

Policy and Advocacy Committee Meeting Notice and Agenda

Department of Consumer Affairs
1625 N. Market Blvd., Trinity Room (Third Floor, Room 307)
Sacramento, CA 95834
(916) 574-7720

Public Call-in Information

Call-in Number: (866) 509-3031
Participant Code: 44835535

Committee Members

Nicole J. Jones, Chairperson
Sheryll Casuga, PsyD
Michael Erickson, PhD

Board Staff

Antonette Sorrick, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
Cherise Burns, Central Services Manager
Stephanie Cheung, Licensing Manager
Sandra Monterrubio, Enforcement Program Manager
Jason Glasspiegel, Central Services Coordinator
Konnor Leitzell, Student Assistant

Legal Counsel

Norine Marks

Links to agenda items with attachments are available at www.psychology.ca.gov, prior to the meeting date.

Thursday, April 19, 2018

10:00 a.m. to 4:00 p.m., or until completion of business

The Committee welcomes and encourages public participation in its meetings. The public may take appropriate opportunities to comment on any issue before the Committee at the time the item is heard. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment.

1. Call to Order/Roll Call
2. Welcome from the Chair
3. Public Comment(s) for Items not on the Agenda. Note: The Committee May not Discuss or Take Action on any Matter Raised During This Public Comment Section, Except to Decide whether to Place the Matter on the Agenda of a Future Meeting [Government Code Sections 11125 and 11125.7(a)]
4. Approval of Committee Minutes: May 15, 2017

5. Summary of Legislative Visits on Wednesday, February 14, 2018
6. Sponsored Legislation for the 2018 Legislative Session: Review and Potential Action, Recommendations to the Full Board (Jones – Chairperson)
 - a. AB 2968 (Levine) – Amend Sections 337 and 728 of the Business and Professions Code Regarding the Brochure Addressing Sexual Contact Between a Psychotherapist and a Patient.
7. Review and Consideration of Legislation: Review of Bill Analyses and Potential Action to Recommend Positions to the Full Board, Recommendations to the Full Board (Jones – Chairperson).
 - a. Newly Introduced Bills – Review of Bill Analyses and Potential Action to Recommend Positions to the Full Board
 - 1) Recommendations for Active Positions on Bills
 - A. AB 282 (Jones-Sawyer) – Aiding, Advising, or Encouraging Suicide: Exemption from Prosecution
 - B. AB 1779 (Nazarian) – Sexual Orientation: Change Efforts
 - C. AB 2044 (Stone) – Child Custody: Safety of the Child
 - D. AB 2138 (Chiu) – Licensing Boards: Denial of Application: Criminal Conviction
 - E. AB 2943 (Low) – Unlawful Business Practices: Sexual Orientation Change Efforts
 - F. SB 1125 (Atkins) – Federally Qualified Health Center and Rural Health Clinic Services
 - 2) Recommendations for Committee to Watch Bills
 - A. AB 1436 (Berman) – Board of Behavioral Sciences: Licensees: suicide prevention training
 - B. AB 1659 (Low) – Healing Arts Boards: Inactive Licenses
 - C. AB 1893 (Maienschein) – Maternal Mental Health: Federal Funding
 - D. AB 1896 (Cervantes) – Sexual Assault Counselor-Victim Privilege
 - E. AB 1968 (Low) – Mental Health: Firearms
 - F. AB 2018 (Maienschein) – Mental Health Workforce Planning: Loan Forgiveness, Loan Repayment, and Scholarship Programs
 - G. AB 2022 (Chu) – Pupil Health: On-Campus Mental Health Professionals
 - H. AB 2117 (Arambula) – Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors
 - I. AB 2119 (Gloria) – Foster Care: Gender Affirming Health Care and Behavioral Health Services
 - J. AB 2143 (Caballero) – Licensed Mental Health Service Provider Education Program: Providers.
 - K. AB 2156 (Chen) – Mental Health Services: Gravely Disabled
 - L. AB 2193 (Maienschein) – Maternal Mental Health
 - M. AB 2483 (Voepel) – Department of Consumer Affairs: Office of Supervision of Occupational Boards
 - N. AB 2539 (Mathis) – California Physician Corps Program: Practice Setting

- O. AB 2619 (Allen) – Severely Mentally Ill Children
- P. AB 2780 (Bloom) – Family Law: Support Orders and Child Custody
- Q. AB 2861 (Salas) – Medi-Cal: Telehealth: Substance Use Disorder Services
- R. SB 1371 (Morrell) – Occupational Licensing: List

- 3) Recommendations for Committee to Watch Spot Bills
 - A. AB 2442 (Santiago) – Mental Health
 - B. SB 1134 (Newman) – Mental Health Services Fund

b. Review of 2-Year Bills with Watch Position

- 1) AB 93 (Medina) – Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision
- 2) AB 148 (Mathis) – California Physician Corps Program: Practice Setting
- 3) AB 349 (McCarty) – Civil Service: Preference: Special Immigrant Visa Holder
- 4) AB 451 (Arambula) – Health Facilities: Emergency Services and Care
- 5) AB 456 (Thurmond) – Healing Arts: Associate Clinical Social Workers
- 6) AB 700 (Jones-Sawyer) – Public Health: Alcoholism or Drug Abuse Recovery: Substance Use Disorder Counseling
- 7) AB 767 (Quirk-Silva) - Master Business License Act
- 8) AB 827 (Rubio) – Department of Consumer Affairs: Task Force: Foreign-Trained Professionals
- 9) AB 1116 (Grayson) – Peer Support and Crisis Referral Services Act
- 10) AB 1136 (Eggman) – Health Facilities: Residential Mental or Substance Use Disorder Treatment
- 11) SB 142 (Beall) – Criminal Offenders: Mental Health
- 12) SB 215 (Beall) – Diversion: Mental Disorders
- 13) SB 399 (Portantino) – Health Care Coverage: Pervasive Developmental Disorder or Autism
- 14) SB 715 (Newman) – Department of Consumer Affairs: Regulatory Boards: Removal of Board Members
- 15) SB 762 (Hernandez) – Healing Arts Licensee: License Activation Fee: Waiver

8. Review and Consideration of Statutory Revisions to Section 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact

9. Regulatory Update

- a. 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants
- b. 16 CCR Section 1396.8 – Standards of Practice for Telehealth
- c. 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees
- d. 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development

10. Update Regarding the California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting – Penal Code Sections 261.5, 288, and 11165.1.
11. Recommendations for Agenda Items for Future Committee Meetings. Note: the Committee May not Discuss or Take Action on any Matter Raised During This Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code Sections 11125 and 11125.7(a)]

ADJOURNMENT


Except where noticed for a time certain, all times are approximate and subject to change. The meeting may be canceled or changed without notice. For verification, please check the Board's Web site at www.psychology.ca.gov, or call (916) 574-7720. Action may be taken on any item on the agenda. Items may be taken out of order, tabled or held over to a subsequent meeting, and items scheduled to be heard on Thursday may be held over to Friday, items scheduled to be heard on Friday may be moved up to Thursday, for convenience, to accommodate speakers, or to maintain a quorum.

Meetings of the Board of Psychology are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The public may take appropriate opportunities to comment on any issue before the Board at the time the item is heard, but the President may, at his discretion, apportion available time among those who wish to speak. Board members who are present who are not members of the Committee may observe, but may not participate or vote.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Antonette Sorrick, Executive Officer, at (916) 574-7720 or email bopmail@dca.ca.gov or send a written request addressed to 1625 N. Market Boulevard, Suite N-215, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The goal of the Policy and Advocacy Committee is to advocate and promote legislation that advances the ethical and competent practice of psychology in order to protect consumers of psychological services. The committee reviews and tracks legislation and regulations that affect the Board, consumers, and the profession of psychology, and recommends positions on legislation for consideration by the Board

MEMORANDUM

DATE	March 29, 2018
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #4 - Approval of Minutes: May 15, 2017

Background:

Attached is the draft minutes for the May 15, 2017 Policy and Advocacy Committee Meeting.

Action Requested:

Approve the attached minutes for the May 15, 2017 Policy and Advocacy Committee Meeting.

Attachment: Draft minutes of the May 15, 2017, Policy and Advocacy Committee Meeting.

1 **Policy and Advocacy Committee Meeting**
2 **Minutes**

3
4
5 **Department of Consumer Affairs**
6 **1625 N. Market Blvd., El Dorado Room**
7 **Sacramento, CA 95834**
8
9

10 **Monday, May 15, 2017**

11
12 Nicole J. Jones, Committee Chair, called the meeting to order at 9:21 a.m. A quorum was
13 present and due notice had been sent to all interested parties.

14
15 **Members Present:**

16 Nicole J. Jones, Chairperson
17 Michael Erickson, PhD

18
19 **Others Present:**

20 Antonette Sorrick, Executive Officer
21 Jeffrey Thomas, Assistant Executive Officer
22 Norine Marks, DCA Legal Counsel
23 Cherise Burns, Central Services Manager
24 Stephanie Cheung, Licensing Manager
25 Sandra Monterrubio, Enforcement Program Manager
26 Jason Glasspiegel, Central Services Coordinator
27 Natasha Lim, Licensing Coordinator
28 Konnor Leitzell, Student Assistant
29 Barbara Lipinski Antioch University Academic Dean (telephonically)
30 Dr. Jo Linder Crow, California Psychological Association
31 Dr. Elizabeth Winkelman, California Psychological Association
32 Amanda Levy, California Psychological Association

33
34 **Agenda Item #2: Chairperson's Welcome**

35
36 Ms. Jones welcomed those in attendance and read the mission statement of the committee.
37

38 **Agenda Item #3: Public Comment(s) for Items not on the Agenda**

39
40 None received.

41
42 **Agenda Item #4: Approval of Committee Minutes: March 13, 2017**

43
44 Ms. Jones provided edits to Mr. Glasspiegel. She did have a question on page 9 line
45 406-407, which references Dr. Immoos discussed California Department of Corrections

46 and Rehabilitation's (CDCR) input. She asked if staff was going to reach out to CDCR.
47 Staff advised they are not planning on reaching out.

48

49 IT was M(Erickson)/S(Jones)/C to accept the minutes as amended.

50 No public comment was received.

51

52 Vote: 2 aye (Erickson, Jones) 0 nay.

53

54 **Agenda Item #5: Sponsored Legislation and Legislative Proposals for the 2017**
55 **Legislative Session: Review and Potential Action, Recommendations to the Full**
56 **Board**

57 a. **Omnibus Proposal: Psychological Assistant Fees and Delinquency**
58 **Fees in Business and Professions Code (BPC) Section 2987 (Fee**
59 **Schedule)**

60

61 Ms. Burns reviewed the Omnibus proposal as approved at the April 2017 Board
62 meeting. Ms. Burns advised we are waiting for the language to be amended into a bill.

63

64 Dr. Erickson had no comments. He understands we are in touch with the committee
65 chair.

66

67 No public comment was received.

68

69 b. **AB 89 (Levine): Suicide Assessment and Intervention Coursework**
70 **Requirements – Addition of Section to the BPC (Coursework in**
71 **Suicide Assessment and Intervention)**

72

73 Ms. Burns introduced AB 89 (Levine) and advised of changes to the language since the
74 last meeting. She reiterated that no intent language would be provided. She advised the
75 bill has passed out of the Assembly and is now in the Senate, and assigned to the
76 Senate Committee on Business Professions and Economic Development awaiting a
77 hearing date. On April 26, staff met with the author of the bill and the California
78 Psychological Association (CPA) to discuss their concerns regarding the bill. Staff will
79 work with the author and the committee on concerns and questions, as well as working
80 to garner further support.

81

82 Ms. Jones confirmed Dr. Erickson and herself will convene to write a newsletter article
83 on the bill.

84

85 Dr. Erickson asked if there was some way to better understand the opposition and
86 address their concerns through FAQ's or the article they will write.

87

88 Ms. Jones advised the Frequently Asked Questions is an excellent idea. She then
89 asked for a summary of the discussion with the opposition.

90

91 Ms. Burns provided the position of CPA. She advised since that conversation, staff have
92 not heard of any amendments from the Assembly Member.

93

94 Public Comment: Dr. Linder Crow stated they appreciated the chance to attend the
95 meeting. She asked if there was a chance for the Board members to consider the
96 conversation and the comments CPA made at the meeting.
97

98 Ms. Jones believes all discussion points had been previously covered by the Board in
99 different committees and the full board. Ms. Jones asked if there are any additional
100 changes or additions from CPA. Dr. Linder-Crow provided additional concerns by
101 Industrial Organizational psychologists that are non-mental health providers and that
102 they are not sure of the process. She again asked to know if the Board had an
103 opportunity to consider the comments by CPA.
104

105 Ms. Jones advised comments had been previously addressed by the Board and
106 Committees.
107

108 Dr. Linder-Crow also addressed a previous confusion. She stated it is not accurate that
109 CPA would remove their opposition, as the discussion did not get that far. She asked if
110 the Board or committee discussed a potential exemption for non-mental health
111 providers.
112

113 Ms. Jones deferred to Ms. Sorrick for additional comments on the exemption issue.
114

115 Ms. Sorrick wanted to remind everyone that the licensing committee removed
116 exemptions and exceptions from the pending continued professional development
117 language. She advised the language for AB 89 is consistent with this language.
118

119 Dr. Linder-Crow stated CPA remains firmly opposed to the bill. She believes CPA's
120 opposition is consistent and that this topic should not be legislated. She believes CPA
121 agrees with the governor. They also agree with the conclusion that psychologists are
122 well trained. She stated she understands our point, but does not believe that this is
123 going to have the impact of saving lives. She is aware that it is not comfortable for them
124 to be opposing a bill that the Board is sponsoring, and most of the time CPA and the
125 Board are in line with one another. This time we very strongly disagree.
126

127 Dr. Erickson stated that he thinks that for the profession, this bill ensures a baseline for
128 all psychologists, and believes that most have already met this. He stated that having
129 this baseline of training is not something to be apologetic about, and that he is pleased
130 it can be part of who they are and part of their identity as psychologists.
131

132 Dr. Winkelman stated the responses from their members that the need for training is
133 minimizing or mischaracterizing the abilities of psychologists because the survey shows
134 a variance. She believes that other people will not know why the bill is for licensed
135 psychologists only.
136

137 Dr. Erickson stated he has not considered that the legislature might see psychology as
138 less capable and asked Dr. Winkelman if that is her perception.
139

140 Dr. Winkelman advised looking at the floor alert, which says large variance, she feels
141 this does not reflect their profession well.
142

143 Dr. Winkelman wanted to address another issue. She knows the Board sponsored this
144 bill, but pointed out that it is Assembly Member Levine's bill. Levine could sponsor a bill
145 that incorporates other health care professionals. She does not see that Levine is
146 restricted to which health care providers he can include.

147
148 Ms. Jones wonders what people that support the bill say about the bill.

149
150 Ms. Burns believes the mental health community is supportive and would be supportive
151 of including other mental health providers. She believes this does not send a message
152 of deficiency.

153
154 Ms. Sorrick advised what the Board has heard from non-profits is more that they think
155 it's great that the Board is taking leadership position. The reception has been positive at
156 the Assembly Business and Professions Committee.

157
158 Ms. Jones asked for any remaining for public comment.

159
160 No additional comment received.

161
162 Dr. Erickson asked if the full Board will meet in June, is that enough time to weigh in on
163 the bill.

164
165 Ms. Burns confirmed that the last month of session is August, and believes that leaves
166 plenty of time to weigh in on the bill.

167
168 **Agenda Item #6: Review and Consideration of Legislation: Review of Bill Analyses**
169 **and Potential Action to Recommend Positions to the Full Board,**
170 **Recommendations to the Full Board**

171
172 The following three bills were reviewed first:

173
174 **(a)(2) SB 181 (Berryhill) – Administrative Procedure Act: Repeal of**
175 **Regulations**

176
177 Mr. Leitzell reviewed SB 181 (Berryhill). He advised the author is no longer
178 pursuing the bill any further. He advised no action is needed at this time.

179
180 No public comment received

181
182 **(b)(2) AB 710 (Wood) Department of Consumer Affairs: Board Meetings**

183
184 Mr. Leitzell reviewed AB 710. He advised the Board previously took an oppose
185 position on this bill. Since this position, the bill language was modified from rural
186 northern California, to rural California. He stated no action is required at this time,
187 and included in the materials is the opposition letter.

188
189 Ms. Jones and Dr. Erickson confirm the letter of opposition looks good.

190
191 No public comment received.

192

193 **(b)(3) - AB 1188 (Nazarian) – Health Professions Development: Loan**
194 **Repayment**
195

196 Mr. Leitzell reviewed AB 1188. He confirmed the Board previously supported AB
197 1188, advised no additional action is required at this time.
198

199 Amanda Levy stated they are proponents of the bill. She advised due to a
200 request by the Board of Behavioral Sciences, the bill will be amended for delayed
201 implementation to July 2018.
202

203 **(a) Recommendations for Active Positions on Bills**
204

205 **(1) AB 1005 (Calderon) – Professions and Vocations: Fines: Relief**
206

207 Mr. Glasspiegel provided a review of the bill. No questions or comments
208 received. The Board will watch AB 1005.
209

210 **(3) SB 547 (Hill) – Professions and Vocations: Weights and Measures**
211 **(Board Omnibus Proposal)**
212

213 Ms. Burns reviewed the bill. She confirmed there is no language at this time. No
214 question or comments were received.
215

216 **(4) SB 762 (Hernandez) – Healing Arts Licensee: License Activation Fee:**
217 **Waiver**
218

219 Mr. Glasspiegel reviewed the bill.
220

221 Ms. Burns believes it might warrant having a larger conversation with the Board
222 to determine the need for this kind of legislative language.
223

224 Ms. Sorrick is wondering if Business and Professions Code section 704 is
225 changed to “may” versus “shall”, would it give the Board authority to implement
226 the legislation if it feels it is necessary, versus being mandated.
227

228 It was M/(Erickson)/S(Jones)/C to take an Oppose Unless Amended position on
229 SB 762 (Hernandez), and work with the authors office to determine the
230 appropriate amendments and applicable section of the Business and Professions
231 Code for this provision.
232

233 No public comment was received
234

235 Vote: 2 aye (Erickson, Jones) 0 nay.
236

237 **Agenized as 6(c)(35): AB 1456 (Low) – Professional Licensure**
238

239 Ms. Burns provided overview of the bill. She advised this bill is on the agenda as
240 a watch bill but is being moved as staff is requesting the committee take a
241 position. Ms. Burns also gave overview of exempt setting time frame per location.
242

243 Ms. Sorrick reminded the committee of a board sponsored bill with Assembly
244 Member Eggman which created a limit those practicing in an exempt setting
245 under the Business and Professions Code to five years. She believes adding an
246 additional year is counterproductive to where the Board is.

247
248 Ms. Sorrick also clarified the recommended position is Oppose Unless Amended.
249 This position does not mean the Board will support the bill if it is amended.

250
251 It was M/(Erickson)/S(Jones)/C to take an Oppose Unless Amended position,
252 and ask the author to only allow a five (5) year exemption for psychologists in
253 these specific settings.

254
255 No public comment received

256
257 Vote: 2 aye (Erickson, Jones) 0 nay.

258

259 **(b) Review of Bills with Active Positions Approved by the Board**

260

261 **(1) AB 244 (Cervantes) – Maternal Mental Health**

262

263 Ms. Burns provided an overview of AB 244 (Cervantes). She advised no action is
264 required at this time, staff will send a position letter after the legislative session
265 breaks for the year.

266

267 Ms. Jones asked why wait to submit a position letter.

268

269 Ms. Burns advised that staff are not specifically waiting until next year, but
270 prioritizing sending position letters for currently moving bills.

271

272 **(4) SB 572 (Stone) - Healing Arts Licensees: Violations: Grace Period**

273

274 Mr. Glasspiegel gave a review of the bill. No action required at this time, as the
275 author is no longer pursuing the bill.

276

277 There were no committee or public comments.

278

279 **(5) SB 798 (Hill) – Healing Arts: Boards**

280

281 Ms. Burns reviewed the bill, the Board's requested amendments, and current
282 questions. She advised Psychology and Medical Board staff have a meeting in a
283 few weeks to discuss the transfer of research psychoanalysts. She stated the
284 Senate was receptive to our amendments, and the bill is set for hearing today.

285

286 There were no committee or public comments.

287

288 **(c) Review and Recommendations to Watch Bills**

289

290 **(1) AB 12 (Cooley) – State Government: Administrative Regulations:**
291 **Review**

292

293 Ms. Burns reviewed the bill. No committee or public comment received.

294

295 **(2) AB 44 (Reyes) – Workers' Compensation: Medical Treatment:**
296 **Terrorist Attacks: Workplace Violence**

297

298 Ms. Burns reviewed the bill. No committee or public comment received.

299

300 **(3) AB 93 (Medina) – Healing Arts: Marriage and Family Therapists:**
301 **Clinical Social Workers: Professional Clinical Counselors: Required**
302 **Experience and Supervision**

303

304 Ms. Burns reviewed the bill. No committee or public comment received.

305

306 **(4) AB 148 (Mathis) – California Physician Corps Program: Practice**
307 **Setting**

308 Ms. Burns reviewed the bill. No committee or public comment received.

309

310 **(5) AB 191 (Wood) – Mental Health: Involuntary Treatment**

311

312 Ms. Burns reviewed the bill. No committee comment received. Dr. Linder
313 Crow asked who are we speaking to as an expert.

314

315 Ms. Monterrubio advised we are working with a subject matter experts that
316 we use for our enforcement cases.

317

318 Ms. Sorrick added that all experts that the Board utilize have received
319 training from the Board and Attorney General's office.

320

321 **(6) AB 208 (Eggman) – Deferred Entry of Judgment: Pretrial**
322 **Diversion**

323

324 Ms. Burns reviewed the bill. No committee or public comment received.

325

326 **(7) AB 266 (Thurmond) – Inmates: Housing Assignments**

327

328 Ms. Burns reviewed the bill. No committee or public comment received.

329

330 **(8) AB 349 (McCarty) – Civil Service: Preference: Special Immigrant**
331 **Visa Holder**

332

333 Ms. Burns reviewed the bill. No committee or public comment received.

334

335 **(9) AB 451 (Arambula) – Health Facilities: Emergency Services and**
336 **Care**

337

338 Ms. Burns reviewed the bill. No committee or public comment received.

339

340 **(10) AB 456 (Thurmond) – Healing Arts: Associate Clinical Social**
341 **Workers**

342

343 Ms. Burns reviewed the bill. No committee or public comment received.

344

345 **(11) AB 462 (Thurmond) – Mental Health Services Oversight and**
346 **Accountability**

347

348 Ms. Burns reviewed the bill. No committee or public comment received.

349

350 **(12) AB 470 (Arambula) – Medi-Cal: Specialty Mental Health Services**

351

352 Ms. Burns reviewed the bill. No committee or public comment received.

353

354 **(13) AB 473 (Waldron) – Mental Health: Criminal Justice: Pilot Project**

355

356 Ms. Burns reviewed the bill. No committee or public comment received.

357

358 **(14) AB 477 (Ridley-Thomas) – Behavioral Health Stakeholder**
359 **Advisory Panel**

360

361 Ms. Burns reviewed the bill. No committee or public comment received.

362

363 **(15) AB 488 (Kiley) – Mental Health Services Act**

364

365 Ms. Burns reviewed the bill. No committee or public comment received.

366

367 **(16) AB 492 (Grayson) – Public Records: Department of Consumer**
368 **Affairs: Solicitation Fees**

369

370 Mr. Glasspiegel reviewed the bill. No committee or public comment
371 received.

372

373 **(17) AB 501 (Ridley-Thomas) – Mental Health: Community Care**
374 **Facilities**

375

376 Mr. Glasspiegel reviewed the bill. No public comment received. Dr.
377 Erickson asked if staff has any idea of the cost associated with this bill.
378 Mr. Glasspiegel advised he would research the funding source. He
379 advised the bill is currently with Assembly Appropriations Committee, and
380 the analysis is included.

381

382 **(18) AB 508 (Santiago) – Health Care Practitioners: Student Loans**

383

384 Mr. Glasspiegel reviewed the bill. No committee or public comment
385 received.

386

387 **(19) AB 620 (Holden) – Prisoners: Trauma Informed Therapy**

388

389 Mr. Glasspiegel reviewed the bill. No committee or public comment
390 received.

391

392 **(20) AB 683 (Garcia) – Prisoners: Support Services**

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Mr. Glasspiegel reviewed the bill. No committee or public comment received.

(21) AB 689 (Oberholte) – Juvenile Proceedings: Competency

Mr. Glasspiegel reviewed the bill. Dr. Erickson agrees that this is an important bill to watch for psychologists who perform these evaluations.

(22) AB 704 (Grayson) – Multidisciplinary Teams: Human Trafficking and Domestic Violence

Mr. Glasspiegel reviewed the bill. No committee or public comment received.

(23) AB 720 (Eggman) – Inmates: Psychiatric Medication: Informed Consent

Mr. Glasspiegel reviewed the bill. No committee or public comment received.

(24) AB 800 (Chiu) – Hate Crimes: Hotline

Mr. Glasspiegel reviewed the bill. No committee or public comment received.

(25) AB 827 (Rubio) – Department of Consumer Affairs: Task Force: Foreign-Trained Professionals

Ms. Burns reviewed the bill. No committee or public comment received. Ms. Sorrick asked if DCA has anything to add. Ms. May advised the Department has nothing to add.

(26) AB 835 (Dababneh) – Consumer Affairs: Licenses: Prohibited Acts

Mr. Glasspiegel reviewed the bill. No committee or public comment received.

(27) AB 1061 (Gloria) – Victim’s Restitution

Mr. Glasspiegel reviewed the bill. No committee or public comment received

(28) AB 1074 (Maienschein) – Health Care Coverage: Pervasive Developmental Disorder or Autism

Mr. Glasspiegel reviewed the bill. No committee or public comment received

443 **(29) AB 1116 (Grayson) – Peer Support and Crisis Referral Services**

444 **Act**

445
446 Mr. Glasspiegel reviewed the bill. No committee or public comment
447 received

448
449 **(30) AB 1134 (Gloria) – Mental Health Services Oversight and**
450 **Accountability Commission: Fellowship Program**

451
452 Mr. Glasspiegel reviewed the bill. No committee or public comment
453 received

454
455 **(31) AB 1136 (Eggman) – Health Facilities: Residential Mental or**
456 **Substance Use Disorder Treatment**

457
458 Ms. Burns reviewed the bill. No committee or public comment received.

459
460 **(32) AB 1261 (Berman) – Pupil Discipline: Expulsions: Pupil Suicide**
461 **Prevention**

462
463 Mr. Glasspiegel reviewed the bill. No committee or public comment
464 received

465
466 **(33) AB 1315 (Mullin) –Mental Health: Early Psychosis Detection and**
467 **Intervention**

468
469 Mr. Glasspiegel reviewed the bill. No committee or public comment
470 received

471
472 **(34) AB 1340 (Maienschein) – Medical Education: Mental and**
473 **Physical Health Care Integration**

474
475 Mr. Glasspiegel reviewed the bill. No committee or public comment
476 received. Ms. Sorrick advised staff will note any position from the Medical
477 Board.

478
479 **(36) SB 8 (Beall) – Diversion: Mental Disorders**

480
481 Ms. Burns reviewed the bill. No committee or public comments received.

482
483 **(37) SB 27 (Morrell) – Professions and Vocations: Licenses: Military**
484 **Service**

485
486 Ms. Burns reviewed the bill. No committee or public comments received.

487
488 **(38) SB 142 (Beall) – Criminal Offenders: Mental Health**

489
490 Ms. Burns reviewed the bill. No committee or public comments received.

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492 **(39) SB 191 (Beall) – Pupil Health: Mental Health and Substance Use**
493 **Disorder Services**

494 Ms. Burns reviewed the bill. No committee or public comments received.

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497 **(40) SB 215 (Beall) – Incarcerated Persons: Victim Advocates**

498 Ms. Burns reviewed the bill. No committee or public comments received.

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501 **(41) SB 241 (Monning) – Medical Records: Access**

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503 Ms. Burns reviewed the bill. No public comment received. Dr. Erickson
504 asked if this bill applies to subpoenas for medical records. Ms. Burns
505 advised we do not know if it applies, but we will look into it.

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507 **(42) SB 247 (Moorlach) – Professions and Vocations: License**
508 **Requirement: Business: Surety Bond Requirement**

509 Ms. Burns reviewed the bill. No committee or public comments received.

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511 **(43) SB 399 (Portantino) – Health Care Coverage: Pervasive**
512 **Developmental Disorder or Autism**

513 Ms. Burns reviewed the bill. No committee or public comment received.

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517 **(44) SB 575 (Leyva) – Patient access to health records**

518 Ms. Burns reviewed the bill. No committee or public comments received.

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521 **(45) SB 684 (Bates) – Incompetence to Stand Trial: Conservatorship:**
522 **Treatment**

523 Ms. Burns reviewed the bill. No committee or public comments received.

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526 **(46) SB 715 (Newman) – Department Of Consumer Affairs:**
527 **Regulatory Boards: Removal Of Board Members**

528 Ms. Burns reviewed the bill. No committee or public comments received.

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531 **(47) SB 755 (Beall) – Civil Discovery: Mental Examination**

532 Ms. Burns reviewed the bill. No committee comment received. Dr. Linder-
533 Crow advised CPA is concerned whether or not limiting the amount of time
534 might someone can be interviewed might not be appropriate. Dr.
535 Winkelman recollects that CPA believes the decision should not be taken
536 out of the control of the professional. Dr. Linder-Crow advised they have
537 been working with the Author and Sponsor of the Bill.

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540 Mr. Glasspiegel advised the bill has an amendment which increases time
541 for good cause.

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(48) SB 800 (Committee on Business, Professions and Economic Development) – Professions and Vocations

Ms. Burns reviewed the bill. No committee or public comments received.

(49) ACR 8 (Jones-Sawyer) – Post Traumatic Street Disorder

Ms. Burns reviewed the bill. Ms. Jones stated she researched bill and saw it was to raise awareness.

Ms. Levy stated if we look on their website, their position is now neutral. The resolution failed to meet the required deadline. She advised she has been in touch with the author to see where it intends to go.

Ms. Jones thanked staff for the watch bills. She is asking if we can do a memo that incorporates the themes of the watch bills, so we can illustrate for the Board the different themes of the bills.

Agenda Item #7: Update Regarding the California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting – Penal Code Sections 261.5, 288, and 11165.1.

Mr. Glasspiegel provided overview and status.

Dr. Linder-Crow stated she may have asked the same question. Asking again, given the situation, what guidance is the Board giving licensees.

Ms. Marks stated there has been no change since the answer the Board provided at the April meeting.

Ms. Sorrick advised the Board is not providing any guidance which might cause licensee to intentionally disregard the Penal Code.

Dr. Winkelman stated that CPA was getting questions about CANRA, and they appreciate the Board keeping up with the request for interpretation with the Attorney General's office, which they are aware is pending until after the Matthew V Harris case is concluded.

Agenda Item #8 Regulatory Update

a. **Update on 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants**

b. **Update on 16 CCR Sections 1387(b)(10)(11) and 1387.1 – Verification of Experience and Supervision Agreement Forms**

Mr. Glasspiegel provided status of both 8(a) and 8(b). No committee questions or public comments were received.

Agenda Item #9: Recommendations for Agenda Items for Future Committee Meetings.

592

593 Staff advised they will bring AB 700 (Jones-Sawyer), which was amended on April 26,
594 2017, and relates to substance abuse disorder counseling. Staff will provide info at the
595 June Board Meeting.

596

597 **The Committee Adjourned at 2:50 p.m.**

MEMORANDUM

DATE	March 30, 2018
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #5 – Summary of Legislative Visits on Wednesday, February 14, 2018

Background:

As part of the Board of Psychology's (Board's) policy and advocacy role, the Board scheduled meetings with the Chairs and Vice Chairs of the Senate Business, Professions, and Economic Development Committee and Assembly Business and Professions Committee to discuss the Board's legislative proposal for the 2018 Legislative Session and highlight its legislative accomplishments from the 2017 Legislative Session. Dr. Phillips and Dr. Erickson were able to represent the Board at these meetings with Board staff on Wednesday, February 14, 2018.

At these meetings, the Board discussed its 2018 legislative proposal, AB 2968 (Levine), which would update the content of the Professional Therapy Never Includes Sex brochure and add psychotherapist-client sexual behavior as a trigger to require a psychotherapist to provide a client with the brochure if they became aware that a client had alleged sexual behavior with a previous psychotherapist during the course of a prior treatment.

The Board's legislative proposal received a very positive reception from the Legislators and/or their staff, who believed this proposal was both timely and straightforward.

Board staff believes these meetings were very productive and suggest the Board participate in similar meetings at the beginning of next year's legislative session.

Action Requested:

This item is for informational purposes only. No action is required.

Attachment A: 2017 Legislative Accomplishments and 2018 Legislative Proposal

Attachment B: Board of Psychology Quick Facts

2017 Legislative Accomplishments

Suicide Assessment and Intervention Coursework/Training Requirements (AB 89, Levine)

In 2017, the Board of Psychology (Board) worked with Assembly Member Levine to sponsor and pass AB 89 (Chapter 182, Statutes of 2017), which requires all licensees and applicants for licensure as a psychologist to have completed a minimum of six (6) hours of coursework, and/or applied experience under supervision, in suicide assessment and intervention. This legislation ensures that every psychologist has a minimum threshold of training and exposure in suicide assessment and intervention.

The Board decided to take a leading role in this area and sponsor legislation on suicide assessment and intervention training after much review, consideration, and deliberation by the Board. Both Board surveys and research, and national research on the issue of suicide assessment and intervention training for psychologists showed there was a need to ensure a minimum amount of exposure in this critical area.

AB 89 now requires the following from Board applicants and licensees (effective January 1, 2020):

- All applicants for licensure as a psychologist with the Board must have completed a minimum of six (6) hours of coursework and/or applied experience under supervision in suicide assessment and intervention, and
- All licensees, prior to the time of their first renewal, or an applicant for reactivation or reinstatement, must attest on their renewal application that they have completed the one-time requirement of six (6) hours of coursework and/or applied experience under supervision in suicide assessment and intervention. Licensees would need to provide proof of completion of this coursework or applied experience, upon request by the Board as part of their Continuing Professional Development Audit.

Omnibus Bill: Psychological Assistants: Payment of Application Fees and Delinquency Fees (SB 547, Hill)

In 2017, the Board successfully worked with the Senate Business, Professions, and Economic Development Committee to include the following provisions in their omnibus bill (SB 547, Chapter 429, Statutes of 2017):

- Clean up of statutory language relating to who pays registration fees for psychological assistants so that it conforms to the changes made by the Board's Sunset Bill, SB 1193 (Chapter 484, Statutes of 2016), and
- Increased the Board's Delinquency Fee for late renewal of a license to 50 percent of the renewal

fee (with a cap of \$150) to address the artificially low and outdated delinquency fee for psychologists, which was not aligned with the methodology used by the majority of Department of Consumer Affairs' entities.

2018 Legislative Proposal

Updating the Professional Therapy Never Includes Sex Brochure

Current law mandates that the Department of Consumer Affairs (DCA) prepare and disseminate an informational brochure for victims of psychotherapist-patient sexual impropriety. The current brochure is titled "Professional Therapy Never Includes Sex." It was last updated in 2011.

The requirement for the creation and dissemination of this brochure is found in Business and Professions Code sections 337 and 728. These sections have outdated language and are missing currently-recognized forms of sexual exploitation that ignore modern modes of communication and sexually exploitative grooming behaviors that do not reach the level of sexual contact as defined in the Business and Professions Code.

