

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 372

VERSION: AMENDED APRIL 20, 2023

AUTHOR: MENJIVAR

SPONSOR: • NUMEROUS – SEE BELOW

RECOMMENDED POSITION: NONE

**SUBJECT: DEPARTMENT OF CONSUMER AFFAIRS: LICENSEE AND REGISTRANT
RECORDS: NAME AND GENDER CHANGES**

Summary

This bill would require a licensing board under the Department of Consumer Affairs to update its records, including any records contained in its online license verification system, to include a licensee or registrant's updated legal name or gender, and make the former name and gender confidential, when that licensee or registrant provides government-issued documentation that their legal name or gender has been changed.

Existing Law:

- 1) Requires specified boards and bureaus under the Department of Consumer Affairs (DCA), including the Board of Behavioral Sciences (Board) to post certain public information on the internet regarding the status of every licensee, including information on each licensee's status, disciplinary actions, and address of record, in accordance with the California Public Records Act and the Information Practices Act of 1977. (Business and Professions Code (BPC) §27(a))
- 2) Requires a licensee or registrant of the Board to provide the Board with written notice of a name change, giving both the old and new names, within 30 days of the issuance of a new government issued photo I.D. The licensee or registrant must certify the information under penalty of perjury and provide the Board with a copy of both the current government-issued photo I.D. and the legal document authorizing the name change (such as a court order or marriage certificate). (BPC §§4984.9, 4989.46, 4992.8, 4999.118)
- 3) Sets forth a legal process for the court to follow when a person is petitioning to change their name to conform to their gender identity. (Code of Civil Procedure (CCP) §1277.5)

This Bill:

- 1) Requires a DCA board to update their records, including records contained in its online license verification system, to include a licensee or registrant's updated legal name or gender, when that licensee or registrant provides government-issued documentation that their legal name or gender has been changed. (BPC §27.5(a)(1))
- 2) Requires a board to remove the licensee or registrant's former name from its online license verification system upon receipt of the government-issued documentation. The former name and gender shall be confidential. (BPC §27.5(a)(2)(A))
- 3) Requires a board to establish a process, considering respect for the licensee or registrant's privacy and safety, for providing the licensee's or registrant's current name, or enforcement actions linked to their former name, upon a consumer requesting those enforcement actions or a consumer searching by a previous name. This must be completed within 10 business days, in compliance with the California Public Records Act. (BPC §27.5(a)(2)(B), (C))
- 4) If requested, requires the board to reissue any documents to the licensee or registrant with their updated legal name and gender. (BPC §27.5(a)(3))
- 5) Prohibits a board from charging a higher fee to reissue a document with a corrected or updated legal name or gender than the fee it would charge for reissuing a document with other corrected or updated information. (BPC §27.5(a)(3))
- 6) To request updating their records with a legal name or gender change, requires the licensee or registrant to provide any one of the following documents (BPC §27.5(b)):
 - a) A state-issued driver's license or I.D. card
 - b) A birth certificate
 - c) A passport
 - d) A social security card; or
 - e) A court order indicating a name change or a gender change.
- 7) States that a board is not required to modify records that the licensee or registrant has not requested to be modified or reissued. (BPC §27.5(c))

Comments:

- 1) **Author's Intent.** The author is seeking to protect the privacy and safety of transgender and non-binary Californians by eliminating the use of deadnames in the DCA licensing system for licensed professionals who have changed their legal names.

In their fact sheet for the bill, the author's office states the following:

“Transgender people experience high rates of discrimination, especially if they are known or believed to be trans. The National Center for Transgender Equality found in their 2015 US Trans Survey that 46% of people surveyed had been verbally harassed and 9% had been physically assaulted for their trans identity. Additionally, 30% reported experiencing discrimination in the workplace or with prospective employers. The UCLA Williams Institute found that trans adults have a suicidal ideation rate 12 times higher and a suicide attempt rate 18 times higher than the general population.¹”

2) Background. When applying for licensure or registration with the Board, applicants must provide their legal name. This is the name under which a license is issued, and under which the person may be searched for by a consumer on the Breeze on-line license verification system. The law (via BPC §27) requires the Board to post specified public information online via Breeze, including information on each licensee's status, disciplinary actions, and address of record.

Typically when a name is changed, the Board will update the Breeze system to include both the old and new name:

- If the old name is searched by a consumer, the old name shows with a notation that it is a previous name, and if the “More Detail” option is selected, it leads to a page with the license number, new name, previous name, and publicly available information about the license.
- If the current name is searched, the current name will come up with the record. If the “More Detail” option is selected, it leads to a page with the license number, current name, previous name, and publicly available information about the license.

