



BOARD OF PSYCHOLOGY – Administration
1625 N. Market Blvd., Suite N-215, Sacramento, CA 95834
P 916.574.7720 F 916.574.8672 www.psychology.ca.gov

Licensing Committee Agenda

Pepperdine University Graduate School of Education and Psychology
6100 Center Drive, Rooms 333-334
Los Angeles, CA 90045
(310) 568-5600

Committee Members

Jaqueline Horn, Ph.D., Chairperson
Stephen Phillips, Psy.D
Johanna Arias-Bhatia, Public Member

Legal Counsel

Norine Marks

Board Staff

Antonette Sorrick, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
Lavinia Snyder, Licensing Coordinator
Jonathan Burke, Administrative Coordinator
Colette McDowell, Continuing Education/Renewals Coordinator

Thursday, May 15-16, 2014

Committees are not webcast; however each Committee's report is webcast when the full board reconvenes as noticed on the attached agenda. A link to the webcast will be available on the Board's Web site at 9:00 a.m., February 20-21, 2014, or you may access it at: http://www.dca.ca.gov/publications/multimedia/webcast_current.shtml. Links to agenda items with attachments are available at www.psychology.ca.gov, prior to the meeting date.

Thursday, May 15, 2014

- a) Application Report (L. Snyder)
- b) Examination Report (L. Snyder)
- c) Renewal Report (C. McDowell)
- d) Continuing Education Report (C. McDowell)
- e) Satisfaction Survey Results (L. Snyder)
- f) Discussion of Supervised Professional Experience – Proposed Statutory and Regulation Changes to Business and Professions Code Section 2914 (c) and Title 16, CCR, Section 1387 (b) (10), (11), and 1387.1 (h) (L. Snyder)

- g) Discuss Limitations of Exemption Period Granted Under Business and Professions Code Section 2910 and Welfare & Institutions Code Section 5751.2 (L. Snyder)
- h) Accommodations Policy for English as a Second Language Test Candidates (L. Snyder)
- i) Licensing Action Plan – Proposed Improvements to the Licensing Process (L. Snyder)
- j) ASPPB Items (J. Horn)
 - 1. Update Regarding Review of Association of State and Provincial Psychology Boards (ASPPB) Draft E.Passport Guidelines established by the ASPPB Task Force on Telepsychology (L. Snyder)
 - 2. Report on Mid-Year Meeting
 - 3. ASPPB Annual Meeting
- k) Discuss Implementation of AB 1588 (Atkins) – Military Duty Licensees: Fees and Continuing Education (C. McDowell)
- l) Public comment for items not on the agenda
- m) Adjournment

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.

*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.*

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



MEMORANDUM

DATE	April 25, 2014
TO	Psychology Board Members
FROM	 Lavinia Snyder Licensing/Registration Coordinator
SUBJECT	Application Report