Specific areas of concern include:

- Outdated terminology that does not include sexual behaviors that have arisen with advances in technology (such as sexting);
- Missing sexually exploitative behaviors that do not fit into the current definition of sexual contact (such as touching or exposing oneself inappropriately, or making sexual comments that are outside the standard of care);
- A requirement to consult with the Sexual Assault Program of the Office of Criminal Justice Planning (abolished in 2005) and the office of the Attorney General;
- A requirement to outline civil and professional associations complaint procedures;
- Outdated license classifications under the Board of Behavioral Sciences; and
- Other minor technical changes.

The Board has worked with the Medical Board of California and the Board of Behavioral Sciences in proposing changes to these statutes and in proposing revisions to the "Professional Therapy Never Includes Sex" brochure.

This proposal would update these statutory provisions to allow the DCA brochure to include currently recognized forms of sexual exploitation, modern modes of communications, and more clearly articulate to consumers the most effective course of action when reporting these types of allegations.

QUICK FACTS

BOARD EXECUTIVE STAFF

Executive Officer: Antonette Sorrick
Assistant Executive Officer: Jeffrey Thomas

LAWS AND REGULATIONS

Business and Professions Code sections 2900–2999
Title 16, Division 13.6, California Code of Regulations sections 1380–1397.71

BUDGET ACT OF 2016: FY 2017–18

Appropriation: \$5,107,000
Authorized Positions: 24.3

BOARD MEMBERS

Total Members: 9
Public Members: 4
Professional Members: 5

SUNSET REVIEW

Last Review: 2016
Next Review: 2020
Inoperative/Repeal Date: January 1, 2021

LICENSEE STATISTICS

Psychologist	20,957
Psychological Assistant	1,439
Registered Psychologist	210
Total Licensee Population	22,606

LICENSING REQUIREMENTS

Degree/Professional Schooling	YES
Examination	YES
Continuing Competency/Education	YES
Fingerprinting Requirement	YES
Supervised Professional Experience	YES

FEES*

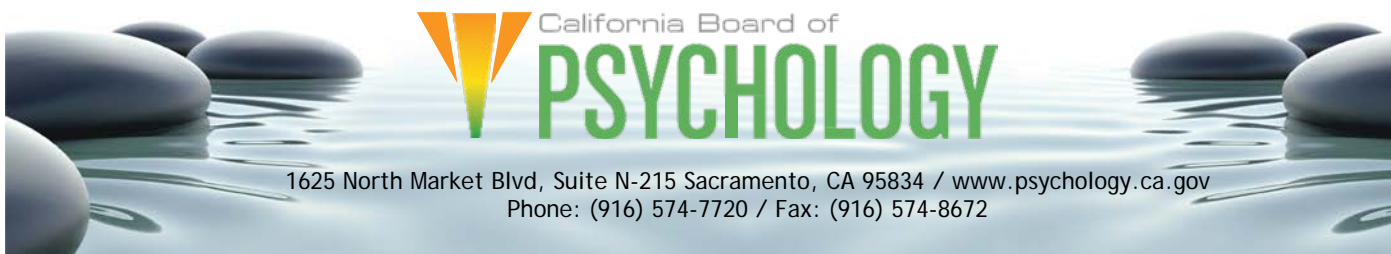
Application Fee	\$40	\$50
Exam Fee (Paid to the Association of State and Provincial Psychology Boards)	\$600**	N/A
California Psychology Law and Ethics Examination (CPLEE) Fee	\$129**	Cost to Board
Initial License Fee	\$400	\$500
TOTAL INITIAL LICENSE FEES	\$1,169	-
Biennial Active Renewal Fee	\$400*+	\$500
Biennial Inactive Renewal Fee	\$40*	\$40
Active Delinquent Fee	\$150**	50% of Renewal
Inactive Delinquent Fee	\$20	50% of Renewal

** Applicants for licensure as a psychologist must take the Examination for Professional Practice in Psychology and the CPLEE in order to get licensed in the State of California.

***The delinquent fee is 50% of the renewal fee with a cap of \$150

Additional fees assessed at time of renewal: * Mental Health Practitioner Education Fund fee; + Continuing Education Audit fee

Application Fee	\$40	\$75
Renewal Fee	\$40	\$75



DETAILS

PROGRAM BACKGROUND

The California Board of Psychology (Board) was established by the 1958 Psychology Certification Act to protect consumers by licensing and regulating the practice of psychology. The Board regulates psychologists, registered psychologists, and psychological assistants. Only licensed psychologists can practice psychology independently in the private sector in California. Registered psychologists are registered to work and train under supervision in nonprofit agencies that receive government funding, and registered psychological assistants are employed and supervised by a qualified licensed psychologist in private settings.

While the Certification Act protected the title “psychologist,” it did not take into consideration the interests of the consumers of psychological services. Later, the regulation of the profession evolved when the California Legislature recognized the potential for consumer harm by those practicing psychology and shifted the focus of the regulation of the profession to protection of the public. This redirection resulted in legislation in 1967 that protected the “psychologist” title, defined the practice, and required licensure in order to legally practice.

The Board was an “examining committee” under the jurisdiction of what was then the Division of Allied Health Professions of the Medical Board. During the 1970s, the Psychology Examining Committee gradually became more independent and began taking responsibility for its own operations including the authority to adopt regulations and administrative disciplinary actions without the endorsement of the Medical Board. The Psychology Examining Committee officially became the Board of Psychology in 1990 (Assembly Bill 858, Margolin, 1989).

LICENSING REQUIREMENTS

(Business and Professions Code sections 2909, 2913, and 2914; California Code of Regulations sections 1387 and 1387.4)

PSYCHOLOGIST

Licensed psychologists may practice independently in any private or public setting using psychological methods to diagnose, treat, prevent, and ameliorate emotional and mental disorders of individuals and groups.

Minimum Experience and Education Requirements:

- Doctorate degree in psychology, educational psychology, or education with the field of specialization in counseling psychology or educational psychology from an accredited or approved educational institution.
- Two years (3,000 hours) of supervised professional experience, at least 1,500 of which must be accrued following completion of the doctorate.

REGISTERED PSYCHOLOGIST

Registered psychologists are registered to engage in psychological activities at nonprofit community agencies that receive a minimum of 25 percent of their funding from some governmental source. Registered psychologists may not engage in psychological activities outside the approved nonprofit community agency where they are registered.

Minimum Experience and Education Requirements:

- Doctorate degree in psychology, educational psychology, or education with the field of specialization in counseling psychology or educational psychology from an accredited or approved educational institution.
- One year (1,500 hours) of supervised professional experience.

REGISTERED PSYCHOLOGICAL ASSISTANT

Psychological Assistants are registered to provide psychological services to the public under the direct supervision of a psychologist or psychiatrist.

Minimum Experience and Education Requirements:

- Applicants must have a qualifying master’s degree.
- No minimum experience requirement.

RECIPROCITY

(Business and Professions Code section 2946)

A psychologist certified or licensed in another state or province and who has made application to the Board for a license in California may perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting his or her application or from the commencement of residency in California, whichever first occurs.

(Business and Professions Code section 2912)

Nothing in this chapter shall be construed to restrict or prevent a person who is licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada from offering psychological services in this state for a period not to exceed 30 days in any calendar year.

BOARD MEMBERS

Stephen Phillips, JD, PsyD, President	June 1, 2020	Governor/Licensed	No
Nicole Jones, Vice President	June 1, 2018	Governor/Public	No
Lucille Acquaye-Baddoo	June 1, 2018	Assembly/Public	No
Jacqueline Horn, PhD	June 1, 2019	Governor/Licensed	No
Alita Bernal	June 1, 2020	Senate/Public	No
Michael Erickson, PhD	June 1, 2018	Governor/Licensed	No
Seyron Foo	June 1, 2020	Governor/Public	No
Sheryll Casuga, PsyD	June 1, 2019	Governor/Licensed	No
VACANT		Governor/Licensed	No

COMMITTEES

The following committees have been created by the Board and consist of Board members who meet on a regular basis to discuss specific issues in depth and provide feedback and any recommendations to the full Board:


Standing Committees

- Licensing Committee
- Outreach and Education Committee
- Policy and Advocacy Committee

Ad Hoc Committees

- Enforcement Committee
- EPPP 2 Task Force
- Telepsychology Committee

MEMORANDUM

DATE	March 30, 2018
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #6(a): AB 2968 (Levine) – Amend sections 337 and 728 of the Business and Professions Code Regarding the Brochure Addressing Sexual Contact between a Psychotherapist and a Patient

Background:

At the March 2017 Outreach and Education Committee meeting, that Committee discussed a plan to have all relevant board's staff review/amend the Professional Therapy Never Includes Sex brochure, convene an expert panel to review proposed amendments, and present it to the Department of Consumer Affairs for final consideration. While reviewing the statutory requirement to produce the brochure, these boards agreed that changes to the general provisions of the Business and Professions Codes should be made.

At the November 2017 Board Meeting, the Board approved the draft Omnibus Legislative Proposal and directed Staff to submit the proposal to the Senate Committee on Business, Professions and Economic Development (Senate BP&ED) for inclusion in their omnibus bill. In December 2017, Staff submitted the Omnibus Legislative Proposal to Senate BP&ED for consideration of inclusion in their omnibus bill.

In January 2018, Senate BP&ED staff notified Staff that they did not accept the Board's Omnibus Legislative Proposal for inclusion in their omnibus bill, but offered assistance in finding an individual Senator or Assembly Member to author the bill. Our proposal was not selected for inclusion as the Senate BP&ED staff believed its provisions were more complex and did not fit into the category of a Sunset clean-up provision. Staff then sought an author for the proposal.

In February 2018, Assembly Member Marc Levine graciously offered to author the proposal as amended at our February 2018 Board Meeting. During the drafting of the bill language Legislative Council made some minor changes to the language, but Staff believes these changes do not substantively alter the legislative language. If additional drafting amendments are desired by the Board, this can be accomplished during the upcoming Assembly Committee on Business and Professions (Assembly B&P) Hearing. AB 2968 (Levine) has not been scheduled for a hearing with Assembly B&P at the time this memorandum was written.

Action Requested:

This item is for informational purposes only. No action is required.

Attachment A: AB 2968 (Levine) Bill Text

Attachment B: Sexual Behaviors Definition vs. Current Statute (Updated)


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[Bill Information](#)
[California Law](#)
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AB-2968 Psychotherapist-client relationship: victims of sexual behavior and sexual contact: informational brochure.
(2017-2018)

SECTION 1. *Section 337 of the Business and Professions Code is amended to read:*

337. (a) The department shall prepare and disseminate an informational brochure for victims of ~~psychotherapist-patient sexual contact and advocates for those victims.~~ *psychotherapist-client sexual behavior and sexual contact and their advocates.* This brochure shall be developed by the ~~department in consultation with members of the Sexual Assault Program of the Office of Criminal Justice Planning and the office of the Attorney General.~~ *department.*

(b) The brochure shall include, but is not limited to, the following:

- (1) A legal and an informal definition of ~~psychotherapist-patient sexual~~ *psychotherapist-client sexual behavior and sexual* contact.
 - (2) A brief description of common personal ~~reactions and histories of victims and victim's families.~~ *reactions.*
 - (3) A ~~patient's~~ *client's* bill of rights.
 - (4) ~~Options~~ *Instructions* for reporting ~~psychotherapist-patient~~ *psychotherapist-client* sexual ~~relations and instructions for each reporting option.~~ *behavior and sexual contact.*
 - (5) A full description of ~~administrative, civil, and professional associations~~ *administrative* complaint procedures.
 - (6) A description of services available for support of victims.
- (c) The brochure shall be provided to each individual contacting the Medical Board of ~~California and affiliated health boards~~ *California, the Osteopathic Medical Board of California, the Board of Psychology,* or the Board of Behavioral Sciences regarding a complaint involving ~~psychotherapist-patient sexual relations.~~ *psychotherapist-client sexual behavior and sexual contact.*

SEC. 2. *Section 728 of the Business and Professions Code is amended to read:*

728. (a) Any psychotherapist or employer of a psychotherapist who becomes aware through a ~~patient~~ *client* that the ~~patient~~ *client* had alleged sexual intercourse or alleged sexual *behavior or sexual* contact with a previous psychotherapist during the course of a prior treatment shall provide to the ~~patient~~ *client* a brochure ~~promulgated~~ *developed* by the department *pursuant to Section 337* that delineates the rights of, and remedies for, ~~patients~~ *clients* who have been involved sexually with their psychotherapists. Further, the psychotherapist or employer shall discuss with the ~~patient~~ *client* the brochure prepared by the department.

(b) Failure to comply with this section constitutes unprofessional conduct.

(c) For the purpose of this section, the following definitions apply:

(1) *"Psychotherapist" means any of the following:*

~~(1) (A) "Psychotherapist" means a~~ *(A)* a physician and surgeon specializing in the practice of psychiatry or practicing ~~psychotherapy, a psychologist, a clinical social worker, a marriage and family therapist, a licensed professional clinical counselor, a psychological assistant, a marriage and family therapist registered intern or trainee, an intern or clinical counselor trainee, as specified in Chapter 16 (commencing with Section 4999.10), or an associate clinical social worker.~~ *psychotherapy.*

(B) A psychologist.

(C) A psychological assistant.

(D) A registered psychologist.

(E) A trainee under the supervision of a licensed psychologist.

(F) A marriage and family therapist.

(G) An associate marriage and family therapist.

(H) A marriage and family therapist trainee.

(I) A licensed educational psychologist.

(J) A clinical social worker.

(K) An associate clinical social worker.

(L) A licensed professional clinical counselor.

(M) An associate professional clinical counselor.

(N) A clinical counselor trainee.

(2) "Sexual behavior" means inappropriate contact or communication of a sexual nature. "Sexual behavior" does not include the provision of appropriate therapeutic interventions relating to sexual issues.

~~(2)~~ (3) "Sexual contact" means the touching of an intimate part of another person.

~~(3)~~ (4) "Intimate part" and "touching" have the same meaning as defined in subdivisions (g) and (e), respectively, of Section 243.4 of the Penal Code.

~~(4)~~ (5) "The course of a prior treatment" means the period of time during which a ~~patient client~~ first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the ~~patient client~~ as being within his or her scope of practice, until the ~~psychotherapist-patient~~ *psychotherapist-client* relationship is terminated.

Attachment B

Business and Professions Code Section	APA Ethical Principles of Psychologists and Code of Conduct	AB 2968 (Levine)
<p><u>CONSENSUAL INAPPROPRIATE COMMUNICATION OF A SEXUAL NATURE</u></p>	<p><u>CONSENSUAL INAPPROPRIATE COMMUNICATION OF A SEXUAL NATURE</u></p> <p><i>[Note: Sexual intimacies is not defined in the APA Ethical Principles of Psychologists and Code of Conduct]</i></p>	<p><u>CONSENSUAL INAPPROPRIATE COMMUNICATION OF A SEXUAL NATURE</u></p> <p>BPC Section 728(c) (excerpt) (c) For the purpose of this section, the following definitions apply: <u>(3) “Sexual behavior” means inappropriate contact or communication of a sexual nature. This definition does not include the provision of appropriate therapeutic interventions relating to sexual issues.</u></p> <p><i>[Note: Underline here indicates added text.]</i></p>
<p><u>PHYSICAL SEXUAL CONTACT OR RELATIONS</u></p> <p>BPC Section 729 (a) & (c) (a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor. (c) For purposes of this section: (1) “Psychotherapist” has the same meaning as defined in Section 728.</p>	<p><u>PHYSICAL SEXUAL CONTACT OR RELATIONS</u></p> <p>Ethical Standard 10.05 Sexual Intimacies With Current Therapy Clients/Patients Psychologists do not engage in sexual intimacies with current therapy clients/patients.</p> <p><i>[Note: Sexual intimacies are not defined in the APA Ethical Principles of Psychologists and Code of Conduct]</i></p> <p>Ethical Standard 10.06 Sexual Intimacies With Relatives or Significant Others of Current Therapy Clients/Patients Psychologists do not engage in sexual intimacies with individuals they know to be close relatives, guardians, or significant others of current clients/patients. Psychologists do not terminate therapy to circumvent this standard.</p> <p>Ethical Standard 10.07 Therapy With Former Sexual Partners Psychologists do not accept as therapy clients/patients persons with whom they have engaged in sexual intimacies.</p>	<p><u>PHYSICAL SEXUAL CONTACT OR RELATIONS</u></p> <p>BPC Section 728(c) (excerpt) (c) For the purpose of this section, the following definitions apply: (2) “Sexual contact” means the touching of an intimate part of another person. <u>(3) “Sexual behavior” means inappropriate contact or communication of a sexual nature. This definition does not include the provision of appropriate therapeutic interventions relating to sexual issues.</u> (34) “Intimate part” and “touching” have the same meaning as defined in subdivisions (g) and (e), respectively, of Section 243.4 of the Penal Code. (45) “The course of a prior treatment” means the period of time during which a patient first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the patient as being within his or her scope of practice, until the psychotherapist-patient relationship is terminated.</p> <p><i>[Note: Underline here indicates added text.]</i></p>

Attachment B

Business and Professions Code Section	APA Ethical Principles of Psychologists and Code of Conduct	AB 2968 (Levine)
<p>(2) "Alcohol and drug abuse counselor" means an individual who holds himself or herself out to be an alcohol or drug abuse professional or paraprofessional.</p> <p>(3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.</p> <p>(4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code.</p> <p>BPC Section 728(c) (excerpt)</p> <p>(c) For the purpose of this section, the following definitions apply: ...</p> <p>(2) "Sexual contact" means the touching of an intimate part of another person.</p> <p>(3) "Intimate part" and "touching" have the same meaning as defined in subdivisions (g) and (e), respectively, of Section 243.4 of the Penal Code.</p> <p>(4) "The course of a prior treatment" means the period of time during which a patient first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the patient as being within his or her scope of practice, until the psychotherapist-patient relationship is terminated.</p> <p>Penal Code Section 243.4 (excerpt)</p> <p>(f) As used in subdivisions (a), (b), (c), and (d), "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.</p> <p>(g) As used in this section, the following terms have the following meanings:</p> <p>(1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.</p>	<p>Ethical Standard 10.08 Sexual Intimacies With Former Therapy Clients/Patients</p> <p>(a) Psychologists do not engage in sexual intimacies with former clients/patients for at least two years after cessation or termination of therapy.</p> <p>(b) Psychologists do not engage in sexual intimacies with former clients/patients even after a two-year interval except in the most unusual circumstances. Psychologists who engage in such activity after the two years following cessation or termination of therapy and of having no sexual contact with the former client/patient bear the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including (1) the amount of time that has passed since therapy terminated; (2) the nature, duration, and intensity of the therapy; (3) the circumstances of termination; (4) the client's/patient's personal history; (5) the client's/patient's current mental status; (6) the likelihood of adverse impact on the client/patient; and (7) any statements or actions made by the therapist during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient. (See also Standard 3.05, Multiple Relationships.)</p>	

Attachment B


Business and Professions Code Section	APA Ethical Principles of Psychologists and Code of Conduct	AB 2968 (Levine)
<p><u>SEXUAL HARASSMENT</u></p> <p><i>[Note: Sexual Harassment is not defined in the Psychology Licensing Law, rather it is incorporated by reference through BPC 2936, and violation of Ethical Standard 3.02 Sexual Harassment is grounds for discipline through BPC 2960(i and/or k)]</i></p>	<p><u>SEXUAL HARASSMENT</u></p> <p>Ethical Standard 3.02 Sexual Harassment Psychologists do not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the psychologist’s activities or roles as a psychologist, and that either (1) is unwelcome, is offensive, or creates a hostile workplace or educational environment, and the psychologist knows or is told this or (2) is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts. (See also Standard 1.08, Unfair Discrimination Against Complainants and Respondents.)</p>	<p><u>SEXUAL HARASSMENT</u></p> <p><i>[Note: Sexual Harassment is not included in the Professional Therapy Never Includes Sex Brochure as it is not required in BPC Section 728]</i></p>
<p><u>GENERAL PROVISIONS</u></p> <p>BPC Section 2936 (excerpt) ... The board shall establish as its standards of ethical conduct relating to the practice of psychology, the “Ethical Principles of Psychologists and Code of Conduct” published by the American Psychological Association (APA). Those standards shall be applied by the board as the accepted standard of care in all licensing examination development and in all board enforcement policies and disciplinary case evaluations.</p> <p>BPC Section 726 (a) (a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division or under any initiative act referred to in this division.</p>	<p><u>GENERAL PROVISIONS</u></p> <p>Ethical Standard 3.08 Exploitative Relationships Psychologists do not exploit persons over whom they have supervisory, evaluative, or other authority such as clients/ patients, students, supervisees, research participants, and employees. (See also Standards 3.05, Multiple Relationships; 6.04, Fees and Financial Arrangements; 6.05, Barter With Clients/Patients; 7.07, Sexual Relationships With</p>	<p><u>GENERAL PROVISIONS</u></p>

Attachment B

Business and Professions Code Section	APA Ethical Principles of Psychologists and Code of Conduct	AB 2968 (Levine)
<p>BPC Section 2960 (excerpt) The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:</p> <p>(o) Any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant or registered psychologist.</p>	<p>Students and Supervisees; 10.05, Sexual Intimacies With Current Therapy Clients/Patients; 10.06, Sexual Intimacies With Relatives or Significant Others of Current Therapy Clients/Patients; 10.07, Therapy With Former Sexual Partners; and 10.08, Sexual Intimacies With Former Therapy Clients/Patients.)</p>	

*Note: Highlighting was added for emphasis

MEMORANDUM

DATE	April 2, 2018
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(a)(1)(A): AB 282 (Jones-Sawyer) – Aiding, Advising, or Encouraging Suicide: Exemption from Prosecution

Background:

AB 282 (Jones-Sawyer) would codify that any person whose actions are performed in compliance with the provisions in the End of Life Option Act cannot be prosecuted for those actions under Penal Code Section 401.

Location: Senate Committee on Public Safety

Status: 3/15/18 – From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Senate Committee on Public Safety

Votes: 1/18/2018 Assembly Floor (45-17-15)
1/9/2018 Assembly Committee on Public Safety (6-0-1)

Action Requested:

Staff recommends that the Committee **Support** AB 282, as this bill codifies the intent of the End of Life Option Act to create a safe and legal way for physicians and psychologists to assist individuals suffering from terminal illnesses to die with dignity. This bill simply codifies that these professionals' participation in this process, when done in compliance with the End of Life Option Act, is not a prosecutable offense.

Attachment A: Analysis of AB 282 (Jones-Sawyer)

Attachment B: AB 282 (Jones-Sawyer) Bill Text

2018 Bill Analysis

Author: Jones-Sawyer and Bonta	Bill Number: AB 282	Related Bills:
Sponsor: Author	Version: Amended 3/15/2018	
Subject: Aiding, advising, or encouraging suicide: exemption from prosecution		

SUMMARY

This bill would codify that any person whose actions are performed in compliance with the provisions in the End of Life Option Act cannot be prosecuted for those actions under Penal Code Section 401.

RECOMMENDATION

SUPPORT – This bill codifies the intent of the End of Life Option Act to create a safe and legal way for physicians and psychologists to assist individuals suffering from terminal illnesses to die with dignity. This bill simply codifies that these professionals' participation in this process, when done in compliance with the End of Life Option Act, is not a prosecutable offense.

REASON FOR THE BILL

According to the author, AB 282 is a simple bill which provides technical clean up to the statute which makes it a felony to aid, advise, or encourage a suicide. In 2015, the Legislature passed the End of Life Option Act which allows a terminally ill adult with the capacity to make medical decisions to request a prescription for an aid in dying drug if certain conditions are met, including that the patient is able to self-administer the drug.

Other Boards/Departments that may be affected: Medical Board of California, Osteopathic Medical Board of California	
<input type="checkbox"/> Change in Fee(s) <input type="checkbox"/> Affects Licensing Processes <input type="checkbox"/> Affects Enforcement Processes	
<input type="checkbox"/> Urgency Clause <input type="checkbox"/> Regulations Required <input type="checkbox"/> Legislative Reporting <input type="checkbox"/> New Appointment Required	
Policy & Advocacy Committee Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____	Full Board Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____

The End of Life Option Act insulates a prescribing physician and a person who is present to assist the qualified patient in preparing the drug from criminal liability for actions which are authorized under the Act. However, when the End of Life Option Act was enacted, the Penal Code provision which makes it a crime to aid a suicide was not updated to reflect that change. This bill specifies that actions which are authorized under the End of Life Option Act cannot be prosecuted under the criminal statute.

ANALYSIS

The End of Life Option Act (AB 15 X2, Chapter 1, Statutes of 2015), was passed by the California Legislature in 2015. It allows a terminally ill patient with the capacity to make medical decisions to request a prescription for a lethal dose of drugs to end their suffering, insulates a prescribing physician from criminal liability, and sets forth rigorous procedures and safeguards for physicians and psychologists participating in the Act to protect against abuse. There are specific assessment and reporting requirements in the Act that must be met by both the attending physician and any psychologist/psychiatrist that participates in the End of Life Option Act to ensure that the patient has been properly assessed and has the “capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder”. Additionally, if the attending physician sees any indication of a mental disorder, the physician must refer the patient to a psychiatrist or psychologist for a mental health specialist evaluation, and if the referral is made, no aid-in-dying drugs can be prescribed to the patient until the psychiatrist or psychologist determines that the patient has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

Section 443.18 of the Health and Safety Code provides that actions taken in accordance with the Act “shall not, for any purposes, constitute suicide, assisted suicide, homicide, or elder abuse under the law.” The obvious intent was to shield these health care professionals from liability and prosecution if they legally participated in the End of Life Option Act. However, health care professionals have had concerns about the legal aspects of participating in the End of Life Option Act since its passage. This bill would simply clarify that when acting in accordance with the requirements of the End of Life Option Act, physicians and psychologists could not be prosecuted under Penal Code Section 401.

LEGISLATIVE HISTORY

AB 15 X2 (Chapter 1, Statutes of 2015) permits a competent, qualified individual who is an adult with a terminal disease to receive a prescription for an aid-in-dying drug if certain conditions are met.

SB 128 (Wolk), of the 2015-2016 Legislative Session, was substantially similar to AB 15 X2. SB 128 was held in the Assembly Committee on Health.

AB 2139 (Chapter 568, Statutes of 2014) requires a health care provider, when making a diagnosis that a patient has a terminal illness, to notify the patient of his or her right to comprehensive information and counseling regarding legal end-of-life options.

AB 374 (Berg), of 2007-2008 Legislative Session, would have enacted the California Compassionate Choices Act, which would have authorized competent adults who have been determined by two physicians to be suffering from a terminal disease to make a request for medication to hasten the end of their lives in a humane manner. AB 374 was moved to the inactive file on the Assembly Floor without a vote recorded.

OTHER STATES' INFORMATION

Five (5) other states have "Death with Dignity" or "Aid-in-Dying" laws, including Oregon, Washington, Vermont, Montana, and New Mexico. Each of these states makes participation optional and has protections for physicians and mental health professionals who chose to participate in the law.

PROGRAM BACKGROUND

The Board advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the practice. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

Participation in the End of Life Option Act already legally allows psychologists to participate in the law and perform the mental health specialist assessment to determine whether the patient has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder, therefore the Board would have no cause for action against psychologists that perform these assessments and reports according to the provisions of the Act.

FISCAL IMPACT

Not Applicable

ECONOMIC IMPACT

Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support: American Civil Liberties Union of California

Opposition: None on file

ARGUMENTS

Proponents: Under the End of Life Option Act, a physician is authorized to prescribe an aid-in-dying drug under specified circumstances.... However, the

provisions of Penal Code section 401, which makes it a felony to assist someone in committing suicide, do not exempt the actions of physicians or other persons as authorized under the Act. AB 282 will correct this omission and protect those who assist persons who seek to end their lives, legally, on their own terms.

Opponents: None on file



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AB-282 Aiding, advising, or encouraging suicide: exemption from prosecution. (2017-2018)

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Date Published: 03/16/2018 04:00 AM

AMENDED IN SENATE MARCH 15, 2018

AMENDED IN ASSEMBLY JANUARY 03, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 282

Introduced by Assembly Members Jones-Sawyer and Bonta

February 02, 2017

An act to amend Section 401 of the Penal Code, relating to suicide.

LEGISLATIVE COUNSEL'S DIGEST

AB 282, as amended, Jones-Sawyer. Aiding, advising, or encouraging suicide: exemption from prosecution.

Existing law, the End of Life Option Act, until January 1, 2026, authorizes an adult who meets certain qualifications and who has been determined by his or her attending physician to be suffering from a terminal disease to request a prescription for an aid-in-dying drug. The act, with some exceptions, provides immunity from civil or criminal liability for specified actions taken in compliance with the act. Actions taken in accordance with the act do not, for any purpose, constitute suicide, assisted suicide, homicide, or elder abuse under the law.

Existing law makes a person who deliberately aids, advises, or encourages another to commit suicide guilty of a felony.

This bill would prohibit a person whose actions are ~~authorized pursuant to~~ *compliant with* the End of Life Option Act from being prosecuted for deliberately aiding, advising, or encouraging suicide.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no


THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 401 of the Penal Code is amended to read:

401. (a) Every person who deliberately aids, advises, or encourages another to commit suicide is guilty of a felony.

(b) A person whose actions are ~~authorized pursuant to~~ *compliant with* the provisions of the End of Life Option Act (Part 1.85 (commencing with Section 443) of Division 1 of the Health and Safety Code) shall not be prosecuted under this section.

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #7(a)(1)(B) – AB 1779 (Nazarian) Sexual Orientation: Change Efforts

Background:

This bill would prohibit a mental health provider from engaging in sexual orientation change efforts with a patient who is under a conservatorship or a guardianship regardless of age.

Location: Assembly Committee on Business and Professions

Status: 01/22/2018 – Referred to Committee on Business and Professions

Action Requested:

Staff recommends that the Committee **Support** AB 1779 as this bill extends protections to consumers who are currently not protected due to their age but due to conservatorship or guardianship need this protection; and recommend this position to the full Board.

Attachment A: Analysis of AB 1779 (Nazarian)

Attachment B: AB 1779 (Nazarian) Text

2018 Bill Analysis

Author: Nazarian	Bill Number: AB 1779	Related Bills: AB 2943 (Low)
Sponsor: Author	Version: Introduced	
Subject: Sexual orientation: change efforts		

SUMMARY

This bill would prohibit a mental health provider from engaging in sexual orientation change efforts with a patient who is under a conservatorship or a guardianship regardless of age.

RECOMMENDATION

SUPPORT. Staff recommends that the Committee support AB 1779 as this bill extends protections to consumers who are currently not protected due to their age but due to conservatorship or guardianship require this protection.

REASON FOR THE BILL

Per the author, AB 1779 simply closes a loophole in current law to expand the protection of another vulnerable population of Californians from the harmful effects of sexual orientation change therapy. The author believes that individuals whose legal rights are limited by their disabilities and are under conservatorships or guardianships should receive the same protection from sexual orientation change therapy as underage individuals.

ANALYSIS

According to the APA Task Force on Appropriate Therapeutic Responses to Sexual Orientation, efforts to change sexual orientation are unlikely to be successful and

Other Boards/Departments that may be affected:	
<input type="checkbox"/> Change in Fee(s) <input type="checkbox"/> Affects Licensing Processes <input checked="" type="checkbox"/> Affects Enforcement Processes	
<input type="checkbox"/> Urgency Clause <input type="checkbox"/> Regulations Required <input type="checkbox"/> Legislative Reporting <input type="checkbox"/> New Appointment Required	
Policy & Advocacy Committee Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____	Full Board Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____

involve some risk of harm. Research and clinical literature demonstrate that same-sex sexual and romantic attractions, feelings and behaviors are normal and positive variations of human sexuality, regardless of sexual orientation identity. The appropriate application of affirmative therapeutic interventions for those who seek Sexual Orientation Change Efforts involves therapist acceptance, support and understanding of clients and the facilitation of clients' active coping, social support and identity exploration and development, without imposing a specific sexual orientation identity outcome.

Per Section 865 of the Business and Professions Code, "sexual orientation change efforts" are defined as any practices by mental health providers that seek to change an individual's sexual orientation. This includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

Currently, under 865.1 of the Business and Professions Code, these practices are outlawed for anyone under the age of 18. If passed, this bill would expand this consumer protection by adding language to the Business and Professions Code to prohibit any mental health provider from engaging in sexual orientation change with any patient who is under a conservatorship or guardianship, regardless of the patient's age.

LEGISLATIVE HISTORY

SB 1172 (Lieu, Chapter 835, Statutes of 2012) – Makes it unprofessional conduct to attempt sexual orientation change therapy on a patient under the age of 18.

OTHER STATES' INFORMATION

Not Applicable

PROGRAM BACKGROUND

The Board advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the practice. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

This bill could result in an increase in enforcement cases received by the Board, but would not change the way in which our enforcement program reviews and investigates violations.

FISCAL IMPACT

Not Applicable

ECONOMIC IMPACT

Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support: None on File

Opposition: None on File

ARGUMENTS

Proponents: None on File

Opponents: None on File

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AB-1779 Sexual orientation: change efforts. (2017-2018)

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Date Published: 01/04/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 1779**

Introduced by Assembly Member Nazarian

January 04, 2018

An act to amend Section 865.1 of the Business and Professions Code, relating to sexual orientation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1779, as introduced, Nazarian. Sexual orientation: change efforts.

Existing law provides for licensing and regulation of various professions in the healing arts, including physicians and surgeons, psychologists, psychiatric technicians, marriage and family therapists, educational psychologists, clinical social workers, and licensed professional clinical counselors. Existing law prohibits mental health providers, as defined, from performing sexual orientation change efforts, as specified, with a patient under 18 years of age. Existing law provides that any sexual orientation change efforts attempted on a patient under 18 years of age by a mental health provider shall be considered unprofessional conduct and shall subject the provider to discipline by the provider's licensing entity.

This bill would additionally prohibit a mental health provider from engaging in sexual orientation change efforts with a patient, regardless of age, under a conservatorship or a guardianship.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 865.1 of the Business and Professions Code is amended to read:

865.1. Under no circumstances shall a mental health provider engage in sexual orientation change efforts with a patient under 18 years of ~~age~~ *age, or with a patient, regardless of age, under a conservatorship or a guardianship.*

Agenda Item 7(a)(1)(C) AB
2044 (Stone)-Domestic
Violence: Family Court

Memo and Analysis will be
provided as a hand carry.

Text is provided for
reference



AB-2044 Domestic violence: family court. (2017-2018)

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Date Published: 03/23/2018 04:00 AM

AMENDED IN ASSEMBLY MARCH 22, 2018

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL

No. 2044

Introduced by Assembly Member Mark Stone
(Coauthor: Assembly Member Rubio)

February 06, 2018

An act to amend Sections 3011, 3020, and 3044 of the Family Code, *and to amend Section 68555 of the Government Code*, relating to ~~child custody~~: *domestic violence*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2044, as amended, Mark Stone. ~~Child custody: safety of the child~~: *Domestic violence: family court*.

Existing law requires a family court to determine the best interests of the child for purposes of deciding child custody in proceedings for dissolution of marriage, nullity of marriage, legal separation of the parties, petitions for exclusive custody of a child, and proceedings under the Domestic Violence Prevention Act. In making that determination, existing law requires the court to consider specified factors, including whether either of the child's parents habitually or continually uses alcohol or illegal drugs.

This bill would require the court to make the determination consistent with specified findings. The bill would include in those findings that children have the right to be safe and free from abuse and that domestic violence in a household where a child resides is detrimental to the health, safety, and welfare of the child.

Existing law establishes a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic ~~violence, as specified~~: *violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years* is detrimental to the best interests of the child. In overcoming that presumption, existing law requires the court to consider specified factors, including whether the perpetrator of domestic violence has committed any further acts of domestic violence.

