



Board of Behavioral Sciences

Memo

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To: Policy and Advocacy Committee Members **Date:** October 3, 2022
From: Christy Berger, Regulatory Analyst
Subject: **Update on Board Rulemaking Proposals**

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: Approved by the Office of Administrative Law and takes effect July 1, 2023

This proposal does 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- Repeal outdated regulations pertaining to the Board’s former CE program.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.

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

Status: Noticed to the Public on September 16, 2022; Comment period ends November 1, 2022

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Counselors to code sections pertaining to ownership, transfer of shares and naming of professional corporations, delete outdated text pertaining to equivalent accrediting agencies for marriage and family therapist applicants, and specify the accrediting agencies that are acceptable for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:

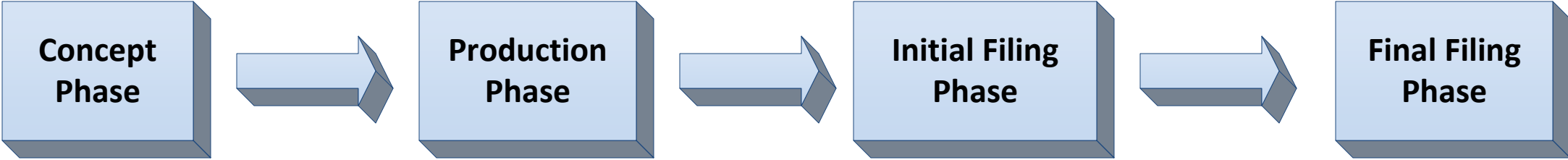
1. Amendments seeking to strengthen certain penalties that are available to the Board;
2. Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the Business and Professions Code; and
3. Amendments to clarify language that has been identified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

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.

Phase Goal: Proposed Regulation is drafted and approved by the Board to move forward.

- 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.

Phase Goal: Regulation Package is approved by 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.

Phase Goal: Completion of the Public Comment Period with all comments appropriately addressed and any changes to the text approved by the Board.

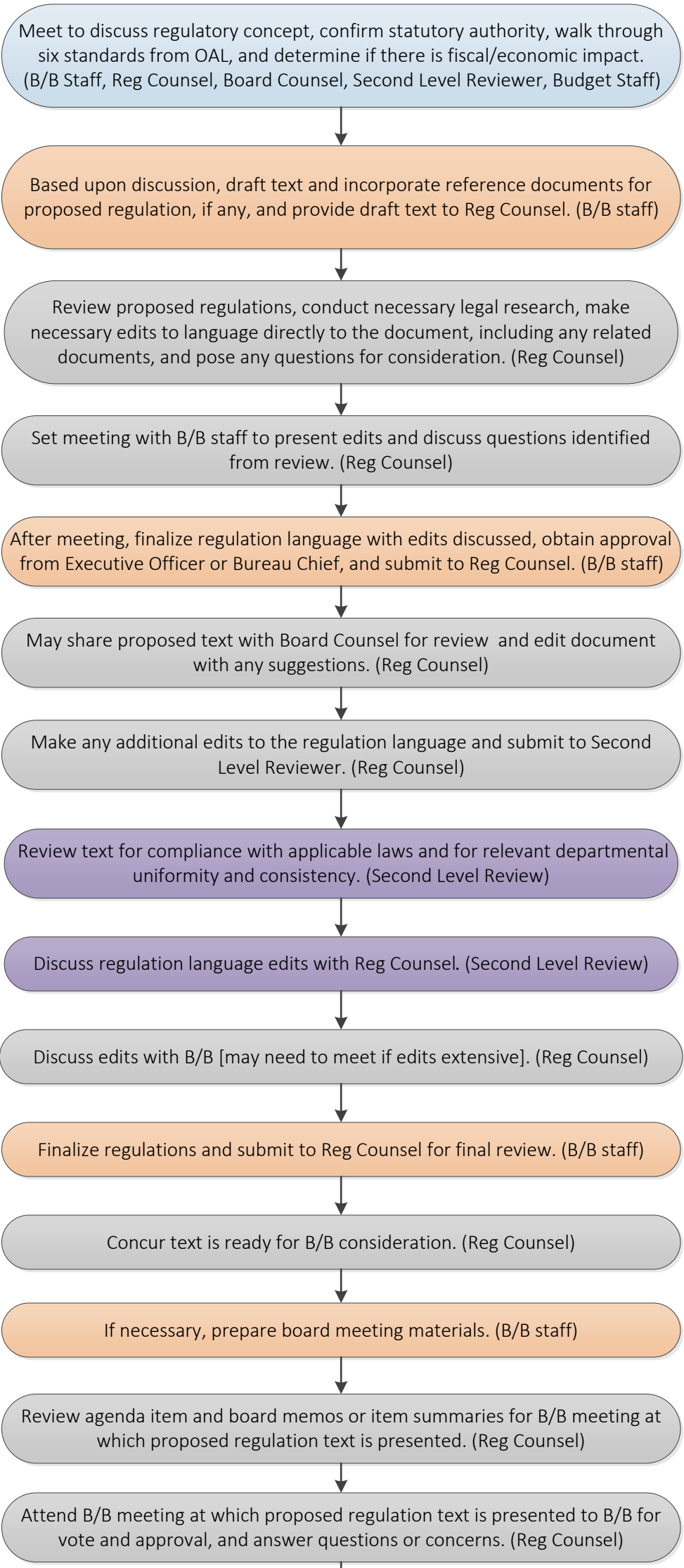
- Board Staff develops and submits a final regulatory package to the Regulations Coordinator for review.
- If there is a fiscal impact to the regulations, the Budget Analyst submits the package to the Department of Finance (DOF) for review and approval, as necessary.
- The package is reviewed by Regulations 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.

