, among other requirements, is a behavioral service provider who meets the State Department of Developmental Services' education and experience qualifications to be approved as a vendor by a California regional center to provide behavior intervention services or as an adaptive skills trainer, associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program if the services are within the experience and competence of the professional.~~ *no longer require qualified autism service professionals or paraprofessionals to be employed by a qualified autism service provider and would no longer permit entities or groups to be qualified autism service providers. The bill would expand the definition of "qualified autism service professional" to include behavioral service providers who meet specified educational, professional, and work experience qualifications. The bill, with regard to the definition of "qualified autism service paraprofessional," would also authorize the substitution of specified education, work experience, and training qualifications for the requirement to meet the criteria set forth in regulations adopted by the State Department of Social Services, as described above.*

This bill would require that the treatment plan be reviewed, as specified. The bill would specify that health care service plans and health insurers are not required to provide reimbursement for services

delivered by school personnel pursuant to an enrollee's individualized educational program unless otherwise required by law, that lack of parent or caregiver participation not be used to deny or reduce medically necessary behavioral health treatment, and that the setting, location, or time of treatment not be used as a reason to deny medically necessary behavioral health treatment. Because a willful violation of the bill's provisions by a health care service plan would be a crime, it would impose a state-mandated local program.

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

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

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Autism and other pervasive developmental disorders are complex neurobehavioral disorders that include impairments in social communication and social interaction combined with rigid, repetitive behaviors, interests, and activities.

(b) Autism covers a large spectrum of symptoms and levels of impairment ranging in severity from somewhat limiting to a severe disability that may require institutional care.

(c) One in 68 children born today will be diagnosed with autism or another pervasive developmental disorder.

(d) Research has demonstrated that children diagnosed with autism can often be helped with early administration of behavioral health treatment.

(e) There are several forms of evidence-based behavioral health 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 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.

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.

(5) This section shall not be construed to require a health care service plan to provide reimbursement for services delivered by school personnel pursuant to an enrollee's individualized educational program unless otherwise required by law.

(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 definitions 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 provider.

(ii) A qualified autism service professional supervised ~~and employed~~ by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised ~~and employed~~ by a qualified autism service provider.

(C) The treatment plan has measurable goals over a specific 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 more than once every six months or less than once every 12 months by the qualified autism service 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 participation 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 efficacy 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.

(v) Makes the treatment plan available to the health care service plan upon request.

(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.

(E) The setting, location, or time of treatment shall not be used as a reason to deny treatment.

(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~~ *person who* 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~~ *person who* 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, which may include clinical management and case supervision under the direction and supervision of a qualified autism service provider.

(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 provider.

~~(D) Is a behavioral service provider who meets the State Department of Developmental Services' education and experience qualifications to be approved as a vendor by a California regional center to provide behavior intervention services, including, but not limited to, interdisciplinary assessment services, client/parent support behavior intervention training, socialization training program, individual family training, or as an adaptive skills trainer, associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program if the services are within the experience and competence of the professional.~~

(D) Is a behavioral service provider who meets one of the following criteria:

(i) Meets the requirements to be approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program as defined in Section 54342 of Title 17 of the California Code of Regulations.

(ii) Possesses a bachelor of arts or science degree and meets one of the following qualifications:

(I) One year of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider and 12 semester units from an accredited institution of higher learning in either applied behavioral analysis or clinical coursework in behavioral health.

(II) Two years of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider.

(III) The person is a registered psychological assistant or registered psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(IV) The person is an associate clinical social worker registered with the Board of Behavioral Sciences pursuant to Section 4996.18 of the Business and Professions Code.

(V) The person is a registered associate marriage and family therapist with the Board of Behavioral Sciences pursuant to Section 4980.44 of the Business and Professions Code.

(VI) The person is a registered associate professional clinical counselor with the Board of Behavioral Sciences pursuant to Section 4999.42 of the Business and Professions Code.

(E) Has training and experience in providing services for pervasive developmental disorder or autism.

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

(A) Is supervised by a ~~person, entity, or group that~~ *person who* is a qualified autism service provider or qualified autism service professional.

(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 or ~~has adequate education, training, and experience, as certified by a qualified autism service provider.~~ *meets all of the following qualifications:*

(i) Possesses an associate's degree or two years of study from an accredited college or university with coursework in a related field of study.