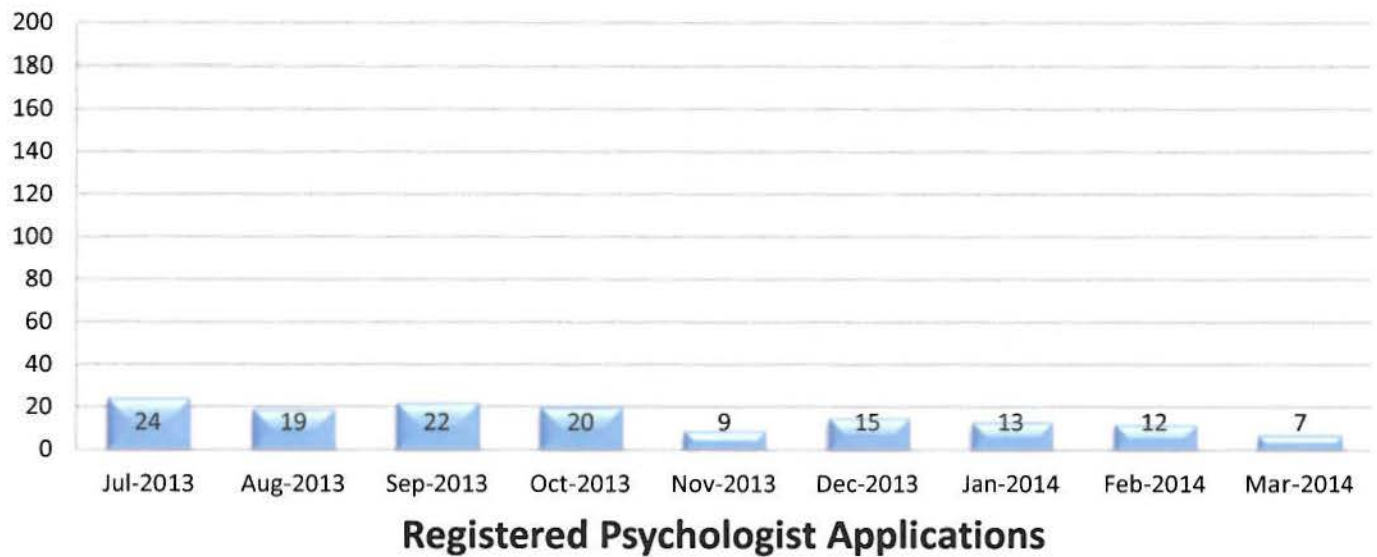
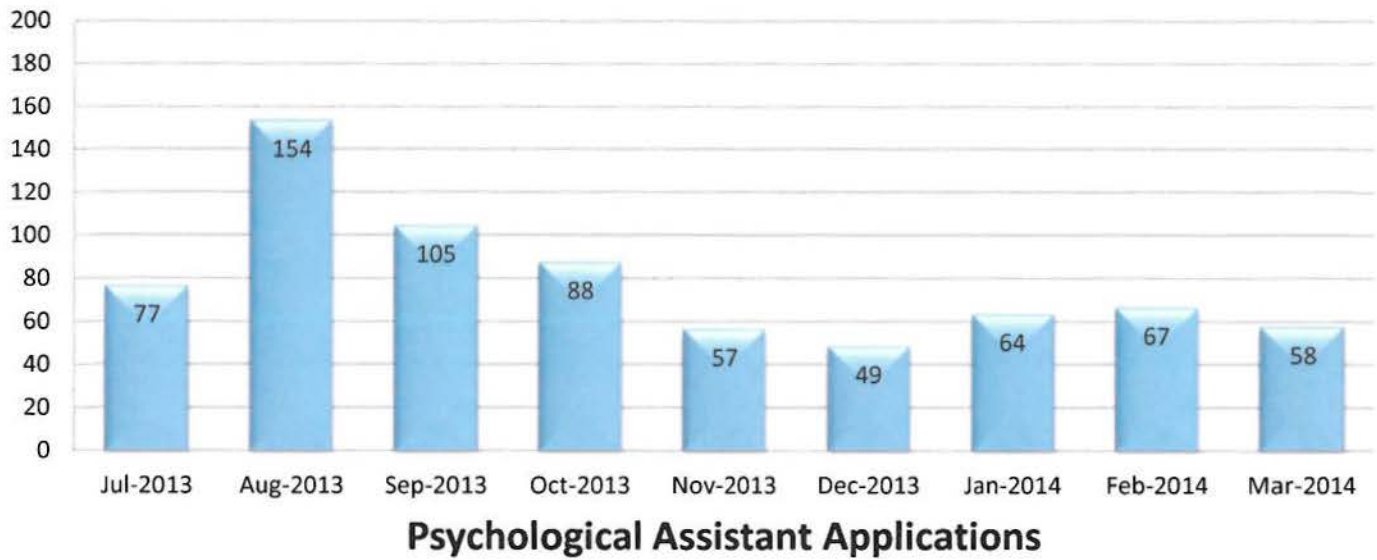
Attached are the following licensing statistics for your review.