Phase Goal: OAL approves Final Regulatory Package.

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



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

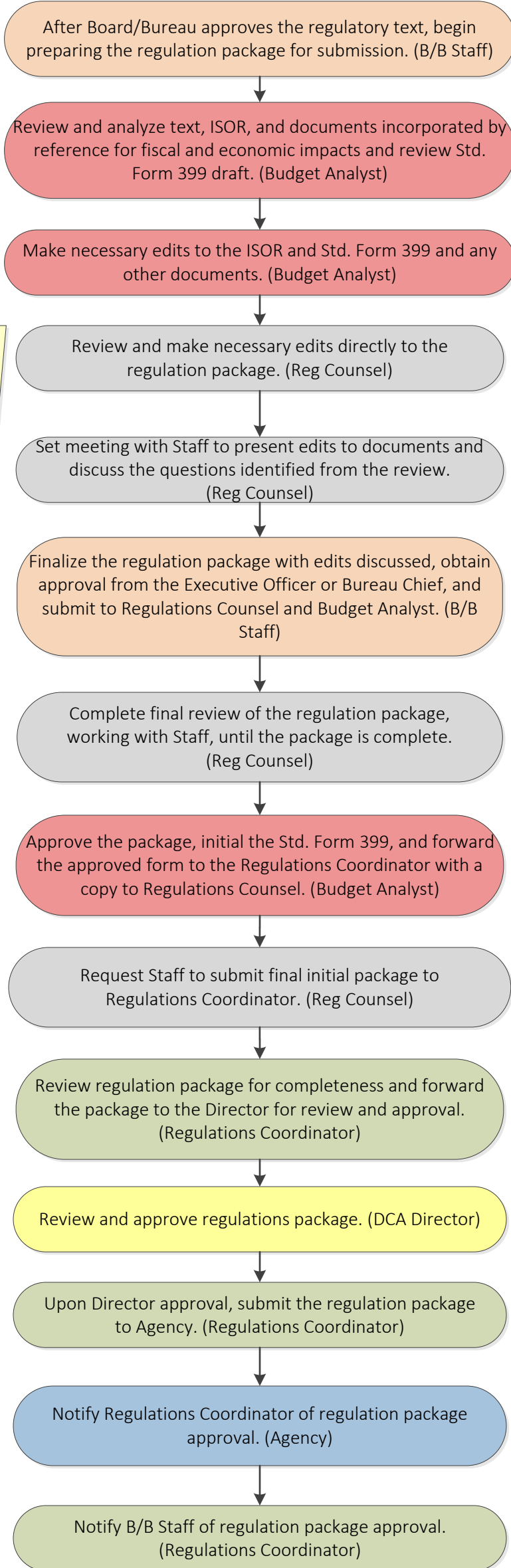
Note:
Regulation Counsel and Second Level Reviewer have a 30-day timeframe for reviewing and finalizing regulation language.

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

Notify Staff of Agency approval and offer to electronically submit package to OAL for publication. (Regulations Coordinator)

Staff submitting package to OAL?