(ii) Has six months of experience working with persons with a developmental disability.

(iii) Has 40 hours of training in the specific form of evidence-based behavioral health treatment developed and administered by a qualified autism provider or qualified autism service professional.

(iv) Has successfully passed a background check conducted by a state-approved agency.

(v) Has adequate education, training, and experience, as certified by a qualified autism service provider.

(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.

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.

(5) This section shall not be construed to require a health insurer to provide reimbursement for services delivered by school personnel pursuant to an enrollee's individualized educational program unless otherwise required by law.

(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 definitions 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 provider.

(ii) A qualified autism service professional supervised ~~and employed~~ by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised ~~and employed~~ by a qualified autism service provider.

(C) The treatment plan has measurable goals over a specific 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 more than once every six months or less than once every 12 months by the qualified autism service 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 participation 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 efficacy 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.

(v) Makes the treatment plan available to the health insurer upon request.

(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.

(E) The setting, location, or time of treatment shall not be used as a reason to deny medically necessary behavioral health treatment.

(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~~ *person who* 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~~ *person who* 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, which may include clinical management and case supervision under the direction and supervision of a qualified autism service provider.

(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 provider.

~~(D) Is a behavioral service provider who meets the State Department of Developmental Services' education and experience qualifications to be approved as a vendor by a California regional center to provide behavior intervention services, including, but not limited to, interdisciplinary assessment services, client/parent support behavior intervention training, socialization training program, individual family training, or as an adaptive skills trainer, associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program if the services are within the experience and competence of the professional.~~

(D) Is a behavioral service provider who meets one of the following criteria:

(i) Meets the requirements to be approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program as defined in Section 54342 of Title 17 of the California Code of Regulations.

(ii) Possesses a bachelor of arts or science degree and meets one of the following qualifications:

(I) One year of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider and 12 semester units from an accredited institution of higher learning in either applied behavioral analysis or clinical coursework in behavioral health.

(II) Two years of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider.

(III) The person is a registered psychological assistant or registered psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(IV) The person is an associate clinical social worker registered with the Board of Behavioral Sciences pursuant to Section 4996.18 of the Business and Professions Code.

(V) The person is a registered associate marriage and family therapist with the Board of Behavioral Sciences pursuant to Section 4980.44 of the Business and Professions Code.

(VI) The person is a registered associate professional clinical counselor with the Board of Behavioral Sciences pursuant to Section 4999.42 of the Business and Professions Code.

(E) Has training and experience in providing services for pervasive developmental disorder or autism.

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

(A) Is supervised by a ~~person, entity, or group that~~ *person who* is qualified autism service provider or qualified autism service professional.

(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 or ~~has adequate education, training, and experience, as certified by a qualified autism service provider.~~ *meets all of the following qualifications:*

(i) Possesses an associate's degree or two years of study from an accredited college or university with coursework in a related field of study.

(ii) Has six months of experience working with persons with a developmental disability.

(iii) Has 40 hours of training in the specific form of evidence-based behavioral health treatment developed and administered by a qualified autism provider or qualified autism service professional.

(iv) Has successfully passed a background check conducted by a state-approved agency.

(v) Has adequate education, training, and experience, as certified by a qualified autism service provider.

(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.

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 572** **VERSION:** **AMENDED MARCH 27, 2017**

AUTHOR: **STONE** **SPONSOR:** **AUTHOR**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALING ARTS LICENSEES: VIOLATIONS: GRACE PERIOD**

Summary

This bill would require a healing arts board to grant a licensee a 15 day grace period to correct any violations of law that do not cause irreparable harm before imposing discipline.

Existing Law:

1) Sets forth certain acts that are considered unprofessional conduct, and grants the Board the authority to deny, suspend, revoke, or place on probation, any license or registration for unprofessional conduct. These violations include, but are not limited to, the following types of violations (Business and Professions Code (BPC) §§4982, 4982.15, 4989.54, 4990.34, 4992.3, 4999.90):

- Gross negligence/incompetence;
- Permitting a trainee or intern to perform services beyond the scope of their license or competence;
- Exam security violations;
- Failure to maintain confidentiality;
- Improper supervision of a trainee or intern;
- Paying, accepting, or soliciting a fee for referrals;
- Failure to disclose fees in advance;
- False, misleading, or improper advertising;
- Failure to keep records consistent with sound clinical judgement;
- Failure to comply with laws related to telehealth;

- Failure to comply with laws allowing patient access to health care records.

