



Board of Behavioral Sciences

# Memo

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**To:** Board Members **Date:** August 6, 2022  
**From:** Christy Berger, Regulatory Analyst **Telephone:** (916) 574-7995  
**Subject:** **Update on Board Rulemaking Proposals**

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Below is the status of Board-approved regulation proposals. See **Attachment** for information on the required steps of the regulatory process.

### **Continuing Education and Additional Training Requirements**

**Status: Submitted to the Office of Administrative Law for final approval;**  
**If approved, will take effect July 1, 2023**

This proposal would do the following:

- Update content requirements for human sexuality, child abuse assessment and reporting, and alcoholism and other chemical substance dependency courses and create consistency in the required qualifications for course providers.
- Strike the 18-hour CE exception for initial renewal periods.
- Recast CE “exceptions” as “temporary waivers” and modify CE waiver criteria.
- Require licensees who are granted a waiver to complete six hours of CE in law and ethics.
- Update CE waiver forms incorporated by reference for consistency with the proposed updated requirements and for clarity.
- Specify that a maximum of 18 hours of CE may be met by teaching courses each renewal period, and that the course taught must be for a Board-accepted provider to count.
- Allow a licensee who completes a Board occupational analysis survey to be credited with six hours of CE.
- Repeal outdated regulations pertaining to the Board’s former CE program.
- Clarify that professional associations are the only type of organization that may be recognized by the Board as a CE provider.

This proposal was approved by the Board at its meeting in November 2019. Additional language changes were identified during the DCA initial review process and were approved by the Board at the September 2021 meeting.

### **Examination Waiting Periods, Professional Corporations, Accrediting Agencies and Equivalent Degrees**

Status: Submitted to DCA for Initial Review Process

This proposal would update examination waiting periods for consistency with current practice, add Licensed Professional Clinical Counselors to code sections pertaining to ownership, transfer of shares and naming of professional corporations, delete outdated text pertaining to equivalent accrediting agencies for marriage and family therapist applicants, and specify the accrediting agencies that are acceptable for licensed educational psychologist applicant degree programs. This proposal was approved by the Board at its meeting in November 2019 and has been delayed due to competing workload priorities.

### **Enforcement Process**

Status: Reviewed by Policy and Advocacy Committee at July 29, 2022 meeting; Committee will review again at October 14, 2022 meeting

This proposal would result in updates to the Board's disciplinary process. It would also make updates to the Board's "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015)," which are incorporated by reference into the Board's regulations. The proposed changes fall into three general categories:

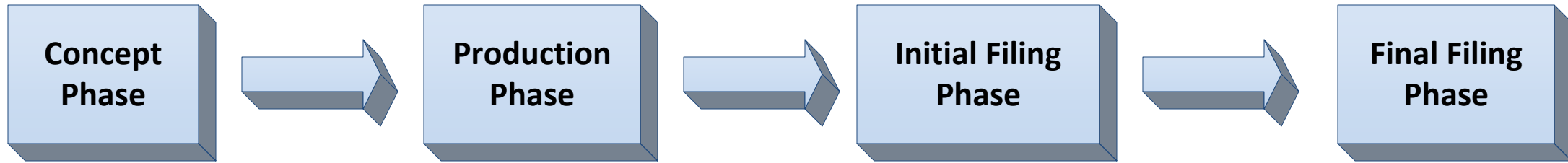
1. Amendments seeking to strengthen certain penalties that are available to the Board;
2. Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the Business and Professions Code; and
3. Amendments to clarify language that has been identified as unclear or needing further detail.

The proposal was approved by the Board at its meeting in February 2017 and was submitted to the Department of Consumer Affairs (DCA) to begin the initial review process in July 2017. This regulation package was placed on hold due to the passage of AB 2138. AB 2138 was approved in December 2020, so this proposal is able to move forward again. Staff have proposed additional edits to the document since this time.