The law does not specifically require that a licensee's previous name be disclosed publicly in the Breeze on-line license verification system – it is silent on that matter. Within the Breeze system, it is possible for an old name to be designated as private in the on-line license lookup. If designated as private (as this bill requires), the old name would not appear in a public Breeze search. However, the old name would likely need to be disclosed if requested due to the public nature of the information (i.e., subject to a Public Records Act request). There are consumer protection interests to balance against the interests of the licensee who may wish not to disclose their name, particularly in cases where a licensee has past disciplinary action on their record.

¹ Suicide Thoughts and Attempts Among Transgender Adults - Williams Institute (ucla.edu)

Given that there is no state-wide or DCA-wide approach to the use of or disclosure of deadnames, legislation could be helpful to create uniformity and clarity across DCA boards on how to address them.

- 3) **Current Board Process for a Name Change.** Currently, if a Board licensee or registrant legally changes their name, they must submit a name change form to the Board within 30 days of the issuance of their new government photo I.D. There is no fee to change a name. However, the licensee or registrant will then need to submit a request for a replacement license or registration certificate. This has a \$20 fee. This fee is standard for all replacement certificate requests; the amount does not change based on the reason for the request.

Currently, the Board is required by law to obtain two documents to verify a name change request: a current government issued photo I.D., and the legal document authorizing the name change (BPC §§4984.9, 4989.46, 4992.8, 4999.118). This bill places a separate requirement in statute (via BPC §27.5) which would only require one document. It is unclear which statute would take precedent.

It is possible to verify a name change with just the legal document authorizing the name change. The Board additionally requires a current government issued I.D. because if the applicant is currently in the examination process, they will be required to show their government issued photo I.D. at the test site in order to take the exam, and it must match their legal name as registered with the Board. Therefore, this ensures before the name is changed in the Board's system, that the person has also taken the step to change their I.D., lessening the chance that they won't be able to provide the correct documentation to take the exam. However, this issue could also be resolved with additional outreach to those in the exam cycle, if showing a changed government issued I.D. was no longer a requirement for a name change.

- 4) **Confidentiality of the Name Change.** Staff recommends that the bill specify that the name change being confidential is allowable only under certain circumstances; for instance, in the case of a person changing their name to match their gender identity.

As currently written, the bill requires the Board to make a previous name confidential under any circumstance. The Board processes about 1,500 name change requests every year. The overwhelming majority of these are not due to having a deadname or other security or safety issue and making all of these confidential could make it difficult for consumers to find a prior therapist, if needed.

- 5) **Documentation of Gender.** The Board does not collect information on the gender of its licensees and registrants, and therefore it is not displayed in the Breeze on-line license lookup.
- 6) **Licensees and Registrants with Disciplinary Records.** For a licensee or registrant with no past disciplinary record, the removal of a deadname from their

record may cause little public protection concern. It is possible that a consumer may try to search the previous name of a past therapist, and that would no longer come up on the Breeze system. In that case, in order to find the person, the consumer would either need to know the person's license number or would need to call the Board to inquire whether there was ever a licensee of that name.

However, there may be more of a public protection concern regarding removal of a person's deadname if that person has a past disciplinary record. The bill as its now written appears to either require the Board to remove disciplinary records using the old name and only provide them upon request by a consumer, or possibly to revise the records to reflect the new name (the legality of this may be in question in the case of court records).

7) Fiscal Impact. The Board already has a process to change a name in its system. Board staff believes the fiscal impact of this bill would be minor and absorbable if amended to apply to deadnames only, and not all name changes.

8) Support and Opposition.

Support:

- California Council of Community Behavioral Health Agencies (co-sponsor)
- California Association for Licensed Professional Clinical Counselors (co-sponsor)
- California Association of Marriage and Family Therapists (co-sponsor)
- California Association of Social Rehabilitation Agencies (co-sponsor)
- California Psychiatric Alliance (co-sponsor)
- California Psychological Association (co-sponsor)
- California State Association of Psychiatrists (co-sponsor)
- National Association of Social Workers, California Chapter (co-sponsor)
- Psychiatric Physicians Alliance of California (co-sponsor)
- American Federation of State, County, and Municipal Employees (AFSCME), AFL-CIO
- Asian Americans for Community Involvement
- California Academy of Family Physicians
- California Access Coalition
- California Consortium of Addiction Programs and Professionals
- California Dental Association
- Equality California
- The Kennedy Forum
- Pathpoint
- Steinberg Institute
- One individual

Opposition:

- California Board of Psychology

9) History

04/20/23 Read second time and amended. Re-referred to Com. on APPR.
04/19/23 From committee: Do pass as amended and re-refer to Com. on APPR.
(Ayes 9. Noes 0.) (April 18).
03/29/23 Set for hearing April 18.
03/27/23 From committee: Do pass and re-refer to Com. on JUD. (Ayes 8. Noes 2.)
(March 27). Re-referred to Com. on JUD.
03/20/23 From committee with author's amendments. Read second time and
amended. Re-referred to Com. on B., P. & E. D.
03/06/23 Set for hearing March 27.
02/22/23 Referred to Coms. on B., P. & E. D. and JUD.
02/10/23 From printer. May be acted upon on or after March 12.
02/09/23 Introduced. Read first time. To Com. on RLS. for assignment. To print.