2) Grants the Board the authority to issue citations and fines for violations of Board statute and regulations. (California Code of Regulation (CCR) Chapter 16, §1886)

3) Requires each Board licensee to complete 36 hours of continuing education every two years upon license renewal in a field relevant to his or her practice. (BPC §§4980.54, 4989.34, 4996.22, 4999.76)

This Bill:

1) Prohibits a healing arts board from imposing disciplinary action or a penalty for a violation of law if the following conditions are met (BPC §870):

a) The violation did not cause any irreparable harm and will not cause such harm if left uncorrected for 15 days;

b) The licensee corrects the violation within 15 days; and

c) The licensee is not currently on probation at the time of the violation.

Comments:

1) **Author's Intent.** The author's office states the following:

"There is currently no grace period for licensees that are in violation of minor provisions. This lack of a grace period gives incentive for the governing boards to seek out minor violations that are of no immediate danger to anyone which can be an unnecessary burden.

These provisions are important to follow and enforcement is not meant to be discouraged. This bill simply seeks to give licensees a chance to correct minor violations without a financial punishment. These are often times small practices and businesses and these fines can be detrimental."

2) **"Irreparable Harm" Not Defined.** The bill does not provide a definition of "irreparable harm." Therefore, this is left to subjective interpretation. For example, does irreparable harm constitute only physical harm, or emotional harm as well?

There are many types of violations that may not result in irreparable harm in every instance, but that still have the potential to harm a client. For example, failure to comply with security measures required for telehealth may not directly harm a client in every instance if there is no security breach, but could cause serious harm to a client if that information is accessed by a third party. Failure to provide records to a client requesting them in a timely manner may not directly harm them, but it could financially impact them in cases where the need the records to prove a disability, or it could cause a serious impact when they need them for use in a child custody case.

Lack of a definition of "irreparable harm" could also increase enforcement costs. The Board may have to send more cases to subject matter experts in order to

determine if irreparable harm occurred. The Board pays subject matter experts a rate of $85 per hour.

3) **Disincentive to Complete Continuing Education.** This bill would create a disincentive for licensees to complete their required continuing education. At least 36 hours of continuing education must be completed every two years upon license renewal. The Board determines compliance by conducting random audits of licensees, who must submit proof of completing the continuing education coursework.

   If a licensee was provided with a 15-day grace period to come into compliance, some licensees may decide there is no need to complete this education unless audited. If they were audited and were non-compliant, they could use the 15 days to find coursework (likely online) that could quickly be completed, and they would avoid the standard citation and fine for failure to comply.

4) **15-Day Timeframe Unclear.** As written, this bill states that to avoid disciplinary action, the licensee must correct the violation within 15 days.

   It is unclear when the 15 day window to correct the violation commences. For example, does the timeframe start when the Board receives a complaint of the violation, or when the licensee receives a letter from the Board about the violation? The bill should also specify whether the timeframe is 15 business days, or 15 calendar days.

5) **Possible Increase in Investigation Times.** The Department of Consumer Affairs (DCA) has established performance measures that establish targets for how long various steps in the enforcement process should take. The performance measure target for completing an investigation is 180 days. The addition of a 15-day grace period will extend the time it takes to complete some investigations. If a subject matter expert needs to be consulted to determine if there has been irreparable harm, this will also increase investigation time.

6) **Current Practice for Citations and Fines.** It is the responsibility of each licensee and registrant to be aware of the laws and regulations governing his or her profession. The possibility of a citation and fine provides an incentive for compliance with the law. Current Board practice for a citation and a fine is that the licensee or registrant must pay the fine, and he or she has 30 days to correct the violation.

7) **Support and Opposition.**

   Support:
   - None at this time.

   Opposition:
   - None at this time.

8) History

2017

03/29/17 Set for hearing April 17.
03/28/17 April 3 hearing postponed by committee.
03/27/17 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.
03/21/17 Set for hearing April 3.
03/02/17 Referred to Com. on B., P. & E.D.
02/21/17 From printer. May be acted upon on or after March 23.
02/17/17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE MARCH 27, 2017

SENATE BILL No. 572

Introduced by Senator Stone

February 17, 2017

An act to add Article 16 (commencing with Section 870) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 572, as amended, Stone. Healing arts licensees: violations: grace period.

