

**BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: August 22, 2014

Subject Matter of Proposed Regulations: Examinations, License Requirements and Waiver of Examination, Reconsideration of Examinations, Psychologist Fees

Section(s) Affected: Title 16, California Code of Regulations Sections 1388 (a), 1388 (b), 1388 (c), 1388 (e), 1388 (f), 1388 (g), 1388.6 (a), 1388.6 (b), 1388.6 (c), 1388.6 (d), 1388.6 (e), 1388.6 (f), 1389 (a), and 1392 (b), 1392 (c), 1392 (d), 1392 (e), and 1392 (f).

Introduction

The Board is seeking to change the California specific licensing exam from the California Psychology Supplemental Examination (CPSE) to the California Psychology Law and Ethics Examination (CPLEE).

The Association of State and Provincial Psychology Boards (ASPPB) sponsored a study conducted by Professional Examination Service (PES), a private consulting firm. The report, "Study of the Practice of Licensed Psychologists in the United States and Canada," was released in July 2010. One very important purpose of the study was to update and develop the test specification for the national Examination for Professional Practice in Psychology (EPPP).

In California, licensing boards, bureaus, and committees within the Department of Consumer Affairs (DCA) are required to ensure that examination programs being used in the California licensure process comply with psychometric and legal standards. Given the release of the July 2010 national study report, it was imperative that the California Board of Psychology (Board) review its current California examination in relation to the national EPPP.

Therefore, the Board contracted with the DCA's Office of Professional Examination Services (OPES) to conduct two independent focus group workshops for the purpose of evaluating and comparing the test specifications/examination outlines of the national EPPP and the California Psychology Supplemental Examination (CPSE). Specifically, the purpose was to identify any California-specific tasks and professional experience not represented by the national exam, and to evaluate whether there is redundant information being tested on the competency content areas of both exams. If redundancy was found between the competency content areas of both exams, then the Board would need to consider whether testing strictly on California laws and ethics only would be in the best interest for California.

Given the results of the two national audit focus group workshops (see Appendix A for OPES' complete audit summary report), the Board informally opted to remove the competency content areas of the CPSE and adopt a strictly California laws and ethics examination. However, prior to formally adopting this option, the Board was advised by OPES to obtain further information and clarification from ASPPB regarding the quality of EPPP test items in order to ensure qualified entry-level practice in California. The Board obtained sufficient proof from ASPPB that the EPPP items test a candidate's ability to process higher levels of information. The Board then made a motion to eliminate the CPSE and adopt a strictly California laws and ethics examination only. Therefore, the process of conducting an occupational analysis began for revising and enhancing the current California Psychology Law and Ethics Examination (CPLEE).

An additional change is the addition of an accommodation for candidates for whom English is a secondary language. The Board has determined that in a state with significant linguistic and cultural diversity it is beneficial to consumers and candidates that this accommodation be provided.

Identification of the Problem

The Board voted to adopt the new regulations at its February Board Meeting. The change in examinations is because the CPSE is used as a California specific test of legal and ethical issues; it also covers subject matter competence. This is duplicative, and the Board wishes to follow the recommendations of OPES. OPES determined that offering the CPSE was duplicative, and a specific California Legal and ethical exam would be beneficial.

The new language concerning accommodations for English as a Second Language students modifies the Board's existing practice. Students will be allowed time-and-a-half (1.5x) to take examinations if they can prove to the Board that English is their second language and that they lack proficiency. The provisions in the section will aid the Board by providing standards and clear guidelines to applicants.

Specific Changes and Factual Basis/Rationale:

Amend Section 1388 (a)

The amendment in this section is non-substantial and corrects the name of the Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES).

Problem: The name currently listed in the regulations is Office of Examination Resources. The name was changed in 2009.

Anticipated Benefit: The change will benefit applicants and consumers because incorrect information in the regulations could limit their ability to contact the entity.

Amend Section 1388 (b)

The amendment in this section relates to the Board's decision to no longer offer the CPSE, but instead require candidates to take the national subject competency exam, the EPPP. The CPLEE which will replace the CPSE is specific to California and tests knowledge of ethics and laws.

Problem: The CPSE has been determined by the Board to test competency areas already covered to the Board's satisfaction by the EPPP. The switch to the entirely laws and ethics based examination will stop testing candidates on the same subject areas twice.

Anticipated Benefit: The Board is committed to ensuring that only fully qualified applicants become licensed psychologists in California. The removal of the CPSE and the replacement with the CPLEE will not negatively impact California consumers or the Board's licensees because the Board will still rigorously test subject matter competency and use a single California specific test for law and ethics.

Currently the Board has two State exams. Candidates often confuse one over the other. By eliminating the CPSE it will provide less confusion, candidates will not be tested twice in certain subject. This will save time for candidates and for Board staff as they will not take duplicative tests and staff will no longer have to respond to applicants who have taken the incorrect exam.