### **Attachment**

DCA Regulation Process (New)

# Regulation Package Approval Process



- Kick-Off Meeting with relevant Board and DCA staff to discuss potential regulation.
- Board staff drafts proposed regulation.
- Regulations Counsel and Second Level Reviewer reviews and approves proposed regulation.
- Board meeting is held, proposed regulation text is presented for vote and approval.

- After the Board approves the proposed text, Board staff develop remaining documents in the initial regulatory package.
- Regulation package is prepared with assistance from DCA Budget Analyst and Board Regulations Counsel.
- Following review and approval of the regulatory package by the Budget Analyst and Regulations Counsel, the package is reviewed and approved by the DCA Director and Agency.

- Following Agency approval, the regulatory package is submitted to OAL for publication in the Notice Register for a 45-day comment period.
- If comments are received, Board Staff draft responses for review by the Regulations Counsel.
- Board meeting is held to approve the responses and modified text, if necessary.
- If substantial changes are made to the text, a 15-day comment period commences.

- Board Staff develops and submits a final regulatory package to the Regulations Coordinator for review.
- If there is a fiscal impact to the regulations, the Budget Analyst submits the package to the Department of Finance (DOF) for review and approval, as necessary.
- The package is reviewed by Regulations Counsel, DCA Director, and Agency.
- Final package is submitted to OAL.
- OAL approves package, Board Staff updates the Board website with the new regulation, and contacts interested parties with notification of the effective date.

**Note:**  
All references to timeframes throughout the Phases shall be calendar days, unless the Parties agree otherwise during the kick-off meeting or subsequently to alternative timeframes.

**Light Blue:** B/B Staff/Reg Counsel, Board Counsel, Second Level Reviewer, Budget Staff  
**Purple:** Second Level Reviewer  
**Orange:** B/B Staff  
**Gray:** Reg Counsel

## Concept Phase

Meet to discuss regulatory concept, confirm statutory authority, walk through six standards from OAL, and determine if there is fiscal/economic impact. (B/B Staff, Reg Counsel, Board Counsel, Second Level Reviewer, Budget Staff)

Based upon discussion, draft text and incorporate reference documents for proposed regulation, if any, and provide draft text to Reg Counsel. (B/B staff)

Review proposed regulations, conduct necessary legal research, make necessary edits to language directly to the document, including any related documents, and pose any questions for consideration. (Reg Counsel)

Set meeting with B/B staff to present edits and discuss questions identified from review. (Reg Counsel)

After meeting, finalize regulation language with edits discussed, obtain approval from Executive Officer or Bureau Chief, and submit to Reg Counsel. (B/B staff)

May share proposed text with Board Counsel for review and edit document with any suggestions. (Reg Counsel)

Make any additional edits to the regulation language and submit to Second Level Reviewer. (Reg Counsel)

Review text for compliance with applicable laws and for relevant departmental uniformity and consistency. (Second Level Review)

Discuss regulation language edits with Reg Counsel. (Second Level Review)

Discuss edits with B/B [may need to meet if edits extensive]. (Reg Counsel)

Finalize regulations and submit to Reg Counsel for final review. (B/B staff)

Concur text is ready for B/B consideration. (Reg Counsel)

If necessary, prepare board meeting materials. (B/B staff)

Review agenda item and board memos or item summaries for B/B meeting at which proposed regulation text is presented. (Reg Counsel)

Attend B/B meeting at which proposed regulation text is presented to B/B for vote and approval, and answer questions or concerns. (Reg Counsel)