Existing law provides for the licensure and regulation of various healing arts professions by various boards, as defined, within the Department of Consumer Affairs. Existing law imposes certain fines and other penalties for, and authorizes these boards to take disciplinary action against licensees for, violations of the provisions governing those professions.

This bill would prohibit the boards from taking disciplinary action against, or otherwise penalizing, healing arts licensees who violate those provisions but correct the violations within 15 ~~days,~~ *days and who are not currently on probation at the time of the violations,* if the violations did not cause irreparable harm and will not result in irreparable harm if left uncorrected for 15 days.

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. Article 16 (commencing with Section 870) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 16. Grace Period for Violations

870. Notwithstanding any other law, a person with a license issued pursuant to this division shall not be subject to disciplinary action by, or otherwise penalized by, the board that issued the license for a violation of a provision applicable to the license if ~~both~~ *all* of the following apply:

(a) The violation did not cause any irreparable harm and will not result in irreparable harm if left uncorrected for 15 days.

(b) The ~~person~~ *licensee* corrects the violation within 15 days.

(c) The licensee is not currently on probation at the time of the violation.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **SB 636** **VERSION:** **AMENDED MARCH 29, 2017**

AUTHOR: **BRADFORD** **SPONSOR:** **CALIFORNIA CONSORTIUM OF ADDICTION PROGRAMS AND PROFESSIONALS**

RECOMMENDED POSITION: **NONE**

SUBJECT: **ADDICTION TREATMENT: ADVERTISING: PAYMENT**

Summary: This bill prohibits persons, including Board licensees, who provide counseling services in an alcoholism or drug abuse recovery and treatment program licensed by the Department of Health Care Services (DHCS), from giving or receiving any type of remuneration for patient referrals. It permits DHCS to investigate potential violations and recommend disciplinary action to the relevant licensing board.

Existing Law:

1) Grants DHCS the authority to license adult alcoholism or drug abuse recovery or treatment facilities (Health and Safety Code (HSC) §11834.01)

2) Defines an "alcoholism or drug abuse recovery or treatment facility" as any premises, place, or building that provides 24-hour residential nonmedical services to adults recovering from problems related to alcohol or drug misuse or abuse, and who need treatment or detoxification services. (HSC §11834.02)

3) Requires staff providing counseling services at alcohol and drug programs, which include alcoholism or drug abuse recovery or treatment facilities, to be either a licensed professional, certified as an alcohol and drug counselor, or registered with an alcohol and drug counselor certifying organization. (California Code of Regulations (CCR) Title 9, §§13005, 13010, and 13015)

4) Defines "licensed professional" as either a licensed physician, psychologist, clinical social worker, marriage and family therapist, or an intern registered with the California Board of Psychology or the Board of Behavioral Sciences. (9 CCR §13015)

5) Makes it unlawful for a healing arts licensee to offer, deliver, receive, or accept any type of rebate, refund, commission, preference, discount, or other consideration as compensation or inducement for referring patients. (Business and Professions Code (BPC) §650)

6) Makes it unlawful for a healing arts licensee to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim or image in order to induce the rendering of professional services or furnishing of products in connection with the person's professional practice or business. (BPC §651)

This Bill:

1) Prohibits licensed professionals and registered and certified counselors providing counseling services for an alcoholism or drug abuse recovery treatment program licensed by DHCS from giving or receiving remuneration or anything of value for referral to alcoholism or drug abuse recovery and treatment services. (HSC §1833.1)

2) Allows DHCS to investigate and suspend or revoke the license or certification of an alcoholism or drug abuse recovery and treatment program, for a violation of the above provision. It may also suspend or revoke the registration or certification of a counselor for such a violation. (HSC §1833.2(a))

3) Allows DHCS to investigate allegations against a licensed professional (including BBS licensees) who is providing counseling services at one of its licensed or certified alcoholism or drug abuse recovery or treatment programs, and allows it to recommend disciplinary actions, including termination of employment at the program and suspension and revocation of licensure by the appropriate licensing board. (HSC §11833.2(b))

4) Prohibits an alcohol and drug treatment program or any certified alcohol and drug counselor from offering, delivering, receiving, or accepting any rebate, refund, commission, preference, discount, or other consideration as compensation or inducement for referring patients, clients, or customers. (HSC §11859.1)

5) States that a violation of the above provision by a certified person is unprofessional conduct and is grounds for suspension or revocation by the certifying organization, or if a licensed place of business, suspension or revocation of the license of the place of business. (HSC §11859.3(a))

6) States that the proceedings for suspension or revocation of a license shall be conducted according to the administrative hearing process outlined in law and that the Department of Health Care Services shall have all the powers granted by the law for the administrative hearing process. (HSC §11859.3(b))

Comments:

1) **Author's Intent.** The author's office is seeking to ban patient brokering. According to supporters of the bill, kickbacks and other financial agreements between treatment providers and referrers can compromise patient safety and the integrity of the payment system.