~~This bill would require, in considering the factors for a child custody determination, or in overcoming the presumption against the award of sole or joint legal or physical custody to a person who has perpetrated domestic violence, that the safety of the child have priority over all other considerations. extend this presumption to a person who has committed domestic violence against another person with whom that party has a specified~~

relationship in the previous 5 years and would make the presumption and the provisions for overcoming the presumption applicable to parties seeking visitation. The bill would require the court, in determining whether the presumption is overcome, to find that the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody, or unsupervised visitation, of a child to the perpetrator is in the best interests of the child and would specify additional factors that, on balance, are required to support the grant of custody or visitation. The bill would require the court to state its reasons for finding that the presumption has been overcome in writing or on the record.

Existing law requires the Judicial Council to establish judicial training programs for individuals who perform duties in domestic violence matters, including judges, referees, and mediators, among others, and requires that the training programs include instruction in all aspects of domestic violence.

This bill would require the training to include the detriment to children of residing in a home where domestic violence occurs.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3011 of the Family Code is amended to read:

3011. In making a determination of the best interests of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds ~~relevant,~~ *relevant and consistent with Section 3020*, consider all of the ~~following, however, in considering each factor below, ensuring the safety of the child shall have priority over all other considerations:~~ *following:*

(a) The health, safety, and welfare of the child.

(b) Any history of abuse by one parent or any other person seeking custody against any of the following:

(1) A child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.

(2) The other parent.

(3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

As a prerequisite to considering allegations of abuse, the court may require substantial independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against a child" means "child abuse" as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in paragraph (2) or (3) means "abuse" as defined in Section 6203.

(c) The nature and amount of contact with both parents, except as provided in Section 3046.

(d) The habitual or continual illegal use of controlled substances, the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this subdivision, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(e) (1) When allegations about a parent pursuant to subdivision (b) or (d) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (b) of Section 6323.

(2) This subdivision shall not apply if the parties stipulate in writing or on the record regarding custody or visitation.

SEC. 2. Section 3020 of the Family Code is amended to read:

3020. (a) The Legislature finds and declares that it is the public policy of this state to ensure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interests of children when making any orders regarding the physical or legal custody or visitation of children. The Legislature further finds and declares that *children have the right to be safe and free from abuse, and that* the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the *health, safety, and welfare of the* child.

(b) The Legislature finds and declares that it is the public policy of this state to ensure that children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except when the contact would not be in the best interests of the child, as provided in *subdivisions (a) and (c) of this section and* Section 3011.

(c) When the policies set forth in subdivisions (a) and (b) of this section are in conflict, a court's order regarding physical or legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members. ~~The safety of the child shall be a priority over all other considerations.~~

SEC. 3. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody *or visitation* of a child has perpetrated domestic violence *within the previous five years* against the other party seeking custody *or visitation* of the ~~child~~ *child*, or against the child or the child's ~~siblings within the previous five years; siblings, or against any other person with whom the party has had a relationship, as defined in Section 6211,~~ there is a rebuttable presumption that an award of sole or joint physical or legal custody *or unsupervised visitation* of a child to a person who has perpetrated domestic violence is detrimental to the best interests of the child, pursuant to ~~Section 3011. Sections 3011 and 3020.~~ This presumption *applies for five years following a court's finding of domestic violence and* may only be rebutted by a preponderance of the evidence.

(b) ~~In determining whether To overcome~~ the presumption set forth in subdivision ~~(a) has been overcome, the court shall consider all of the following factors, however, in considering each factor below, ensuring the safety of the child shall have priority over all other considerations:~~ (a), *the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.*

(1) ~~Whether the~~ *The* perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal ~~custody custody, or unsupervised visitation,~~ of a child to the perpetrator is in the best interests of the ~~child.~~ *child pursuant to Sections 3011 and 3020.* In determining the best interests of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) *Additional factors:*

~~(2) Whether the~~

(A) *The* perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

~~(3) Whether the~~

(B) *The* perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

~~(4) Whether the~~

(C) *The* perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

~~(5) Whether the~~

(D) *The* perpetrator is on probation or parole, and ~~whether~~ he or she has *or has not* complied with the terms and conditions of probation or parole.

~~(6) Whether the~~

*(E) The perpetrator is restrained by a protective order or restraining order, and ~~whether~~ he or she has *or has not* complied with its terms and conditions.*

~~(7) Whether the~~

(F) The perpetrator of domestic violence has committed any further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when he or she is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record.

(g) In an evidentiary hearing or trial in which custody or visitation orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody or visitation order.

~~(f)~~

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to any custody mediation in the case.

SEC. 4. *Section 68555 of the Government Code is amended to read:*

68555. The Judicial Council shall establish judicial training programs for individuals who perform duties in domestic violence matters, including, but not limited to, judges, referees, commissioners, mediators, and others as deemed appropriate by the Judicial Council. The training programs shall include a domestic violence session in any orientation session conducted for newly appointed or elected judges and an annual training session in domestic violence. The training programs shall include instruction in all aspects of domestic ~~violence:~~ *violence, including the detriment to children of residing in a home where domestic violence occurs.*

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #7(a)(1)(D) – AB 2138 (Chiu and Low) Licensing boards: denial of application: criminal conviction

Background:

This bill would prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime. This bill does not define nonviolent crime for the purposes of this provision.

This bill would diminish consumer protection by not allowing the Board to deny those applicants whose crimes are substantially related to the ethical practice of psychology. Moreover, the Board's mission is to ensure the ethical and legal practice of psychology in the State of California and this bill is inimical to that mission.

Location: Assembly Committee on Business and Professions

Status: 02/26/2018 – Referred to Committee on Business and Professions

Action Requested:

Staff recommend the Committee **Oppose** AB 2138 (Chiu and Low) due to the lack of clarity regarding the definition of a nonviolent crime, and the detriment to the Board's mission of consumer protection; and recommend this position to the full Board.

Attachment A: Analysis of AB 2138 (Chiu and Low)

Attachment B: AB 2138 (Chiu and Low) Text

2018 Bill Analysis

Author: Chiu and Low	Bill Number: AB 2138	Related Bills:
Sponsor:	Version: Introduced	
Subject: Licensing boards: denial of application: criminal conviction		

SUMMARY

This bill would prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime.

RECOMMENDATION

Oppose – Staff recommends that the Committee Oppose AB 2138 (Chiu and Low) due to the lack of clarity regarding the definition of a nonviolent crime, and the bill’s potential to diminish consumer protections by removing the Board’s authority to deny applications for licensure when the applicant’s criminal history shows violations that are substantially related to the ethical practice of psychology.

REASON FOR THE BILL

According to the author, in California, an estimated 7,955,500 people – approximately 1 in 3 adults – have arrest or conviction records. California has among the highest recidivism rates in the nation, with many low-level criminal offenders committing new crimes within a year of release. One of the root causes of high recidivism rates is the inability of prior offenders to secure gainful employment upon reentry.

Nearly 30 percent of California jobs require licensure, certification, or clearance by an oversight board or agency for approximately 1,773 different occupations. All too often, qualified people are denied occupational licenses or have licenses revoked or

Other Boards/Departments that may be affected:	
<input type="checkbox"/> Change in Fee(s) <input type="checkbox"/> Affects Licensing Processes <input checked="" type="checkbox"/> Affects Enforcement Processes	
<input type="checkbox"/> Urgency Clause <input type="checkbox"/> Regulations Required <input type="checkbox"/> Legislative Reporting <input type="checkbox"/> New Appointment Required	
Policy & Advocacy Committee Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____	Full Board Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____

suspended on the basis of prior arrests or convictions, many of which are old, unrelated to the job, or have been judicially dismissed.

The author believes it is in the interest of public safety to assist in the rehabilitation of criminal offenders by removing impediments and restrictions upon their ability to obtain employment. Alleviating barriers to occupational licensing is one way California can reduce recidivism and provide economic opportunity to all its residents.

ANALYSIS

Current law mandates the following three provisions:

- (1) the Board cannot deny an applicant solely based on their conviction if that conviction was dismissed per 1203.4 Penal Code.
- (2) The Board cannot deny a license for an applicant who has a felony conviction if they have received a certificate of rehabilitation, and
- (3) The Board cannot deny an applicant who has a misdemeanor conviction and has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482 of the Business and Professions Code.

Additionally, current law provides applicants with due process rights by allowing them to appeal a licensure denial due to criminal convictions through an administrative hearing process for a Statement of Issues.

The proposed language removes the three provisions and states that the Board cannot deny a license solely on the basis that an applicant has been convicted of a nonviolent crime (undefined).

Staff are concerned with the lack of clarity in this bill as the language does not reference a definition of nonviolent crime. Without a definition provided in statute, staff is uncertain whether this provision would need to be defined in regulations, which would be extremely difficult, and whether any definition promulgated in regulations could potentially lead to litigation. Additionally, the circumstances related to nonviolent crimes can be substantially related to the ethical practice of psychology and the requirements for licensure as a psychologist. Some examples include recent crimes related to monetary issues such as fraud or identity theft, and addiction issues such as theft or substance abuse. This bill would diminish consumer protection by not allowing the Board to deny those applicants whose crimes are substantially related to the practice of psychology. Moreover, the Board's mission is to ensure the ethical and legal practice of psychology in the state of California and this bill is inimical to that mission.

LEGISLATIVE HISTORY

AB 2396 (Bonta, Chapter 737, Statutes of 2014) – this bill added subsection (c) under section 480 of the Business and Professions Code, which inhibits the Board from denying a license based on a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41.

OTHER STATES' INFORMATION

Not Applicable

PROGRAM BACKGROUND

The Board advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the practice. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

This bill would have a large impact on the Board of Psychology's licensing and enforcement programs, and it would hinder the Board's ability to carry out its legislative mandate of consumer protection. Currently, the Board completes an enforcement review for every applicant with a criminal history, to determine whether the crimes committed are substantially related to the duties of licensure and if the crimes should be cause for a denial of their application.

FISCAL IMPACT

Due to the bill's potential to license persons who were previously deemed unfit for licensure due to their prior convictions, this bill could create unknown increases in the number of complaints the Board's enforcement program would need to investigate if those persons proceed to commit additional crimes after as licensees of the Board.

ECONOMIC IMPACT

Not applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION**Support:**

All of Us or None
Anchor of Hope Ministries
Anti-Recidivism Coalition
Because Black is Still Beautiful
Californians for Prop 57
Californians for Safety and Justice
Center for Employment Opportunities (CEO)
Center for Living and Learning
Checkr
East Bay Community Law Center
Legal Services for Prisoners with Children

Los Angeles Regional Reentry Partnership (LARRP)
National Association of Social Workers - California Chapter
Prisoner Reentry Network
Project Rebound: Expanded
REDF (Roberts Enterprise Development Fund)
Rise Together Bay Area
Root & Rebound
San Jose State University Record Clearance Project
The Young Women's Freedom Center

Opposition: None on File

ARGUMENTS

Proponents: None on File

Opponents: None on File

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AB-2138 Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction. (2017-2018)

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Date Published: 02/12/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL

No. 2138

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend Sections 480 and 11345.2 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as introduced, Chiu. Licensing boards: denial of application: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and authorizes a board to deny a license on the grounds that the applicant has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified.

This bill would instead prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime and would make conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of

sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a ~~felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482-~~ *nonviolent crime*.

~~(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.~~

~~(d)~~

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

SEC. 2. Section 11345.2 of the Business and Professions Code is amended to read:


11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. ~~Notwithstanding subdivision (c) of Section 480, if~~ *If* the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #7(a)(1)(E) – AB 2943 (Low) Unlawful Business Practices: Sexual Orientation Change Efforts

Background:

This bill would include, as an unlawful practice prohibited under the Consumer Legal Remedies Act (CLRA), advertising, offering to engage in, or engaging in sexual orientation change efforts with an individual.

This bill would define sexual orientation change efforts as follows:

(i) (1) “Sexual orientation change efforts” means any practices that seek to change an individual’s sexual orientation. This includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

(2) “Sexual orientation change efforts” does not include psychotherapies that: (A) provide acceptance, support, and understanding of clients or the facilitation of clients’ coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation.

Location: Assembly Committee on Privacy and Consumer Protection

Status: 03/23/2018 – From committee chair, with author's amendments: Amend, and re-refer to Committee on Privacy & Consumer Protection. Read second time and amended.

Action Requested:

Staff recommends that the Committee **Support** AB 2943 as this bill would extend protections to consumers who are currently not protected from sexual orientation change efforts; and recommend a Support position to the full Board.

Attachment A: Analysis of AB 2943 (Low)

Attachment B: AB 2943 (Low) Text

2018 Bill Analysis

Author: Low	Bill Number: AB 2943	Related Bills: AB 1779 (Nazarian)
Sponsor: Equality California (Co-Sponsor) National Center of Lesbian Rights (Co-Sponsor) Trevor Project (Co-Sponsor)	Version: Amended 3/23/2018	
Subject: Unlawful business practices: sexual orientation change efforts		

SUMMARY

This bill would include, as an unlawful practice prohibited under the Consumer Legal Remedies Act (CLRA), advertising, offering to engage in, or engaging in sexual orientation change efforts with an individual.

RECOMMENDATION

SUPPORT - Staff recommends that the Committee recommend a Support position on AB 2943 to the Board, as this bill would extend protections to consumers who are currently not protected from sexual orientation change efforts (also known as conversion therapy) and the harmful effects of this practice on those individuals.

REASON FOR THE BILL

Per the author, sexual orientation change therapy is a dangerous and discredited practice that falsely claim to change a person's sexual orientation from homosexual to heterosexual, change their gender identity or expression, or lessen their same-sex attraction. The American Psychiatric Association, American Psychological Association (APA), the American Counseling Association, the National Association of Social

Other Boards/Departments that may be affected:	
<input type="checkbox"/> Change in Fee(s) <input type="checkbox"/> Affects Licensing Processes <input checked="" type="checkbox"/> Affects Enforcement Processes	
<input type="checkbox"/> Urgency Clause <input type="checkbox"/> Regulations Required <input type="checkbox"/> Legislative Reporting <input type="checkbox"/> New Appointment Required	
Policy & Advocacy Committee Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____	Full Board Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____

Workers, and the American Medical Association all oppose the practice on the basis

that conversion therapy is not evidence-based and can be potentially harmful to a patient's mental health.

AB 2943 would declare sexual orientation change efforts a fraudulent practice under the CLRA. Doing so would extend certain consumer protections to individuals damaged by sexual orientation change therapy efforts.

According to the author, AB 2943 is needed to increase accountability for those who claim to provide therapy but are in fact peddling an unfounded and destructive practice.

ANALYSIS

According to the APA Task Force on Appropriate Therapeutic Responses to Sexual Orientation, efforts to change sexual orientation are unlikely to be successful and involve some risk of harm. Research and clinical literature demonstrate that same-sex sexual and romantic attractions, feelings and behaviors are normal and positive variations of human sexuality, regardless of sexual orientation identity. The appropriate application of affirmative therapeutic interventions for those who seek sexual orientation change efforts involves therapist acceptance, support and understanding of clients and the facilitation of clients' active coping, social support and identity exploration and development, without imposing a specific sexual orientation identity outcome.

The CLRA begins with section 1750 of the Civil Code and establishes provisions in law which cannot be waived by a consumer. The CLRA declares unlawful, several methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer.

Current law makes it a violation of the Business and Professions Code to offer sexual orientation change efforts with anyone under the age of 18. This bill would go beyond the current law by creating an outright ban on the practice.

This bill would add advertising, offering to engage in, or engaging in sexual orientation change efforts with an individual as a violation of the CLRA, which would allow a consumer to file suit under the Civil Code. Additionally, by adding these services under the Civil Code, any violation by a licensed psychologist would then become a violation of section 2960(a) of the Business and Professions Code, "conviction of a crime substantially related to the qualifications functions or duties of a psychologist or psychological assistant." By making this violation a crime, this bill could result in an impact on the Board's Enforcement Unit.

LEGISLATIVE HISTORY

SB 1172 (Chapter 835, Statutes of 2012) – This bill prohibits mental health providers from performing sexual orientation change efforts with a patient under 18 years of age. Violating this law subjects the provider to discipline by the provider's licensing entity.

AB 1779 (Nazarian) – This bill would change section 865.1 of the Business and Professions Code to include dependent adults and those under the age of 18, as patient categories sexual orientation change efforts cannot be practiced on.

OTHER STATES' INFORMATION

Currently, nine other states and the District of Columbia ban the use of sexual orientation change therapy for minors.

PROGRAM BACKGROUND

The Board advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the practice. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

This bill could result in an increase in the number of enforcement cases received by the Board, but would not change the way which our enforcement program reviews and investigates violations.

FISCAL IMPACT

Not Applicable

ECONOMIC IMPACT

Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION**Support:**

Equality California (Co-Sponsor)
National Center of Lesbian Rights (Co-Sponsor)
Trevor Project (Co-Sponsor)
LA LGBT Center

Opposition: None on File

ARGUMENTS

Proponents: None on File

Opponents: None on File

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AB-2943 Unlawful business practices: sexual orientation change efforts. (2017-2018)

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Date Published: 03/23/2018 09:00 PM

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 2943**

Introduced by Assembly Member Low
(Principal coauthors: Assembly Members Cervantes, Eggman, and Gloria)
(Principal coauthors: Senators Atkins, Galgiani, Lara, and Wiener)

February 16, 2018

An act to amend Sections 1761 and 1770 of the Civil Code, relating to unlawful business practices.

LEGISLATIVE COUNSEL'S DIGEST

AB 2943, as amended, Low. Unlawful business practices: sexual orientation change efforts.

Existing law, the Consumer Legal Remedies Act, makes unlawful certain unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to ~~result~~ *result*, or which ~~results~~ *results*, in the sale or lease of goods or services to any consumer. Existing law authorizes any consumer who suffers damages as a result of these unlawful practices to bring an action against that person to recover damages, among other things.

Existing law prohibits mental health providers, as defined, from performing sexual orientation change efforts, as specified, with a patient under 18 years of age. Existing law requires a violation of this provision to be considered unprofessional conduct and subjects the provider to discipline by the provider's licensing entity.

This bill would include, as an unlawful practice prohibited under the Consumer Legal Remedies Act, advertising, offering to engage in, or engaging in sexual orientation change efforts with an individual. The bill would also declare the intent of the Legislature in this regard.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) Contemporary science recognizes that being lesbian, gay, bisexual, or transgender is part of the natural spectrum of human identity and is not a disease, disorder, or illness.

(b) The American Psychological Association convened the Task Force on Appropriate Therapeutic Responses to Sexual Orientation. The task force conducted a systematic review of peer-reviewed journal literature on sexual orientation change efforts and issued a report in 2009. The task force concluded that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people, including confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal, suicidality, substance abuse, stress, disappointment, self-blame, decreased self-esteem and authenticity to others, increased self-hatred, hostility and blame toward parents, feelings of anger and betrayal, loss of friends and potential romantic partners, problems in sexual and emotional intimacy, sexual dysfunction, high-risk sexual behaviors, a feeling of being dehumanized and untrue to self, a loss of faith, and a sense of having wasted time and resources.

(c) The American Psychological Association issued a resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts in 2009, stating: “[T]he [American Psychological Association] advises parents, guardians, young people, and their families to avoid sexual orientation change efforts that portray homosexuality as a mental illness or developmental disorder and to seek psychotherapy, social support, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth.”

(d) The American Psychiatric Association published a position statement in March of 2000, stating:

“Psychotherapeutic modalities to convert or ‘repair’ homosexuality are based on developmental theories whose scientific validity is questionable. Furthermore, anecdotal reports of ‘cures’ are counterbalanced by anecdotal claims of psychological harm. In the last four decades, ‘reparative’ therapists have not produced any rigorous scientific research to substantiate their claims of cure. Until there is such research available, [the American Psychiatric Association] recommends that ethical practitioners refrain from attempts to change individuals’ sexual orientation, keeping in mind the medical dictum to first, do no harm.

The potential risks of reparative therapy are great, including depression, anxiety and self-destructive behavior, since therapist alignment with societal prejudices against homosexuality may reinforce self-hatred already experienced by the patient. Many patients who have undergone reparative therapy relate that they were inaccurately told that homosexuals are lonely, unhappy individuals who never achieve acceptance or satisfaction. The possibility that the person might achieve happiness and satisfying interpersonal relationships as a gay man or lesbian is not presented, nor are alternative approaches to dealing with the effects of societal stigmatization discussed.

Therefore, the American Psychiatric Association opposes any psychiatric treatment such as reparative or conversion therapy which is based upon the assumption that homosexuality per se is a mental disorder or based upon the a priori assumption that a patient should change his/her sexual homosexual orientation.”

(e) The American Academy of Pediatrics published an article in 1993 in its journal, Pediatrics, stating: “Therapy directed at specifically changing sexual orientation is contraindicated, since it can provoke guilt and anxiety while having little or no potential for achieving changes in orientation.”

(f) The American Medical Association Council on Scientific Affairs prepared a report in ~~1994~~ 1994, stating: “Aversion therapy (a behavioral or medical intervention which pairs unwanted behavior, in this case, homosexual behavior, with unpleasant sensations or aversive consequences) is no longer recommended for gay men and lesbians. Through psychotherapy, gay men and lesbians can become comfortable with their sexual orientation and understand the societal response to it.”

(g) The National Association of Social Workers prepared a 1997 policy statement, stating: “Social stigmatization of lesbian, gay and bisexual people is widespread and is a primary motivating factor in leading some people to seek sexual orientation changes. Sexual orientation conversion therapies assume that homosexual orientation is both pathological and freely chosen. No data demonstrates that reparative or conversion therapies are effective, and, in fact, they may be harmful.”

(h) The American Counseling Association Governing Council issued a position statement in April of 1999, stating: “We oppose ‘the promotion of “reparative therapy” as a “cure” for individuals who are homosexual.’”

(i) The American School Counselor Association issued a position statement in 2014, stating: “It is not the role of the professional school counselor to attempt to change a student’s sexual orientation or gender identity. Professional school counselors do not support efforts by licensed mental health professionals to change a student’s sexual orientation or gender as these practices have been proven ineffective and harmful.”

(j) The American Psychoanalytic Association issued a position statement in June 2012 on attempts to change sexual orientation, gender, identity, or gender expression, stating: “As with any societal prejudice, bias against individuals based on actual or perceived sexual orientation, gender identity or gender expression negatively

affects mental health, contributing to an enduring sense of stigma and pervasive self-criticism through the internalization of such prejudice.

Psychoanalytic technique does not encompass purposeful attempts to 'convert,' 'repair,' change or shift an individual's sexual orientation, gender identity or gender expression. Such directed efforts are against fundamental principles of psychoanalytic treatment and often result in substantial psychological pain by reinforcing damaging internalized attitudes."

(k) The American Academy of Child and Adolescent Psychiatry published an article in 2012 in its journal, *Journal of the American Academy of Child and Adolescent Psychiatry*, stating: "Clinicians should be aware that there is no evidence that sexual orientation can be altered through therapy, and that attempts to do so may be harmful. There is no empirical evidence adult homosexuality can be prevented if gender nonconforming children are influenced to be more gender conforming. Indeed, there is no medically valid basis for attempting to prevent homosexuality, which is not an illness. On the contrary, such efforts may encourage family rejection and undermine self-esteem, connectedness and caring, important protective factors against suicidal ideation and attempts. Given that there is no evidence that efforts to alter sexual orientation are effective, beneficial or necessary, and the possibility that they carry the risk of significant harm, such interventions are contraindicated."

(l) The Pan American Health Organization, a regional office of the World Health Organization, issued a statement in May of 2012, stating: "These supposed conversion therapies constitute a violation of the ethical principles of health care and violate human rights that are protected by international and regional agreements." The organization also noted that reparative therapies "lack medical justification and represent a serious threat to the health and well-being of affected people."

(m) The American Association of Sexuality Educators, Counselors and Therapists (AASECT) issued a statement in ~~2014~~ 2014, stating: "[S]ame sex orientation is not a mental disorder and we oppose any 'reparative' or conversion therapy that seeks to 'change' or 'fix' a person's sexual orientation. AASECT does not believe that sexual orientation is something that needs to be 'fixed' or 'changed.' The rationale behind this position is the following: Reparative therapy, for minors, in particular, is often forced or nonconsensual. Reparative therapy has been proven harmful to minors. There is no scientific evidence supporting the success of these interventions. Reparative therapy is grounded in the idea that nonheterosexual orientation is 'disordered.' Reparative therapy has been shown to be a negative predictor of psychotherapeutic benefit."

(n) The American College of Physicians wrote a position paper in 2015, stating: "The College opposes the use of 'conversion,' 'reorientation,' or 'reparative' therapy for the treatment of LGBT persons. . . . Available research does not support the use of reparative therapy as an effective method in the treatment of LGBT persons. Evidence shows that the practice may actually cause emotional or physical harm to LGBT individuals, particularly adolescents or young persons."

(o) In October 2015, the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services issued a report titled "Ending Conversion Therapy: Supporting and Affirming LGBTQ Youth." The report found that "[i]nterventions aimed at a fixed outcome, such as gender conformity or heterosexual orientation, including those aimed at changing gender identity, gender expression, and sexual orientation are coercive, can be harmful, and should not be part of behavioral health treatment."

(p) ~~Courts~~ Courts, including in California, have recognized the practice of sexual orientation change efforts as a commercial ~~service, and~~ service. Therefore, claims that sexual orientation change efforts are effective in changing an individual's sexual orientation, may constitute unlawful, unfair, or fraudulent business practices under state consumer protection laws. *This bill intends to make clear that sexual orientation change efforts are an unlawful practice under California's Consumer Legal Remedies Act.*

(q) California has a compelling interest in protecting the physical and psychological well-being of lesbian, gay, bisexual, and transgender individuals.

(r) California has a compelling interest in protecting consumers from false and deceptive practices that claim to change sexual orientation and in protecting consumers against exposure to serious harm caused by sexual orientation change efforts.

SEC. 2. Section 1761 of the Civil Code is amended to read:

1761. As used in this title:

(a) "Goods" means tangible chattels bought or leased for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and including goods that, at the time of

the sale or subsequently, are to be so affixed to real property as to become a part of real property, whether or not they are severable from the real property.

(b) "Services" means work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods.

(c) "Person" means an individual, partnership, corporation, limited liability company, association, or other group, however organized.

(d) "Consumer" means an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes.

(e) "Transaction" means an agreement between a consumer and another person, whether or not the agreement is a contract enforceable by action, and includes the making of, and the performance pursuant to, that agreement.

(f) "Senior citizen" means a person who is 65 years of age or older.

(g) "Disabled person" means a person who has a physical or mental impairment that substantially limits one or more major life activities.

(1) As used in this subdivision, "physical or mental impairment" means any of the following:

(A) A physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(B) A mental or psychological disorder, including intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. "Physical or mental impairment" includes, but is not limited to, diseases and conditions that include orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, and emotional illness.

(2) "Major life activities" means functions that include caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(h) "Home solicitation" means a transaction made at the consumer's primary residence, except those transactions initiated by the consumer. A consumer response to an advertisement is not a home solicitation.

(i) (1) "Sexual orientation change efforts" means any practices that seek to change an individual's sexual orientation. This includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

(2) "Sexual orientation change efforts" does not include psychotherapies that: (A) provide acceptance, support, and understanding of clients or the facilitation of clients' coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation.

SEC. 3. Section 1770 of the Civil Code is amended to read:

1770. (a) The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or that results in the sale or lease of goods or services to any consumer are unlawful:

(1) Passing off goods or services as those of another.

(2) Misrepresenting the source, sponsorship, approval, or certification of goods or services.

(3) Misrepresenting the affiliation, connection, or association with, or certification by, another.

(4) Using deceptive representations or designations of geographic origin in connection with goods or services.

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have.

- (6) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.
- (7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.
- (8) Disparaging the goods, services, or business of another by false or misleading representation of fact.
- (9) Advertising goods or services with intent not to sell them as advertised.
- (10) Advertising goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.
- (11) Advertising furniture without clearly indicating that it is unassembled if that is the case.
- (12) Advertising the price of unassembled furniture without clearly indicating the assembled price of that furniture if the same furniture is available assembled from the seller.
- (13) Making false or misleading statements of fact concerning reasons for, existence of, or amounts of, price reductions.
- (14) Representing that a transaction confers or involves rights, remedies, or obligations that it does not have or involve, or that are prohibited by law.
- (15) Representing that a part, replacement, or repair service is needed when it is not.
- (16) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.
- (17) Representing that the consumer will receive a rebate, discount, or other economic benefit, if the earning of the benefit is contingent on an event to occur subsequent to the consummation of the transaction.
- (18) Misrepresenting the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction with a consumer.
- (19) Inserting an unconscionable provision in the contract.
- (20) Advertising that a product is being offered at a specific price plus a specific percentage of that price unless (A) the total price is set forth in the advertisement, which may include, but is not limited to, shelf tags, displays, and media advertising, in a size larger than any other price in that advertisement, and (B) the specific price plus a specific percentage of that price represents a markup from the seller's costs or from the wholesale price of the product. This subdivision shall not apply to in-store advertising by businesses that are open only to members or cooperative organizations organized pursuant to Division 3 (commencing with Section 12000) of Title 1 of the Corporations Code where more than 50 percent of purchases are made at the specific price set forth in the advertisement.
- (21) Selling or leasing goods in violation of Chapter 4 (commencing with Section 1797.8) of Title 1.7.
- (22) (A) Disseminating an unsolicited prerecorded message by telephone without an unrecorded, natural voice first informing the person answering the telephone of the name of the caller or the organization being represented, and either the address or the telephone number of the caller, and without obtaining the consent of that person to listen to the prerecorded message.

(B) This subdivision does not apply to a message disseminated to a business associate, customer, or other person having an established relationship with the person or organization making the call, to a call for the purpose of collecting an existing obligation, or to any call generated at the request of the recipient.
- (23) (A) The home solicitation, as defined in subdivision (h) of Section 1761, of a consumer who is a senior citizen where a loan is made encumbering the primary residence of that consumer for purposes of paying for home improvements and where the transaction is part of a pattern or practice in violation of either subsection (h) or (i) of Section 1639 of Title 15 of the United States Code or paragraphs (1), (2), and (4) of subdivision (a) of Section 226.34 of Title 12 of the Code of Federal Regulations.

(B) A third party shall not be liable under this subdivision unless (i) there was an agency relationship between the party who engaged in home solicitation and the third party, or (ii) the third party had actual knowledge of, or participated in, the unfair or deceptive transaction. A third party who is a holder in due course under a home solicitation transaction shall not be liable under this subdivision.

(24) (A) Charging or receiving an unreasonable fee to prepare, aid, or advise any prospective applicant, applicant, or recipient in the procurement, maintenance, or securing of public social services.

(B) For purposes of this paragraph, the following definitions shall apply:

(i) "Public social services" means those activities and functions of state and local government administered or supervised by the State Department of Health Care Services, the State Department of Public Health, or the State Department of Social Services, and involved in providing aid or services, or both, including health care services, and medical assistance, to those persons who, because of their economic circumstances or social condition, are in need of that aid or those services and may benefit from them.

(ii) "Public social services" also includes activities and functions administered or supervised by the United States Department of Veterans Affairs or the California Department of Veterans Affairs involved in providing aid or services, or both, to veterans, including pension benefits.

(iii) "Unreasonable fee" means a fee that is exorbitant and disproportionate to the services performed. Factors to be considered, if appropriate, in determining the reasonableness of a fee, are based on the circumstances existing at the time of the service and shall include, but not be limited to, all of the following:

(I) The time and effort required.

(II) The novelty and difficulty of the services.

(III) The skill required to perform the services.

(IV) The nature and length of the professional relationship.

(V) The experience, reputation, and ability of the person providing the services.

(C) This paragraph shall not apply to attorneys licensed to practice law in California, who are subject to the California Rules of Professional Conduct and to the mandatory fee arbitration provisions of Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, when the fees charged or received are for providing representation in administrative agency appeal proceedings or court proceedings for purposes of procuring, maintaining, or securing public social services on behalf of a person or group of persons.

(25) (A) Advertising or promoting any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements that does not include the following statement in the same type size and font as the term "veteran" or any variation of that term:

(i) "I am not authorized to file an initial application for Veterans' Aid and Attendance benefits on your behalf, or to represent you before the Board of Veterans' Appeals within the United States Department of Veterans Affairs in any proceeding on any matter, including an application for such benefits. It would be illegal for me to accept a fee for preparing that application on your behalf." The requirements of this clause do not apply to a person licensed to act as an agent or attorney in proceedings before the Agency of Original Jurisdiction and the Board of Veterans' Appeals within the United States Department of Veterans Affairs when that person is offering those services at the advertised event.

(ii) The statement in clause (i) shall also be disseminated, both orally and in writing, at the beginning of any event, presentation, seminar, workshop, or public gathering regarding veterans' benefits or entitlements.

(B) Advertising or promoting any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements that is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries that does not include the following statement, in the same type size and font as the term "veteran" or the variation of that term:

"This event is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries. None of the insurance products promoted at this sales event are endorsed by those organizations, all of which offer free advice to veterans about how to qualify and apply for benefits."

(i) The statement in this subparagraph shall be disseminated, both orally and in writing, at the beginning of any event, presentation, seminar, workshop, or public gathering regarding veterans' benefits or entitlements.

(ii) The requirements of this subparagraph shall not apply in a case where the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries have granted written permission to the advertiser or promoter for the use of its name, symbol, or insignia to advertise or promote the event, presentation, seminar, workshop, or other public gathering.

(26) Advertising, offering for sale, or selling a financial product that is illegal under state or federal law, including any cash payment for the assignment to a third party of the consumer's right to receive future pension or veteran's benefits.


(27) Representing that a product is made in California by using a Made in California label created pursuant to Section 12098.10 of the Government Code, unless the product complies with Section 12098.10 of the Government Code.

(28) Advertising, offering to engage in, or engaging in sexual orientation change efforts with an individual.

(b) (1) It is an unfair or deceptive act or practice for a mortgage broker or lender, directly or indirectly, to use a home improvement contractor to negotiate the terms of any loan that is secured, whether in whole or in part, by the residence of the borrower and that is used to finance a home improvement contract or any portion of a home improvement contract. For purposes of this subdivision, "mortgage broker or lender" includes a finance lender licensed pursuant to the California Finance Lenders Law (Division 9 (commencing with Section 22000) of the Financial Code), a residential mortgage lender licensed pursuant to the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code), or a real estate broker licensed under the Real Estate Law (Division 4 (commencing with Section 10000) of the Business and Professions Code).

(2) This section shall not be construed to either authorize or prohibit a home improvement contractor from referring a consumer to a mortgage broker or lender by this subdivision. However, a home improvement contractor may refer a consumer to a mortgage lender or broker if that referral does not violate Section 7157 of the Business and Professions Code or any other law. A mortgage lender or broker may purchase an executed home improvement contract if that purchase does not violate Section 7157 of the Business and Professions Code or any other law. Nothing in this paragraph shall have any effect on the application of Chapter 1 (commencing with Section 1801) of Title 2 to a home improvement transaction or the financing of a home improvement transaction.

MEMORANDUM

DATE	March 28, 2018
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #7(a)(1)(F) – SB 1125 (Atkins) Federally qualified health center and rural health clinic services

Background:

Currently, a patient of a federally qualified health center (FQHC) or rural health clinic (RHC) can only see one healthcare practitioner (aside from a dentist) in a day.

This bill would allow Medi-Cal reimbursement for a patient receiving medical services at an FQHC or RHC, to receive both medical services and also to obtain mental health services on the same day they receive the medical services.

Location: Senate Committee on Health

Status: 3/12/2018 - Set for hearing April 25.

Action Requested:

Staff recommends that the Committee **Support** SB 1125 as this bill would allow Medi-Cal patients receiving services at FQHCs and RHCs to receive mental health services on the same day as they get other health care services, which would increase access to mental health care for these consumers.

Attachment A: Analysis of SB 1125 (Atkins)

Attachment B: SB 1125 (Atkins) Text

2018 Bill Analysis

Author: Atkins	Bill Number: SB 1125	Related Bills:
Sponsor: Steinberg Institute California Health+ Advocates	Version: Introduced	
Subject: Federally qualified health center and rural health clinic services		

SUMMARY

This bill would allow Medi-Cal reimbursement for a patient receiving medical services at a federally qualified health center (FQHC) or rural health clinic (RHC), to receive both medical services and also to obtain mental health services on the same day they receive the medical services.