End Point

**Note:**  
30-day timeframe for reviewing of proposed regulations and legal research.

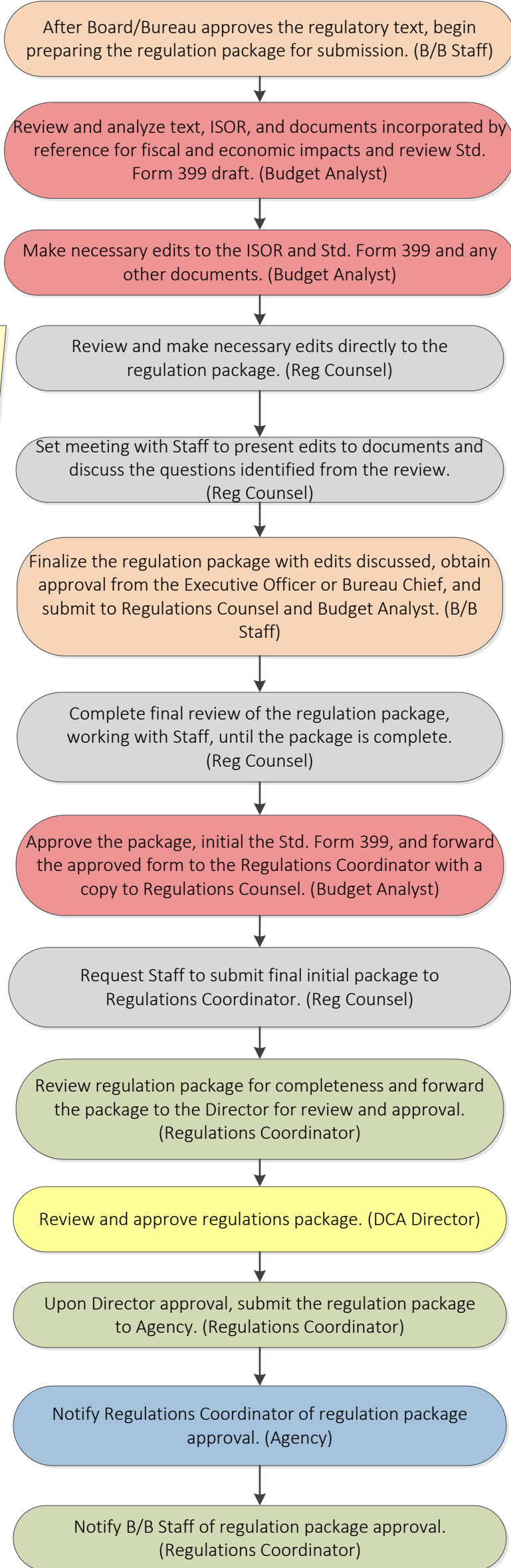
**Note:**  
Regulation Counsel and Second Level Reviewer have a 30-day timeframe for reviewing and finalizing regulation language.

**Note:**  
If suggestions are substantial from the Board Counsel, the Regulations Counsel may need to confer with Staff and Executive Officer or Bureau Chief.

**Note:**  
Additional revisions to the text may raise new legal issues not previously identified, which may also alter the review timeframe.