DHCS adds that it currently does not have the authority to regulation alcohol and drug counselor program advertising and kickbacks.

2) **Effect on Board Jurisdiction to Investigate Licensee Violations.** The Board may wish to discuss whether allowing DHCS to investigate one of its licensees and recommend disciplinary action (including license revocation) would compromise the Board's own disciplinary process.

3) **Support and Opposition.**

Support:

- California Consortium of Addiction Programs and Professionals (sponsor)
- Associated Rehabilitation Program for Women, Inc.
- Benchmark Transitions California Access Coalition
- Community Recovery Resources Community Social Model Advocates, Inc.
- County Behavioral Health Directors Association of California Phoenix Rising Behavioral Health
- Care Services
- The Ranch Recovery Centers, Inc.
- Soroptimist House of Hope, Inc. Sun Street Centers
- Twin Town Treatment Centers
- The Villa Center, Inc.

Opposition:

- Association of California Life & Health Insurance Companies (unless amended)
- California Association of Health Plans (unless amended)

4) **History**

2017

04/05/17 April 5 set for second hearing canceled at the request of author.
03/29/17 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH.
03/24/17 Set for hearing April 5.
03/23/17 March 29 set for first hearing canceled at the request of author.
03/10/17 Set for hearing March 29.
03/02/17 Referred to Coms. on HEALTH and JUD.
02/21/17 From printer. May be acted upon on or after March 23.
02/17/17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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AMENDED IN SENATE MARCH 29, 2017

SENATE BILL No. 636

Introduced by Senator Bradford

February 17, 2017

An act to add ~~Section 1371.33~~ *Sections 1371.33, 11833.1, and 11833.2* to, and to add Chapter 15 (commencing with Section 11859) to Part 2 of Division 10.5 of, the Health and Safety Code, and to add Section 10133.75 to the Insurance Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 636, as amended, Bradford. Addiction treatment: advertising: payment.

Existing law provides for the licensure and regulation by the State Department of Health Care Services of adult alcoholism and drug abuse recovery and treatment facilities. The department also requires that an individual providing counseling services working within an alcohol and drug abuse recovery and treatment program be registered with or certified by a certifying organization approved by the department to register and certify counselors.

This bill, among other things, would prohibit any alcohol drug treatment program or any certified alcohol drug counselor from offering, delivering, receiving, or accepting any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person or certified or licensed program. A violation of these provisions would be a misdemeanor and would also be punishable by a fine not exceeding $2,500 per violation. ~~The bill would prohibit a licensed or certified alcohol and drug treatment program or any certified alcohol and drug~~

~~counselor from participating in, or operating, a group advertising and referral service for addiction treatment services unless specified conditions are met, including, but not limited to, that the service register with the department, that the service not employ a solicitor to solicit prospective patients or clients, and that the service file a copy of its standard form contract with the department, which would be kept confidential. The bill would make it a misdemeanor for a person to operate a group advertising and referral service for alcohol and drug treatment programs or counselors without registering with the department.~~ The bill would provide that a violation of the applicable provisions by a certified person or a licensee would be grounds for disciplinary action, as provided. Because a violation of the above-specified provisions would be a crime, the bill would impose a state-mandated local program.

This bill would also prohibit certain persons, programs, or entities, including an alcoholism or drug abuse recovery and treatment program and persons employed by that program, from giving or receiving remuneration or anything of value for the referral of a person who is seeking alcoholism or drug abuse recovery and treatment services and would authorize the department to investigate and take specified disciplinary action against those persons or programs for violating those prohibitions.