RECOMMENDATION

SUPPORT – This bill would allow Medi-Cal patients receiving services at FQHCs and RHCs to receive mental health services on the same day as they get other health care services, which would increase access to mental health care for these consumers. For this reason, staff recommends a Support position on SB 1125 (Atkins).

REASON FOR THE BILL

According to the author, in California, if a patient receives treatment through Medi-Cal at a community health center from both a medical provider and a mental health specialist on the same day, the State Department of Health Care Services will only reimburse the center for one “visit”, meaning both providers can’t be adequately reimbursed for their time and expertise. A patient must seek mental health treatment on a subsequent day in order for that treatment to be reimbursed as a second “visit.”

Other Boards/Departments that may be affected:	
<input type="checkbox"/> Change in Fee(s) <input type="checkbox"/> Affects Licensing Processes <input type="checkbox"/> Affects Enforcement Processes	
<input type="checkbox"/> Urgency Clause <input type="checkbox"/> Regulations Required <input type="checkbox"/> Legislative Reporting <input type="checkbox"/> New Appointment Required	
Policy & Advocacy Committee Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____	Full Board Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____

This statute creates an undue financial barrier for community centers, known as Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs), preventing them from treating their patients in a comprehensive manner in the same day.

The author notes that this barrier doesn't exist for similar health services. The federal Medicare program allows for same-day billing of behavioral health and medical services and California allows FQHC and RHCs to bill for two separate Medi-Cal "visits" if a patient sees both a primary care provider and a dental provider on the same day. In addition, the federal government encourages states to allow FQHCs and RHCs to bill for care provided by a primary care specialist and mental health specialist in the same day as two separate visits in recognition of the value comprehensive care generates.

The author believes it is inexplicable that California has refused to change its Medi-Cal billing statute to align with federal policy and its own state policy regarding dental care. Emergency rooms are too often a costly point of entry for mental health services, and we see the fallout of untreated mental illness on our streets, our jails, and our communities.

ANALYSIS

Access to care

Currently, a patient of an FQHC or RHC can only see one healthcare practitioner (aside from a dentist) in a day. This creates unnecessary barriers to treatment for these low-income patients that have work, families, sometimes have to take public transportation, and have to travel long distances for services.

This bill will allow an FQHC or RHC to be reimbursed by Medi-Cal if a patient has a "medical visit" (a face-to-face encounter between a patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, visiting nurse, or a comprehensive perinatal practitioner, as defined in Title 22 of the California Code of Regulations (CCR) Section 51179.7, or providing comprehensive perinatal services) and "another health visit" (face-to-face encounter between a patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, visiting nurse, or a comprehensive perinatal practitioner, as defined in 22 CCR 51179.7, or providing comprehensive perinatal services) in the same day. A maximum of two visits in one day can be reimbursed. Currently, only dental visits and medical visits can be completed in the same day.

Allowing patients of FQHC's and RHC's to see a mental health provider and a medical provider on the same day, will increase the likelihood that patients can start or continue receiving mental health services at these clinics.

LEGISLATIVE HISTORY

SB 238 (Aanestad, Chapter 638, Statutes 2007) – This bill introduced the current language into section 14132.100 of the Welfare and Institutions Code which states that no more than one visit to a health care professional (which include psychologist and

medical doctors) per day can be reimbursed unless the patient suffers illness or injury requiring additional diagnosis or treatment.

SB 260 (Steinberg, Vetoed, 2007) – This bill would have allowed a mental health visit and another medical visit to be billed as two separate visits.

OTHER STATES' INFORMATION

Not Applicable

PROGRAM BACKGROUND

The Board advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the practice. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

This bill would have no impact on the Board of Psychology's operations or programs, but could potentially benefit its licensees and recipients of psychological services.

FISCAL IMPACT

Not Applicable

ECONOMIC IMPACT

This bill could result in additional funding for FQHC's and RHC's which could create additional opportunities for mental health providers to serve these communities.

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support:

California Health+ Advocates (Co-Sponsor)
Steinberg Institute (Co-Sponsor)

Opposition:

None on File

ARGUMENTS

Proponents: None on File

Opponents: None on File

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SB-1125 Federally qualified health center and rural health clinic services. (2017-2018)

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Date Published: 02/13/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

SENATE BILL**No. 1125**

Introduced by Senator Atkins
(Principal coauthor: Assembly Member Wood)
(Coauthors: Senators Beall, Hertzberg, Roth, and Wilk)
(Coauthors: Assembly Members Bloom, Dahle, Mullin, Reyes, and Mark Stone)

February 13, 2018

An act to amend Section 14132.100 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1125, as introduced, Atkins. Federally qualified health center and rural health clinic services.

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 (FOHC) 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 FOHC or RHC and specified health care professionals.

This bill would authorize reimbursement for a maximum of 2 visits taking place on the same day at a single location if after the first visit the patient suffers illness or injury requiring additional diagnosis or treatment, or if the patient has a medical visit and another health visit, as defined. The bill would require an FOHC or RHC that currently includes the cost of encounters with more than one health professional that take place on the same day at a single location as a single visit for purposes of establishing the FOHC's or RHC's rate to apply for an adjustment to its per-visit rate by January 1, 2020, and after the department has approved that rate adjustment, to bill a medical visit and another health visit that take place on the same day at a single location as separate visits, in accordance with the bill. The bill would require the department, by January 15, 2019, to submit a state plan amendment to the federal Centers for Medicare and Medicaid Services to reflect the changes described in the bill, and to seek necessary federal approvals by March 30, 2019.

Vote: majority Appropriation: no Fiscal Committee: yes 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 ~~(h)~~ (m). 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~~, *medical doctor*, 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, 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, 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 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, 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, 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).

(3) Notwithstanding any other provision of this section, ~~no later than~~ *by* July 1, 2018, a visit shall include a marriage and family therapist.

(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 *new* FQHC or RHC ~~enrollment approval~~, *provider number*, 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) (1) For purposes of this subdivision, the following definitions shall apply:

(A) "Another health visit" means a face-to-face encounter between an FQHC or RHC patient and a clinical psychologist, licensed clinical social worker, marriage and family therapist, dentist, dental hygienist, or registered dental hygienist in alternative practice.

(B) "Medical visit" means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, visiting nurse, or a comprehensive perinatal practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services.

(2) A maximum of two visits, as defined in subdivision (g), taking place on the same day at a single location shall be reimbursed when one or more of the following conditions exists:

(A) After the first visit the patient suffers illness or injury requiring additional diagnosis or treatment.

(B) The patient has a medical visit and another health visit.

(3) (A) Notwithstanding subdivision (e), an FQHC or RHC that currently includes the cost of encounters with more than one health professional that take place on the same day at a single location as constituting a single visit for purposes of establishing its FQHC or RHC rate shall apply, by January 1, 2020, for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, the FQHC or RHC shall bill a medical visit and another health visit that take place on the same day at a single location as separate visits.

(B) The department, by July 1, 2019, shall develop and adjust all appropriate forms to determine which FQHC's or RHC's rates shall be adjusted and to facilitate the calculation of the adjusted rates.

(C) An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this paragraph shall not constitute a change in scope of service within the meaning of subdivision (e).

(D) An FQHC or RHC that applies for an adjustment to its rate pursuant to this paragraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment has been approved.

(4) The department, by January 15, 2019, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services reflecting the changes described in this subdivision.



(m) Reimbursement for Drug Medi-Cal services shall be provided pursuant to this subdivision.

(1) An FQHC or RHC may elect to have Drug Medi-Cal services reimbursed directly from a county or the department under contract with the FQHC or RHC pursuant to paragraph (4).

(2) (A) For an FQHC or RHC to receive reimbursement for Drug Medi-Cal services directly from the county or the department under contract with the FQHC or RHC pursuant to paragraph (4), costs associated with providing Drug Medi-Cal services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing Drug Medi-Cal services shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering Drug Medi-Cal services the clinic uses different clinical staff at a different location.

(B) If the FQHC or RHC does not use different clinical staff at a different location to deliver Drug Medi-Cal services, the FQHC or RHC shall submit documentation, in a manner determined by the department, that the current per-visit PPS rate does not include any costs related to rendering Drug Medi-Cal services, including costs related to utilizing space in part of the FQHC's or RHC's building, that are or were previously calculated as part of the clinic's base PPS rate.

(3) If the costs associated with providing Drug Medi-Cal services are within the FQHC's or RHC's clinic base PPS rate, as determined by the department, the Drug Medi-Cal services costs shall be adjusted out of the FQHC's or RHC's per-visit PPS rate as a change in scope of service.

(A) An FQHC or RHC shall submit to the department a scope-of-service change request to adjust the FQHC's or RHC's clinic base PPS rate after the first full fiscal year of rendering Drug Medi-Cal services outside of the PPS rate. Notwithstanding subdivision (e), the scope-of-service change request shall include a full fiscal year of activity that does not include Drug Medi-Cal services costs.

(B) An FQHC or RHC may submit requests for scope-of-service change under this subdivision only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any scope-of-service change request under this subdivision approved by the department shall be retroactive to the first day that Drug Medi-Cal services were rendered and reimbursement for Drug Medi-Cal services was received outside of the PPS rate, but in no case shall the effective date be earlier than January 1, 2018.

(C) The FQHC or RHC may bill for Drug Medi-Cal services outside of the PPS rate when the FQHC or RHC obtains approval as a Drug Medi-Cal provider and enters into a contract with a county or the department to provide these services pursuant to paragraph (4).

(D) Within 90 days of receipt of the request for a scope-in-service change under this subdivision, the department shall issue the FQHC or RHC an interim rate equal to 90 percent of the FQHC's or RHC's projected allowable cost, as determined by the department. An audit to determine the final rate shall be performed in accordance with Section 14170.

(E) Rate changes based on a request for scope-of-service change under this subdivision 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.

(F) For purposes of recalculating the PPS rate, the FQHC or RHC shall provide upon request to the department verifiable documentation as to which employees spent time, and the actual time spent, providing federally qualified health center services or rural health center services and Drug Medi-Cal services.

(G) After the department approves the adjustment to the FQHC's or RHC's clinic base PPS rate and the FQHC or RHC is approved as a Drug Medi-Cal provider, an FQHC or RHC shall not bill the PPS rate for any Drug Medi-Cal services provided pursuant to a contract entered into with a county or the department pursuant to paragraph (4).

(H) An FQHC or RHC that reverses its election under this subdivision shall revert to its prior PPS 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 the applicable scope-of-service adjustments as provided for in subdivision (e).

(4) Reimbursement for Drug Medi-Cal services shall be determined according to subparagraph (A) or (B), depending on whether the services are provided in a county that participates in the Drug Medi-Cal organized delivery system (DMC-ODS).

(A) In a county that participates in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county or county designee and the FQHC or RHC. If the county or county designee refuses to contract with the FQHC or RHC, the FQHC or RHC may follow the contract denial process set forth in the Special Terms and Conditions.

(B) In a county that does not participate in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county and the FQHC or RHC. If the county refuses to contract with the FQHC or RHC, the FQHC or RHC may request to contract directly with the department and shall be reimbursed for those services at the Drug Medi-Cal fee-for-service rate.

(5) The department shall not reimburse an FQHC or RHC pursuant to subdivision (h) for the difference between its per-visit PPS rate and any payments for Drug Medi-Cal services made pursuant to this subdivision.

(6) For purposes of this subdivision, the following definitions shall apply:

(A) "Drug Medi-Cal organized delivery system" or "DMC-ODS" means the Drug Medi-Cal organized delivery system authorized under the California Medi-Cal 2020 Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services and described in the Special Terms and Conditions.

(B) "Special Terms and Conditions" shall have the same meaning as set forth in subdivision (o) of Section 14184.10.

~~(m)~~

~~(n)~~ Reimbursement for specialty mental health services shall be provided pursuant to this subdivision.

(1) An FQHC or RHC and one or more mental health plans that contract with the department pursuant to Section 14712 may mutually elect to enter into a contract to have the FQHC or RHC provide specialty mental health services to Medi-Cal beneficiaries as part of the mental health plan's network.

(2) (A) For an FQHC or RHC to receive reimbursement for specialty mental health services pursuant to a contract entered into with the mental health plan under paragraph (1), the costs associated with providing specialty mental health services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing specialty mental health services shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering specialty mental health services the clinic uses different clinical staff at a different location.

(B) If the FQHC or RHC does not use different clinical staff at a different location to deliver specialty mental health services, the FQHC or RHC shall submit documentation, in a manner determined by the department, that the current per-visit PPS rate does not include any costs related to rendering specialty mental health services, including costs related to utilizing space in part of the FQHC's or RHC's building, that are or were previously calculated as part of the clinic's base PPS rate.

(3) If the costs associated with providing specialty mental health services are within the FQHC's or RHC's clinic base PPS rate, as determined by the department, the specialty mental health services costs shall be adjusted out of the FQHC's or RHC's per-visit PPS rate as a change in scope of service.

(A) An FQHC or RHC shall submit to the department a scope-of-service change request to adjust the FQHC's or RHC's clinic base PPS rate after the first full fiscal year of rendering specialty mental health services outside of the PPS rate. Notwithstanding subdivision (e), the scope-of-service change request shall include a full fiscal year of activity that does not include specialty mental health costs.

(B) An FQHC or RHC may submit requests for a scope-of-service change under this subdivision only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any scope-of-service change request under this subdivision approved by the department shall be retroactive to the first day that specialty mental health services were rendered and reimbursement for specialty mental health services was received outside of the PPS rate, but in no case shall the effective date be earlier than January 1, 2018.

(C) The FQHC or RHC may bill for specialty mental health services outside of the PPS rate when the FQHC or RHC contracts with a mental health plan to provide these services pursuant to paragraph (1).

(D) Within 90 days of receipt of the request for a scope-in-service change under this subdivision, the department shall issue the FQHC or RHC an interim rate equal to 90 percent of the FQHC's or RHC's projected allowable cost, as determined by the department. An audit to determine the final rate shall be performed in accordance with Section 14170.

(E) Rate changes based on a request for scope-of-service change under this subdivision 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.

(F) For the purpose of recalculating the PPS rate, the FQHC or RHC shall provide upon request to the department verifiable documentation as to which employees spent time, and the actual time spent, providing federally qualified health center services or rural health center services and specialty mental health services.

(G) After the department approves the adjustment to the FQHC's or RHC's clinic base PPS rate, an FQHC or RHC shall not bill the PPS rate for any specialty mental health services that are provided pursuant to a contract entered into with a mental health plan pursuant to paragraph (1).

(H) An FQHC or RHC that reverses its election under this subdivision shall revert to its prior PPS 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 the applicable scope-of-service adjustments as provided for in subdivision (e).

(4) The department shall not reimburse an FQHC or RHC pursuant to subdivision (h) for the difference between its per-visit PPS rate and any payments made for specialty mental health services under this subdivision.

~~(n)~~

(o) 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.

~~(o)~~

(p) The ~~department~~ *department, by March 30, 2019*, shall 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.

~~(p)~~

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

~~(q)~~

(r) Notwithstanding any other law, the director may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific subdivisions ~~(l) and (m)~~ *(m) and (n)* by means of a provider bulletin or similar instruction. The department shall notify and consult with interested parties and appropriate stakeholders in implementing, interpreting, or making specific the provisions of subdivisions ~~(l) and (m)~~ *(m) and (n)*, including all of the following:


(1) Notifying provider representatives in writing of the proposed action or change. The notice shall occur, and the applicable draft provider bulletin or similar instruction, shall be made available at least 10 business days prior to the meeting described in paragraph (2).

(2) Scheduling at least one meeting with interested parties and appropriate stakeholders to discuss the proposed action or change.

(3) Allowing for written input regarding the proposed action or change, to which the department shall provide summary written responses in conjunction with the issuance of the applicable final written provider bulletin or similar instruction.

(4) Providing at least 60 days advance notice of the effective date of the proposed action or change.

MEMORANDUM

DATE	March 30, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(A) – AB 1436 (Berman) Board of Behavioral Sciences: Licensees: Suicide Prevention Training

Background:

AB 1436 (Berman) would require, on or after January 1st, 2021, applicants for licensure as a licensed marriage and family therapist (LMFT), a licensed educational psychologist (LEP), a licensed clinical social worker (LCSW), or licensed professional clinical counselor (LPCC) to complete a minimum of six (6) hours of coursework or applied experience under supervision in suicide risk assessment and intervention. This bill would state that as a one-time requirement, a LMFT, LEP, LCSW, or LPCC must complete this assessment and training requirement prior to the time of his or her first renewal. For those who are applying for reactivation or reinstatement, this bill would also require these individuals to fulfill this requirement.


AB 1436 (Berman) would require that proof of compliance be certified under penalty of perjury and be retained for submission to the Board upon request.

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 1436 (Berman) to stay up to date on other Boards inclusion of the suicide assessment and intervention licensure requirements.

Attachment A: AB 1436 (Berman) Bill Text

MEMORANDUM

DATE	March 28, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(B) – AB 1659 (Low) Healing Arts Boards: Inactive Licenses

Background:

AB 1659 (Low) would include language prohibiting a holder of an inactive license or certificate to represent that he or she has an active license. Current language states that the holder of an inactive license or certificate shall not engage in any activity for which an active license or certificate is required, these amendments would include the holder not being allowed to represent themselves as an active licensee.

This bill would also require each issuing board to charge an inactive renewal fee that is equal to or lower than the renewal fee for an active license or certificate.

Currently, the Board of Psychology (Board) has language that speaks to both provisions, and has no concerns with the bill's current provisions.

Location: 1/29/2018 – Senate Committee on Rules

Status: 1/29/18 –In Senate. Read first time. To Senate Committee on Rules for assignment

Action Requested:

No action is required at this time. Staff will continue to watch AB 1659 (Low) for any future amendments that may affect the Board's inactive license status or related processes.

Attachment: AB 1659 (Low) text


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AB-1659 Healing arts boards: inactive licenses. (2017-2018)

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Date Published: 01/03/2018 02:29 PM

AMENDED IN ASSEMBLY JANUARY 03, 2018

AMENDED IN ASSEMBLY APRIL 04, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 1659

Introduced by Assembly Member Low

February 17, 2017

~~An act to add Sections 43020.2 and 43020.3 to, and to add Chapter 6 (commencing with Section 42370) to Part 3 of Division 30 of, the Public Resources Code, relating to recycling.~~ *An act to amend Sections 701, 702, and 703 of the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1659, as amended, Low. ~~Food Service Plastic Packaging Recovery and Recycling Stewardship Act.~~ *Healing arts boards: inactive licenses.*

Existing law establishes healing arts boards in the Department of Consumer Affairs to ensure private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law requires each healing arts board to issue inactive licenses to holders of active licenses whose license is not punitively restricted by that board. Existing law prohibits the holder of an inactive license from engaging in any activity for which an active license is required. Existing law requires the renewal fee for an active license to apply to an inactive license.

This bill would prohibit the holder of an inactive license from representing that he or she has an active license. The bill would also authorize a healing arts board to establish a lower inactive license renewal fee.

~~(1)The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste.~~

~~Existing law requires a manufacturer of carpets sold in the state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to the Department of Resources Recycling and Recovery for approval that would, among other things, increase the amount of postconsumer carpet that is diverted from landfills and recycled into secondary products. Existing law requires the carpet stewardship plan to include a funding mechanism that provides sufficient funding to carry out the plan and requires a manufacturer or carpet stewardship organization to pay the department an annual administrative fee. Existing law requires the department to identify the direct development or regulatory costs incurred by the department prior to the~~

~~submittal of the carpet stewardship plans, and to establish a fee in an amount adequate to cover these costs, that is paid by a carpet stewardship organization. Existing law imposes administrative civil penalties on a person who violates these provisions.~~

~~This bill, the Food Service Plastic Packaging Recovery and Recycling Stewardship Act, would authorize a city, county, or city and county to establish and implement a residential curbside collection program for the collection and recycling of a particular type of plastic packaging, defined to mean a container or single-use food service packaging product labeled with the same resin code. The bill would require a residential curbside collection program to impose certain requirements on the transportation of plastic packaging collected as a part of the program and on material recovery facilities to which waste that includes that plastic packaging is delivered.~~

~~The bill would require, by June 30, 2018, a manufacturer of plastic packaging sold in this state, individually or through a plastic packaging stewardship organization, to submit to the department one or more plastic packaging stewardship plans, similar to the carpet stewardship plans described above, collectively covering each particular type of plastic packaging distributed, sold, or used in the state by that manufacturer. The bill would require the plan to include a funding mechanism similar to that required in the carpet stewardship law. The bill would require the manufacturer or organization to, among other things, establish a plastic packaging stewardship fee that would be imposed on members of the organization and to determine the appropriate projects and programs to be funded by the stewardship fee that would further the efforts to recycle the particular type of plastic packaging. The bill would require each plastic packaging stewardship organization to make reasonable efforts to achieve specified rate of community access to residential curbside collection programs for each type of plastic packaging covered by the organization's plan, with an overall goal of a 75% rate of community access for each type of plastic packaging on or before January 1, 2043.~~

~~Similar to the carpet stewardship organization, a manufacturer or plastic packaging stewardship organization would be required to pay the department an annual administrative fee, as determined by the department. The bill would require the department to identify the direct development or regulatory costs incurred by the department prior to the submittal of plastic packaging stewardship plans and to establish a fee in an amount adequate in aggregate to cover those costs, to be paid by each plastic packaging stewardship organization that submits a plastic packaging stewardship plan. The bill would provide for the imposition of administrative civil penalties upon a person who violates the bill. The bill would establish the Plastic Packaging Stewardship Account in the Integrated Waste Management Fund and would require the fees collected by the department to be deposited in that account, for expenditure by the department, upon appropriation by the Legislature, to cover the department's cost to implement the bill's provisions. The bill would also establish the Plastic Packaging Stewardship Penalty Subaccount in the Integrated Waste Management Fund and would require that the civil penalties collected by the department pursuant to the bill's provisions be deposited in that subaccount, for expenditure by the department, upon appropriation by the Legislature, to cover the department's costs to implement the bill's provisions.~~

~~(2) Existing law requires the department to adopt regulations relating to waste management, including standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities, and for solid waste handling, transfer, composting, transformation, and disposal.~~

~~This bill would authorize a material recovery facility to send residual materials containing plastic packaging to a secondary sorting facility with the capacity of sorting or separating plastic packaging material from the residual material for recycling. The bill would encourage a solid waste landfill that receives solid waste that contains plastic packaging to send the plastic packaging to a material recovery facility, secondary sorting facility, or to a recycling facility that has the capability to sort, separate, or recycle plastic packaging material.~~

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 701 of the Business and Professions Code is amended to read:*

~~701. Each healing arts board referred to in this division shall issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by that board.~~

701. (a) As used in this article, "board" refers to any healing arts board, division, or examining committee which licenses or certifies health professionals.

(b) Each healing arts board referred to in this division shall issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by that board.

SEC. 2. *Section 702 of the Business and Professions Code is amended to read:*

702. The holder of an inactive healing arts license or certificate issued pursuant to this article shall not ~~engage do~~ *engage do any of the following:*

(a) Engage in any activity for which an active license or certificate is required.

(b) Represent that he or she has an active license.

SEC. 3. *Section 703 of the Business and Professions Code is amended to read:*

703. *(a) An inactive healing arts license or certificate issued pursuant to this article shall be renewed during the same time period at which an active license or certificate is renewed. In order to renew a license or certificate issued pursuant to this article, the holder thereof need not comply with any continuing education requirement for renewal of an active license or certificate.*

~~The~~

(b) The renewal fee for a license or certificate in an active status shall apply also for renewal of a license or certificate in an inactive ~~status.~~ *status, unless a lower fee has been established by the issuing board.*

~~SECTION 1. This act shall be known, and may be cited, as the Food Service Plastic Packaging Recovery and Recycling Stewardship Act.~~

~~SEC. 2. Chapter 6 (commencing with Section 42370) is added to Part 3 of Division 30 of the Public Resources Code, to read:~~

~~6. Food Service Plastic Packaging Stewardship Program~~

~~1. General Provisions~~

~~42370. The Legislature finds and declares the following:~~

~~(a) It is the intent of the Legislature, in adopting this chapter, to reduce the amount of food service packaging that is littered and improperly disposed of, to reduce the amount of food service plastic packaging that is disposed of in landfills, to increase opportunities for businesses or multifamily complexes to save money, to create jobs in California by providing materials for recycling manufacturing facilities, to reduce greenhouse gas emissions, to keep valuable materials out of landfills, and to create a healthy environment for the community and future generations by recovering natural resources by increasing the recycling rate of food service plastic packaging.~~

~~(b) California is home to a number of food service packaging manufacturers that produce a variety of products. These facilities employ thousands of Californians and are important components of the state's economy.~~

~~(c) All food service packaging, regardless of the material from which it is made, has environmental impacts, including, but not limited to, raw material acquisition, energy use, greenhouse gas emissions and other emissions associated with its manufacture, transportation, and disposal, consumption of increasingly scarce landfill capacity, and unsightly and environmentally damaging consequences of littering and other improper disposal.~~

~~(d) Manufacturers, distributors, and users of food service packaging have a shared responsibility to identify, finance, and implement food service packaging materials life-cycle management solutions that are both environmentally responsible and economically sustainable. These solutions include, but are not limited to, reduction of food service packaging, reuse of food service packaging materials, enhanced material collection, sorting and recycling programs, antilitter, pollution prevention, and other public education programs, and developing and supporting emerging material recycling and conversion technologies to facilitate greater reuse and recycling of food service packaging materials.~~

~~(e) Manufacturers of each type of food service packaging material, transporters, solid waste haulers, recyclers, the State of California, local governments, and other stakeholders should work together to develop and implement programs to ensure all food service packaging materials are managed in an environmentally sound and economically sustainable manner.~~

~~(f) With the enactment of this chapter, the Legislature intends to encourage the development of recycling technologies for food service plastic packaging materials without favoring one type of food service packaging~~

~~material, whether plastic or otherwise, over another. It is anticipated that the methods and programs that will be developed pursuant to this chapter will serve as models for similar programs addressing other types of food service packaging materials.~~

~~42370.1. The purpose of this chapter is to increase the amount of food service plastic packaging waste that is diverted from landfills and recycled into new products or otherwise managed in a manner that is consistent with the state's hierarchy for waste management practices pursuant to Section 40051.~~

~~42370.2.(a) For purposes of this chapter, and unless the context otherwise requires, the following definitions shall apply:~~

~~(1) "Community recycling access rate," for a particular type of plastic packaging, means the number of residents that have access to a residential curbside collection program that accepts that type of plastic packaging for recycling divided by the total number of residents in the State of California.~~

~~(2) "Department" means the Department of Resources Recycling and Recovery.~~

~~(3) "Manufacturer" means either of the following:~~

~~(A) The person or entity in the state that manufactures plastic packaging that is sold, offered for sale, or distributed for use in the state.~~

~~(B) If there is no person or entity that is a manufacturer of plastic packaging for purposes of subparagraph (A), the person or entity that imports the plastic packaging into the state for sale, distribution, or use in the state.~~

~~(4) "Material recovery facility" means a facility that sorts residential solid waste that includes recyclable materials for the purpose of separating recyclable materials from materials destined for disposal at a landfill.~~

~~(5) "Particular type of plastic packaging" or "type of plastic packaging" means all plastic packaging labeled with the same resin code pursuant to Section 18015.~~

~~(6) "Plastic packaging" means a container or other single-use food service packaging product labeled with a resin code pursuant to Section 18015 that is used by a food service provider to carry or contain food or beverages that are prepared onsite so that a customer may consume the food offsite if the customer wishes to do so.~~

~~(7) "Plastic packaging stewardship organization" or "organization" means either of the following:~~

~~(A) An organization appointed by one or more manufacturers of a particular type of plastic packaging to act as an agent on behalf of the manufacturer to design, submit, and administer a plastic packaging stewardship plan pursuant to this chapter.~~

~~(B) A plastic packaging manufacturer that complies with this chapter as an individual manufacturer.~~

~~(8) "Recycle" means to take a product or material that has been used and discarded and divert it from disposal in a landfill for the purpose of being transformed, regenerated, or reused in the production of a useful product.~~

~~(b) A term not specifically defined in this chapter shall be interpreted consistent with its meaning in this division.~~

~~2. Food Service Plastic Packaging Stewardship Organization~~

~~42371. On or before June 30, 2018, a manufacturer of plastic packaging distributed, sold, or used in this state shall, individually or through a plastic packaging stewardship organization formed pursuant to Section 42371.2, submit to the department one or more plastic packaging stewardship plans, collectively covering each particular type of plastic packaging distributed, sold, or used in this state by that manufacturer, that will do all of the following:~~

~~(a) Achieve the purposes of this chapter, as described in Section 42370.1, and meet the requirements of Section 42372.4.~~

~~(b) Establish goals that, to the extent feasible based on available technology and information, increase the recycling of plastic packaging, increase the diversion of plastic packaging from landfills, increase the recyclability of plastic packaging, and provide incentives for the market growth of secondary products made from recycled plastic packaging.~~

~~(c) Describe proposed measures that will be implemented by the organization that reduce the disposal of plastic packaging manufactured by the organization's members in a manner consistent with the state's solid waste management hierarchy, including, but not limited to, source reduction, source separation and processing to~~

~~segregate and recover recyclable materials, and environmentally sound management of materials that cannot feasibly be recycled.~~

~~(d) Include a funding mechanism consistent with subdivision (b) of Section 42371.2.~~

~~(e) Include a process by which the financial activities of the plastic packaging stewardship organization that are related to implementation of the plastic packaging stewardship plan will be subject to an independent audit.~~

~~42371.2. Manufacturers of one or more than one particular type of plastic packaging may form an organization known as a plastic packaging stewardship organization. A plastic packaging stewardship organization may address a stewardship plan to more than one type of plastic packaging only if all of the manufacturers of that organization manufacture all of the types of plastic packaging to be covered by the plan. A plastic packaging stewardship organization shall do all of the following:~~

~~(a) Prepare a plastic packaging stewardship plan that meets the requirements of Section 42371.~~

~~(b) Establish a funding mechanism, consistent with Article 4 (commencing with Section 42374), that provides sufficient funding to carry out the plastic packaging stewardship plan, including the administrative, operational, and capital costs of the plan, payment of fees pursuant to Section 42374.6, and incentive payments that will advance the purposes of this chapter.~~

~~(c) Set the plastic packaging stewardship fee in accordance with Article 4 (commencing with Section 42374).~~

~~(d) Determine the projects and programs to be funded by the plastic packaging stewardship fee collected pursuant to Section 42374.4.~~

~~3. Food Service Plastic Packaging Recycling Program~~

~~42372.(a) A city, county, or city and county may establish and implement a residential curbside collection program pursuant to this article for the collection and recycling of a particular type of plastic packaging. If a city, county, or city and county establishes and implements a residential curbside collection program, the city, county, or city and county shall notify the department for purposes of tracking community access rates to residential curbside collection programs for each particular type of plastic packaging.~~

~~(b) To help ensure statewide consistency, the department may collaborate with any city, county, or city and county on the establishment and implementation of a residential curbside collection program for a particular type of plastic packaging, and may develop a list that identifies by resin code the particular types of plastic packaging materials accepted for recycling by each program.~~

~~42372.2.(a) A residential curbside collection program established pursuant to this article shall include the following requirements:~~

~~(1) Postconsumer untreated plastic packaging that is collected as part of a residential curbside collection program for a particular type of plastic packaging shall be transported only to a facility where it is feasible to recycle that type of plastic packaging or to a material recovery facility for the purpose of sorting that particular type of plastic packaging before recycling.~~

~~(2) A material recovery facility that receives material from a residential curbside collection program for a particular type of plastic packaging that is unable to separate at least 75 percent of that particular type of plastic packaging from the mixture of solid waste and recyclable materials collected in the residential curbside collection program shall send its residual material to a secondary sorting facility if the secondary sorting facility is reasonably available and willing to accept the residual material.~~

~~(b) For purposes of this section, the following definitions apply:~~

~~(1) "Reasonably available" means available at a cost, including the cost of transporting the residual material and any fee charged by the secondary sorting facility receiving the material, that does not exceed the cost of transporting the residual material to a landfill and disposing of the material at that landfill.~~

~~(2) "Residual material" means any material collected through a residential curbside collection program by, or material delivered through a drop off program to, a material recovery facility that remains after processing by the material recovery facility. "Processing" means the removal of recyclable material from other material to the extent a material recovery facility is equipped to do so.~~

~~(3) "Secondary sorting facility" means a facility equipped to sort a particular type of plastic packaging from other recyclable material and solid waste in residual material.~~

~~(c)The department shall adopt regulations establishing a mechanism by which the department will resolve disputes regarding whether a secondary sorting facility is reasonably available and under what circumstances the department may direct a residential curbside collection program, a recycling facility, or a solid waste facility to transfer residual material containing plastic packaging to a secondary sorting facility in order to further the purposes of this act.~~

~~42372.4.(a)On and before January 1, 2023, each plastic packaging stewardship organization shall make reasonable efforts to achieve a 15-percent rate of community access to residential curbside collection programs for each type of plastic packaging covered by the organization.~~

~~(b)On and before January 1, 2028, each plastic packaging stewardship organization shall make reasonable efforts to achieve a 30-percent rate of community access to residential curbside collection programs for each type of plastic packaging covered by the organization.~~

~~(c)On and before January 1, 2033, each plastic packaging stewardship organization shall make reasonable efforts to achieve a 45-percent rate of community access to residential curbside collection programs for each type of plastic packaging covered by the organization.~~

~~(d)On and before January 1, 2038, each plastic packaging stewardship organization shall make reasonable efforts to achieve a 60-percent rate of community access to residential curbside collection programs for each type of plastic packaging covered by the organization.~~

~~(e)On and before January 1, 2043, each plastic packaging stewardship organization shall make reasonable efforts to achieve a 75-percent rate of community access to residential curbside collection programs for each type of plastic packaging covered by the organization.~~

~~4.Plastic Packaging Stewardship Fees and Administrative Fees~~

~~42374.Each plastic packaging stewardship organization shall establish a plastic packaging stewardship fee for each particular type of plastic packaging covered by the organization, to be paid by members of the organization based on the amount of that particular type of plastic packaging of each member that is covered. The plastic packaging stewardship fee shall be calculated on a per pound basis by type of plastic packaging as follows:~~

~~(a)For each type of plastic packaging, if manufactured in the state, the organization member shall pay the applicable amount for its plastic packaging to be sold or used in the state.~~

~~(b)For each type plastic packaging, if manufactured out of state, the organization member shall pay the applicable amount for plastic packaging introduced into the state by the organization member.~~

~~42374.2.Each plastic packaging stewardship organization shall determine the rules and procedures that are necessary and proper to implement the collection of the charge in a fair, efficient, and lawful manner.~~

~~42374.4.The plastic packaging stewardship fee for each particular type of plastic packaging shall be collected by a plastic packaging stewardship organization and deposited in accounts, segregated by the type of plastic packaging, that are maintained and disbursed by the organization. Moneys collected pursuant to this article shall be used by a plastic packaging stewardship organization only for purposes of carrying out its duties under this chapter and for appropriate projects and programs that would further the efforts to recycle the particular type of plastic packaging for which the moneys were collected, pursuant to the plastic packaging stewardship plan. Those projects or programs may include, but are not limited to, investments in infrastructure that promote the recycling of the particular type of plastic packaging for which the moneys were collected, pursuant to the plastic packaging stewardship plan.~~