# Production Phase

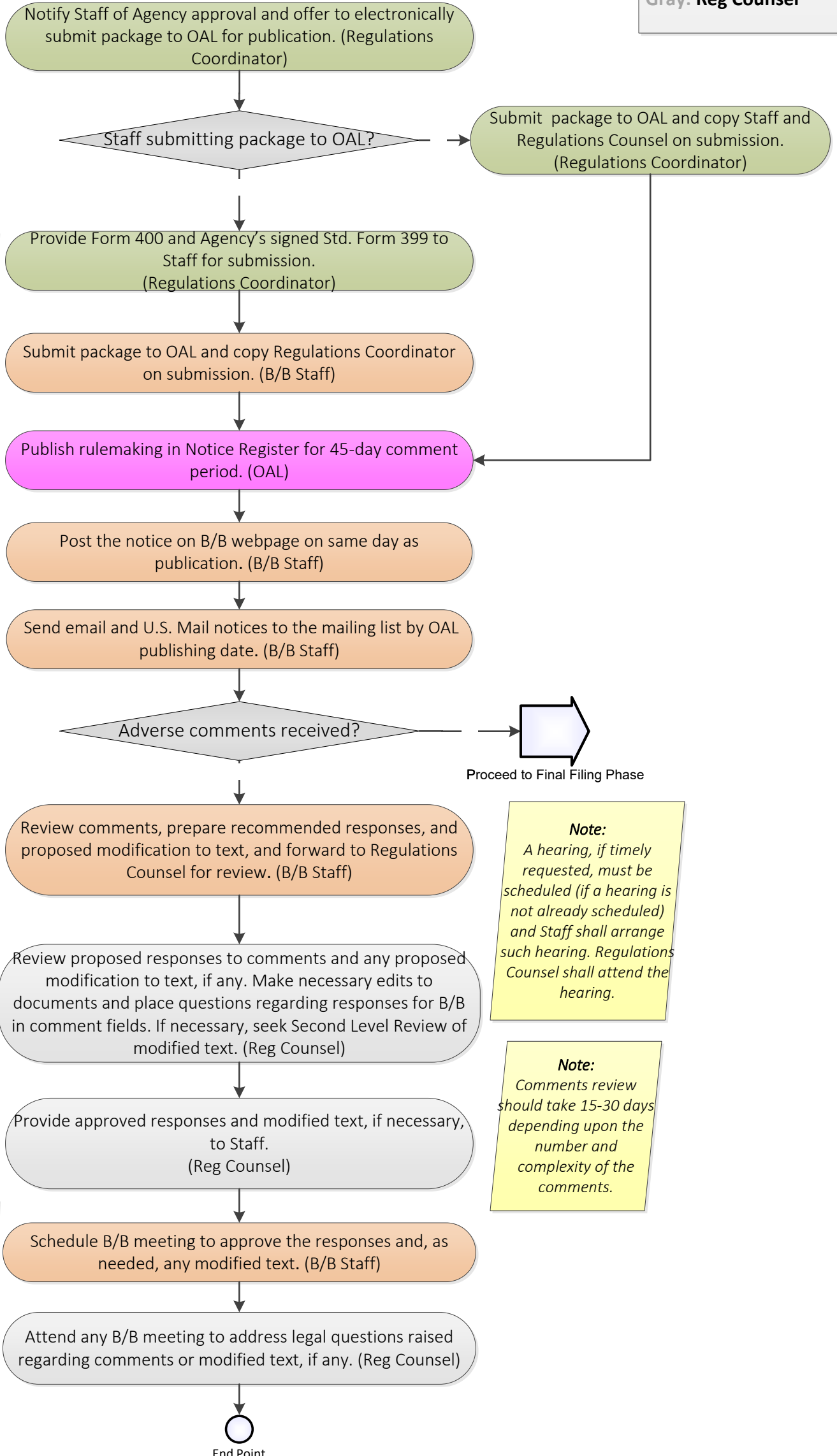
Blue: Agency  
Yellow: DCA Director  
Green: Regulations Coordinator  
Red: Budget Analyst  
Orange: B/B Staff  
Gray: Reg Counsel



**Note:**  
Regulations Counsel review will be completed within a 30-day timeframe.

**Green:** Regulations Coordinator  
**Orange:** B/B Staff  
**Pink:** OAL  
**Gray:** Reg Counsel

## Initial Filing Phase



**Note:**  
 Regulations Counsel and the Second Level Reviewer are copied as appropriate throughout the process.

**Note:**  
 A hearing, if timely requested, must be scheduled (if a hearing is not already scheduled) and Staff shall arrange such hearing. Regulations Counsel shall attend the hearing.