Amend Section 1388 (c)

The proposed amendment to the above section is the deletion of the mention of the CPSE. For reasons discussed above, the CPSE will be replaced by the sole use of the CPLEE.

Problem: The mention of an examination that the Board is seeking to no longer require candidates take is unnecessary and confusing. The justification for the removal of the CPSE is under Amend Section 1388 (b).

Anticipated Benefit: The deletion of the mention of the CPSE will make the regulations consistent.

Amend Section 1388 (e)

The amendment in this section involves the passing score of the EPPP. Currently, the regulations stipulate the passing score of 500.

Problem: The passing score on the EPPP is determined by the ASPPB. It is possible that in some years the passing score could be higher or lower than 500. This would be beyond the Board's control to influence and this change will allow the Board to follow ASPPB's recommended score and not bind us to the 500 score.

Anticipated Benefit: The change solves the problem of having a passing score of 500 in the regulations and a different passing score promulgated by the owners of the examination. The examination is owned by ASPPB and they may in future promulgate a suggested passing score that is not 500. This will limit confusion on the part of the candidates. There could also be a problem with portability if California accepted EPPP candidates with score of 500 when ASPPB recommended a higher score.

Amend Section 1388 (f)

The proposed amendment to the above section is the deletion of the mention of the CPSE. For reasons discussed above, the CPSE will be replaced by the sole use of the CPLEE.

Problem: The mention of an examination that the Board is seeking to no longer require candidates take is unnecessary and confusing. The justification for the removal of the CPSE is under Amend Section 1388 (b).

Anticipated Benefit: The deletion of the mention of the CPSE will make the regulations consistent.

Amend Section 1388 (g)

The proposed amendment to the above section is the deletion of the mention of the CPSE. For reasons discussed above, the CPSE will be replaced by the sole use of the CPLEE. The deletion of the mention of the CPSE will make the regulations consistent. The name of the examining organization OPES has been changed from OER. The purpose of this change is to update the regulations with the name change that occurred in 2009.

Problem: The mention of an examination that the Board is seeking to no longer require candidates take is unnecessary and confusing. The justification for the removal of the CPSE is under Amend Section 1388 (b). The justification for the change in the examining organization is found under Amend Section 1388 (a).

Anticipated Benefit: The deletion of the mention of the CPSE will make the regulations consistent.

Adds Section 1388 (h)

This new section outlines the procedures for candidates for whom English is a second language (ESL). The Board currently allows a time-and-half (1.5x) for candidates who are granted the accommodation. This section is the Board's attempt to formalize and

standardize this process. The Board will require a candidate to sign a request that English is a second language, and that they require additional time to take either the EPPP or the CPLEE. The candidate will also be required to have taken the Test of English as a Foreign Language (TOEFL). The TOEFL is recognized by over 9000 higher education entities and government agencies as a means of determining English language proficiency. The TOEFL must have been taken within the last two years with an overall score of 85 or below. This score will mean that a candidate for the examination has a weak grasp of English.

Problem: California is a diverse state and applicants for licensure come from a variety of linguistic and cultural backgrounds. This proposed change sets definite standards for ESL students to follow. The Board currently does not have regulations in place for ESL applicants. The Board only has a policy. This policy was adopted on 07/27/1991 which allows a candidate extra time to take the exam if they submit proof of original entry in the US occurred within the last ten years and original entry in the US did not occur prior to the candidate's beginning of the University setting. The current policy does not adequately gauge the applicant's proficiency in English.

Anticipated Benefit: The benefits of this section are that California is highly diverse and some psychologists will not work in an English language environment. This provision will permit candidates for whom English is a second language to become licensed and serve these communities. The proposed regulation establishes a more substantial guideline in determining an applicant's eligibility for extra time.

Amends Section 1388.6 (a), 1388.6 (b), 1388.6 (c), 1388.6 (d), 1388.6 (e), and 1388.6 (f)

The changes to the above sections are then removal of the CPSE from as an examination because the Board does not intend to still offer it. For reasons discussed above, the CPSE will be replaced by the sole use of the CPLEE. The deletion of the mention of the CPSE will make the regulations consistent. There are also minor grammatical changes to the above amendments.

Problem: The mention of an examination that the Board is seeking to no longer require candidates take is unnecessary and confusing. The justification for the removal of the CPSE is under Amend Section 1388 (b).

Anticipated Benefit: The deletion of the mention of the CPSE will make the regulations consistent.

Amend Section 1389

The proposed amendment to the above section is the deletion of the mention of the CPSE. For reasons discussed above, the CPSE will be replaced by the sole use of the CPLEE. The deletion of the mention of the CPSE will make the regulations consistent.

Problem: The mention of an examination that the Board is seeking to no longer require candidates take is unnecessary and confusing. The justification for the removal of the CPSE is under Amend Section 1388 (b).

Anticipated Benefit: The deletion of the mention of the CPSE will make the regulations consistent.