~~42374.6.(a)A plastic packaging stewardship organization submitting a plastic packaging stewardship plan shall pay the department a quarterly administrative fee. The department shall set the fee at an amount that, when paid by every plastic packaging stewardship organization that submits a plastic packaging stewardship plan, is adequate to cover the department's full costs of administering and enforcing this chapter, including any program development costs or regulatory costs incurred by the department prior to plastic packaging stewardship plans being submitted. The department may establish a variable fee based on relevant factors, including, but not limited to, the portion of a particular type of plastic packaging sold in the state by members of the organization compared to the total amount of the same type of plastic packaging sold in the state by all organizations submitting a plastic packaging stewardship plan.~~

~~(b)The total amount of fees collected annually pursuant to this section shall not exceed the amount necessary to recover costs incurred by the department in connection with the administration and enforcement of the requirements of this chapter.~~

~~(c)The department shall identify the direct development or regulatory costs it incurs pursuant to this chapter prior to the submittal of a plastic packaging stewardship plan and shall establish a fee in an amount adequate to cover these costs, which shall be paid by a plastic packaging stewardship organization that submits a plastic packaging stewardship plan. The fee established pursuant to this subdivision shall be paid pursuant to the schedule specified in subdivision (d).~~

~~(d)A plastic packaging stewardship organization subject to this section shall pay a quarterly fee to the department to cover the administrative and enforcement costs of the requirements of this chapter pursuant to subdivision (a) on or before July 1, 2019, and every three months thereafter. The plastic packaging stewardship organization shall pay the applicable portion of the fee pursuant to subdivision (c) on July 1, 2019, and every three months thereafter through July 1, 2043. After the initial year of payment, the total amount of the administrative fees paid for a calendar year shall not exceed 5 percent of the total amount of stewardship fees collected for the preceding calendar year.~~

~~(e)The department shall deposit the fees collected pursuant to this section into the Plastic Packaging Stewardship Account created pursuant to Section 42377.~~

~~5. Member Reporting~~

~~42375. (a)Each plastic packaging stewardship organization shall submit annual reports on their efforts to recycle plastic packaging to the department. A plastic packaging stewardship organization submitting an annual report on behalf of its members shall identify the individual members of the organization but is not required to distinguish the individual recycling efforts of its members.~~

~~(b)A member of a plastic packaging stewardship organization shall be considered in compliance with this section with regards to the types of plastic packaging covered by the organization if the plastic packaging stewardship organization of which it is a member submits a report.~~

~~6. Enforcement~~

~~42376. (a)A civil penalty up to one thousand dollars (\$1,000) per day may be administratively imposed by the department on any person who is in violation of any provision of this chapter, or up to ten thousand dollars (\$10,000) per day if the violation is intentional, knowing, or negligent.~~

~~(b)In assessing or reviewing the amount of a civil penalty imposed pursuant to subdivision (a) for a violation of this chapter, the department or the court shall consider all of the following:~~

~~(1)The nature and extent of the violation.~~

~~(2)The number and severity of the violation or violations.~~

~~(3)The economic effect of the penalty on the violator.~~

~~(4)Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.~~

~~(5)The willfulness of the violator's misconduct.~~

~~(6)The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.~~

~~(7)Any other factor that justice may require.~~

~~7. Financial Provisions~~

~~42377. (a)The Plastic Packaging Stewardship Account and the Plastic Packaging Stewardship Penalty Subaccount are hereby established in the Integrated Waste Management Fund.~~

~~(b)All fees collected by the department pursuant to this article shall be deposited in the Plastic Packaging Stewardship Account and may be expended by the department, upon appropriation by the Legislature, to cover the department's costs to implement this chapter.~~

~~(c)All civil penalties collected pursuant to this article shall be deposited in the Plastic Packaging Stewardship Penalty Subaccount and may be expended by the department, upon appropriation by the Legislature, to cover the department's costs to implement this chapter.~~

~~8. Antitrust Immunity~~

~~42378.(a)Except as provided in subdivision (b), an action relating to the establishment, administration, collection, or disbursement of the funds associated with implementation of this chapter that is taken by the plastic packaging stewardship organization or its members is not a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code).~~

~~(b)Subdivision (a) shall not apply to an agreement that does any of the following:~~

~~(1)Fixes a price of or for plastic packaging;~~

~~(2)Fixes the output or production of plastic packaging;~~

~~(3)Restricts the geographic area in which, or customers to whom, plastic packaging will be sold.~~

~~SEC. 3. Section 43020.2 is added to the Public Resources Code, to read:~~

~~43020.2.(a)A solid waste landfill that receives solid waste that contains plastic packaging material may landfill the plastic packaging material, but is encouraged to send solid waste containing plastic packaging material received to a material recovery facility, a secondary sorting facility, or a recycling facility that has the capability to sort, separate, or recycle plastic packaging material.~~


~~(b)For purposes of this section, the definitions of Chapter 6 (commencing with Section 42370) of Part 3 shall apply.~~

~~SEC. 4. Section 43020.3 is added to the Public Resources Code, to read:~~

~~43020.3.(a)A material recovery facility may send residual materials containing plastic packaging to a secondary sorting facility with the capability of sorting or separating plastic packaging material from the residual material for recycling.~~

~~(b)For purposes of this section, the definitions of Chapter 6 (commencing with Section 42370) of Part 3 shall apply.~~

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(C) – AB 1893 (Maienschein) Maternal Mental Health: Federal Funding

Background:

Current law requires the California Department of Public Health (CDPH) to develop and maintain a statewide perinatal service program to ensure the appropriate level of maternal, newborn, and pediatric care is provided for the mother and infant. AB 1893 (Maienschein) would require the Department to investigate and apply for federal funding opportunities regarding maternal mental health for their service program. This bill also would require CDPH to prepare a report to the Legislature on or before January 1, 2020 regarding how it plans to use the federal funding received.

Location: 3/21/2018 Assembly Committee on Appropriations

Status: 3/21/18 Re-referred to Assembly Committee on Appropriations

Votes: 3/20/2018 Assembly Committee on Health (15-0-0)

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 1893 (Maienschein).

Attachment A: AB 1893 (Maienschein) Bill Text

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AB-1893 Maternal mental health: federal funding. (2017-2018)

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Date Published: 01/18/2018 09:00 PM

REVISED MARCH 06, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 1893**

Introduced by Assembly Member Maienschein

*(Principal coauthor: Senator Beall)**(Coauthors: Assembly Members Acosta, Baker, Gallagher, Harper, Kiley, and Rodriguez)*

January 18, 2018

An act to add Section 123611 to the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1893, as introduced, Maienschein. Maternal mental health: federal funding.

Existing law finds and declares that prenatal care, delivery service, postpartum care and neonatal and infant care are essential services necessary to assure maternal and infant health. Existing law requires the State Department of Public Health to develop and maintain a statewide community-based comprehensive perinatal services program to, among other program objectives, ensure the appropriate level of maternal, newborn, and pediatric care services necessary to provide the healthiest outcome for mother and infant.

This bill would require the department to investigate and apply for federal funding opportunities regarding maternal mental health, as specified, and to prepare a report to the Legislature on or before January 1, 2020, on how the department plans to use the federal funding it receives.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 123611 is added to the Health and Safety Code, to read:

123611. (a) The State Department of Public Health shall investigate and apply for federal funding opportunities regarding maternal mental health, including, but not limited to, the grant available pursuant to Section 10005 of the federal 21st Century Cures Act (Public Law 114-146).


(b) (1) The department shall prepare a report to the Legislature on or before January 1, 2020, on how the department plans to use the federal funding it receives from the requirement specified in subdivision (a).

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

(3) The requirement for submitting a report pursuant to paragraph (1) is inoperative on January 1, 2024, pursuant to Section 10231.5 of the Government Code.

REVISIONS:
Heading—Line 2.

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(D) – AB 1896 (Cervantes) Sexual Counselor-Victim Privilege

Background:

Current law dictates that a victim of sexual assault may refuse to disclose, and prevent others from disclosing, confidential communication between the victim and the sexual assault counselor. Current law defines a “sexual assault counselor” to include a person who is in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is the rendering of advice or assistance to victims of sexual assault.

AB 1896 (Cervantes) would include an individual who is engaged in a program on the campus of a public institution of higher education, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate verifying the completion of a training program in the counseling of sexual assault victims in the definition of a “sexual assault counselor” thereby extending the privilege to these individuals. This bill would also require these individuals meet the same education and/or training requirements as sexual assault counselors providing services at a rape crisis center.

Location: 3/22/2018 – Assembly Committee on Higher Education

Status: 3/22/2018 – Referred to Assembly Committee on Higher Education and Judiciary

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 1896 (Cervantes).

Attachment A: AB 1896 (Cervantes) Bill Text

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AB-1896 Sexual assault counselor-victim privilege. (2017-2018)

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Date Published: 01/22/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 1896**

Introduced by Assembly Member Cervantes

January 22, 2018

An act to amend Section 1035.2 of the Evidence Code, relating to evidence.

LEGISLATIVE COUNSEL'S DIGEST

AB 1896, as introduced, Cervantes. Sexual assault counselor-victim privilege.

Existing law establishes a privilege for a victim of a sexual assault to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor, if the privilege is claimed by the holder of the privilege, a person who is authorized to claim the privilege by the holder of the privilege, or the person who was the sexual assault counselor at the time of the confidential communication, except as specified. The definition of "sexual assault counselor" includes a person who is engaged in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who meets certain requirements.

This bill would specifically include within the definition of "sexual assault counselor" for these purposes a person who is engaged in a program on the campus of a public institution of higher education, with the same primary purpose of rendering advice or assistance to victims of sexual assault and the same qualifications.

The California Constitution requires that a statute that would exclude relevant evidence in any criminal proceeding be enacted by a 2/3 vote of each house of the Legislature.

Because this bill would exclude certain communications between a victim of sexual assault and a sexual assault counselor in criminal proceedings, the bill would require a 2/3 vote.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 1035.2 of the Evidence Code is amended to read:**1035.2.** As used in this article, "sexual assault counselor" means any of the following:

(a) A person who is engaged in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code and who meets one of the following requirements:

(1) Is a psychotherapist as defined in Section 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling.

(2) Has 40 hours of training as described below and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:

- (A) Law.
- (B) Medicine.
- (C) Societal attitudes.
- (D) Crisis intervention and counseling techniques.
- (E) Role playing.
- (F) Referral services.
- (G) Sexuality.

(b) A person who is engaged in a program on the campus of a public institution of higher education, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code and who meets one of the following requirements:

(1) Is a psychotherapist as defined in Section 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling.

(2) Has 40 hours of training as described below and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:

- (A) Law.*
- (B) Medicine.*
- (C) Societal attitudes.*
- (D) Crisis intervention and counseling techniques.*
- (E) Role playing.*
- (F) Referral services.*
- (G) Sexuality.*

~~(b)~~

(c) A person who is employed by any organization providing the programs specified in Section 13835.2 of the Penal Code, whether financially compensated or not, for the purpose of counseling and assisting sexual assault victims, and who meets one of the following requirements:

(1) Is a psychotherapist as defined in Section 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape assault counseling.

(2) Has the minimum training for sexual assault counseling required by guidelines established by the employing agency pursuant to subdivision (c) of Section 13835.10 of the Penal Code, and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:

- (A) Law.*


(B) Victimology.

(C) Counseling.

(D) Client and system advocacy.

(E) Referral services.

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(E) – AB 1968 (Low) Mental Health: Firearms

Background:

Current law makes it a crime for an individual who has been taken into custody, assessed, and admitted to a designated facility because he or she is a danger to themselves or others to own a firearm for a period of five (5) years. Additionally, current law states that the individual who is prohibited from owning a firearm under these provisions can petition the court for a hearing to prove that he or she would not be likely to use the firearm in an unsafe nor unlawful manner.

AB 1968 (Low) would add a provision that would ban a person from owning a firearm for the remainder of his or her life if that person was taken into custody more than once within a one (1) year period. The bill would still allow a hearing process, but would require the person to be responsible for submitting the form to the superior court, as well as including an authorization for the release for the persons medical and mental health records for purposes of the hearing.

Location: 2/8/2018 Assembly Committee on Public Safety

Status: 3/1/18 Re-referred to Assembly Committee on Public Safety

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 1968 (Low) to determine any potential impact on the Board's licensees.

Attachment A: AB 1968 (Low) Bill Text

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AB-1968 Mental health: firearms. (2017-2018)

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Date Published: 02/28/2018 09:00 PM

AMENDED IN ASSEMBLY FEBRUARY 28, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 1968**

Introduced by Assembly Member Low

January 31, 2018

An act to amend Section 8103 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, as amended, Low. Mental health: firearms.

Existing law makes it a crime for a person who has been taken into custody, assessed, and admitted to a designated facility because he or she is a danger to himself, herself, or others, as a result of a mental health disorder to own a firearm for a period of 5 years after the person is released from the facility. Existing law allows a person who is prohibited from owning a firearm pursuant to these provisions to petition the court for a hearing in which the district attorney is required to show by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner. If the people do not meet this burden, existing law requires the court to order that the person not be subject to this prohibition on the possession of firearms.

This bill would require that a person who has been taken into custody, assessed, and admitted to a designated facility because he or she is a danger to himself, herself, or others, as a result of a mental health disorder more than once within a ~~5-year~~ *one-year* period to be prohibited from owning a firearm for the remainder of his or her life. The bill would extend the above hearing process to a person under these provisions. Because a violation of the firearm prohibition would be a crime, the bill would impose a state-mandated local program.

Existing law requires the facility to provide a person subject to the above provisions with a form to request the above-specified hearing and to forward the form to the superior court if the person requests a hearing. Existing law requires the Department of Justice to prescribe the form.

This bill would require that form to include an authorization for the release of the person's medical and mental health records, upon request, to the appropriate district attorney solely for use in the hearing. The bill would require the person to be responsible for submitting the form to the superior court and a copy of the form to the district attorney, and would prohibit the facility from doing so on behalf of the person.

Existing law requires the court to set a hearing within 30 days of receipt of a request. Existing law authorizes a continuance of 14 days, upon a showing of good cause by the district attorney.

This bill would instead require the court to set the hearing within 60 days. The bill would further authorize a continuance of 30 days, upon a showing of good cause by the district attorney. The bill would also require that a petition for a hearing be made no sooner than 6 months after the person's discharge from the facility.

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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a) (1) A person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall not purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control a firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1) as soon as possible, but not later than one court day after issuing the certificate.

(b) (1) A person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall not purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall notify the Department of Justice of the court order finding the person to be a person described in paragraph (1) as soon as possible, but not later than, one court day after issuing the order.

(c) (1) A person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall not purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control, any firearm or any other deadly weapon unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall notify the Department of Justice of the court order finding the person to be a person described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity as soon as possible, but not later than one court day after making the finding.

(d) (1) A person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall not purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control, any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence as soon as possible, but not later than one court day after making the finding.

(e) (1) A person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism, shall not purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control, any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court that imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing a person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person, the court shall notify the person of this prohibition.

(2) The court shall notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1) as soon as possible, but not later than one court day after placing the person under conservatorship. The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall notify the Department of Justice as soon as possible, but not later than one court day after terminating the conservatorship.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the Department of Justice, and shall be used only to determine eligibility to purchase or possess firearms or other deadly weapons. A person who knowingly furnishes that information for any other purpose is guilty of a misdemeanor. All the information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) (1) (A) A person who has been (i) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (ii) assessed within the meaning of Section 5151, and (iii) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, any firearm for a period of five years after the person is released from the facility.

(B) A person who has been taken into custody, assessed, and admitted as specified in subparagraph (A) more than once within a ~~five-year~~ period *of one year* shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, any firearm for the remainder of his or her life.

(C) A person described in this paragraph, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (5), found that the people of the State of California have not met their burden pursuant to paragraph (6).

(2) (A) (i) For each person subject to this subdivision, the facility shall, within 24 hours of the time of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

(ii) Any report submitted pursuant to this paragraph shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(B) Facilities shall submit reports pursuant to this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years or life, as appropriate. Simultaneously, the facility shall inform the person that, six months after discharge from the facility, he or she may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall provide the person with a form for a request for a hearing. The Department of Justice shall prescribe the form. The form shall include information regarding how the person was referred to the facility. The form shall include an authorization for the release of the person's medical and mental health records, upon request, to the appropriate district

attorney, solely for use in the hearing conducted pursuant to paragraph (5). A request for the records may be made by mail to the custodian of records at the facility, and shall not require personal service. The person subject to this subdivision shall be responsible for submitting the form to the superior court and a copy of the form to the district attorney's office. The facility shall not submit the form or copy of the form on his or her behalf.

(4) The Department of Justice shall provide the form upon request to any person described in paragraph (1). The Department of Justice shall also provide the form to the superior court in each county. A person described in paragraph (1) may make a single request for a hearing at any time during the five-year period or period of the lifetime prohibition, but no sooner than six months after discharge from the facility. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) A person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 60 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 30 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county behavioral health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code shall be admissible at the hearing under this section.

(6) The people shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner.

(7) If the court finds at the hearing set forth in paragraph (5) that the people have not met their burden as set forth in paragraph (6), the court shall order that the person shall not be subject to the five-year prohibition or lifetime prohibition, as appropriate, in this section on the ownership, control, receipt, possession, or purchase of firearms, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of any firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(8) If the district attorney declines or fails to go forward in the hearing, the court shall order that the person shall not be subject to the five-year prohibition or lifetime prohibition required by this subdivision on the ownership, control, receipt, possession, or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall, within 15 days, delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of any firearms.

(9) This subdivision does not prohibit the use of reports filed pursuant to this section to determine the eligibility of persons to own, possess, control, receive, or purchase a firearm if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm.

(g) (1) (i) A person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, any firearm for a period of five years.

(ii) Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) (A) For each person certified for intensive treatment under paragraph (1), the facility shall, within 24 hours of the certification, submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. A report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(B) Facilities shall submit reports pursuant to this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) A person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county behavioral health director of the petition, and the county behavioral health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of any firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(h) (1) For all persons identified in subdivisions (f) and (g), facilities shall report to the Department of Justice as specified in those subdivisions, except facilities shall not report persons under subdivision (g) if the same persons previously have been reported under subdivision (f).

(2) Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g). However, a report shall not be filed for persons who are discharged within 31 days after the date of admission.

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code or in a county jail for not more than one year.

(j) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

(k) Any notice or report required to be submitted to the Department of Justice pursuant to this section shall be submitted in an electronic format, in a manner prescribed by the Department of Justice.

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.

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(F) – AB 2018 (Maienschein) Mental Health Workforce Planning: Loan Forgiveness, Loan Repayment, and Scholarship Programs

Background:

Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program (program) as a financial incentive to physicians and surgeons who practice in a medically underserved area. AB 2018 (Maienschein) would include a program or facility operated by, or contracted to, a county mental health plan as a practice setting that qualifies for this program. This bill would also provide early loan repayment consideration for psychiatric trainees who have committed to working in county mental health plans or county mental health plans contracted services and are enrolled in specialized community psychiatry training tracks or fellowships for this purpose.

AB 2018 (Maienschein) would also clarify that OSHPD needs to include in the 5-year plan both expansion plans for loan forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and expansion plans for making loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

Location: 2/12/2018 Assembly Committee on Health

Status: 3/13/2018 Re-referred to Assembly Committee on Health

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2018 (Maienschein).

Attachment A: AB 2018 (Maienschein) Bill Text

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AB-2018 Mental health workforce planning: loan forgiveness, loan repayment, and scholarship programs. (2017-2018)

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Date Published: 03/12/2018 09:00 PM

AMENDED IN ASSEMBLY MARCH 12, 2018

AMENDED IN ASSEMBLY FEBRUARY 20, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 2018**

Introduced by Assembly Member Maienschein

(Coauthors: Assembly Members Fong, Mathis, Voepel, and Waldron)

February 05, 2018

An act to amend [Sections 128552 and 128553 of the Health and Safety Code](#), and to amend Section 5822 of the Welfare and Institutions Code, relating to mental ~~health~~ [health](#), and making an [appropriation therefor](#).

LEGISLATIVE COUNSEL'S DIGEST

AB 2018, as amended, Maienschein. Mental health workforce planning: loan ~~forgiveness~~ [forgiveness](#), [loan repayment](#), and scholarship programs.

Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program (program) in the California Physician Corps Program within the Health Professions Education Foundation, which provides financial incentives, including repayment of educational loans, to a physician and surgeon who practices in a medically underserved area, as defined. Existing law establishes the Medically Underserved Account for Physicians, a continuously appropriated account, within the Health Professions Education Fund, to primarily provide funding for the ongoing operations of the program. Existing law requires the foundation and the Office of Statewide Health Planning and Development (office) to develop guidelines using specified criteria for selection and placement of applicants.

Existing law defines "practice setting," for these purposes, to include a community clinic, as defined, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role to serve its indigent population, that is located in a medically underserved area and at least 50% of whose patients are from a medically underserved population. Existing law also defines "practice setting," for these purposes, to include a physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50% of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250% of the federal poverty level.

This bill also would define "practice setting" to include a program or facility operated by, or contracted to, a county mental health plan. The bill would require the guidelines established by the foundation and the office to include providing early loan repayment consideration for psychiatric trainees who have committed to working in county mental health plans or county mental health plan contracted services and are enrolled in specialized community psychiatry training tracks or fellowships for this purpose. By providing that a continuously appropriated fund may be spent for a new purpose, this bill would make an appropriation.

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, requires the Office of Statewide Health Planning and Development (OSHPD), in coordination with the California Behavioral Health Planning Council, to identify the total statewide needs for each professional and other occupational category utilizing county needs assessment information and develop a 5-year education and training development plan. Existing law requires OSHPD to include specified components in the 5-year plan, including expansion plans for the forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and making loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

This bill would clarify that OSHPD needs to include in the 5-year plan both expansion plans for loan forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and expansion plans for making loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees. The bill would also make specified findings and declarations.

Vote: **majority 2/3** Appropriation: **no** Fiscal Committee: **no** 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) Despite escalating tuition costs, medical students across the nation are willing to take on more and more loan debt. This has led to a median indebtedness of \$190,000 in 2016; compared with \$32,000 in 1986 (\$70,000 in 2017 dollars), according to a survey published in the Journal of the American Medical Association, Internal Medicine on September 5, 2017.

(b) It is not unusual in California to find psychiatric residents in training with debt loads that exceed \$200,000.

(c) Student indebtedness solutions are a high priority issue for many medical students, driving career choices towards higher paying specialties or practice settings and away from practice settings in underserved and community mental health systems.

(d) California's 58 counties consistently have one psychiatrist vacancy for every four psychiatrist positions in county-operated community mental health systems.

(e) Effective debt relief options are part of a comprehensive strategy to recruit medical students to a career in psychiatry, and steering psychiatric residents into training as community psychiatry specialists.

(f) An effective loan repayment or forgiveness strategy acts as an incentive to attract medical students to specialize in psychiatry, and psychiatric residents in training to further specialize in community psychiatry. This will help increase access to psychiatric care in community mental health systems.

(g) One innovative practice is to provide access to early loan repayment during the pendency of training to trainees in psychiatry who are committed to working in the community mental health system.

(h) The Legislature intends the changes made by this act to clarify that the Office of Statewide Health Planning and Development is authorized to provide for early loan repayment under current law and to emphasize the importance of this option.

SEC. 2. *Section 128552 of the Health and Safety Code is amended to read:*

128552. For purposes of this article, the following definitions shall apply:

(a) "Account" means the Medically Underserved Account for Physicians established within the Health Professions Education Fund pursuant to this article.

(b) "Foundation" means the Health Professions Education Foundation.

(c) "Fund" means the Health Professions Education Fund.

(d) "Medi-Cal threshold languages" means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000, eligible LEP Medi-Cal beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal beneficiaries residing in two contiguous ZIP Codes.

(e) "Medically underserved area" means an area defined as a health professional shortage area in Part 5 of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the California Healthcare Workforce Policy Commission pursuant to Section 128225.

(f) "Medically underserved population" means the Medi-Cal program, Healthy Families Program, and uninsured populations.

(g) "Office" means the Office of Statewide Health Planning and Development (OSHPD).

(h) "Physician Volunteer Program" means the Physician Volunteer Registry Program established by the Medical Board of California.

(i) "Practice setting," for the purposes of this article only, means ~~either~~ *any* of the following:

(1) A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role pursuant to Section 17000 of the Welfare and Institutions Code, which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(2) A physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50 percent of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(3) A program or facility operated by, or contracted to, a county mental health plan.

(j) "Primary specialty" means family practice, internal medicine, pediatrics, or obstetrics/gynecology.

(k) "Program" means the Steven M. Thompson Physician Corps Loan Repayment Program.

(l) "Selection committee" means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.

SEC. 3. *Section 128553 of the Health and Safety Code is amended to read:*

128553. (a) Program applicants shall possess a current valid license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code or pursuant to the Osteopathic Act.

(b) The foundation and the office shall develop guidelines using the criteria specified in subdivision (c) for selection and placement of applicants. The foundation shall interpret the guidelines to apply to both osteopathic and allopathic physicians and surgeons.

(c) The guidelines shall meet all of the following criteria:

(1) Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:

(A) Speak a Medi-Cal threshold language.

(B) Come from an economically disadvantaged background.

(C) Have received significant training in cultural and linguistically appropriate service delivery.

(D) Have three years of experience providing health care services to medically underserved populations or in a medically underserved area, as defined in subdivision (e) of Section 128552.

(E) Have recently obtained a license to practice medicine.

(2) Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the practice setting meets the definition specified in subdivision (h) of Section 128552.

(3) Give preference to applicants who have completed a three-year residency in a primary specialty.

(4) Give preference to applicants who agree to practice in a medically underserved area, as defined in subdivision (e) of Section 128552, and who agree to serve a medically underserved population.

(5) Give priority consideration to applicants from rural communities who agree to practice in a physician owned and operated medical practice setting as defined in paragraph (2) of subdivision (i) of Section 128552.

(6) Include a factor ensuring geographic distribution of placements.

(7) Provide priority consideration to applicants who agree to practice in a geriatric care setting and are trained in geriatrics, and who can meet the cultural and linguistic needs and demands of a diverse population of older Californians. On and after January 1, 2009, up to 15 percent of the funds collected pursuant to Section 2436.5 of the Business and Professions Code shall be dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities.

(8) Provide early loan repayment consideration for psychiatric trainees who have committed to working in county mental health plans or county mental health plan contracted services and are enrolled in specialized community psychiatry training tracks or fellowships for this purpose.

(d) (1) The foundation may appoint a selection committee that provides policy direction and guidance over the program and that complies with the requirements of subdivision (l) of Section 128552.

(2) The selection committee may fill up to 20 percent of the available positions with program applicants from specialties outside of the primary care specialties.

(e) Program participants shall meet all of the following requirements:

(1) Shall be working in or have a signed agreement with an eligible practice setting.

(2) Shall have full-time status at the practice setting. Full-time status shall be defined by the board and the selection committee may establish exemptions from this requirement on a case-by-case basis.

(3) Shall commit to a minimum of three years of service in a medically underserved area. Leaves of absence shall be permitted for serious illness, pregnancy, or other natural causes. The selection committee shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the physician is back to full-time status.

(f) The office shall adopt a process that applies if a physician is unable to complete his or her three-year obligation.

(g) The foundation, in consultation with those identified in subdivision (b) of Section 128551, shall develop a process for outreach to potentially eligible applicants.

(h) The foundation may recommend to the office any other standards of eligibility, placement, and termination appropriate to achieve the aim of providing competent health care services in approved practice settings.

SEC. 2. SEC. 4. Section 5822 of the Welfare and Institutions Code is amended to read:

5822. The Office of Statewide Health Planning and Development shall include in the five-year plan:

(a) Expansion plans for the capacity of postsecondary education to meet the needs of identified mental health occupational shortages.

(b) Expansion plans for loan forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system.

(c) Expansion plans for making loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

(d) Creation of a stipend program modeled after the federal Title IV-E program for persons enrolled in academic institutions who want to be employed in the mental health system.

(e) Establishment of regional partnerships between the mental health system and the educational system to expand outreach to multicultural communities, increase the diversity of the mental health workforce, reduce the stigma associated with mental illness, and promote the use of ~~web-based~~ *Web-based* technologies and distance learning techniques.

(f) Strategies to recruit high school students for mental health occupations, increasing the prevalence of mental health occupations in high school career development programs such as health science academies, adult schools, and regional occupation centers and programs, and increasing the number of human service academies.

(g) Curriculum to train and retrain staff to provide services in accordance with the provisions and principles of Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) of this division.

(h) Promotion of the employment of mental health consumers and family members in the mental health system.

(i) Promotion of the meaningful inclusion of mental health consumers and family members and incorporating their viewpoint and experiences in the training and education programs in subdivisions (a) through (g).

(j) Promotion of meaningful inclusion of diverse, racial, and ethnic community members who are underrepresented in the mental health provider network.

(k) Promotion of the inclusion of cultural competency in the training and education programs in subdivisions (a) through (g).

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(G) – AB 2022 (Chu) Pupil Health: On-Campus Mental Health Professionals

Background:

AB 2022 (Chu) would require that, on or before December 31, 2021, each public school or charter school have at least one mental health professional for every 600 pupils that is generally accessible to pupils during school hours. This bill would require that the mental health professional be employed by the school, the school district, the county office of education, a private mental health entity, child welfare agency, family-based mental health entity, trauma network, or other community-based entity who employs mental health professionals. If the professional is not employed by the school, this could also be accomplished through a community partnership and memorandum of understanding. This bill would define “mental health professional” as follows:

“Mental health professionals” includes state-licensed or state certified school psychologists, state-licensed or state certified school social workers, peer providers, and community mental health workers or cultural brokers

Location: 3/15/2018 Assembly Committee on Education

Status: 3/19/2018 Re-referred to Assembly Committee on Education

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2022 (Chu).

Attachment A: AB 2022 (Chu) Bill Text


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AB-2022 Pupil health: on-campus mental health professionals. (2017-2018)

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Date Published: 03/16/2018 04:00 AM

AMENDED IN ASSEMBLY MARCH 15, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 2022

Introduced by Assembly Member Chu

February 05, 2018

An act *to add Section 49428 to the Education Code*, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2022, as amended, Chu. Pupil health: *on-campus* mental health professionals.

Existing law requires the governing board of any school district to give diligent care to the health and physical development of pupils and authorizes the governing board of a school district to employ properly certified persons for the work.

~~This bill would state the intent of the Legislature to enact legislation that would require at least one mental health professional at each elementary and secondary school campus.~~

This bill would require, on or before December 31, 2021, a school of a school district or county office of education and a charter school to have at least one mental health professional, as provided, generally accessible to pupils on campus during school hours. The bill would require, if the mental health professional is not employed by the school, the school district, or the county office of education, the school, the school district, or the county office of education to form a community partnership with and enter into a memorandum of understanding with the entity that employs the mental health professional that clearly specifies certain information relating to the responsibilities of each partner. By imposing additional requirements on local educational agencies, the bill would impose a state-mandated local program. The bill would also specify possible sources of funding to comply with its requirements.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: ~~no~~yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 49428 is added to the Education Code, to read:*

49428. (a) *On or before December 31, 2021, a school of a school district or county office of education and a charter school shall have at least one mental health professional for every 600 pupils generally accessible to pupils on campus during school hours. On or before December 31, 2021, a school of a school district or county office of education and a charter school with fewer than 600 pupils shall have at least one mental health professional generally accessible to pupils on campus during school hours.*

(b) *The mental health professional shall be employed by the school, the school district, the county office of education, a private or public mental health entity, child welfare agency, family-based mental health entity, trauma network, or other community-based entity who employs mental health professionals that will provide on-campus services.*

(c) *If the mental health professional is not employed by the school, the school district, or the county office of education, the school, the school district, or the county office of education shall form a community partnership with and enter into a memorandum of understanding with the entity that employs the mental health professional that clearly specifies all of the following:*

(1) *The responsibilities of each partner with respect to the activities to be carried out.*

(2) *How each partner will be accountable for carrying out its responsibilities.*

(3) *The amount of nonfederal, nonstate funding or in-kind contributions that each partner will contribute to sustain the program.*

(d) *The role of an on-campus mental health professional required pursuant to this section shall include, but is not limited to, all of the following:*

(1) *Providing individual and small group counseling supports to individual pupils as well as pupil groups to address social-emotional and mental health concerns.*

(2) *Facilitating collaboration and coordination between school and community providers to support pupils and their families by assisting families in identifying and accessing additional mental health services within the community as needed.*

(3) *Promoting school climate and culture through evidence-informed strategies and programs by collaborating with school staff to develop best practices for behavioral health management and classroom climate.*

(4) *Providing professional development to staff in diverse areas, including, but not limited to, behavior management strategies, mental health support training, trauma-informed practices, and professional self-care.*

(e) *Funding to comply with this section may be derived from, but is not limited to, any of the following sources, if applicable:*

(1) *Student Support and Academic Enrichment grants created by the federal Every Student Succeeds Act (Public Law 114-95).*

(2) *Funds generated by the Control, Regulate and Tax Adult Use of Marijuana Act, as approved by the voters at the November 8, 2016, statewide general election as Proposition 64.*

(3) *The School-Based Medi-Cal Administrative Activities program.*

(4) *Local Educational Agency Medi-Cal Billing Option Program reimbursement for school services delivered to pupils eligible for Medi-Cal.*

(5) *Early and Periodic Screening, Diagnosis, and Treatment Program funds for children who are eligible for Medi-Cal benefits.*

(6) *Prevention and early intervention funds under the Mental Health Services Act, as approved by the voters at the November 2, 2004, statewide general election as Proposition 63.*

(f) *For purposes of this section, the following terms have the following meanings:*

(1) *"Community mental health workers" or "cultural brokers," known as "promotores de salud" in Spanish, means frontline public health workers with behavioral health training who work for pay or as volunteers in association*

with the local health care systems and usually share ethnicity, language, socioeconomic status, or life experiences with the pupils they serve. Community mental health workers sometimes offer interpretation and translation services and culturally appropriate health education and information, assist pupils and family members in receiving the care they need, and give, to the extent permitted by law, informal counseling and guidance.


(2) "Mental health professionals" includes state-licensed or state certified school psychologists, state-licensed or state certified school social workers, peer providers, and community mental health workers or cultural brokers.

(3) "Peer provider" means a person who draws on lived experience with mental illness or a substance use disorder and recovery, bolstered by specialized training, to deliver valuable support services in a mental health setting. Peer providers may include people who have lived experience as clients, family members, or caretakers of individuals living with mental illness. Peer providers offer culturally competent services that promote engagement, socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services. Services provided by peer providers include, but are not limited to, support, coaching, facilitation, or education that is individualized to the pupil.

SEC. 2. *If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

~~SECTION 1. It is the intent of the Legislature to enact legislation that would require at least one mental health professional at each elementary and secondary school campus.~~

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(H) – AB 2117(Arambula) Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors

Background:

Under current law, requirements for an associate marriage and family therapist to renew his or her registration include obtaining a passing score on a state law and ethics examination, and may renew the license a maximum of five (5) times. AB 2117 (Arambula) would authorize that an expired associate registration be renewed in the same manner as an unexpired registration. This bill would also change the provisions authorizing a maximum of five (5) renewals to prohibiting renewal or reinstatement of a registration beyond six (6) years from the month that registration was issued. This bill would also require an applicant seeking a subsequent associate clinical social worker registration where no further renewals are possible, to pass the state law and ethics examinations as a condition of obtaining the subsequent registration.

Current law states that experience gained outside of California is accepted towards requirements for licensure with the completion of a course in California law and ethics. AB 2117 (Arambula) would now require that the course in California law and ethics to be completed before registering as an associate clinical social worker.

Location: 3/20/2018 Assembly Committee on Appropriations

Status: 3/20/2018 From committee: Re-referred to Assembly Committee on Appropriations

Votes: 3/20/2018 Assembly Committee on Business and Professions (12-0-4)

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2117 (Arambula)

Attachment A: AB 2117 (Arambula) Bill Text

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AB-2117 Marriage and family therapists: clinical social workers: professional clinical counselors. (2017-2018)

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Date Published: 02/08/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 2117**

Introduced by Assembly Member Arambula

February 08, 2018

An act to amend Sections 4980.72, 4984.01, 4996.17, 4996.28, 4999.60, and 4999.100 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2117, as introduced, Arambula. Marriage and family therapists: clinical social workers: professional clinical counselors.