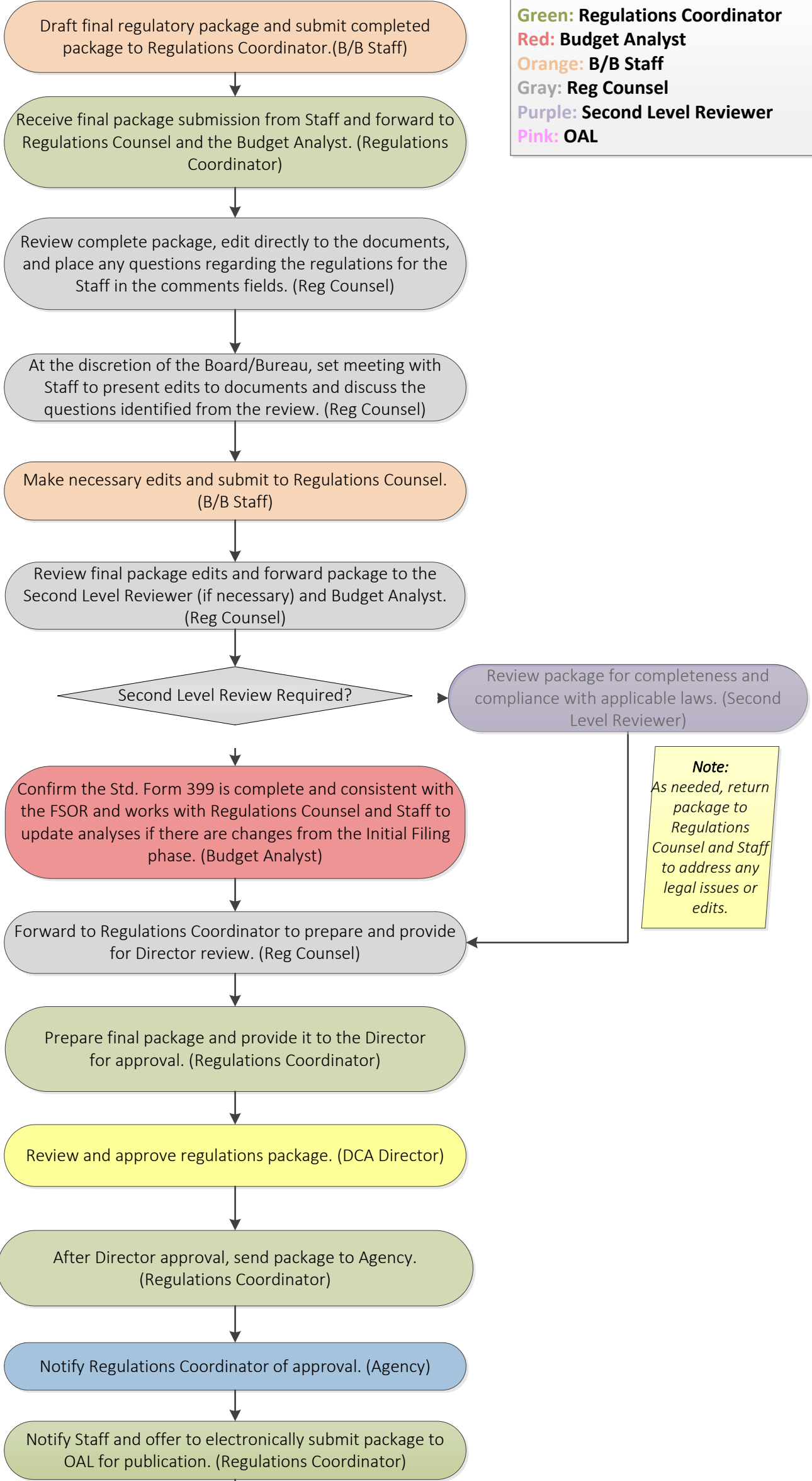
**Note:**  
 Comments review should take 15-30 days depending upon the number and complexity of the comments.

**Note:**  
 Board commences any 15-day comment period. Process would repeat if adverse comments were received, and edits or responses were needed.