10)References

- Current [DCA Name Change Form](#)

AMENDED IN SENATE APRIL 20, 2023

AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 372

Introduced by Senator Menjivar
(Coauthors: Senators Cortese and Wiener)
(Coauthors: Assembly Members Lee, Pellerin, and Wallis)

February 9, 2023

An act to add Section 27.5 to the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

SB 372, as amended, Menjivar. Department of Consumer Affairs: licensee and registrant records: name and gender changes.

Existing law establishes in the Business, Consumer Services, and Housing Agency the Department of Consumer Affairs. Existing law establishes various boards within the department for the licensure, regulation, and discipline of various professions and vocations. Existing law defines "board" for purposes of the Business and Professions Code to include bureau, commission, committee, department, division, examining committee, program, and agency, unless otherwise expressly provided.

This bill would require a board to update a licensee's or registrant's records, including records contained within an online license verification system, to include the licensee's or registrant's updated legal name or gender if the board receives government-issued documentation, as described, from the licensee or registrant demonstrating that the licensee or registrant's legal name or gender has been changed. The bill would require the board to remove the licensee's or registrant's former name or gender from its online license verification system and treat this

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information as confidential. The board would be required to establish a process to allow a person to request and obtain ~~this information, a licensee's or registrant's current name or enforcement action record linked to a former name~~, as prescribed. The bill would require the board, if requested by a licensee or registrant, to reissue specified documents conferred upon, or issued to, the licensee or registrant with their updated legal name or gender. The bill would prohibit a board from charging a higher fee for reissuing a document with a corrected or updated legal name or gender than the fee it charges for reissuing a document with other corrected or updated information.

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.

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

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

1 SECTION 1. Section 27.5 is added to the Business and
2 Professions Code, to read:
3 27.5. (a) (1) Notwithstanding any other law, if a board receives
4 government-issued documentation, as described in subdivision
5 (b), from a licensee or registrant demonstrating that the licensee's
6 or registrant's legal name or gender has been changed, the board
7 shall update their records, including any records contained within
8 an online license verification system, to include the updated legal
9 name or gender.
10 (2) (A) If the board operates an online license verification
11 system, it shall remove the licensee's or registrant's former name
12 upon receipt of government-issued documentation, as described
13 in subdivision (b). The licensee's or registrant's former name and
14 gender shall be deemed confidential.
15 (B) The board shall establish a process for providing a licensee's
16 or registrant's ~~former name and gender upon receipt of a request~~
17 ~~that is related to a complaint against the licensee or registrant.~~
18 *current name or enforcement action record linked to a former*
19 *name upon receipt of a request that is related to an enforcement*

1 *action against the licensee or registrant or a search of a licensee*
2 *by a previous name. The process shall ensure that the request is*
3 *completed within 10 business days. This subparagraph shall be*
4 *implemented in compliance with the California Public Records*
5 *Act (Division 10 (commencing with Section 7920.000) of Title 1*
6 *of the Government Code).*

7 (C) In establishing a process to provide a licensee’s or
8 registrant’s former name and gender, the board shall consider
9 respect for the licensee’s or registrant’s privacy and safety.

10 (3) If requested by the licensee or registrant, the board shall
11 reissue any documents conferred upon the licensee or registrant
12 with the licensee’s or registrant’s updated legal name or gender.
13 A board shall not charge a higher fee for reissuing a document
14 with a corrected or updated legal name or gender than the fee it
15 charges for reissuing a document with other corrected or updated
16 information.

17 (b) The documentation of a licensee or registrant sufficient to
18 demonstrate a legal name or gender change includes, but is not
19 limited to, any of the following:

- 20 (1) State-issued driver’s license or identification card.
- 21 (2) Birth certificate.
- 22 (3) Passport.
- 23 (4) Social security card.
- 24 (5) Court order indicating a name change or a gender change.

25 (c) This section does not require a board to modify records that
26 the licensee or registrant has not requested for modification or
27 reissuance.

28 SEC. 2. The Legislature finds and declares that Section 1 of
29 this act, which adds Section 27.5 to the Business and Professions
30 Code, imposes a limitation on the public’s right of access to the
31 meetings of public bodies or the writings of public officials and
32 agencies within the meaning of Section 3 of Article I of the
33 California Constitution. Pursuant to that constitutional provision,
34 the Legislature makes the following findings to demonstrate the
35 interest protected by this limitation and the need for protecting
36 that interest:

- 1 In order to protect the privacy rights and safety of individuals,
- 2 it is necessary that this act limit the public's right of access to that
- 3 information.

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