(1) Existing law provides for the licensure, registration, and regulation of marriage and family therapists, associate marriage and family therapists, clinical social workers, associate clinical social workers, professional clinical counselors, and associate professional clinical counselors by the Board of Behavioral Sciences. Existing law provides that an associate registration may be renewed before its expiration date by taking specified actions.

This bill would authorize renewal of an expired associate registration in the same manner in which an unexpired registration is renewed.

(2) With respect to associate clinical social workers, existing law requires a registrant to comply with specified requirements to renew his or her registration, including obtaining a passing score on a state law and ethics examination. Existing law also authorizes that registration to be renewed a maximum of 5 times.

This bill would instead require an associate clinical social worker to participate in the state law and ethics examination each year until successful completion of the exam. The bill would prohibit renewal or reinstatement of a registration beyond 6 years from the month that registration was issued and would require an applicant seeking to obtain a subsequent associate clinical social worker registration where no further renewals are possible to pass the state law and ethics examination as a condition of obtaining a subsequent associate clinical social worker registration.

(3) Existing law requires experience gained outside of California to be accepted toward requirements for licensure as a clinical social worker and requires an applicant with education gained outside of California to complete a course in California law and ethics. Existing law also authorizes the board to issue a license in clinical social work to a person who holds a valid clinical social work license issued in another state if certain conditions are met, including completion of a course in California law and ethics.

This bill would require the course in California law and ethics to be completed before registering as an associate clinical social worker.

(4) Existing law authorizes the board to issue a license as a marriage and family therapist or a professional clinical counselor to a person who holds a valid license in another state or country if certain conditions are satisfied, including that the applicant's supervised experience is substantially equivalent to requirements for licensure in this state, and specifies a method for the board to consider and calculate substantial equivalency for those purposes.

This bill would revise the method for determining substantially equivalent experience.

(5) The bill would make other related, nonsubstantive changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4980.72 of the Business and Professions Code is amended to read:

4980.72. (a) This section applies to a person who is licensed outside of California and applies for licensure on or after January 1, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license in good standing issued by a board of marriage counselor examiners, board of marriage and family therapists, or corresponding authority, of any state or country, if all of the following conditions are satisfied:

(1) The applicant's education is substantially equivalent, as defined in Section 4980.79. The applicant's degree title need not be identical to that required by Section 4980.36 or 4980.37.

(2) The applicant complies with Section 4980.76, if applicable.

(3) (A) The applicant's supervised experience is substantially equivalent to that required for a license under this chapter. ~~The~~

(B) *For persons who have held their license for less than four years immediately preceding the date of application, the board shall ~~consider~~ determine substantial equivalency by considering* hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license described above. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed ~~as a marriage and family therapist in the equivalent profession~~ shall be accepted at a rate of 100 hours per month, up to a maximum of 1,200 hours, if the applicant's degree meets the practicum requirement described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 4980.79 without exemptions or remediation.

(4) The applicant passes the California law and ethics examination.

(5) The applicant passes a clinical examination designated by the board. An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(B) The applicant's license or registration in that jurisdiction is active, in good standing at the time of his or her application, and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

SEC. 2. Section 4984.01 of the Business and Professions Code is amended to read:

4984.01. (a) The *associate* marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Participate in the California law and ethics examination pursuant to Section 4980.399 each year until successful completion of this examination.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) An expired registration may be renewed by completing all of the actions described in paragraphs (1) to (4), inclusive, of subdivision (b).

~~(e)~~

*(d) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent ~~intern~~ *associate* registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent ~~intern~~ *associate* registration number and has passed the California law and ethics examination described in Section 4980.399. An applicant who is issued a subsequent ~~intern~~ *associate* registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.*

~~(d) This section shall become operative on January 1, 2016.~~

SEC. 3. Section 4996.17 of the Business and Professions Code is amended to read:

4996.17. (a) (1) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(2) Commencing January 1, 2014, an applicant with education gained outside of California shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process. *This coursework shall be completed before registration as an associate.*

(b) The board may issue a license to any person who, at the time of application, holds a valid clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes, or has passed, the licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(2) Completion of the following coursework or training in or out of this state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health

information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process. *This coursework shall be completed before registration as an associate.*

(4) The applicant's license is in good standing and is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(c) The board may issue a license to any person who, at the time of application, holds a valid clinical social work license issued by a board of clinical social work examiners or a corresponding authority of any state, if the person has held that license for at least four years immediately preceding the date of application, the person passes, or has passed, the licensing examinations as specified in Section 4996.1, and the person pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process. *This coursework shall be completed before registering as an associate.*

(3) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(4) The applicant's license is in good standing and is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(d) An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination specified in Section 4996.1 if both of the following conditions are met:

(1) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(2) The applicant's license or registration in that jurisdiction is active, in good standing at the time of his or her application, and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

SEC. 4. Section 4996.28 of the Business and Professions Code is amended to read:

4996.28. (a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

(4) ~~On and after January 1, 2016, obtain a passing score on~~ *Participate in* the California law and ethics examination pursuant to Section ~~4992.09. 4992.09~~ *each year until successful completion of this examination.*

(b) An expired registration may be renewed by completing all of the actions described in paragraphs (1) to (4), inclusive, of subdivision (a).

~~(b)~~

(c) A registration as an associate clinical social worker may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which the registration was issued, regardless of whether the registration has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent associate clinical social worker registration number if the applicant meets all requirements for registration in effect at the time of his or her application for a subsequent associate clinical social worker registration ~~number. number and has passed the California law and ethics examination pursuant to Section 4992.09.~~ An applicant issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

SEC. 5. Section 4999.60 of the Business and Professions Code is amended to read:

4999.60. (a) This section applies to persons who are licensed outside of California and apply for licensure on or after January 1, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license in good standing as a professional clinical counselor, or other counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction of the United States, if all of the following conditions are satisfied:

(1) The applicant's education is substantially equivalent, as defined in Section 4999.63.

(2) The applicant complies with subdivision (c) of Section 4999.40, if applicable.

(3) The applicant's supervised experience is substantially equivalent to that required for a license under this chapter. ~~The~~ *For persons who have held their license for less than four years immediately preceding the date of application, the* board shall ~~consider~~ *determine substantial equivalency by considering* hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license described above. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed ~~as a professional clinical counselor in the equivalent profession~~ shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours if the applicant's degree meets the practicum requirement described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 4999.63 without exemptions or remediation.

(4) The applicant passes the examinations required to obtain a license under this chapter. An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(B) The applicant's license or registration in that jurisdiction is active, in good standing at the time of his or her application, and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

SEC. 6. Section 4999.100 of the Business and Professions Code is amended to read:

4999.100. (a) An ~~intern~~ *associate* registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant on or before the expiration date of the registration, shall do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.


(c) An expired registration may be renewed by completing all of the actions described in paragraphs (1) to (4), inclusive, of subdivision (b).

~~(e)~~

(d) The ~~intern~~ associate registration may be renewed a maximum of five times. Registration shall not be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent ~~intern~~ associate registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent ~~intern~~ associate registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant who is issued a subsequent ~~intern~~ associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

~~(d) This section shall become operative on January 1, 2016.~~

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(I) – AB 2119 (Gloria) Foster Care: Gender Affirming Health Care and Behavioral Health Services

Background:

Current law states that all minors and nonminors in foster care have the right to a variety of health services, along with mental health services and the right to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare records. This bill would include the right to have access to gender affirming health care and gender affirming behavioral health care to this list of services. This bill would also require the county child welfare agency to ensure that the child or nonminor dependent has access to gender affirming health care and gender affirming behavioral health services. These services are defined to mean health care that respects the gender identity of the patient, as experienced and defined by the patient.

Location: 2/22/2018 Assembly Committee on Human Services

Status: 3/20/2018 In committee: Hearing postponed by committee

Action Requested:

Staff requests the Policy and Advocacy Committee to watch AB 2119 (Gloria)

Attachment A: AB 2119 (Gloria) Bill Text

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AB-2119 Foster care: gender affirming health care and behavioral health services. (2017-2018)

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Date Published: 02/08/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 2119**

Introduced by Assembly Member Gloria
(Principal coauthor: Senator Wiener)

February 08, 2018

An act to amend Section 16001.9 of, and to add Section 16501.31 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2119, as introduced, Gloria. Foster care: gender affirming health care and behavioral health services.

Existing law provides that it is the policy of the state that all minors and nonminors in foster care have specified rights, including, among others, the right to receive medical, dental, vision, and mental health services and the right to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare records.

This bill would additionally specify that all minors and nonminors in foster care have the right to have access to gender affirming health care and gender affirming behavioral health care. The bill would, upon the request of a child or nonminor dependent, or his or her caregiver, attorney, Court Appointed Special Advocate, or social worker, require the county child welfare agency to ensure that the child or nonminor dependent has access to gender affirming health care and gender affirming behavioral health services, which are defined to mean health care or behavioral health services that respect the gender identity of the patient, as specified. The bill would require the State Department of Social Services to adopt regulations to implement these provisions on or before January 1, 2020.

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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 16001.9 of the Welfare and Institutions Code is amended to read:

16001.9. (a) It is the policy of the state that all minors and nonminors in foster care ~~shall~~ have the following rights:

- (1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.
- (2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
- (3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.
- (4) To receive medical, dental, vision, and mental health services.
- (5) To be free of the administration of medication or chemical substances, unless authorized by a physician.
- (6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASAs), and probation officers.
- (7) To visit and contact brothers and sisters, unless prohibited by court order.
- (8) To contact the Community Care Licensing Division of the State Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.
- (9) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
- (10) To attend religious services and activities of his or her choice.
- (11) To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.
- (12) To not be locked in a room, building, or facility premises, unless placed in a community treatment facility.
- (13) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level, with minimal disruptions to school attendance and educational stability.
- (14) To work and develop job skills at an age-appropriate level, consistent with state law.
- (15) To have social contacts with people outside of the foster care system, including teachers, church members, mentors, and friends.
- (16) To attend Independent Living Program classes and activities if he or she meets *the* age requirements.
- (17) To attend court hearings and speak to the judge.
- (18) To have storage space for private use.
- (19) To be involved in the development of his or her own case plan and plan for permanent placement.
- (20) To review his or her own case plan and plan for permanent placement, if he or she is 12 years of age or older and in a permanent placement, and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.
- (21) To be free from unreasonable searches of personal belongings.
- (22) To the confidentiality of all juvenile court records consistent with existing law.
- (23) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
- (24) To be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare records.
- (25) To have caregivers and child welfare personnel who have received instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

(26) At 16 years of age or older, to have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for vocational and postsecondary educational programs, and information regarding financial aid for postsecondary education.

(27) To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections at 12 years of age or older.

(28) To have access to gender affirming health care and gender affirming behavioral health services, as defined in Section 16501.31.

(b) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

(c) The State Department of Social Services and each county welfare department are encouraged to work with the Student Aid Commission, the University of California, the California State University, and the California Community Colleges to receive information pursuant to paragraph (26) of subdivision (a).

SEC. 2. Section 16501.31 is added to the Welfare and Institutions Code, to read:

16501.31. (a) Upon the request of a child or nonminor dependent, or his or her caregiver, attorney, Court Appointed Special Advocate, or social worker, the county child welfare agency shall ensure that the child or nonminor dependent has access to gender affirming health care and gender affirming behavioral health services.

(b) (1) "Gender affirming health care" means health care that respects the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, all of the following:

(A) Interventions to suppress the development of endogenous secondary sex characteristics.

(B) Interventions to align the patient's appearance or physical body with the patient's gender identity.

(C) Interventions to alleviate symptoms of clinically significant distress resulting from gender dysphoria, as defined in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition.

(2) "Gender affirming behavioral health services" means behavioral health services that respect the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, developmentally appropriate exploration and integration of identity, reduction of distress, adaptive coping, and strategies to increase family acceptance.


(c) Treatment plans shall not include interventions aimed at aligning a child's or nonminor dependent's assigned sex at birth and gender identity, nor may a child or nonminor dependent be subjected to those interventions by licensed professionals or any other individual.

(d) Gender affirming health care and gender affirming behavioral health services provided pursuant to this section are subject to existing laws governing consent to health care. Nothing in this section shall be construed to limit, add, or otherwise affect, applicable law on consent to health care.

(e) The department shall adopt regulations to implement this section on or before January 1, 2020.

SEC. 3. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.

MEMORANDUM

DATE	March 26, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(J) – AB 2143 (Caballero) Licensed Mental Health Service Provider Education Program: Providers

Background:

AB 2143 (Caballero) relates to the current Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation (HPEF). This bill would add physician assistants who specialize in mental health services and psychiatric-mental health nurse practitioners to those licensed mental health service providers eligible for grants.

Location: 3/20/2018 Assembly Committee on Health

Status: 3/22/2018 From committee: Amend, and do pass as amended and re-refer to Assembly Committee on Health

Votes: 3/20/2018 Assembly Committee on Business and Professions (13-0-3)

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2143 (Cabellaro) for any potential impacts on the HPEF program and access to mental health services in California.

Attachment A: AB 2143 (Cabellaro) Bill Text

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AB-2143 Mental health: Licensed Mental Health Service Provider Education Program. (2017-2018)

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Date Published: 02/12/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 2143**

Introduced by Assembly Member Caballero

February 12, 2018

An act to amend Section 128454 of the Health and Safety Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2143, as introduced, Caballero. Licensed Mental Health Service Provider Education Program: providers.

Existing law establishes the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation. Existing law authorizes a licensed mental health service provider, as defined, including, among others, a psychologist and a marriage and family therapist, who provides direct patient care in a publicly funded facility or a mental health professional shortage area to apply for grants under the 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 in the State Treasury and provides that moneys in that fund are available, upon appropriation, for expenditure by the Office of Statewide Health Planning and Development for purposes of the program.

This bill would add physician assistants who specialize in mental health services and psychiatric-mental health nurse practitioners to those licensed mental health service providers eligible for grants under the program.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 128454 of the Health and Safety Code, as added by Section 9 of Chapter 557 of the Statutes of 2017, 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, associate marriage and family therapist, licensed clinical social worker, associate clinical social worker, licensed professional clinical counselor, ~~and associate professional clinical counselor,~~ *physician assistant who specializes in mental health services, and psychiatric-mental health nurse practitioner licensed to practice pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.*

(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.

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

MEMORANDUM

DATE	March 16, 2018
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item # 7(a)(2)(K) – AB 2156 (Chen) Mental health services: gravely disabled

Background:

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of a person who is a danger to himself or herself or others or who is gravely disabled. Existing law also provides for a conservator of the person or estate to be appointed for a person who is gravely disabled. Existing law, for the purposes of involuntary commitment and conservatorship, defines “gravely disabled,” among other things, as a condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

This bill would change the definition of “gravely disabled” for these purposes to read, in part, a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about, or providing for, his or her own basic personal needs for food, clothing, shelter, or medical care without significant supervision and assistance from another person and, as a result of being incapable of making these informed decisions, the person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of his or her essential needs that could result in bodily harm.

This bill raises concerns that while the change in the definition of gravely disabled generally expands the criteria for individual commitment, it could significantly restrict the criteria for individual commitment for persons with intellectual disabilities who are a danger to themselves or others.

Location: Assembly Committee on Health

Status: 2/26/18 – Referred to the Assembly Committee on Health

Action Requested:

Staff request the Committee review and discuss AB 2156 (Chen) and determine if a letter of concern is warranted.

Attachment A: AB 2156 (Chen) Bill Text

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AB-2156 Mental health services: gravely disabled. (2017-2018)

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Date Published: 02/12/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 2156**

Introduced by Assembly Member Chen
(Coauthor: Assembly Member Harper)
(Coauthors: Senators Gaines, Moorlach, and Nielsen)

February 12, 2018

An act to amend Section 1799.111 of the Health and Safety Code, and to amend Section 5008 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2156, as introduced, Chen. Mental health services: gravely disabled.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of a person who is a danger to himself or herself or others or who is gravely disabled. Existing law also provides for a conservator of the person or estate to be appointed for a person who is gravely disabled. Existing law, for the purposes of involuntary commitment and conservatorship, defines "gravely disabled," among other things, as a condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

This bill would change the definition of "gravely disabled" for these purposes to read, in part, a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about, or providing for, his or her own basic personal needs for food, clothing, shelter, or medical care without significant supervision and assistance from another person and, as a result of being incapable of making these informed decisions, the person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of his or her essential needs that could result in bodily harm. By increasing the level of service required of county mental health departments, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1799.111 of the Health and Safety Code is amended to read:

1799.111. (a) Subject to subdivision (b), a licensed general acute care hospital, as defined in subdivision (a) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, a licensed acute psychiatric hospital, as defined in subdivision (b) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, licensed professional staff of those hospitals, or any physician and surgeon, providing emergency medical services in any department of those hospitals to a person at the hospital shall not be civilly or criminally liable for detaining a person if all of the following conditions exist during the detention:

(1) The person cannot be safely released from the hospital because, in the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges, clinical privileges, or professional responsibilities provided in Section 1316.5, the person, as a result of a mental disorder, presents a danger to himself or herself, or others, or is gravely disabled. For purposes of this paragraph, "gravely disabled" ~~means an inability to provide for his or her basic personal needs for food, clothing, or shelter.~~ *has the same definition as in paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code.*

(2) The hospital staff, treating physician and surgeon, or appropriate licensed mental health professional, have made, and documented, repeated unsuccessful efforts to find appropriate mental health treatment for the person.

(A) Telephone calls or other contacts required pursuant to this paragraph shall commence at the earliest possible time when the treating physician and surgeon has determined the time at which the person will be medically stable for transfer.

(B) In no case shall the contacts required pursuant to this paragraph begin after the time when the person becomes medically stable for transfer.

(3) The person is not detained beyond 24 hours.

(4) There is probable cause for the detention.

(b) If the person is detained pursuant to subdivision (a) beyond eight hours, but less than 24 hours, both of the following additional conditions shall be met:

(1) A discharge or transfer for appropriate evaluation or treatment for the person has been delayed because of the need for continuous and ongoing care, observation, or treatment that the hospital is providing.

(2) In the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, the person, as a result of a mental disorder, is still a danger to himself or herself, or others, or is gravely disabled, as defined in paragraph (1) of subdivision (a).

(c) In addition to the immunities set forth in subdivision (a), a licensed general acute care hospital, as defined in subdivision (a) of Section 1250 that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, a licensed acute psychiatric hospital as defined by subdivision (b) of Section 1250 that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, licensed professional staff of those hospitals, ~~or any~~ a physician and surgeon, providing emergency medical services in any department of those hospitals to a person at the hospital shall not be civilly or criminally liable for the actions of a person detained up to 24 hours in those hospitals who is subject to detention pursuant to subdivision (a) after that person's release from the detention at the hospital, if all of the following conditions exist during the detention:

(1) The person has not been admitted to a licensed general acute care hospital or a licensed acute psychiatric hospital for evaluation and treatment pursuant to Section 5150 of the Welfare and Institutions Code.

(2) The release from the licensed general acute care hospital or the licensed acute psychiatric hospital is authorized by a physician and surgeon or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, who determines, based on a face-to-face examination of the person detained, that the person does not present a danger to himself or herself or others and is not gravely disabled, as defined in paragraph (1) of subdivision (a). In order for this paragraph to apply to a clinical psychologist, the clinical psychologist shall have a collaborative treatment relationship with the physician and surgeon. The clinical psychologist may authorize the release of the person from the detention, but only after he or

she has consulted with the physician and surgeon. In the event of a clinical or professional disagreement regarding the release of a person subject to the detention, the detention shall be maintained unless the hospital's medical director overrules the decision of the physician and surgeon opposing the release. Both the physician and surgeon and the clinical psychologist shall enter their findings, concerns, or objections in the person's medical record.

(d) Nothing in this section shall affect the responsibility of a general acute care hospital or an acute psychiatric hospital to comply with all state laws and regulations pertaining to the use of seclusion and restraint and psychiatric medications for psychiatric patients. Persons detained under this section shall retain their legal rights regarding consent for medical treatment.

(e) A person detained under this section shall be credited for the time detained, up to 24 hours, in the event he or she is placed on a subsequent 72-hour hold pursuant to Section 5150 of the Welfare and Institutions Code.

(f) The amendments to this section made by the act adding this subdivision shall not be construed to limit any existing duties for psychotherapists contained in Section 43.92 of the Civil Code.

(g) Nothing in this section is intended to expand the scope of licensure of clinical psychologists.

SEC. 2. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing face-to-face, ~~which includes~~ *including* telehealth, evaluation ~~services or may be services,~~ part-time ~~employees employees,~~ or ~~may be~~ employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a superior court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of ~~such~~ hospital and other services as ~~may be~~ indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. This part does not prohibit an intensive treatment facility from also providing 72-hour evaluation and treatment.

(d) (1) "Referral" ~~is means~~ *means* referral of persons by each agency or facility providing assessment, evaluation, crisis intervention, or treatment services to other agencies or individuals. The purpose of referral ~~shall be is~~ *is* to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services that prevent initial recourse to hospital treatment or aftercare services that support adjustment to community living following hospital treatment. These services may be provided through county or city mental health departments, state hospitals under the jurisdiction of the State Department of State Hospitals, regional centers under contract with the State Department of Developmental Services, or other public or private entities.

~~Each~~

(2) ~~Each~~ *Each* agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations ~~which that~~ *that* present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with ~~such therapy, the therapy~~ or other services, as ~~may be~~ appropriate. The interview or interviews may include family members,

significant support persons, providers, or other entities or individuals, as appropriate and as authorized by law. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of a mental health disorder, to be a danger to others, or to himself or herself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means either of the following:

(A) A condition in which a person, as a result of a mental health disorder, is ~~unable to provide for his or her basic personal needs for food, clothing, or shelter.~~ *incapable of making informed decisions about, or providing for, his or her own basic personal needs for food, clothing, shelter, or medical care without significant supervision and assistance from another person and, as a result of being incapable of making these informed decisions, the person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of his or her essential needs that could result in bodily harm.*

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The complaint, indictment, or information pending against the person at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) There has been a finding of probable cause on a complaint pursuant to paragraph (2) of subdivision (a) of Section 1368.1 of the Penal Code, a preliminary examination pursuant to Section 859b of the Penal Code, or a grand jury indictment, and the complaint, indictment, or information has not been dismissed.

(iii) As a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

(iv) The person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(3) The term "gravely disabled" does not include persons with intellectual disabilities by reason of that disability alone.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record.


(l) "Antipsychotic medication" means ~~any~~ medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) "Emergency" means a situation in which action to impose treatment over the person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

(n) "Designated facility" or "facility designated by the county for evaluation and treatment" means a facility that is licensed or certified as a mental health treatment facility or a hospital, as defined in subdivision (a) or (b) of Section 1250 of the Health and Safety Code, by the State Department of Public Health, and may include, but is not limited to, a licensed psychiatric hospital, a licensed psychiatric health facility, and a certified crisis stabilization unit.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

MEMORANDUM

DATE	March 29, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(L) – AB 2193 (Maienschein) Maternal Mental Health

Background:

AB 2193 would require the licensed health care practitioner treating or attending a mother or child, or both, to screen the mother for maternal mental health conditions once during pregnancy and once during the postpartum period. This bill would also require the facility where these practitioners treat the individual to ensure that those practitioners perform the required screening and report the findings. AB 2193 would also require the practitioners to report their findings to the mother's primary care physician.

Staff spoke with the authors office and was informed that amendments are forthcoming to specify physicians and surgeons specializing in Obstetrics and Gynecology are the practitioners to whom the bill would apply.

Location: 2/26/2018 Assembly Committee on-Health

Status: 2/26/2018 Referred to Assembly Committee on-Health

Action Requested:

Staff request the Policy and Advocacy Committee watch AB 2193 (Maienschein) to determine its impact on access to perinatal mental health services.

Attachment A: AB 2193 (Maienschein) Bill Text

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AB-2193 Maternal mental health. (2017-2018)

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Date Published: 02/12/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 2193**

Introduced by Assembly Member Maienschein

February 12, 2018

An act to add Section 685 to the Business and Professions Code, to add Section 1367.625 to the Health and Safety Code, and to add Section 10123.867 to the Insurance Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2193, as introduced, Maienschein. Maternal mental health.

Existing law provides for the licensure and regulation of various healing arts professions, including, but not limited to, physicians and surgeons, by various boards 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 make it the duty of licensed health care practitioners who treat or attend the mother or child, or both, to screen the mother for maternal mental health conditions, as defined, at least once during pregnancy and once during the postpartum period and to report the findings of the screening to the mother's primary care physician if the health care practitioner is not the mother's primary care physician. The bill would also make it the duty of any facility where those practitioners treat or attend the mother or child, or both, in the first postdelivery appointment to ensure that those practitioners perform the required screening and report the findings. The bill would make a violation of its requirements grounds for disciplinary action by the licensee's licensing entity and would make the facility subject to punishment by its licensing entity, except that a violation of this requirement would not constitute a crime.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies that provide hospital, medical, or surgical coverage to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, as defined, of a person of any age.

This bill would require health care service plans and health insurers to develop, by July 1, 2019, a case management program that is available for enrollees and insureds and their treating providers when the provider determines that an enrollee or insured may have a maternal mental health condition, as specified. The bill would

require that case management program to meet specified standards and would require plans and insurers to notify providers of the availability of the program and to develop a quality management program in order to understand the effectiveness of the case management program. The bill would require health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2019, to provide coverage for maternal mental health conditions and the above-described case management program. Because a willful violation of the bill's requirement by a health care service plan would be a crime, the bill would impose a state-mandated local program.

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 685 is added to the Business and Professions Code, to read:

685. (a) It shall be the duty of any health care practitioner who treats or attends a mother or child, or both, to screen the mother for maternal mental health conditions at least once during pregnancy and once during the postpartum period, unless the health care practitioner has received confirmation from a treating psychiatrist that she will remain under the treating psychiatrist's care during pregnancy and the postpartum period, as applicable. The health care practitioner shall, in a manner consistent with applicable federal privacy law, report the findings of that screening to the mother's primary care physician if the health care practitioner is not the mother's primary care physician.

(b) It shall be the duty of any facility where a health care practitioner treats or attends the mother or child, or both, in the first postdelivery appointment to ensure that the health care practitioner conducts the screening and reports the findings of the screening as described in subdivision (a).

(c) This section shall not be construed to limit when and how often a mother postdelivery is screened for maternal mental health conditions.

(d) A violation of subdivision (a) constitutes unprofessional conduct and grounds for disciplinary action by the health care practitioner's licensing entity. A violation of subdivision (a) shall not constitute a crime.

(e) A facility subject to subdivision (b) that violates subdivision (b) shall be subject to punishment by the facility's licensing entity, except that a violation of subdivision (b) shall not constitute a crime.

(f) Nothing in this section shall prohibit another provider type from screening for maternal mental health conditions.

(g) For purposes of this section, the following definitions apply:

(1) "Maternal mental health condition" means a mental health condition that occurs during pregnancy or during the postpartum period and includes, but is not limited to, postpartum depression.

(2) "Health care practitioner" means an individual who is certified or licensed pursuant to this division or an initiative act referred to in this division and is acting within his or her scope of practice.

SEC. 2. Section 1367.625 is added to the Health and Safety Code, to read:

1367.625. (a) By July 1, 2019, a health care service plan shall develop a case management program that is available for an enrollee and his or her treating provider when the provider, acting within his or her scope of practice, determines that the enrollee may have a maternal mental health condition.

(b) The case management program required by subdivision (a) shall do all of the following:

(1) Provide the provider and enrollee direct support in accessing treatment and, if available, managing care in accordance with the provider's treatment plan.

(2) Provide direct access to a clinician assigned to both the provider and the patient.

(3) Support the provider and enrollee in accessing care in a timely manner, consistent with appointment time standards developed pursuant to Section 1367.03, to provide both of the following services:

- (A) Direct access for the enrollee to a therapist trained in maternal mental health.
- (B) Direct access for both the provider and enrollee to a provider-to-provider psychiatric consultation with a psychiatrist familiar with the latest research surrounding treatment of pregnant and lactating women.
- (4) When a treatment plan is available, require clinical case managers in the program to extend the capacity of the enrollee's provider by following the enrollee's treatment access, symptoms, and symptom severity, and recommending potential changes to the treatment plan when clinically indicated. A clinical case manager shall also provide written reports on an enrollee's status to the enrollee's provider on a periodic basis of no less than once every eight months.
- (c) Commencing July 1, 2019, and annually thereafter, a health care service plan shall notify providers in writing of the availability of the case management program described in this section and the process by which a provider can access that program.
- (d) (1) In order to understand the effectiveness of the case management program developed by a plan under this section and to make changes as needed to improve utilization, a health care service plan shall develop a maternal mental health quality management program that tracks all of the following information:
- (A) The number, ratio, and geographical distance of behavioral providers trained to treat maternal mental health conditions, including therapists and psychiatrists.
- (B) Case management utilization, including utilization by individual providers.
- (C) The effectiveness of the program in reducing symptoms.
- (D) Enrollee and provider satisfaction with the program, if available.
- (2) The information in paragraph (1) shall be reported to a quality assurance committee of the health care service plan on an annual basis, and the plan shall institute corrective actions when warranted.
- (e) Nothing in this section shall be construed to prohibit either of the following:
- (1) A health care service plan from accepting a referral from another treating provider or case management program with respect to a maternal mental health condition.
- (2) A health care service plan from transferring a case to another case management program designed to treat mental health issues after the postpartum period expires.
- (f) A health care service plan contract issued, amended, or renewed on or after January 1, 2019, shall provide coverage for maternal mental health conditions and for the case management program developed by the plan under this section. This section shall not apply to a specialized health care service plan contract that does not deliver mental or behavioral health services to enrollees.
- (g) For the purposes of this section, the following terms have the following meanings:
- (1) "Case management program" means a collaborative process of assessment, planning, facilitation, care coordination, evaluation, and advocacy for options and services to meet an individual's and family's comprehensive health needs through communication and available resources to promote quality, cost-effective outcomes. Case management programs include care management or disease management programs.
- (2) "Maternal mental health condition" means a mental health condition that occurs during pregnancy or during the postpartum period and includes, but is not limited to, postpartum depression.
- (3) "Provider" means an individual who is certified or licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or an initiative act referred to in that division.

SEC. 3. Section 10123.867 is added to the Insurance Code, to read:

10123.867. (a) By July 1, 2019, a health insurer shall develop a case management program that is available for an insured and his or her treating provider when the provider, acting within his or her scope of practice, determines that the insured may have a maternal mental health condition.

(b) The case management program required by subdivision (a) shall do all of the following:

(1) Provide the provider and insured direct support in accessing treatment and, if available, managing care in accordance with the provider's treatment plan.

- (2) Provide direct access to a clinician assigned to both the provider and the insured.
- (3) Support the provider and insured in accessing care in a timely manner, consistent with the timely access regulations adopted under Section 10133.5, to provide both of the following services:
- (A) Direct access for the insured to a therapist trained in maternal mental health.
- (B) Direct access for both the provider and insured to a provider-to-provider psychiatric consultation with a psychiatrist familiar with the latest research surrounding treatment of pregnant and lactating women.
- (4) When a treatment plan is available, require clinical case managers in the program to extend the capacity of the insured's provider by following the insured's treatment access, symptoms, and symptom severity, and recommending potential changes to the treatment plan when clinically indicated. A clinical case manager shall also provide written reports on the insured's status to the insured's provider on a periodic basis of no less than once every 8 months.
- (c) Commencing July 1, 2019, and annually thereafter, a health insurer shall notify providers in writing of the availability of the case management program described in this section and the process by which a provider can access that program.
- (d) (1) In order to understand the effectiveness of the case management program developed by a health insurer under this section and to make changes as needed to improve utilization, a health insurer shall develop a maternal mental health quality management program that tracks all of the following information:
- (A) The number, ratio, and geo-distance of behavioral providers trained to treat maternal mental health conditions, including therapists and psychiatrists.
- (B) Case management utilization, including utilization by individual providers.
- (C) The effectiveness of the program in reducing symptoms.
- (D) Insured and provider satisfaction with the program, if available.
- (2) The information in paragraph (1) shall be reported to a quality assurance committee of the health insurer on an annual basis, and the health insurer shall institute corrective actions when warranted.
- (e) Nothing in this section shall be construed to prohibit either of the following:
- (1) A health insurer from accepting a referral from another treating provider or case management program.
- (2) A health insurer from transferring a case to another case management program designed to treat mental health issues after the postpartum period expires.
- (f) A health insurance policy issued, amended, or renewed on or after January 1, 2019, shall provide coverage for maternal mental health conditions and for the case management program developed by the insurer under this section. This section shall not apply to a specialized health insurance policy that does not deliver mental or behavioral health services to insureds.
- (g) For the purposes of this section, the following terms have the following meanings:
- (1) "Case management program" means a collaborative process of assessment, planning, facilitation, care coordination, evaluation, and advocacy for options and services to meet an individual's and family's comprehensive health needs through communication and available resources to promote quality, cost-effective outcomes. Case management programs include care management or disease management programs.
- (2) "Maternal mental health condition" means a mental health condition that occurs during pregnancy or during the postpartum period and includes, but is not limited to, postpartum depression.
- (3) "Provider" means an individual who is certified or licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or an initiative act referred to in that division.

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.

MEMORANDUM

DATE	March 28, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(M) – AB 2483 (Voepel) Department of Consumer Affairs: Office of Supervision of Occupational Boards

Background:

AB 2483 (Voepel) would create and the Office of Supervision of Occupational Boards (Office) within the Department of Consumer Affairs to exercise active supervision over a “covered board”. The goal for this Office would be to ensure compliance with licensing and enforcement policies. The Office would review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before adoption or implementation. The bill would establish procedures for complaints, investigation, remedial action, and appeal relating to a rule, policy, enforcement action, or other occupational licensure action of a covered board inconsistent with the established policy.

Location: 3/5/2018 Assembly Committee on Business & Professions

Status: 3/5/2018 Referred to Committee on Business & Professions

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2483 (Voepel) to determine whether the bill will move and its impact on the Board.

Attachment A: AB 2483 (Voepel) Bill Text

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AB-2483 Department of Consumer Affairs: Office of Supervision of Occupational Boards. (2017-2018)

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Date Published: 02/14/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 2483**

Introduced by Assembly Member Voepel

February 14, 2018

An act to add Chapter 10 (commencing with Section 473) to Division 1 of the Business and Professions Code, relating to professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as introduced, Voepel. Department of Consumer Affairs: Office of Supervision of Occupational Boards.

Under existing law, the Department of Consumer Affairs is composed of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. With certain exceptions, decisions of these entities with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are final and are not subject to review by the Director of Consumer Affairs.

This bill would establish an Office of Supervision of Occupational Boards within the department to exercise active supervision over a "covered board," defined as specific licensing and regulatory agencies within the department, to ensure compliance with specific policies established in the bill regarding licensing and enforcement (established policies). The bill would require the office, in the exercise of active supervision, to be involved in the development of a covered board's rules and policies, to disapprove the use of any board rule or policy and terminate any enforcement action that is not consistent with the established policies, and to review and affirmatively approve only rules, policies, and enforcement actions consistent with the established policies. The bill would require the office to review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before adoption or implementation. The bill would establish procedures for complaints, investigation, remedial action, and appeal relating to a rule, policy, enforcement action, or other occupational licensure action of a covered board inconsistent with the established policies.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 10 (commencing with Section 473) is added to Division 1 of the Business and Professions Code, to read:

CHAPTER 10. Office of Supervision of Occupational Boards

473. The following are policies of the state:

(a) Occupational licensing laws should be construed and applied to increase economic opportunity, promote competition, and encourage innovation.