# Final Filing Phase

**Blue:** Agency  
**Yellow:** DCA Director  
**Green:** Regulations Coordinator  
**Red:** Budget Analyst  
**Orange:** B/B Staff  
**Gray:** Reg Counsel  
**Purple:** Second Level Reviewer  
**Pink:** OAL

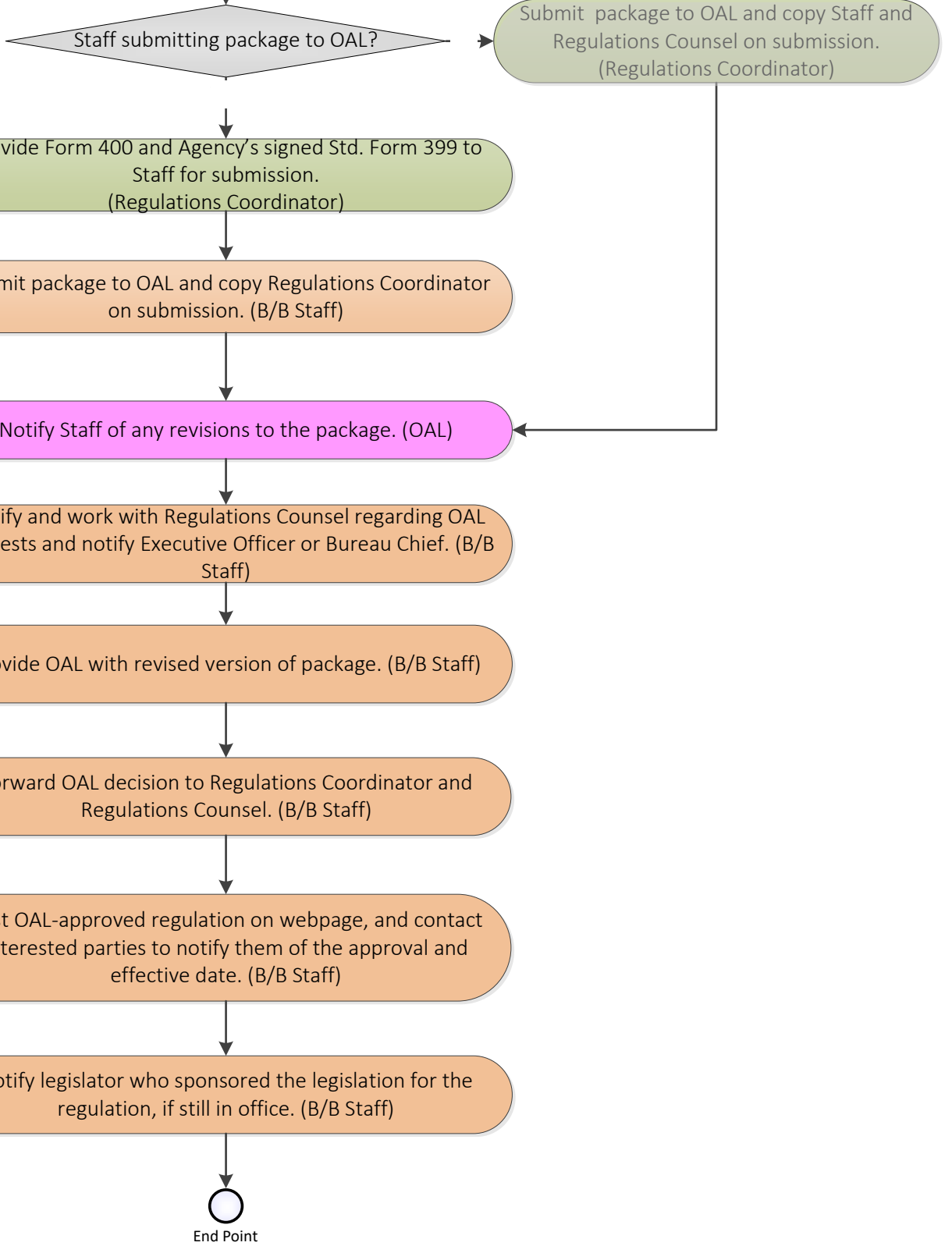
**Note:**  
Regulations Counsel review will be completed within a 30-day timeframe.



**Note:**  
As needed, return package to Regulations Counsel and Staff to address any legal issues or edits.

A Proceed to pg. 2

A From Pg. 1



**Note:**  
Budget Analyst forwards Std. Form 399 package to DOF for approval, if needed.