Submit package to OAL and copy Staff and Regulations Counsel on submission. (Regulations Coordinator)

Provide Form 400 and Agency's signed Std. Form 399 to Staff for submission. (Regulations Coordinator)

Submit package to OAL and copy Regulations Coordinator on submission. (B/B Staff)

Publish rulemaking in Notice Register for 45-day comment period. (OAL)

Post the notice on B/B webpage on same day as publication. (B/B Staff)

Send email and U.S. Mail notices to the mailing list by OAL publishing date. (B/B Staff)

Adverse comments received?

Proceed to Final Filing Phase

Review comments, prepare recommended responses, and proposed modification to text, and forward to Regulations Counsel for review. (B/B Staff)

Review proposed responses to comments and any proposed modification to text, if any. Make necessary edits to documents and place questions regarding responses for B/B in comment fields. If necessary, seek Second Level Review of modified text. (Reg Counsel)

Provide approved responses and modified text, if necessary, to Staff. (Reg Counsel)

Schedule B/B meeting to approve the responses and, as needed, any modified text. (B/B Staff)

Attend any B/B meeting to address legal questions raised regarding comments or modified text, if any. (Reg Counsel)

End Point

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.

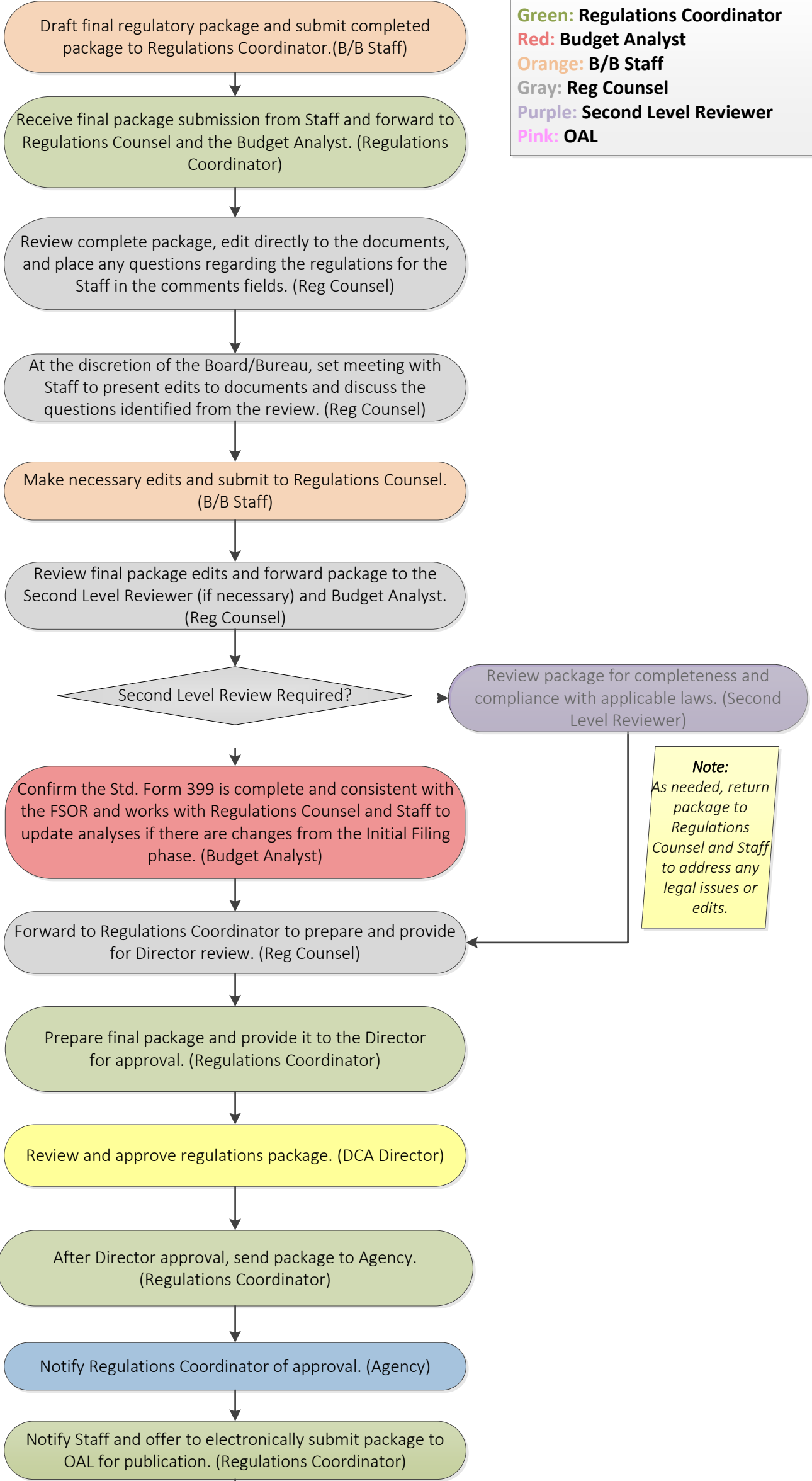
Note:
 Comments review should take 15-30 days depending upon the number and complexity of the comments.