(b) Regulators should displace competition through occupational licensing only where less restrictive regulation will not suffice to protect consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare.

(c) An occupational licensing restriction should be enforced against an individual only to the extent the individual sells goods and services that are included explicitly in the statute or regulation that defines the occupation's scope of practice.

473.1. As used in this chapter:

(a) "Covered board" means any entity listed in Section 101.

(b) "Office" means the Office of Supervision of Occupational Boards established in Section 473.2.

473.2. (a) There is hereby established an Office of Supervision of Occupational Boards within the department.

(b) (1) Notwithstanding Section 109, the office shall be responsible for exercising active supervision over each covered board to ensure compliance with the policies in Section 473.

(2) In exercising active supervision over covered boards under paragraph (1), the office shall independently do the following:

(A) Play a substantial role in the development of a covered board's rules and policies to ensure they benefit consumers and do not serve the private interests of providers of goods and services regulated by the covered board.

(B) Disapprove the use of any rule or policy of a covered board and terminate any enforcement action, including any action pending on January 1, 2019, that is not consistent with Section 473.

(C) Exercise control over each covered board by reviewing and affirmatively approving only rules, policies, and enforcement actions that are consistent with Section 473.

(D) Analyze existing and proposed rules and policies and conduct investigations to gain additional information to promote compliance with Section 473, including, but not limited to, less restrictive regulatory approaches.

(3) In exercising active supervision over covered boards under paragraph (1), the office shall be staffed by not fewer than one attorney who does not provide general counsel to any covered board.

(c) (1) Notwithstanding Section 109, the office shall review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before the covered board may adopt or implement the rule, policy, enforcement action, or other occupational licensure action.

(2) For purposes of paragraph (1), approval by the office shall be express and silence or failure to act shall not constitute approval.


473.3. (a) Any person may file a complaint to the office about a rule, policy, enforcement action, or other occupational licensure action of a covered board that the person believes is not consistent with Section 473.

(b) Not later than 90 days after the date on which the office receives a complaint filed under paragraph (1), notwithstanding Section 109, the office shall investigate the complaint, identify remedies, and instruct the covered board to take action as the office determines to be appropriate, and respond in writing to the complainant.

(c) (1) There shall be no right to appeal a decision of the office under subdivision (b) unless the challenged rule, policy, enforcement action, or other occupational licensure action would prevent the complainant from engaging in a lawful occupation or employing or contracting others for the performance of a lawful occupation and the complainant has taken material steps in an attempt to engage in a lawful occupation or employ or contract others for the performance of a lawful occupation.

(2) Any appeal authorized under paragraph (1) shall be to the superior court.

MEMORANDUM

DATE	March 29, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(N) – AB 2539 (Mathis) California Physician Corps Program: Practice Setting

Background:

Current law states that the Steven M. Thompson Physician Corps Loan Repayment Program (program) shall provide financial incentives, including repayment of educational loans to a physician and surgeon who practices in a medically underserved area. Current law defines “practice setting” as a community clinic, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county’s role, which is located in a medically underserved area. Under current law, enrollment to the program requires at least 50 percent of the practice setting’s patients are from a medically underserved population, or 50 percent who are uninsured.

AB 2539 (Mathis) would create a 2-year window for enrollees on or after January 1, 2019, and before January 1, 2021 to qualify for the program with lower percentages if the clinic is in a rural area. Under this bill, during this time frame a clinic must have at least 30 percent of patients (if the area is a rural area), or at least 50 percent of patients (if the area is not a rural area), who are from a medically underserved population in order to be eligible. For purposes of this bill, “rural area” means a medical service study area with a population density of fewer than 250 persons per square mile and no population center in excess of 50,000 within the area, as determined by the office.

Location: 3/5/2018 Assembly Committee on Health

Status: 3/5/2018 Referred to Assembly Committee on Health

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2539 (Mathis) to view the impacts of the reduced percentages on access to care.

Attachment A: AB 2539 (Mathis) Bill Text

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AB-2539 California Physician Corps Program: practice setting. (2017-2018)

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Date Published: 02/14/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 2539**

Introduced by Assembly Member Mathis

February 14, 2018

An act to amend Sections 128552 and 128553 of, and to add and repeal Section 128557.5 of, the Health and Safety Code, relating to physicians and surgeons, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2539, as introduced, Mathis. California Physician Corps Program: practice setting.

Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program (program) in the California Physician Corps Program within the Health Professions Education Foundation, which provides financial incentives, including repayment of educational loans, to a physician and surgeon who practices in a medically underserved area, as defined. Existing law establishes the Medically Underserved Account for Physicians, a continuously appropriated account, within the Health Professions Education Fund, to primarily provide funding for the ongoing operations of the program. Existing law requires the foundation and the Office of Statewide Health Planning and Development to develop guidelines using specified criteria for selection and placement of applicants.

Existing law defines "practice setting," for these purposes, to include a community clinic, as defined, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role to serve its indigent population, that is located in a medically underserved area and at least 50% of whose patients are from a medically underserved population. Existing law also defines "practice setting," for these purposes, to include a physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50% of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250% of the federal poverty level.

This bill would instead require, for purposes of this definition, only until January 1, 2021, and only for program participants who enroll in the program on or after January 1, 2019, and before January 1, 2021, that the clinic or the physician owned and operated medical practice setting have at least 30% of patients, if the area is a rural area, as defined, or at least 50% of patients, if the area is not a rural area, who are from the above-described populations. By expanding the authorization for the use of moneys in the continuously appropriated Medically Underserved Account for Physicians, this bill would make an appropriation.

The bill would require the foundation to prepare a study to determine the effect that the revised definition has on funding for loan repayment granted under the program during the calendar years 2019 and 2020. The bill would require the foundation to submit 2 reports of the study by March 1, 2020, and March 1, 2021, respectively, including program data for certain years and identifying specified information.

The bill would appropriate \$120,000 from the General Fund to the office to amend regulations as applicable, to provide technical assistance to the increased number of program applicants, and to prepare the above-described study and reports, for the purpose of implementing this bill.

The bill would also make conforming changes to related provisions.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 128552 of the Health and Safety Code is amended to read:

128552. For purposes of this article, the following definitions ~~shall~~ apply:

(a) "Account" means the Medically Underserved Account for Physicians established within the Health Professions Education Fund pursuant to this article.

(b) "Foundation" means the Health Professions Education Foundation.

(c) "Fund" means the Health Professions Education Fund.

(d) "Medi-Cal threshold languages" means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000, eligible LEP Medi-Cal beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal beneficiaries residing in two contiguous ZIP Codes.

(e) "Medically underserved area" means an area defined as a health professional shortage area in Part 5 of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the California Healthcare Workforce Policy Commission pursuant to Section 128225.

(f) "Medically underserved population" means the Medi-Cal program, Healthy Families Program, and uninsured populations.

(g) "Office" means the Office of Statewide Health Planning and Development (OSHPD).

(h) "Physician Volunteer Program" means the Physician Volunteer Registry Program established by the Medical Board of California.

(i) "Practice setting," for the purposes of this article only, means either of the following:

(1) A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role pursuant to Section 17000 of the Welfare and Institutions Code, which is located in a medically underserved area and ~~at least 50 percent of whose patients are from a medically underserved population.~~ *meets the following conditions:*

(A) For program participants who enrolled in the program before January 1, 2019, and who continue to participate in the program on or after that date, the clinic has at least 50 percent of patients who are from a medically underserved population.

(B) Until January 1, 2021, for program participants who enroll in the program on or after January 1, 2019, and before January 1, 2021, the clinic has at least 30 percent of patients, if the area is a rural area, or at least 50 percent of patients, if the area is not a rural area, who are from a medically underserved population.

(C) Commencing January 1, 2021, for program participants who enroll in the program on or after January 1, 2021, and for program participants described in subparagraph (A) or (B), the clinic has at least 50 percent of patients who are from a medically underserved population.

(2) A physician owned and operated medical practice setting that provides primary care located in a medically underserved area and meets the following conditions:

~~(2)A-physician-owned~~

(A) For program participants who enrolled in the program before January 1, 2019, and ~~operated medical practice setting that provides primary care located in a medically underserved area and~~ who continue to participate in the program on or after that date, the medical practice setting has a minimum of 50 percent of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(B) Until January 1, 2021, for program participants who enroll in the program on or after January 1, 2019, and before January 1, 2021, the medical practice setting has at least 30 percent of patients, if the area is a rural area, or at least 50 percent of patients, if the area is not a rural area, who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(C) Commencing January 1, 2021, for program participants who enroll in the program on or after January 1, 2021, and for program participants described in subparagraph (A) or (B), the medical practice setting has a minimum of 50 percent of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(j) "Primary specialty" means family practice, internal medicine, pediatrics, or obstetrics/gynecology.

(k) "Program" means the Steven M. Thompson Physician Corps Loan Repayment Program.

(l) "Rural area" means a medical service study area with a population density of fewer than 250 persons per square mile and no population center in excess of 50,000 within the area, as determined by the office.

~~(h)~~

(m) "Selection committee" means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.

SEC. 2. Section 128553 of the Health and Safety Code is amended to read:

128553. (a) Program applicants shall possess a current valid license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code or pursuant to the Osteopathic Act.

(b) The foundation and the office shall develop guidelines using the criteria specified in subdivision (c) for selection and placement of applicants. The foundation shall interpret the guidelines to apply to both osteopathic and allopathic physicians and surgeons.

(c) The guidelines shall meet all of the following criteria:

(1) Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:

(A) Speak a Medi-Cal threshold language.

(B) Come from an economically disadvantaged background.

(C) Have received significant training in cultural and linguistically appropriate service delivery.

(D) Have three years of experience providing health care services to medically underserved populations or in a medically underserved area, as defined in subdivision (e) of Section 128552.

(E) Have recently obtained a license to practice medicine.

(2) Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the practice setting meets the definition specified in subdivision ~~(h)~~ (i) of Section 128552.

(3) Give preference to applicants who have completed a three-year residency in a primary specialty.

(4) Give preference to applicants who agree to practice in a medically underserved area, as defined in subdivision (e) of Section 128552, and who agree to serve a medically underserved population.

(5) Give priority consideration to applicants from rural communities who agree to practice in a physician owned and operated medical practice setting as defined in paragraph (2) of subdivision (i) of Section 128552.

(6) Include a factor ensuring geographic distribution of placements.

(7) Provide priority consideration to applicants who agree to practice in a geriatric care setting and are trained in geriatrics, and who can meet the cultural and linguistic needs and demands of a diverse population of older Californians. On and after January 1, 2009, up to 15 percent of the funds collected pursuant to Section 2436.5 of the Business and Professions Code shall be dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities.

(d) (1) The foundation may appoint a selection committee that provides policy direction and guidance over the program and that complies with the requirements of subdivision ~~(h)~~ (m) of Section 128552.

(2) The selection committee may fill up to 20 percent of the available positions with program applicants from specialties outside of the primary care specialties.

(e) Program participants shall meet all of the following requirements:

(1) Shall be working ~~in~~ in, or have a signed agreement ~~with~~ with, an eligible practice setting.

(2) Shall have full-time status at the practice setting. Full-time status shall be defined by the board and the selection committee may establish exemptions from this requirement on a case-by-case basis.

(3) Shall commit to a minimum of three years of service in a medically underserved area. Leaves of absence shall be permitted for serious illness, pregnancy, or other natural causes. The selection committee shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the physician is back to full-time status.

(f) The office shall adopt a process that applies if a physician is unable to complete his or her three-year obligation.

(g) The foundation, in consultation with those identified in subdivision (b) of Section 128551, shall develop a process for outreach to potentially eligible applicants.

(h) The foundation may recommend to the office any other standards of eligibility, placement, and termination appropriate to achieve the aim of providing competent health care services in approved practice settings.

SEC. 3. Section 128557.5 is added to the Health and Safety Code, to read:

128557.5. (a) The foundation shall prepare a study to determine the effect that subparagraph (B) of paragraph (1) of, and subparagraph (B) of paragraph (2) of, subdivision (i) of Section 128552 have on funding for loan repayment granted under this article during the calendar years 2019 and 2020.

(b) (1) (A) By March 1, 2020, the foundation shall submit a report of the study described in subdivision (a) to the Legislature, including program data for the calendar year 2019 as compared to program data for the calendar years 2017 and 2018.

(B) By March 1, 2021, the foundation shall submit a report of the study described in subdivision (a) to the Legislature, including program data for the calendar year 2020.

(2) At a minimum, the reports described in paragraph (1) shall identify all of the following:

(A) The name and location of all practice settings with program participants, with the practice settings disaggregated by type as defined in paragraphs (1) and (2) of subdivision (i) of Section 128552.

(B) The number of patients described in subparagraph (B) of paragraph (1) of, or subparagraph (B) of paragraph (2) of, subdivision (i) of Section 128552 in a practice setting, disaggregated by type of area, including a rural area, among others, and the number of total patients in that practice setting.

(C) The number and amount of funding for loan repayment granted under this article, disaggregated by type of program participants as described in paragraphs (1) and (2) of subdivision (i) of Section 128552.

(c) A report submitted pursuant to subdivision (b) shall be submitted in compliance with Section 9795 of the Government Code.

(d) Pursuant to Section 10231.5 of the Government Code, this section shall become inoperative on March 1, 2025, and shall be repealed on January 1, 2026.


SEC. 4. The sum of one hundred twenty thousand dollars (\$120,000) is hereby appropriated from the General Fund to the Office of Statewide Health Planning and Development to fund the following items for the purpose of implementing this act:

(a) Amending regulations as applicable.

(b) Providing technical assistance to the increased number of applicants under the Steven M. Thompson Physician Corps Loan Repayment Program as a result of the implementation of subparagraph (B) of paragraph (1) of, and subparagraph (B) of paragraph (2) of, subdivision (i) of Section 128552 of the Health and Safety Code.

(c) Preparing the study and reports described in Section 128557.5 of the Health and Safety Code.

MEMORANDUM

DATE	March 30, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(O) – AB 2619 (Allen) Mental Health Services Funding: Homeless Persons

Background:

AB 2619 (Allen) would appropriate \$10,000,000 from the General Fund to the State Department of Health Care Services to be distributed to counties for the purpose of funding innovative programs to provide mental health services to California's homeless population. Under current law, the Mental Health Service Act establishes the continuous appropriated Mental Health Services Fund to fund various county mental health programs by imposing a tax of 1 percent on annual incomes above \$1,000,000. Existing law requires county mental health programs to develop plans for innovative programs, and provides funding for these programs from the Mental Health Service Fund.

Location: 3/22/2018 Assembly Committee on Health

Status: 3/22/2018 From Committee Chair with amendments. Re-referred to Assembly Committee on Health for second reading

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2619 (Allen) as it could significantly increase access to mental health care for this vulnerable population.

Attachment A: AB 2619 (Allen) Bill Text


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AB-2619 Mental health services funding: homeless persons. (2017-2018)

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Date Published: 03/23/2018 09:00 PM

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 2619

Introduced by Assembly Member Travis Allen

February 15, 2018

An act ~~to amend Section 5978.1 of the Welfare and Institutions Code,~~ relating to mental health ~~services,~~ *services, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2619, as amended, Travis Allen. ~~Severely mentally ill children.~~ *Mental health services funding: homeless persons.*

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, funds a system of county mental health plans for the provision of mental health services, as specified. *The act establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs by imposing a tax of 1% on annual incomes above \$1,000,000. The act requires the State Department of Health Care Services to implement specified mental health services provided under the act through contracts with county mental health programs or counties acting jointly, as prescribed.* The act provides that it may be amended by the Legislature by a 2/3 vote of each house as long as the amendment is consistent with and furthers the intent of the act, and that the Legislature may also clarify procedures and terms of the act by majority vote. ~~Among other provisions, the existing act declares the intent to establish programs that ensure services are provided to severely mentally ill children, as defined, and that those services are part of the children's system of care, as specified.~~ *Existing law requires county mental health programs to develop plans for innovative programs, and provides for funding for these programs from the Mental Health Services Fund.*

This bill would ~~make technical, nonsubstantive changes to those provisions.~~ *appropriate \$10,000,000 from the General Fund to the State Department of Health Care Services to be distributed to counties for the purpose of funding innovative programs to provide mental health services to California's homeless population.*

Vote: ~~majority~~^{2/3} Appropriation: ~~no~~^{yes} Fiscal Committee: ~~no~~^{yes} Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:


SECTION 1. *The sum of ten million dollars (\$10,000,000) is hereby appropriated from the General Fund to the State Department of Health Care Services. The department shall allocate the appropriated funds to county mental health programs for the purpose of funding innovative programs, consistent with Section 5830 of the Welfare and Institutions Code, to provide mental health services to California's homeless population.*

~~SECTION 1. Section 5878.1 of the Welfare and Institutions Code is amended to read:~~

~~5878.1. (a) It is the intent of this article to establish programs that ensure services will be provided to severely mentally ill children, as defined in Section 5878.2, and that they be part of the children's system of care established pursuant to this part. It is the intent of this act that services provided under this chapter to severely mentally ill children are accountable, developed in partnership with youth and their families, culturally competent, and individualized to the strengths and needs of each child and his or her family.~~

~~(b) This act does not authorize any services to be provided to a minor without the consent of the child's parent or legal guardian beyond those already authorized by existing statute.~~

MEMORANDUM

DATE	March 30, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(P) – AB 2780 (Bloom) Family Law: Support Orders and Child Custody

Background:

Current law authorizes the court to appoint a child custody evaluator to conduct a child custody evaluation in a contested proceeding involving child custody or visitation rights. AB 2780 (Bloom) would also allow a mediator or expert witness, as the court deems appropriate, to conduct the child custody evaluation. This bill would also make changes to examinations performed by a vocational training counselor and relating to the qualifications to be a vocational training counselor.

Location: 3/8/2018 Assembly Committee on Judiciary

Status: 3/8/2018 Referred to Assembly Committee on Judiciary

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2780 (Bloom) to determine its impact on the Board's licensees.

Attachment A: AB 2780 (Bloom) Bill Text

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AB-2780 Family law: support orders and child custody. (2017-2018)

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Date Published: 02/16/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 2780**

Introduced by Assembly Member Bloom

February 16, 2018

An act to amend Sections 3111 and 4331 of, and to add Section 4100 to, the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 2780, as introduced, Bloom. Family law: support orders and child custody.

(1) Existing law authorizes the court to appoint a child custody evaluator to conduct a child custody evaluation in a contested proceeding involving child custody or visitation rights.

This bill would authorize a court to appoint a child custody evaluator, a mediator, or an expert witness, as the court deems appropriate, to conduct the child custody evaluation.

(2) Existing law authorizes the court, in a proceeding for dissolution of marriage or for legal separation of the parties, to order a party to submit to an examination by a vocational training counselor to assess the party's ability to obtain certain employment, as specified. Existing law requires a vocational training counselor performing these examinations to possess specific educational and professional experiences, including, among other qualifications, a master's degree in the behavioral sciences.

This bill would modify the required qualification to serve as a vocational training counselor by allowing, in the alternative to the master's degree, a vocational training counselor to possess another postgraduate degree that the court finds provides sufficient training to perform a vocational evaluation.

(3) Existing law requires a court, in a proceeding for court-ordered child support, to follow the statewide uniform guidelines to determine the amount of child support to order, unless special circumstances exist. Existing law also requires a court to adhere to certain principles in these proceedings, including, among others, that each parent should pay for the support of the children according to his or her ability.

This bill would authorize the court, in a proceeding involving child support, except if a parent is receiving need-based public assistance, to order a party to submit to an examination by a vocational training counselor pursuant to conditions and procedures similar to ordering vocational training in a proceeding for dissolution of marriage or for legal separation of the parties. The bill would authorize a court to impose the enumerated sanctions for failure to submit to an ordered examination, provided the sanction is in the best interest of the child or children.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3111 of the Family Code is amended to read:

3111. (a) In ~~any a~~ contested proceeding involving child custody or visitation rights, the court may appoint a child custody ~~evaluator~~ *evaluator, a mediator pursuant to Article 3 (commencing with Section 3175) of Chapter 11, or an expert witness pursuant to Section 730 of the Evidence Code, as the court deems appropriate*, to conduct a child custody evaluation ~~in cases where~~ *when* the court determines it is in the best interests of the child. The child custody evaluation shall be conducted in accordance with the standards adopted by the Judicial Council pursuant to Section 3117, and all other standards adopted by the Judicial Council regarding child custody evaluations. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on his or her evaluation. At least 10 days before ~~any a~~ hearing regarding custody of the child, the report shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or their attorneys, and any other counsel appointed for the child pursuant to Section 3150. A child custody evaluation, investigation, or assessment, and ~~any a~~ resulting report, may be considered by the court only if it is conducted in accordance with the requirements set forth in the standards adopted by the Judicial Council pursuant to Section ~~3117;~~ ~~however, this 3117.~~ *This* does not preclude the consideration of a child custody evaluation report that contains nonsubstantive or inconsequential errors or both.

(b) The report shall not be made available other than as provided in subdivision (a) or Section 3025.5, or as described in Section 204 of the Welfare and Institutions Code or Section 1514.5 of the Probate Code. Any information obtained from access to a juvenile ~~court~~ case file, as defined in subdivision (e) of Section 827 of the Welfare and Institutions Code, is confidential and shall only be disseminated as provided by paragraph (4) of subdivision (a) of Section 827 of the Welfare and Institutions Code.

(c) The report may be received in evidence on stipulation of all interested parties and is competent evidence as to all matters contained in the report.

(d) If the court determines that an unwarranted disclosure of a written confidential report has been made, the court may impose a monetary sanction against the disclosing party. The sanction shall be in an amount sufficient to deter repetition of the conduct, and may include reasonable attorney's fees, costs incurred, or both, unless the court finds that the disclosing party acted with substantial justification or that other circumstances make the imposition of the sanction unjust. The court shall not impose a sanction pursuant to this subdivision that imposes an unreasonable financial burden on the party against whom the sanction is imposed. ~~This subdivision shall become operative on January 1, 2010.~~

(e) The Judicial Council shall, by January 1, 2010, do the following:

(1) Adopt a form to be served with every child custody evaluation report that informs the report recipient of the confidentiality of the report and the potential consequences for the unwarranted disclosure of the report.

(2) Adopt a rule of court to require that, when a court-ordered child custody evaluation report is served on the parties, the form specified in paragraph (1) shall be included with the report.

(f) For purposes of this section, a disclosure is unwarranted if it is done either recklessly or maliciously, and is not in the best interests of the child.

SEC. 2. Section 4100 is added to the Family Code, to read:

4100. (a) In a proceeding involving child support, except a proceeding in which a parent is receiving need-based public assistance, the court may order a party to submit to an examination by a vocational training counselor. The examination shall include an assessment of the party's ability to obtain employment based upon the party's age, health, education, marketable skills, employment history, and the current availability of employment opportunities. The focus of the examination shall be on an assessment of the party's ability to obtain employment consistent with their ability to earn.

(b) The order may be made only on motion, for good cause, and on notice to the party to be examined and to all parties. The order shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom the examination is to be made.

(c) A party who does not comply with an order under this section is subject to the same consequences provided for failure to comply with an examination ordered pursuant to Chapter 15 (commencing with Section 2032.010)

of Title 4 of Part 4 of the Code of Civil Procedure, provided that the sanction is in the best interest of the child or children.

(d) "Vocational training counselor," has the same meaning and qualifications as specified in subdivisions (d) and (e) of Section 4331.

SEC. 3. Section 4331 of the Family Code is amended to read:

4331. (a) In a proceeding for dissolution of marriage or for legal separation of the parties, the court may order a party to submit to an examination by a vocational training counselor. The examination shall include an assessment of the party's ability to obtain employment based upon the party's age, health, education, marketable skills, employment history, and the current availability of employment opportunities. The focus of the examination shall be on an assessment of the party's ability to obtain employment that would allow the party to maintain herself or himself at the marital standard of living.

(b) The order may be made only on motion, for good cause, and on notice to the party to be examined and to all parties. The order shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made.

(c) A party who does not comply with an order under this section is subject to the same consequences provided for failure to comply with an examination ordered pursuant to Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(d) "Vocational training counselor" for the purpose of this section means an individual with sufficient knowledge, skill, experience, training, or education in interviewing, administering, and interpreting tests for analysis of marketable skills, formulating career goals, planning courses of training and study, and assessing the job market, to qualify as an expert in vocational training under Section 720 of the Evidence Code.

(e) A vocational training counselor shall have at least the following qualifications:

(1) A master's degree in the behavioral ~~sciences~~ *sciences, or other postgraduate degree that the court finds provides sufficient training to perform a vocational evaluation.*

(2) ~~Be-qualified~~ *Qualification* to administer and interpret inventories for assessing career potential.

(3) Demonstrated ability in interviewing clients and assessing marketable skills with *an* understanding of age constraints, physical and mental health, previous education and experience, and time and geographic mobility constraints.

(4) Knowledge of current employment conditions, job market, and wages in the indicated geographic area.

(5) Knowledge of education and training programs in the area with costs and time plans for these programs.

(f) The court may order the supporting spouse to pay, in addition to spousal support, the necessary expenses and costs of the counseling, retraining, or education.

MEMORANDUM

DATE	March 7, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(Q) – AB 2861 (Salas) Medi-Cal: Telehealth: Substance Use Disorder Services

Background:

Under current law, the Medi-Cal program does not allow a licensed practitioner of the healing arts or a certified substance use disorder counselor to receive Medi-Cal reimbursement for substance use disorder services provided through telehealth. AB 2861 (Salas) would include these providers within the Medicaid State Plan.

Location: 3/8/2018 Assembly Committee on-Health

Status: 3/8/2018 Referred to Assembly Committee on Health.

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2861 (Salas) to monitor its potential to increase access to mental health services through the Medi-Cal program.

Attachment A: AB 2861 (Salas) Bill Text

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AB-2861 Medi-Cal: telehealth: substance use disorder services. (2017-2018)

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Date Published: 02/16/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 2861**

Introduced by Assembly Member Salas

February 16, 2018

An act to add Section 14132.731 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2861, as introduced, Salas. Medi-Cal: telehealth: substance use disorder services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions.

Existing law provides that in-person contact between a health care provider and a patient is not required under the Medi-Cal program for services appropriately provided through telehealth, as defined, subject to reimbursement policies adopted by the department to compensate a licensed health care provider who provides health care services through telehealth that are otherwise reimbursed pursuant to the Medi-Cal program. Existing law, for purposes of payment for covered treatment or services provided through telehealth, prohibits the department from limiting the type of setting where services are provided for the patient or by the health care provider.

This bill would require the department to allow a licensed practitioner of the healing arts or a certified substance use disorder counselor to receive Medi-Cal reimbursement for substance use disorder services provided through telehealth in accordance with the Medicaid state plan.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no


THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14132.731 is added to the Welfare and Institutions Code, immediately following Section 14132.73, to read:

14132.731. The department shall allow a licensed practitioner of the healing arts or a certified substance use disorder counselor to receive Medi-Cal reimbursement for substance use disorder services provided through

telehealth, as defined in Section 2290.5 of the Business and Professions Code, in accordance with the Medicaid state plan.

MEMORANDUM

DATE	March 30, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(2)(R) – SB 1371 (Morrell) Occupational Licensing: List

Background:

SB 1371 (Morrell) would establish and maintain a complete list of all occupational licenses required by the State of California. It is the intent of the Legislature to continuously update the list of occupational licenses in this section. The bill would require that the list be kept updated by an unspecified entity.

Location: 3/8/2018 – Senate Committee on Business, Professions & Economic Development

Status: 3/8/2018 – Referred to Senate Committee on Business, Professions & Economic Development

Action Requested:

Staff requests the Policy and Advocacy Committee watch SB 1371 (Morrell) to keep informed on what entity will be updating the list.

Attachment A: SB 1371 (Morrell) Bill Text

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**SB-1371 Occupational licensing: list.** (2017-2018)

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Date Published: 02/16/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

SENATE BILL**No. 1371**

Introduced by Senator Morrell

February 16, 2018

An act to add Section 41 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1371, as introduced, Morrell. Occupational licensing: list.

Existing law provides for the licensure and regulation of various professions and vocations by state entities, including, but not limited to, the boards, bureaus, and committees in the Department of Consumer Affairs.

This bill would provide a list of certain occupational licenses and would state that it is the purpose of this provision to establish and maintain a complete list of all occupational licenses required by the State of California. The bill would state the intent of the Legislature to continue to update and complete the list of occupational licenses in this section. The bill would require that the list be kept updated by an unspecified entity.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 41 is added to the Business and Professions Code, to read:

41. (a) The purpose of this section is to establish and maintain a complete list of all occupational licenses required by the State of California. It is the intent of the Legislature to continue to update and complete the list of occupational licenses in this section. The list in this section shall be updated by ____ whenever a new license is established and posted on a State of California Internet Web site.

(b) Licenses under the Department of Consumer Affairs:

- (1) The Dental Board of California: dentist.
- (2) The Medical Board of California: physician and surgeon; midwife.
- (3) The State Board of Optometry: optometrist.

- (4) The California State Board of Pharmacy: pharmacist; pharmacies.
- (5) The Veterinary Medical Board: veterinarians; veterinary premises.
- (6) The California Board of Accountancy: accountant; accounting firms.
- (7) The California Architects Board: architect.
- (8) The State Board of Barbering and Cosmetology: barber; cosmetologist; establishment.
- (9) The Board for Professional Engineers, Land Surveyors, and Geologists: professional engineer; land surveyor; geologist.
- (10) The Contractors' State License Board: contractor.
- (11) The Bureau for Private Postsecondary Education: private postsecondary educational institutions.
- (12) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation: service dealer; service contractors; home furnishings businesses; thermal insulation manufacturers.
- (13) The Board of Registered Nursing: registered nurse; nurse practitioner; public health nurse.
- (14) The Board of Behavioral Sciences: licensed clinical social worker; licensed educational psychologist; licensed marriage and family therapist; licensed professional clinical counselor.
- (15) The State Athletic Commission: professional boxer; professional martial arts fighter; manager; trainer; second; referee; judge; matchmaker; timekeeper; promoter.
- (16) The Cemetery and Funeral Bureau: cemeteries; cemetery manager; cemetery salesperson; broker; crematories; crematory manager; cremated remains disposer; embalmer; funeral director; funeral establishments.
- (17) The Bureau of Security and Investigative Services: alarm companies and employees; locksmith companies and locksmiths; private investigator; private patrol operator, security guard, repossession agencies and employees.
- (18) The Court Reporters Board of California: certified shorthand reporter.
- (19) The Board of Vocational Nursing and Psychiatric Technicians: vocational nurse; psychiatric technician.
- (20) The Landscape Architects Technical Committee: landscape architect.
- (21) The Bureau of Automotive Repair: automotive repair dealer; brake and lamp adjuster; brake and lamp stations; smog check stations; smog check repair technician.
- (22) The Respiratory Care Board of California: respiratory care practitioner.
- (23) The Acupuncture Board: acupuncturist.
- (24) The Board of Psychology: psychologist.
- (25) The California Board of Podiatric Medicine: doctor of podiatric medicine.
- (26) The Physical Therapy Board of California: physical therapist.
- (27) The Physician Assistant Committee: physician assistant.
- (28) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board: speech-language pathologist; audiologist; hearing aid dispenser.
- (29) The California Board of Occupational Therapy: occupational therapist.
- (30) The Osteopathic Medical Board of California: osteopathic physician and surgeon.
- (31) The Naturopathic Medicine Committee: naturopathic doctor.
- (32) The Dental Hygiene Committee of California: dental hygienist.
- (33) The Professional Fiduciaries Bureau: professional fiduciary.
- (34) The State Board of Chiropractic Examiners: chiropractor.

- (35) The Bureau of Real Estate Appraisers: real estate appraiser.
- (36) The Structural Pest Control Board: operator, field representative, applicator.
- (c) Licenses under entities other than the Department of Consumer Affairs:
 - (1) Teaching credential.
 - (2) School nurse services credential.
 - (3) Commercial fishing license.
 - (4) Deferred deposit originator.
 - (5) Finance lender; broker.
 - (6) California Radiologic Technologist.
 - (7) Certified Hemodialysis Technician.
 - (8) Investment Adviser Certificate.
 - (9) Life and Disability Insurance Analyst.
 - (10) Rental Car Agent.
 - (11) Vehicle Salesperson.
 - (12) Yacht and Ship Broker; Yacht and Ship Salesperson.
 - (13) Real estate broker; real estate sales person; mortgage loan originator.

MEMORANDUM

DATE	March 12, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(3)(A) – AB 2442 (Santiago) Mental Health

Background:

AB 2442 (Santiago) would require that, regarding involuntary detention and treatment, if a determination is made that the person can be properly served without being detained, and the person is also homeless, that the person shall be provided written information about local housing options, employment opportunities, and available public social services.

Location: 3/23/2018 Assembly Committee on Health

Status: 3/23/2018 From committee chair, with author's amendments: Amend, and re-refer to Assembly Committee on Health. Read second time and amended.

Action Requested:

Staff requests the Policy and Advocacy Committee watch AB 2442 (Santiago) to view any potential changes in laws effecting the Board's licensees.

Attachment A: AB 2442 (Santiago) Bill Text

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AB-2442 Mental health. (2017-2018)

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Date Published: 02/14/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL**No. 2442**

Introduced by Assembly Member Santiago

February 14, 2018

An act to amend Section 5001 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2442, as introduced, Santiago. Mental health.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary detention and treatment of any person with a mental disorder who, as a result of the mental disorder, is a danger to others or to himself or herself, or is gravely disabled. Other existing law, the Children's Civil Commitment and Mental Health Treatment Act of 1988, provides for the involuntary detention and treatment of a minor, who as a result of a mental disorder, is a danger to others, or to himself or herself, or is gravely distraught, as provided. Existing law states that the legislative intent of both of these acts is to, among other things, provide prompt evaluation and treatment of persons with mental health disorders or persons impaired by chronic alcoholism, and to protect persons with mental health disorders or developmental disabilities from criminal acts.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 5001 of the Welfare and Institutions Code is amended to read:

5001. ~~The provisions of this~~ *This* part and Part 1.5 (commencing with Section 5585) shall be construed to promote the legislative intent as follows:

- (a) To end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, and to eliminate legal disabilities.
- (b) To provide prompt evaluation and treatment of persons with mental health disorders or *persons* impaired by chronic alcoholism.
- (c) To guarantee and protect public safety.

(d) To safeguard individual rights through judicial review.

(e) To provide individualized treatment, supervision, and placement services by a conservatorship program for persons who are gravely disabled.


(f) To encourage the full use of all existing agencies, professional personnel, and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures.

(g) To protect persons with mental health disorders ~~and~~ or developmental disabilities from criminal acts.

(h) To provide consistent standards for protection of the personal rights of persons receiving services under this part and under Part 1.5 (commencing with Section 5585).

(i) To provide services in the least restrictive setting appropriate to the needs of each person receiving services under this part and under Part 1.5 (commencing with Section 5585).

MEMORANDUM

DATE	March 30, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(a)(3)(B) – SB 1134 (Newman) Mental Health Services Fund

Background:

SB 1134 (Newman) is currently intent language with amendments regarding laws about the Mental Service Health Service Fund. Currently amendments are technical, non-substantive changes. Staff wishes to watch this bill for upcoming language to view the potential impacts of their amendments.

Location: 2/13/2018 Senate Committee on Rules

Status: 2/22/2018 Referred to Senate Committee on Rules

Action Requested:

Staff requests the Policy and Advocacy Committee watch SB 1134 (Newman).

Attachment A: SB 1134 (Newman) Bill Text

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SB-1134 Mental Health Services Fund. (2017-2018)

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Date Published: 02/13/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

SENATE BILL**No. 1134**

Introduced by Senator Newman

February 13, 2018

An act to amend Section 5892 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1134, as introduced, Newman. Mental Health Services Fund.

Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs.