Deletes Section 1392 (b)

This section has the fee information for the CPSE. The Board desires to stop asking candidates to take the CPSE; therefore, this section is no longer necessary.

Problem: The mention of an examination that the Board is seeking to no longer require candidates take is unnecessary and confusing. The justification for the removal of the CPSE is under Amend Section 1388 (b).

Anticipated Benefit: The deletion of the mention of the CPSE will make the regulations consistent.

Amends Sections 1392 (c), 1392 (d), 1392 (e), and 1392 (f)

The above sections have had the numbering altered because of the deletion of section 1392 (b).

Problem: Incorrect numbering will be confusing.

Anticipated Benefit: Correct numbering will maintain consistency and accuracy in the regulations.

Underlying Data

1. Validation Report, Prepared by Office of Professional Examination Services, DCA. April 2012
2. TOEFL <http://www.ets.org/toefl/>
3. Study of the Practice of Licensed Psychologists in the United States and Canada, July 2010

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the regulation will not negatively impact any business or organization that the Board with which the Board currently has a relationship.
- It will not create new business or eliminate existing businesses within the State of California because the regulations will affect only the businesses and organizations that currently administer the examinations. The few anticipated TOEFL applicants will not be numerous enough to substantially impact

California businesses.

- It will not affect the expansion of businesses currently doing business within the State of California because the change from the CPSE to the CPLEE will not impact the business that currently administers the examinations.
- This regulatory proposal benefits the health and welfare of California residents because it will ensure licensed psychologists are examined to the highest do most current standards.
- This regulatory proposal does affect worker safety.
- This regulatory proposal benefits does not affect the state's environment.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Board does not foresee anything beyond a negligible fiscal impact. The change from the CPSE to the CPLEE will not affect the entity that provides the examination as the same number of candidates will still be served and the cost for the examinations is the same (\$129.00).

The change to the BreEZe system that the examination change requires will have a onetime cost. This cost has been approved by the Control Board in anticipation of the new regulations. The Control Board The Board has not yet received the bid information back, but the cost of similar work has been between \$14,000 and \$17,000. This has already been approved.

The TOEFL is a test administered by the Educational Testing Service (ETS) that costs \$180.00. ETS is a private entity and the fiscal impact will not impact the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Cost Impact on Representative Private Person or Business:

The Board has determined that representative private person or business in reasonable compliance with the proposed action would incur a slight cost impact for the following reasons:

The change from the CPSE to the CPLEE will have no financial impact on the examination vendor or the individual candidates as the cost for both exams are the same and the same number of candidates will take the exam.

The approximately 10 candidates who ask for ESL accommodation will incur an additional \$180.00 cost to take the TOEFL, assuming they do not already have a valid score from within the last two years.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS:

The Board has determined that the proposed regulations would not affect small businesses. California small business will not be affected by the examination change or the TOEFL requirement for ESL students.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

The Board has made an initial determination that the proposed regulatory action regarding the CPSE and CPLEE would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulations do not impose any new requirements on a licensee, registrant, or applicant.

The Board has made an initial determination that the proposed regulatory action regarding the TOEFL would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. This proposal does not impact multiple industries.

Effect on Small Businesses: The Board has determined that the proposed regulations will not affect small businesses. The examination requirements will not have a negative effect.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This proposal may increase portability of licensure for certain out-of-state applicants seeking licensure in California, as follows: ASPPB may change the recommended passing score of 500 that is currently in the regulation. The Board would be required to license applicants with an EPPP score of 500 even if the pass mark for that year was recommended as being higher. Licensed Psychologists in California would then be unable to transfer their license in other states.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: The Board has determined that this regulatory proposal will benefit the health and welfare of California residents indirectly by ensuring mental health practitioners are taking examinations that test both subject matter competence and legal and ethical requirements. The adoption of the TOEFL and ESL accommodation will benefit cultural and linguistic communities by permitting the licensure of psychologists who are not proficient in English, but who may possess mastery in an underserved language. The proposal will have no effect on worker safety or the State's environment.

Occupations/Businesses Impacted: This proposed regulation will impact applicants and licensees by changing the CPSE exam requirement to the CPLEE requirement.

Reporting Requirements: None

Comparable Federal Regulations: None

Benefits: Candidates will be required to take two separate examinations that test different aspects of licensed psychology with no overlap. The EPPP will remain the subject matter examination and the CPLEE will become the sole test for California specific law and ethics. The CPSE tests subject matter and ethics.

The benefits of the ESL accommodation will be that there are clear guidelines in regulations for ESL candidates and a measurable and applicable standard when the Board receives a request for an accommodation.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation. Set forth below are the alternatives which were considered:

1. Not adopt the regulations. This alternative was rejected because this regulatory proposal will provide the Board with additional tools to examine applicants on law and ethics and make accommodations for ESL candidates.
2. Adopt the regulations. The Board has determined that this alternative is the most feasible because it will assist the Board in its examining and licensing quality candidates.