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

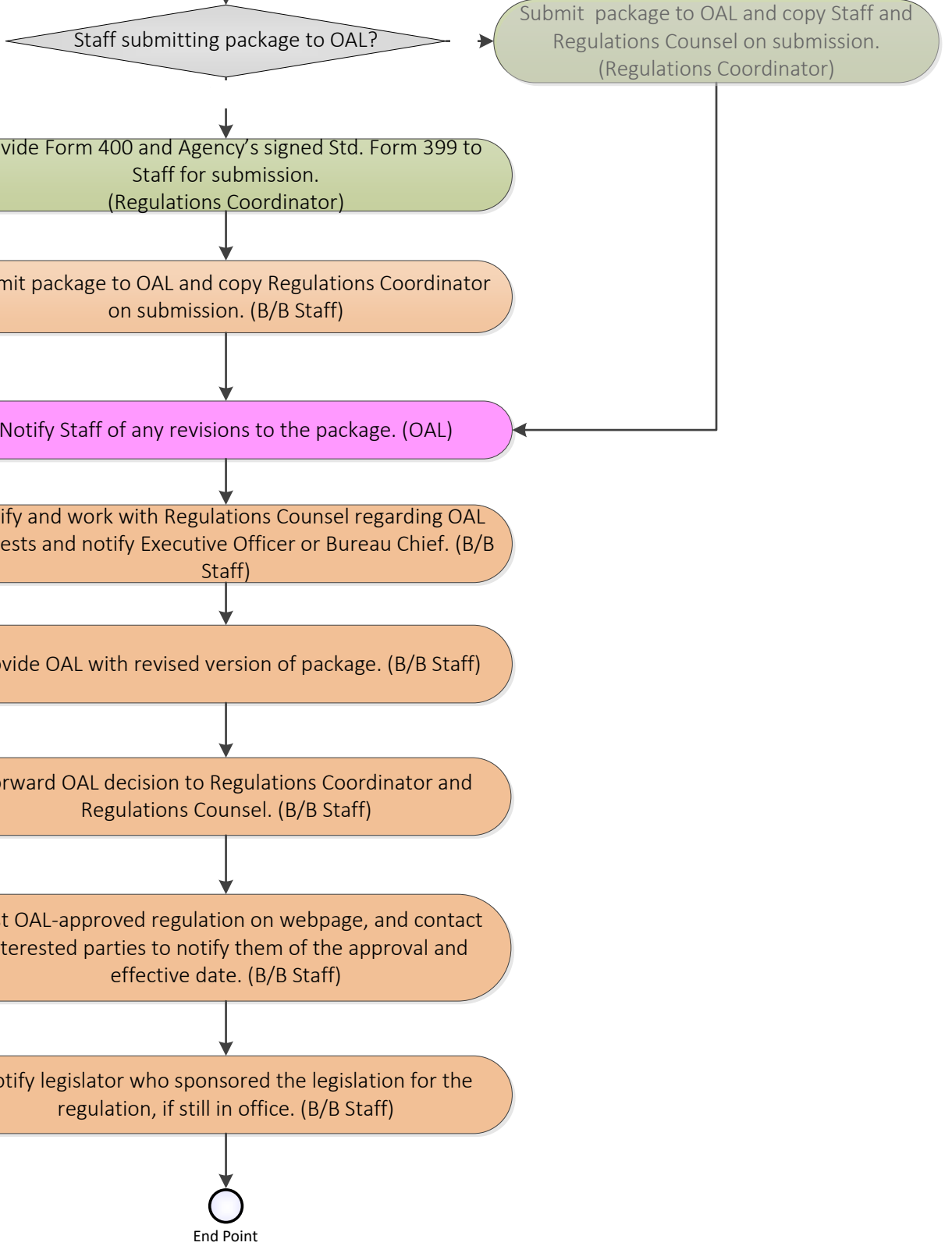
Note:
Regulations Counsel review will be completed within a 30-day timeframe.



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.