Existing law authorizes the act to be amended by a 2/3 vote of the Legislature if the amendments are consistent with, and further the intent of, the act. Existing law authorizes the Legislature to add provisions to clarify procedures and terms of the act by majority vote.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 5892 of the Welfare and Institutions Code is amended to read:

5892. (a) In order to promote efficient implementation of this act, the county shall use funds distributed from the Mental Health Services Fund as follows:

(1) In 2005–06, 2006–07, and in 2007–08, 10 percent shall be placed in a trust fund to be expended for education and training programs pursuant to Part ~~3.1~~, *3.1 (commencing with Section 5820)*.

(2) In 2005–06, 2006–07, and in 2007–08, 10 percent for capital facilities and technological needs *shall be* distributed to counties in accordance with a formula developed in consultation with the County Behavioral Health Directors Association of California to implement plans developed pursuant to Section 5847.

(3) Twenty percent of funds distributed to the counties pursuant to subdivision (c) of Section 5891 shall be used for prevention and early intervention programs in accordance with Part 3.6 (commencing with Section 5840) of this division.

(4) The expenditure for prevention and early intervention may be increased in ~~any~~ a county in which the department determines that the increase will decrease the need and cost for additional services to ~~severely mentally ill persons~~ persons with severe mental illness in that county by an amount at least commensurate with the proposed increase.

(5) The balance of funds shall be distributed to county mental health programs for services to persons with severe mental illnesses pursuant to Part 4 (commencing with Section 5850) for the children's system of care and Part 3 (commencing with Section 5800) for the adult and older adult system of care. These services may include housing assistance, as defined in Section 5892.5, to the target population specified in Section 5600.3.

(6) Five percent of the total funding for each county mental health program for Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) of this division, shall be utilized for innovative programs in accordance with Sections 5830, 5847, and 5848.

(b) In any year after 2007–08, programs for services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division may include funds for technological needs and capital facilities, human resource needs, and a prudent reserve to ensure services do not have to be significantly reduced in years in which revenues are below the average of previous years. The total allocation for purposes authorized by this subdivision shall not exceed 20 percent of the average amount of funds allocated to that county for the previous five years pursuant to this section.

(c) The allocations pursuant to subdivisions (a) and (b) shall include funding for annual planning costs pursuant to Section 5848. The total of these costs shall not exceed 5 percent of the total of annual revenues received for the fund. The planning costs shall include funds for county mental health programs to pay for the costs of consumers, family members, and other stakeholders to participate in the planning process and for the planning and implementation required for private provider contracts to be significantly expanded to provide additional services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division.

(d) Prior to making the allocations pursuant to subdivisions (a), (b), and (c), funds shall be reserved for the costs for the State Department of Health Care Services, the California Behavioral Health Planning Council, the Office of Statewide Health Planning and Development, the Mental Health Services Oversight and Accountability Commission, the State Department of Public Health, and any other state agency to implement all duties pursuant to the programs set forth in this section. These costs shall not exceed 5 percent of the total of annual revenues received for the fund. The administrative costs shall include funds to assist consumers and family members to ensure the appropriate state and county agencies give full consideration to concerns about quality, structure of service delivery, or access to services. The amounts allocated for administration shall include amounts sufficient to ensure adequate research and evaluation regarding the effectiveness of services being provided and achievement of the outcome measures set forth in Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) of this division. The amount of funds available for the purposes of this subdivision in any fiscal year shall be subject to appropriation in the annual Budget Act.

(e) In 2004–05, funds shall be allocated as follows:

(1) Forty-five percent for education and training pursuant to Part 3.1 (commencing with Section 5820) of this division.

(2) Forty-five percent for capital facilities and technology needs in the manner specified by paragraph (2) of subdivision (a).

(3) Five percent for local planning in the manner specified in subdivision (c).

(4) Five percent for state implementation in the manner specified in subdivision (d).

(f) Each county shall place all funds received from the State Mental Health Services Fund in a local Mental Health Services Fund. The Local Mental Health Services Fund balance shall be invested consistent with other county funds and the interest earned on the investments shall be transferred into the fund. The earnings on investment of these funds shall be available for distribution from the fund in future years.

(g) All expenditures for county mental health programs shall be consistent with a currently approved plan or update pursuant to Section 5847.

(h) (1) Other than funds placed in a reserve in accordance with an approved plan, ~~any~~ funds allocated to a county that have not been spent for their authorized purpose within three years shall revert to the state to be deposited into the fund and *made* available for other counties in future years, provided however, that funds for capital facilities, technological needs, or education and training may be retained for up to 10 years before reverting to the fund.

(2) If a county receives approval from the Mental Health Services Oversight and Accountability Commission of a plan for innovative programs, pursuant to subdivision (e) of Section 5830, the county's funds identified in that plan for innovative programs shall not revert to the state pursuant to paragraph (1) until three years after the date of the approval.

(3) Notwithstanding paragraph (1), ~~any~~ funds allocated to a county with a population of less than 200,000 that have not been spent for their authorized purpose within five years shall revert to the state as described in paragraph (1).

(4) Notwithstanding paragraphs (1) and (2), if a county with a population of less than 200,000 receives approval from the Mental Health Services Oversight and Accountability Commission of a plan for innovative programs, pursuant to subdivision (e) of Section 5830, the county's funds identified in that plan for innovative programs shall not revert to the state pursuant to paragraph (1) until five years after the date of the approval.

(i) If there are still additional revenues available in the fund after the Mental Health Services Oversight and Accountability Commission has determined there are prudent reserves and no unmet needs for any of the programs funded pursuant to this section, including all purposes of the Prevention and Early Intervention Program, the commission shall develop a plan for expenditures of these revenues to further the purposes of this act and the Legislature may appropriate these funds for any purpose consistent with the commission's adopted plan that furthers the purposes of this act.

(j) For the 2011–12 fiscal year, General Fund revenues will be insufficient to fully fund many existing mental health programs, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), Medi-Cal Specialty Mental Health Managed Care, and mental health services provided for special education pupils. In order to adequately fund those programs for the 2011–12 fiscal year and avoid deeper reductions in programs that serve individuals with severe mental illness and the most vulnerable, medically needy citizens of the state, prior to distribution of funds under paragraphs (1) to (6), inclusive, of subdivision (a), effective July 1, 2011, moneys shall be allocated from the Mental Health Services Fund to the counties as follows:

(1) Commencing July 1, 2011, one hundred eighty-three million six hundred thousand dollars (\$183,600,000) of the funds available as of July 1, 2011, in the Mental Health Services Fund, shall be allocated in a manner consistent with subdivision (c) of Section 5778 and based on a formula determined by the state in consultation with the County Behavioral Health Directors Association of California to meet the fiscal year 2011–12 General Fund obligation for Medi-Cal Specialty Mental Health Managed Care.

(2) Upon completion of the allocation in paragraph (1), the Controller shall distribute to counties ninety-eight million five hundred eighty-six thousand dollars (\$98,586,000) from the Mental Health Services Fund for mental health services for special education pupils based on a formula determined by the state in consultation with the County Behavioral Health Directors Association of California.

(3) Upon completion of the allocation in paragraph (2), the Controller shall distribute to counties 50 percent of their 2011–12 Mental Health Services Act component allocations consistent with Sections 5847 and 5891, not to exceed four hundred eighty-eight million dollars (\$488,000,000). This allocation shall commence beginning August 1, 2011.

(4) Upon completion of the allocation in paragraph (3), and as revenues are deposited into the Mental Health Services Fund, the Controller shall distribute five hundred seventy-nine million dollars (\$579,000,000) from the Mental Health Services Fund to counties to meet the General Fund obligation for EPSDT for the 2011–12 fiscal year. These revenues shall be distributed to counties on a quarterly basis and based on a formula determined by the state in consultation with the County Behavioral Health Directors Association of California. These funds shall not be subject to reconciliation or cost settlement.

(5) The Controller shall distribute to counties the remaining 2011–12 Mental Health Services Act component allocations consistent with Sections 5847 and 5891, beginning no later than April 30, 2012. These remaining allocations shall be made on a monthly basis.

(6) The total one-time allocation from the Mental Health Services Fund for EPSDT, Medi-Cal Specialty Mental Health Managed Care, and mental health services provided to special education pupils as referenced shall not exceed eight hundred sixty-two million dollars (\$862,000,000). ~~Any revenues~~ *Revenues* deposited in the Mental

Health Services Fund in the 2011–12 fiscal year that exceed this obligation shall be distributed to counties for remaining fiscal year 2011–12 Mental Health Services Act component allocations, consistent with Sections 5847 and 5891.

(k) Subdivision (j) shall not be subject to repayment.

(l) Subdivision (j) shall become inoperative on July 1, 2012.

MEMORANDUM

DATE	March 30, 2018
TO	Policy and Advocacy Committee
FROM	 Konnor Leitzell Student Assistant
SUBJECT	Agenda Item #7(b)– Review of 2-Year Bills with Watch Position

Background:

The enclosed matrix lists the legislative bills the Board of Psychology has been following, and references the status and location of the bills to date. These bills are ones that were given a “watch position” last year, and have since turned into 2-Year bills. Information on bills in the matrix can be found at: <http://leginfo.legislature.ca.gov>.

Action Requested:

This is for informational purposes only. No action is required.

2-Year Report 2-Year Bill Report

[AB 93](#)

(Medina D) Healing arts: marriage and family therapists: clinical social workers: professional clinical counselors: required experience and supervision.

Current Text: Amended: 4/2/2018 [html](#) [pdf](#)

Introduced: 1/9/2017

Last Amend: 4/2/2018

Status: 4/2/2018-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on B., P. & E.D. From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (April 2). Re-referred to Com. on APPR.

Location: 4/2/2018-S. APPR.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Existing law provides for the licensure and regulation of marriage and family therapists, clinical social workers, and professional clinical counselors by the Board of Behavioral Sciences, which is within the Department of Consumer Affairs. Existing law requires trainees, interns, and applicants for licensure in those professions to comply with specified educational and experience requirements, including, but not limited to, hours of supervised experience, and sets forth terms, conditions, and limitations for those hours of experience, including required supervision, as specified. Existing law also requires individuals seeking licensure in those professions to register with the board in order to gain experience hours. Under existing law, a violation of any of the requirements of the licensing acts for marriage and family therapists, clinical social workers, and professional clinical counselors is punishable as a misdemeanor. This bill would revise and recast those supervised experience requirements, as specified. The bill would place new requirements on supervisors of trainees, associates, and applicants for licensure and place new requirements on trainees, associates, and applicants for licensure who are under supervision, as specified. The bill would make conforming changes. By placing new requirements on trainees, associates, applicants for licensure, and their supervisors, a violation of which would be a crime, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Group
2-Year

[AB 148](#)

(Mathis R) California Physician Corps Program: practice setting.

Current Text: Amended: 7/17/2017 [html](#) [pdf](#)

Introduced: 1/10/2017

Last Amend: 7/17/2017

Status: 9/1/2017-In committee: Held under submission.

Location: 8/21/2017-S. APPR. SUSPENSE FILE

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program (program) in the California Physician Corps Program within the Health Professions Education Foundation, which provides financial incentives, including repayment of educational loans, to a physician and surgeon who practices in a medically underserved area, as defined. Existing law establishes the Medically Underserved Account for Physicians, a continuously appropriated account, within the Health Professions Education Fund, to primarily provide funding for the ongoing operations of the program. Existing law requires the foundation and the Office of Statewide Health Planning and Development to develop guidelines using specified criteria for selection and placement of applicants. This bill would instead require, for purposes of this definition, only until January 1, 2020, and only for program participants who enroll in the program on or after January 1, 2018, and before January 1, 2020, that the clinic or the physician owned and operated medical practice setting have at least 30% of patients, if the area is a rural area, as defined, or at least 50% of patients, if the area is not a rural area, who are from the above-described populations. By expanding the authorization for the use of moneys in the Medically Underserved Account for Physicians, this bill would make an appropriation. This bill contains other related provisions and other existing laws.

Group
2-Year

[AB 349](#)

(McCarty D) Civil service: preference: special immigrant visa holder.

Current Text: Amended: 6/14/2017 [html](#) [pdf](#)

Introduced: 2/8/2017

Last Amend: 6/14/2017

Status: 7/14/2017-Failed Deadline pursuant to Rule 61(a)(10). (Last location was JUD. on 6/14/2017) (May be acted upon Jan 2018)

Location: 7/14/2017-S. 2 YEAR

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Existing provisions of the State Civil Service Act require that, whenever any veteran, widow or widower of a veteran, or spouse of a 100% disabled veteran achieves a passing score on an entrance examination, he or she be ranked in the top rank of the resulting civil service eligibility list. This bill would require a person who assisted the United States military and was issued a specified special immigrant visa and who achieves a passing score on an entrance examination to be ranked in the top of the resulting eligibility list unless a veteran, widow, or widower of a veteran, or the spouse of a 100% disabled veteran is in the top rank pursuant to the provisions described above, in which case, the special immigrant visa holder shall be ranked in the next highest rank.

Group
2-Year

AB 451

(Arambula D) Health facilities: emergency services and care.

Current Text: Amended: 7/5/2017 [html](#) [pdf](#)

Introduced: 2/13/2017

Last Amend: 7/5/2017

Status: 9/1/2017-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/21/2017)(May be acted upon Jan 2018)

Location: 9/1/2017-S. 2 YEAR

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: (1)Existing law requires a health facility that maintains and operates an emergency department to provide emergency services and care to any person requesting the services or care for any condition in which the person is in danger of loss of life, or serious injury or illness, as specified. If a licensed health facility does not maintain an emergency department, its employees are nevertheless required to exercise reasonable care to determine whether an emergency exists and to direct the person seeking emergency care to a nearby facility that can render the needed services, as specified. Existing law makes a violation of these provisions a crime. This bill would specify that a psychiatric unit within a general acute care hospital, a psychiatric health facility, or an acute psychiatric hospital, excluding certain state hospitals, regardless of whether it operates an emergency department, is required to provide emergency services and care to treat a person with a psychiatric emergency medical condition who has been accepted by the facility, as specified, if the facility has appropriate facilities and qualified personnel. The bill would make conforming changes to related provisions. The bill would also prohibit a general acute care hospital or an acute psychiatric hospital, as a condition to accepting a transfer of a patient from another health facility, from requiring that the patient be in custody as a result of a mental health disorder causing him or her to be a danger to others or himself or herself, or is gravely disabled. By expanding these duties, this bill would expand the scope of a crime, thereby imposing a state-mandated local program. This bill contains other related provisions and other existing laws.

Group
2-Year

AB 456

(Thurmond D) Healing arts: associate clinical social workers.

Current Text: Amended: 4/2/2018 [html](#) [pdf](#)

Introduced: 2/13/2017

Last Amend: 4/2/2018

Status: 4/2/2018-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on B., P. & E.D. From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (April 2). Re-referred to Com. on APPR.

Location: 4/2/2018-S. APPR.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: 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. Existing law 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 revise and recast these provisions. The bill would instead require each applicant to have an active registration with the board as an associate clinical social worker in order to gain hours of supervised experience, except that the bill would authorize pre-registered postdegree hours of experience to be credited toward licensure in certain circumstances. The bill would allow for this crediting of hours toward licensure if the applicant applies for the associate registration, the board receives the application within 90 days of the granting of the qualifying master's or doctoral degree, and the board subsequently grants the associate registration. The bill would also require, for applicants completing

graduate study on or after January 1, 2020, that their experience be obtained at a workplace that requires completed live scan fingerprinting, and that the applicant provide the board with a copy of a completed live scan form, as specified. This bill contains other related provisions and other existing laws.

Group
2-Year

AB 700 (Jones-Sawyer D) Public health: alcoholism or drug abuse recovery: substance use disorder counseling.

Current Text: Amended: 5/30/2017 [html](#) [pdf](#)

Introduced: 2/15/2017

Last Amend: 5/30/2017

Status: 7/14/2017-Failed Deadline pursuant to Rule 61(a)(10). (Last location was HEALTH on 6/14/2017)(May be acted upon Jan 2018)

Location: 7/14/2017-S. 2 YEAR

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Existing law provides for the licensure of adult alcoholism or drug abuse recovery or treatment facilities by the State Department of Health Care Services. Existing law provides the department the sole authority to determine the qualifications of personnel working within alcoholism or drug abuse recovery and treatment programs. Existing law requires an individual providing counseling services working within a program to be registered with, or certified by, a certifying organization approved by the department to register and certify counselors. This bill would establish a career ladder for substance use disorder counseling, as defined, to be maintained and updated by the State Department of Health Care Services. The bill would establish classifications for substance use disorder (SUD) counselor certification or registration, as specified, to be implemented by the certifying organizations, as defined. The bill would require any person who engages in the practice of SUD counseling to be certified by, or registered with, a certifying organization, unless specifically exempted. The bill would establish additional standards for registrants and interns, as defined, and impose additional requirements on SUD counselors. The bill would provide authority to the department to discipline a certificate holder or registrant as specified. The bill would authorize the department to implement these provisions by regulation. The bill would make conforming changes to related provisions.

Group
2-Year

AB 767 (Quirk-Silva D) Master Business License Act.

Current Text: Amended: 5/3/2017 [html](#) [pdf](#)

Introduced: 2/15/2017

Last Amend: 5/3/2017

Status: 3/15/2018-Referred to Com. on B., P. & E.D.

Location: 3/15/2018-S. B., P. & E.D.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: 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 businesses 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 an online 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 regulatory agency to cooperate and provide reasonable assistance to the office to implement these provisions. This bill contains other related provisions.

Group
2-Year

AB 827 (Rubio D) Department of Consumer Affairs: task force: foreign-trained professionals.

Current Text: Amended: 4/3/2017 [html](#) [pdf](#)

Introduced: 2/16/2017

Last Amend: 4/3/2017

Status: 9/1/2017-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE

on 7/17/2017)(May be acted upon Jan 2018)

Location: 9/1/2017-S. 2 YEAR

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law establishes the Bagley-Keene Open Meeting Act, which requires state boards, commissions, and similar state-created multimember bodies to give public notice of meetings and conduct their meetings in public unless authorized to meet in closed session. This bill, the California Opportunity Act of 2017, would require the Department of Consumer Affairs to create a task force, as specified, to study and write a report of its findings and recommendations regarding the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce, as specified. The bill would authorize the task force to hold hearings and invite testimony from experts and the public to gather information. The bill would require the task force to submit the report to the Legislature no later than January 1, 2019, as specified. This bill contains other related provisions.

Group
2-Year

AB 1116 (Grayson D) Peer Support and Crisis Referral Services Act.

Current Text: Amended: 9/8/2017 [html](#) [pdf](#)

Introduced: 2/17/2017

Last Amend: 9/8/2017

Status: 9/11/2017-Read second time. Ordered to third reading. Ordered to inactive file at the request of Senator Atkins.

Location: 9/11/2017-S. INACTIVE FILE

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: 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 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 Peer Support and Crisis Referral Services Act. The bill would, for purposes of the act, define a "peer support team" as a local critical incident response team composed of individuals from emergency services professions, emergency medical services, hospital staff, clergy, and educators who have completed a peer support training course developed by the Office of Emergency 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 emergency service personnel to a peer support team member while the emergency service personnel receives peer support services, as defined, is confidential and shall not be disclosed in a civil or administrative proceeding, except as specified. The bill would also provide that, except for an action for medical malpractice, a peer support team or a peer support team member providing 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 peer support services, unless the act, error, or omission constitutes gross negligence 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. This bill contains other related provisions and other existing laws.

Group
2-Year

AB 1136 (Eggman D) Health facilities: residential mental or substance use disorder treatment.

Current Text: Amended: 2/5/2018 [html](#) [pdf](#)

Introduced: 2/17/2017

Last Amend: 2/5/2018

Status: 2/5/2018-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.

Location: 2/5/2018-S. HEALTH

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: Under existing law, the State Department of Public Health licenses and regulates health facilities, defined to include, among others, acute psychiatric hospitals. A violation of these provisions is a crime. This bill would require the State Department of Public Health to develop and submit a proposal to solicit a grant under the federal 21st Century Cures Act to develop a real-time, Internet-based database to collect, aggregate, and display information about beds in inpatient psychiatric facilities, crisis stabilization units, residential community mental health facilities, and licensed residential substance use disorder treatment facilities. The bill would require a database created using grant

funds received as a result of the submission of that proposal to have the capacity to collect data and enable a specified search to identify beds that are appropriate for the treatment of individuals and to include specified information, including, among other things, the contact information for the facility's designated employee and information on beds. The bill would require the department to confer with stakeholders to inform the development of the proposal and to submit an evaluation to the federal Health and Human Services Secretary and to the Legislature. This bill contains other existing laws.

Group
2-Year

SB 142

(Beall D) Criminal offenders: mental health.

Current Text: Amended: 6/21/2017 [html](#) [pdf](#)

Introduced: 1/13/2017

Last Amend: 6/21/2017

Status: 7/14/2017-Failed Deadline pursuant to Rule 61(a)(10). (Last location was PUB. S. on 6/12/2017)(May be acted upon Jan 2018)

Location: 7/14/2017-A. 2 YEAR

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: (1)Existing law generally requires, if a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court to immediately refer the matter to a probation officer to investigate and report to the court upon the circumstances surrounding the crime and the prior history and record of the person. Existing law also authorizes, when a defendant has been granted probation, the court to impose conditions of probation, including, among others, that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition. This bill would authorize a defendant to provide documentation to the court that he or she is currently, or was at any prior time, eligible for public mental health services due to a serious mental illness or eligible for Social Security Disability Insurance due to a diagnosed mental illness. The bill would prohibit a finding that the defendant has a mental disorder, any progress report concerning his or her treatment, or any other record related to a mental disorder from being used in any other civil or administrative proceeding without the defendant's consent. The bill would also require the court to consider the defendant's mental health history when determining sentencing and whether referral to the county behavioral health system for treatment in the community, including residential treatment, is appropriate in lieu of incarceration. This bill contains other related provisions and other existing laws.

Group
2-Year

SB 215

(Beall D) Diversion: mental disorders.

Current Text: Amended: 1/25/2018 [html](#) [pdf](#)

Introduced: 2/1/2017

Last Amend: 1/25/2018

Status: 1/30/2018-Read third time. Passed. (Ayes 38. Noes 0.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

Location: 1/30/2018-A. DESK

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Existing law authorizes a court, with the consent of the defendant and a waiver of the defendant's speedy trial right, to postpone prosecution of a misdemeanor and place the defendant in a pretrial diversion program if the defendant is suffering from sexual trauma, a traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of his or her military service. Existing law authorizes the defendant to be referred to services for treatment and requires the responsible agencies to report to the court and the prosecution not less than every 6 months. This bill would authorize a court, with the consent of the defendant and a waiver of the defendant's speedy trial right, to postpone prosecution of a misdemeanor or a felony punishable in a county jail, and place the defendant in a pretrial diversion program for up to 2 years if the court is satisfied the defendant suffers from a mental disorder, that the defendant's mental disorder played a significant role in the commission of the charged offense, and that the defendant would benefit from mental health treatment. For specified offenses, the bill would condition granting diversion on the consent of the prosecution. Specified driving-under-the-influence offenses would not be eligible for diversion under these provisions. The bill would require the defense to arrange, to the satisfaction of the court, for a program of mental health treatment utilizing existing inpatient or outpatient mental health resources. The bill would require the divertee's mental health provider to provide reports on the defendant's progress to the court, the defense, and the prosecution not less than every month if the offense is a felony, and every 3 months if the offense is a misdemeanor, as specified. By increasing the duties of local prosecutors and public defenders, this bill would impose a state-mandated local program. The bill would require, upon successful completion of the diversion program, that the charges

be dismissed and the records of the arrest be restricted, as specified, and that the arrest be deemed never to have occurred, except as provided. The bill would state findings and declarations by the Legislature regarding the need for the diversion program. This bill contains other related provisions and other existing laws.

Group
2-Year

SB 399 (Portantino D) Health care coverage: pervasive developmental disorder or autism.

Current Text: Amended: 1/22/2018 [html](#) [pdf](#)

Introduced: 2/15/2017

Last Amend: 1/22/2018

Status: 1/30/2018-In Assembly. Read first time. Held at Desk.

Location: 1/29/2018-A. DESK

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: 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. This bill, among other things, 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, or the substitution of specified credentialing or certification, for the requirement to meet the criteria set forth in regulations adopted by the State Department of Social Services, as described above. The bill would also require providers to pass a background check, as specified, in order to meet the definition of a qualified autism service professional or a qualified autism service paraprofessional. This bill contains other related provisions and other existing laws.

Group
2-Year

SB 715 (Newman D) Department of Consumer Affairs: regulatory boards: removal of board members.

Current Text: Amended: 4/25/2017 [html](#) [pdf](#)

Introduced: 2/17/2017

Last Amend: 4/25/2017

Status: 9/14/2017-From inactive file. Ordered to third reading. Ordered to inactive file on request of Assembly Member Calderon.

Location: 9/14/2017-A. INACTIVE FILE

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes the Governor to remove from office any member of any board within the department appointed by him or her, on specific grounds, including continued neglect of duties required by law. This bill would specifically include the failure to attend meetings of the board as one example of continued neglect of duties required by law that the Governor can use as a reason to remove a member from a board.

Group
2-Year

SB 762 (Hernandez D) Healing arts licensee: license activation fee: waiver.

Current Text: Amended: 4/17/2017 [html](#) [pdf](#)

Introduced: 2/17/2017

Last Amend: 4/17/2017

Status: 7/14/2017-Failed Deadline pursuant to Rule 61(a)(10). (Last location was B.&P. on 6/15/2017) (May be acted upon Jan 2018)


Location: 7/14/2017-A. 2 YEAR

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: Existing law requires a healing arts board, as defined, to issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by the board. Existing law requires the holder of an inactive license or certificate to, among other things, pay the renewal fee in order to restore his or her license or certificate to an active status. Existing law requires the renewal fee to be waived for a physician and surgeon who certifies to the Medical Board of California that license restoration is for the sole purpose of providing voluntary,

unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state. This bill would require the renewal fee to be waived for any healing arts licensee who certifies to his or her respective board that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

MEMORANDUM

DATE	April 2, 2018
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #8: Review and Consideration of Statutory Revisions to Section 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact

Background:

During the Board of Psychology's (Board's) February 2018 meeting, the Board considered linking the legislative changes it was proposing to the trigger for psychotherapists to provide clients with the Professional Therapy Never Includes Sex Brochure (Brochure) with the Board's current provisions relating to discipline for acts of sexual contact with a client or former client. Specifically, staff proposed using the definition for sexual behavior that was developed for the trigger of the provision of the Brochure to also be used in Business and Professions Code section 2960.1 that requires a proposed decision to include revocation when the finding of facts prove that there were acts of sexual behavior between a psychologist and their client or former client. This change to 2960.1 would have required revocation to be in the proposed decision and not allow an administrative law judge to propose an alternate decision, but would not have removed the Board's prosecutorial discretion to apply a lower level of discipline if the circumstances of the case warranted such a reduction.

The impetus to add inappropriate sexual behavior to the statutory provisions requiring revocation in the proposed decision for cases involving inappropriate sexual behaviors that did not rise to the definition of sexual contact was due to the Board's experiences prosecuting cases with clearly inappropriate sexual behavior, but being unable to achieve disciplinary terms that matched the egregiousness of the acts in the case. In other cases, clients did not complain to the Board or know that the behavior was inappropriate until sexual contact was initiated, but there were clear sexual grooming behaviors exhibited by the psychologist before sexual contact was initiated. Examples of inappropriate sexual behaviors that the Board has seen in a variety of cases are provided in Attachment B.

During the discussion of this proposed change at the February Board Meeting, it was determined that the definition of sexual behavior used for the trigger for psychotherapists to provide the brochure to a client may be too broad for the purposes of discipline when it relates to automatic revocation. The broadness of the definition for sexual behavior for the provision and content of the Brochure helps ensure that new inappropriate behaviors that arise with modern modes of communication can be incorporated over time and helps educate clients and the public that these behaviors are inappropriate and are not part of legitimate therapeutic interventions. However, this broad definition may not give adequate weight and consideration to the fact that some sexual behaviors, or combination of sexual behaviors, are more calculated and egregious than others. To this affect, the Board proposed bifurcating the proposal allowing for the broader definition for the

purposes of the brochure to proceed, and pursuing a separate legislative track for the changes related to discipline for those inappropriate sexual behaviors.

The Committee will begin the discussion and policy activities, including reaching out to stakeholders, necessary to revise section 2960.1 by reviewing and revising the draft amendments (Attachment A).

Action Requested:

Staff recommends that the Committee review and revise the statutory amendments provided in Attachment A, which are based on the February Board Meeting discussion, and delegate staff to use these revisions as the starting point for discussion in a stakeholder meeting to be organized and held in the Summer of 2018.

Attachment A: Draft Amendments to Business and Professions Code Section 2960.1

Attachment B: Examples of Inappropriate Sexual Behaviors

BUSINESS AND PROFESSIONS CODE - BPC
DIVISION 2. HEALING ARTS [500 - 4999.129]
(*Division 2 enacted by Stats. 1937, Ch. 399.*)

CHAPTER 6.6. Psychologists [2900 - 2999]
(*Chapter 6.6 repealed and added by Stats. 1967, Ch. 1677.*)

ARTICLE 4. Denial, Suspension and Revocation [2960 - 2969]
(*Article 4 added by Stats. 1967, Ch. 1677.*)

2960.1.

a) Notwithstanding Section 2960, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 728, or sexual behavior, as defined in subsection b, when that act is with a patientclient, or with a former patientclient within two years following termination of therapy, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

b) “Sexual behavior” means inappropriate contact or communication of a sexual nature. “Sexual behavior” does not include the provision of appropriate therapeutic interventions relating to sexual issues.

(*Amended by Stats. 1998, Ch. 879, Sec. 3. Effective January 1, 1999.*)

Examples of Inappropriate Sexual Behaviors

Inappropriate Contact That Does Not Meet Statutory Definition of Sexual Contact:

- Kissing patient/client/supervisee/intern
- Patient/client/supervisee/intern kissing therapist where therapist fails to stop the behavior and inform them why it cannot happen again
- Spending the night with a patient/client/parent of minor patient/supervisee/intern without sexual contact unless necessary to a therapeutic or supervisory activity

Consensual Inappropriate Communications:

- Asking for personal or intimate photos of patient/client/supervisee/intern (with or without provocative clothing, including nudity, genitals, or sexually suggestive poses)
- Providing photos of self to patient/client/parent of minor patient/supervisee/intern (with or without provocative clothing, including nudity, genitals, or sexually suggestive poses)
- Engaging in sexual discussions that are not part of a therapeutic intervention and that are not documented as part of patient/client's record
- Role playing with patient using overtly sexual or sexually fetishistic behaviors when it does not relate to relevant therapeutic interventions

Grooming Behaviors

- Allowing or introducing alcohol, marijuana, or controlled substances during therapy session, then initiating physical contact
- Initiating handholding, kissing or other romantic physical contact
- Providing intimate personal details about self to patient/client in notes, cards, emails, texts, or messages, such as troubles with marriage/relationship, sex life, or sexual history
- Buying personal romantic gifts for patient/client/supervisee/intern (jewelry, flowers, lingerie, etc.)
- Accompanying patient/client/supervisee/intern to social or familial events outside of therapeutic or supervisory role (e.g. attending weddings, funerals, or other social functions as their date)
- Sending flirtatious, sexually suggestive or sexually explicit texts, messages or emails to patient/client/parent of minor patient/supervisee/intern
- Sharing professional's sexual fantasies about the patient/client/supervisee/intern with the patient/client/supervisee/intern

- When unrelated to a clinical interview or therapeutic interventions appropriate to the patient/client, asking about and encouraging discussion of patient/client sexual habits, masturbation, or frequency of sexual encounters
- Excessively complimenting the patient/client/supervisee/intern on their physical appearance, sexual attributes, or beauty
- Renting an apartment or paying rent for patient/client/supervisee/intern in anticipation of sexual contact

MEMORANDUM

DATE	March 29, 2018
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #9 Regulatory Update

The following regulatory packages are pending the start of or in the **Initial Review Stage** with the Department of Consumer Affairs (DCA), Business Consumer Services and Housing Agency, and the Department of Finance (before formal Notice of Public Hearing with the Office of Administrative Law):

- a) Update on 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants

This package is in the Initial Review Stage. Staff is working on incorporating the feedback provided by Legal Counsel's initial review. Upon completion of the required documents, the package will be reviewed by DCA Budgets, DCA's Division of Legislative and Regulatory Review, and DCA Chief Counsel.

- b) Update on 16 CCR Section 1396.8 – Standards of Practice for Telehealth

This package is in the Initial Review Stage. Staff incorporated the feedback provided by Legal Counsel's initial review and resubmitted the package to Legal Counsel on March 23. Upon completion of the required documents, the package will be reviewed by DCA Budgets, DCA's Division of Legislative and Regulatory Review, and DCA Chief Counsel.

- c) Update on 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees

This regulatory package is pending completion of required documents which will allow it to begin the Initial Review Stage with DCA. Staff is working on completing the Initial Statement of Reason and Notice of Proposed Changes with Informative Digest for Legal Counsel review.


d) Update on 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development

This regulatory package is pending completion of required documents which will allow it to begin the Initial Review Stage with DCA. Staff is working on completing the Initial Statement of Reason and Notice of Proposed Changes with Informative Digest for Legal Counsel review.

Action Requested:

These items are for informational purposes only. No action is required at this time.

MEMORANDUM

DATE	March 29, 2018
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #10 – Update regarding the California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting – Penal Code Sections 261.5, 288, and 11165.1

Background:

In February of 2015, The Board of Psychology requested that Assembly Member Garcia request an opinion from the Attorney General (AG) regarding mandatory reporting requirements under CANRA, on behalf of the Board of Psychology. This request for an opinion was assigned opinion number 15-201 by the AG's office.

The questions laid out in the request to the AG were:

1. The Child Abuse and Neglect Reporting Act (CANRA), starting at Penal Code Section 11164 et seq.) requires “mandated reporters” to report instances of child sexual abuse, assault, and exploitation to specified law enforcement and/or child protection agencies. Does this requirement include the mandatory reporting of voluntary acts of sexual intercourse, oral copulation, or sodomy between minors of a like age?
2. Under CANRA is the activity of mobile device “sexting,” between minors of a like age, a form of reportable sexual exploitation?
3. Does CANRA require a mandated reporter to relay third-party reports of downloading, streaming, or otherwise accessing child pornography through electronic or digital media?

The reason for this request was due to an opinion the Board of Behavioral Sciences (BBS) received from their legal counsel. BBS advised that they first began to examine the issue because stakeholders brought it to the attention of their Board due to the various interpretations of the law by many of their licensees. Coincidentally, legislative staff members contacted BBS to advise that the interpretation by their stakeholders was incorrect, and that the amendments to CANRA could have implications on family

planning agencies. Due to the concern over a legal misinterpretation of CANRA, BBS requested a legal opinion from the Department of Consumer Affairs (DCA). Once this legal opinion was received, the Board placed the opinion in their Board materials.

Since the receipt of the BBS opinion, that Board has made no statements regarding the interpretation of CANRA, and has not advised their licensees that they will or will not take enforcement action against them due to a CANRA-related complaint.

On February 20, 2015, the issue became subject to litigation which placed the AG opinion on hold pending the disposition of the case.

On January 9, 2017, a decision was rendered by the Court of Appeal of the State of California, Second Appellate District. This decision affirmed the judgement of the Los Angeles County Superior Court trial.

On February 21, 2017, the plaintiffs in the Mathews v. Harris case filed a petition for review with the California Supreme Court.

On April 6, 2017, the Office of the Attorney General advised that their office will maintain the suspension of opinion number 15-201 until the litigation is concluded and they have a final disposition in the matter.

On May 10, 2017, The California Supreme Court granted a review of Mathews v. Harris, which has been changed to Mathews v. Becerra (S240156).

Action Requested:

This item is for informational purposes only. There is no action required.