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 provides for the regulation of health insurers by the Department of Insurance. Existing law requires group health care service plans to authorize and permit assignment of a Medi-Cal beneficiary's right to reimbursement for covered services to the State Department of Health Care Services, except as specified. Existing law also provides for the direct payment of group insurance medical benefits by a health insurer to the person or persons furnishing or paying for hospitalization or medical or surgical aid or, in the case of a Medi-Cal beneficiary, to the State Department of Health Care Services, as specified.

This bill would ~~impose~~ *impose, only with respect to services provided by an out-of-network provider,* that assignment requirement on a group or individual health care service plan or health insurer and would also require those plans ~~and insurers~~ to authorize and ~~permit~~ *permit, upon request of the enrollee or subscriber, the* assignment of an ~~enrollee's,~~

~~subscriber's, or insured's right to reimbursement~~ *enrollee's or subscriber's right to reimbursement, or, upon request of the insured, the payment of insurance benefits, as specified,* for covered addiction treatment services to the provider furnishing those services. The bill would require the provider to provide the plan or insurer with certain information in order to receive reimbursement. The bill would also limit the amount of the reimbursement, ~~where~~ *if* the health care coverage is a health insurance policy, to the amount of the benefit covered by the policy.

Because a willful violation of the bill's provisions by a health care service plan would be a crime, this bill would impose a state-mandated local program.

~~Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

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 1371.33 is added to the Health and Safety Code, to read:

1371.33. (a) On and after January 1, 2018, a health care service plan that provides hospital, medical, or surgical expense benefits for plan members and their dependents ~~shall~~ *shall, upon request of the enrollee or subscriber,* authorize and permit assignment of the enrollee's or subscriber's right to any reimbursement for addiction treatment services covered under the plan contract to the provider who furnished the addiction treatment services.

(b) When seeking payment from a health care service plan pursuant to subdivision (a), a provider shall provide the plan with the provider's itemized bill for service, the name and address of

the person to be reimbursed, and the name and contract number of the enrollee.

(c) This section only applies to services provided by an out-of-network provider.

SEC. 2. Section 11833.1 is added to the Health and Safety Code, to read:

11833.1. The following persons, programs, or entities shall not give or receive remuneration or anything of value for the referral of a person who is seeking alcoholism or drug abuse recovery and treatment services:

(a) An alcoholism or drug abuse recovery and treatment program licensed under this part.

(b) An owner, partner, officer, or director, or a shareholder who holds an interest of at least 10 percent in an alcoholism or drug abuse recovery and treatment program licensed under this part.

(c) A person employed by, or working for, an alcoholism or drug abuse recovery and treatment program licensed or certified under this part, including registered and certified counselors and licensed professionals providing counseling services.

SEC. 3. Section 11833.2 is added to the Health and Safety Code, to read:

11833.2. (a) The department may investigate allegations and assess a penalty upon an alcoholism or drug abuse recovery and treatment program licensed or certified under this part, suspend or revoke the license or certification of the program, and suspend or revoke the registration or certification of a counselor for, a violation of Section 11833.1.

(b) The department may investigate allegations against a licensed professional providing counseling services at an alcoholism or drug abuse recovery and treatment program licensed, certified, or funded under this part, and recommend disciplinary actions, including, but not limited to, termination of employment at a program and suspension and revocation of licensure by the respective licensing board.

~~SEC. 2.~~

SEC. 4. Chapter 15 (commencing with Section 11859) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:

Chapter 15. The California Comprehensive Addiction Recovery Act: Payment Reform

11859. This chapter shall be known, and may be cited, as the California Comprehensive Addiction Recovery Act: Payment Reform.

11859.1. The offer, delivery, receipt, or acceptance by any alcohol drug treatment program or any certified alcohol drug counselor of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person or certified or licensed program, irrespective of any membership, proprietary interest, or coownership in or with any person or program to whom these patients, clients, or customers are referred is unlawful.

~~11859.2. (a) A licensed or certified alcohol and drug treatment program or any certified alcohol and drug counselor shall not participate in, or operate, a group advertising and referral service for addiction treatment services unless all of the following conditions are met:~~

~~(1) The patient or client referrals by the service are the result of patient or client-initiated responses to service advertising.~~

~~(2) The service advertises, if at all, in conformity with Section 651 of, and subdivision (p) of Section 4982 of, the Business and Professions Code.~~

~~(3) The service does not employ a solicitor to solicit prospective patients or clients.~~

~~(4) The service does not impose a fee on the alcohol and drug treatment program or counselor that is dependent upon the number of referrals or amount of professional fees paid by the patient or client to the program or counselor.~~

~~(5) Participating alcohol and drug treatment programs or counselors charge no more than their usual and customary fees to any patient or client referred.~~

~~(6) The service registers with the State Department of Health Care Services, providing its name, street address, and telephone number.~~

~~(7) The service files with the department a copy of the standard form contract that regulates its relationship with alcohol and drug~~

~~treatment programs or counselors, and that contract shall be confidential and not open to public inspection.~~

~~(8) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more alcohol and drug treatment programs or counselors, the service shall disclose that fact in all public communications, including, but not limited to, communications by means of television, radio, motion picture, newspaper, book, list, or directory of healing arts practitioners.~~

~~(9) (A) When member alcohol and drug treatment programs or counselors pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that fact by including a statement as follows:~~

~~—~~

~~"Paid for by participating alcohol and drug treatment programs or counselors."~~

~~—~~

~~(i) In print advertisements, the required statement shall be in at least 9-point type.~~

~~(ii) In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience.~~

~~(iii) In television advertisements, the required statement shall be either clearly audible and understandable to the television audience or displayed in a written form that remains clearly visible to the television audience for at least five seconds.~~

~~(B) The department may suspend or revoke the registration of any service that fails to comply with subparagraph (A). A service may not reregister with the department if its registration is currently under suspension for a violation of subparagraph (A), nor may a service reregister with the department for a period of one year after it has had a registration revoked by the department for a violation of subparagraph (A).~~

~~(b) The department may adopt regulations necessary to enforce and administer this section.~~

~~(c) The department may petition the superior court of any county for the issuance of an injunction restraining any conduct that constitutes a violation of this section.~~

~~(d) It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for alcohol and~~

~~drug treatment programs or counselors without registering with, and providing his or her name, address, and telephone number to, the department.~~

~~(e) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions of Section 11859.1. The Legislature intends to allow the pooling of resources by alcohol and drug treatment programs, or counselors, or both, for the purpose of advertising.~~

~~(f) This section shall not be construed in any manner that would authorize a group advertising and referral service to engage in the practice of addiction treatment.~~

11859.3. (a) A violation of this chapter, in the case of a certified person, constitutes unprofessional conduct and grounds for suspension or revocation of his or her certification by the certifying organization through whom he or she is certified, or if a license has been issued in connection with a place of business, then for the suspension or revocation of the license of the place of business in connection with which the violation occurs.

(b) The proceedings for suspension or revocation of a license shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions.

(c) A violation of this chapter constitutes a misdemeanor as to any and all persons offering, delivering, receiving, ~~accepting, or participating in~~ *or accepting* any rebate, refund, commission, preference, patronage dividend, unearned discount, or consideration, and is also punishable by a fine not exceeding two thousand five hundred dollars ($2,500) per violation.

~~SEC. 3.~~

SEC. 5. Section 10133.75 is added to the Insurance Code, to read:

10133.75. (a) On and after January 1, 2018, a health insurer ~~shall~~ *shall, upon request of the insured,* pay insurance benefits contingent upon, or for expenses incurred on account of, addiction treatment services covered under the health insurance policy to the person or persons having provided the addiction treatment services ~~where~~ *if* that person has qualified for reimbursement by submitting the items and information specified in subdivision (b). The amount of that payment shall not exceed the amount of the

benefit covered by the policy. Payment so made shall discharge the insurer's obligation with respect to the amount so paid.

(b) When seeking payment from a disability insurer pursuant to subdivision (a), a person shall provide the insurer with the provider's itemized bill for service, the name and address of the person to be reimbursed, and the name and policy number of the insured.

(c) This section only applies to services provided by an out-of-network provider.

~~SEC. 4. The Legislature finds and declares that Section 2 of this act, which adds Section 11859.2 to the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:~~

~~In order to protect the proprietary, confidential information of a group advertising and referral service, it is necessary that this act limit the public's right of access to that information.~~

~~SEC. 5.~~

SEC. 6. 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

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Memo

To: Committee Members

Date: April 13, 2017

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: **Legislative Update**

The Board is currently pursuing the following legislative proposals:

1. **AB 93 (Medina) Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision**

   This bill proposal represents the work of the Board's Supervision Committee. Its amendments focus on strengthening the qualifications of supervisors, supervisor responsibilities, types of supervision that may be provided, and acceptable work settings for supervisees. The bill also strives to make the Board's supervision requirements more consistent across its licensed professions.

   This bill proposal was approved by the Board at its November 4, 2016 meeting. Minor technical amendments to the bill were approved at the Board's March 3, 2017 meeting.

   Status: AB 93 recently passed the Assembly Business and Professions Committee, and is currently in the Assembly Appropriations Committee.

2. **Omnibus Legislation (Senate Business, Professions, and Economic Development Committee) *(No Bill Number Assigned Yet – Expected to be amended into SB 800)***

   This proposal, approved by the Board at its November 4, 2016 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

   One proposed amendment item was rejected by the Senate Business, Professions, and Economic Development Committee as being too substantive. The Committee has indicated that all other amendments the Board requested were accepted. The rejected proposal was as follows:

Proposal: Amend BPC Sections 801, 801.1, and 802 – Judgment and Settlement Reporting Amounts

Background: Currently, healing arts licensees must report all judgments or settlements for negligence claims in excess of a certain dollar amount to his or her licensing board. For some boards, this amount is $3,000.

For the Board's LMFT, LCSW, and LPCC licensees, this reporting amount is $10,000. However, there is a reference error in law. The law states Board licensees subject to "Chapter 14 (commencing with Section 4990)" are subject to this reporting requirement. While Chapter 14 refers to LCSW statute, section 4990 is a reference to the beginning of the Board's general provisions. This error needs to be corrected.

In addition, LEPs are not included in the list of licensees that are subject to the $10,000 reporting requirement. Instead, they are subject to the $3,000 reporting requirement. The Board's Enforcement Unit notes that there is no known reason why the reporting threshold should be any different for LEPs, and such a difference for only one Board license type is arbitrary and potentially confusing for staff and licensees.

Recommendation: Amend BPC §§ 801, 801.1, and 802 to correct the reference error to Chapter 14, and amend these sections to include LEPs in the $10,000 reporting requirement amount.

Additionally, BPC Section 801.1(b) refers to the Board as the "Board of Behavioral Science Examiners." This language was amended to reference the "Board of Behavioral Sciences."

Status: The Senate Business, Professions, and Economic Development Committee indicates that it plans to amend the Board's requested omnibus bill items into SB 800.

Board of Behavioral Sciences

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Memo

To: Policy and Advocacy Committee Members **Date:** April 17, 2017

From: Christy Berger
Regulatory Analyst **Telephone:** (916) 574-7817

Subject: **Status of Rulemaking Proposals**

CURRENT REGULATORY PROPOSALS

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. Upon review by the Office of Administrative Law (OAL), staff was notified wording changes that would be necessary for approval. The proposed changes were approved by the Board in March 2017, and a 15-day public comment period was held. The revised language and documents are currently being prepared for approval by the Department of Consumer Affairs (DCA) and OAL.

Application Processing Times and Registrant Advertising

This proposal would amend the Board's advertising regulations in line with SB 1478 (Chapter 489, Statutes of 2016) which changes the term "intern" to "associate" effective January 1, 2018, and makes several technical changes. This proposal would also amend the regulation that sets forth minimum and maximum application processing time frames.

The final proposal was approved by the Board at its meeting in November 2016. The proposal is currently in the new "initial review phase" process required by DCA. The initial review phase is expected to be completed in the next few weeks, at which time the proposal will be submitted to OAL for publishing in the California Regulatory Notice Register to initiate the 45-day public comment period.

Contact Information; Application Requirements; Incapacitated Supervisors

This proposal would:

- Require all registrants and licensees to provide and maintain a current, confidential telephone number and email address with the Board.
- Codify the Board's current practice of requiring applicants for registration or licensure to provide the Board with a public mailing address, and ask applicants for a confidential telephone number and email address.
- Codify the Board's current practice of requiring applicants to provide documentation that demonstrates compliance with legal mandates, such as official transcripts; to submit a current photograph; and for examination candidates to sign a security agreement.
- Require certain applications and forms to be signed under penalty of perjury.
- Provide standard procedures for cases where a registrant's supervisor dies or is incapacitated before the completed hours of experience have been signed off.

The final proposal was approved by the Board at its meeting in March 2017, and is being prepared for in the new "initial review phase" process required by DCA, which can take up to four months. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.