- Applications received for each License Type
- Current Licensing Timeframes
- Table of Licensing Backlog

ACTION

No action required

Applications Received July 2013 - March 2014

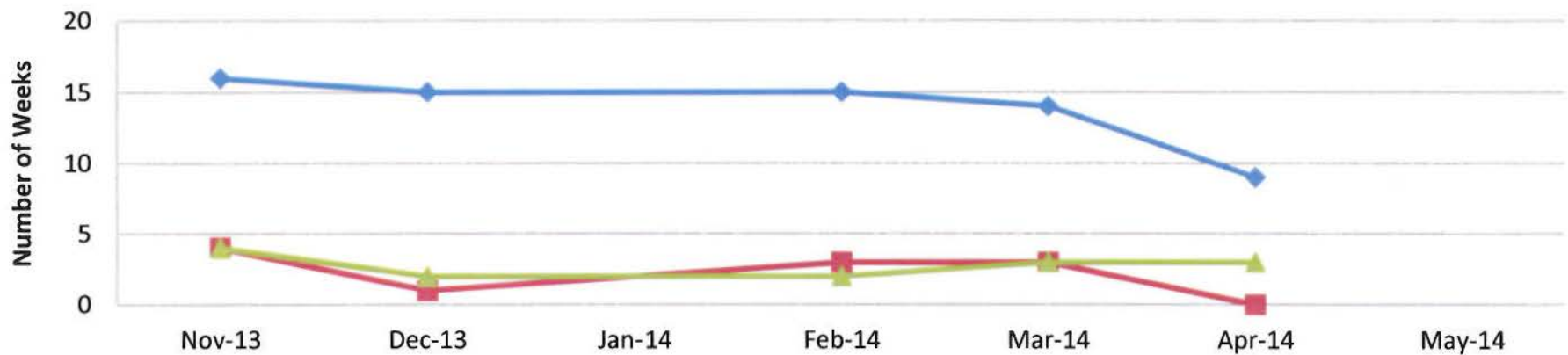


Current Licensing Timeframes as of April 25, 2014:

Type of Application	Oldest Application *	Anticipated Processing Time
Psychologist	02/21/2014	9 weeks out from today's date
Psychological Assistant	04/07/2014	3 weeks out
Registered Psychologist	0	0 weeks out

*All applicants are notified when the Board receives an application. Oldest applications have not been received by an analyst.

Licensing Processing Timeframes Monthly Basis



	Nov-13	Dec-13	Feb-14	Mar-14	Apr-14	May-14
PSY	16	15	15	14	9	
RPS	4	1	3	3	0	
PSB	4	2	2	3	3	



MEMORANDUM

DATE	April 25, 2014
TO	Psychology Board Members
FROM	 Lavinia Snyder Licensing/Registration Coordinator
SUBJECT	Examination Report

Background:

Attached are the current Examination Statistics.

Action Requested:

This item is for informational purposes only, but will be a standing Committee item for updates.

2014 Monthly EPPP Examination Statistics

Month	# of Candidates	# Passed	%Passed	Total First Timers	First Time Passed	% First Time Passed	
January	61	36	59.02				*
February	64	41	64.06				*
March	118	75	63.56				*
April							
May							
June							
July							
August							
September							
October							
November							
December							
Total	243	152	62.55144	0	0		

* Contacted ASPPB for assistance in getting statistics

2014 Monthly CPLEE Statistics

Month	# of Candidates	# Passed	% Passed	Total First Timers	First Time Passed	% First Time Passed
January	12	10	83.33	9	7	77.78
February	4	3	75.00	4	3	75.00
March	4	2	50.00	3	1	33.33
April						
May						
June						
July						
August						
September						
October						
November						
December						
Total	20	15	75.00	16	11	68.75

2014 Monthly CPSE Statistics

Month	# of Candidates	# Passed	% Passed	Total First Timers	First Time Passed	% First Time Passed
January	81	58	71.60	67	51	76.12
February	38	24	63.16	33	20	60.61
March	68	32	47.06	45	22	48.89
April						
May						
June						
July						
August						
September						
October						
November						
December						
Total	187	114	60.96	145	93	64.14



BOARD OF PSYCHOLOGY – Continuing Education/Renewals
1625 N. Market Blvd., N-215, Sacramento, CA 95834
P (916) 574-7720 F (916) 574-8671 www.psychology.ca.gov

MEMORANDUM

DATE	May 1, 2014
TO	Psychology Board Members
FROM	<i>Colette McDowell</i> Colette McDowell Continuing Education Analyst
SUBJECT	Agenda Item 10 (Licensing Committee) (c): Renewal Report

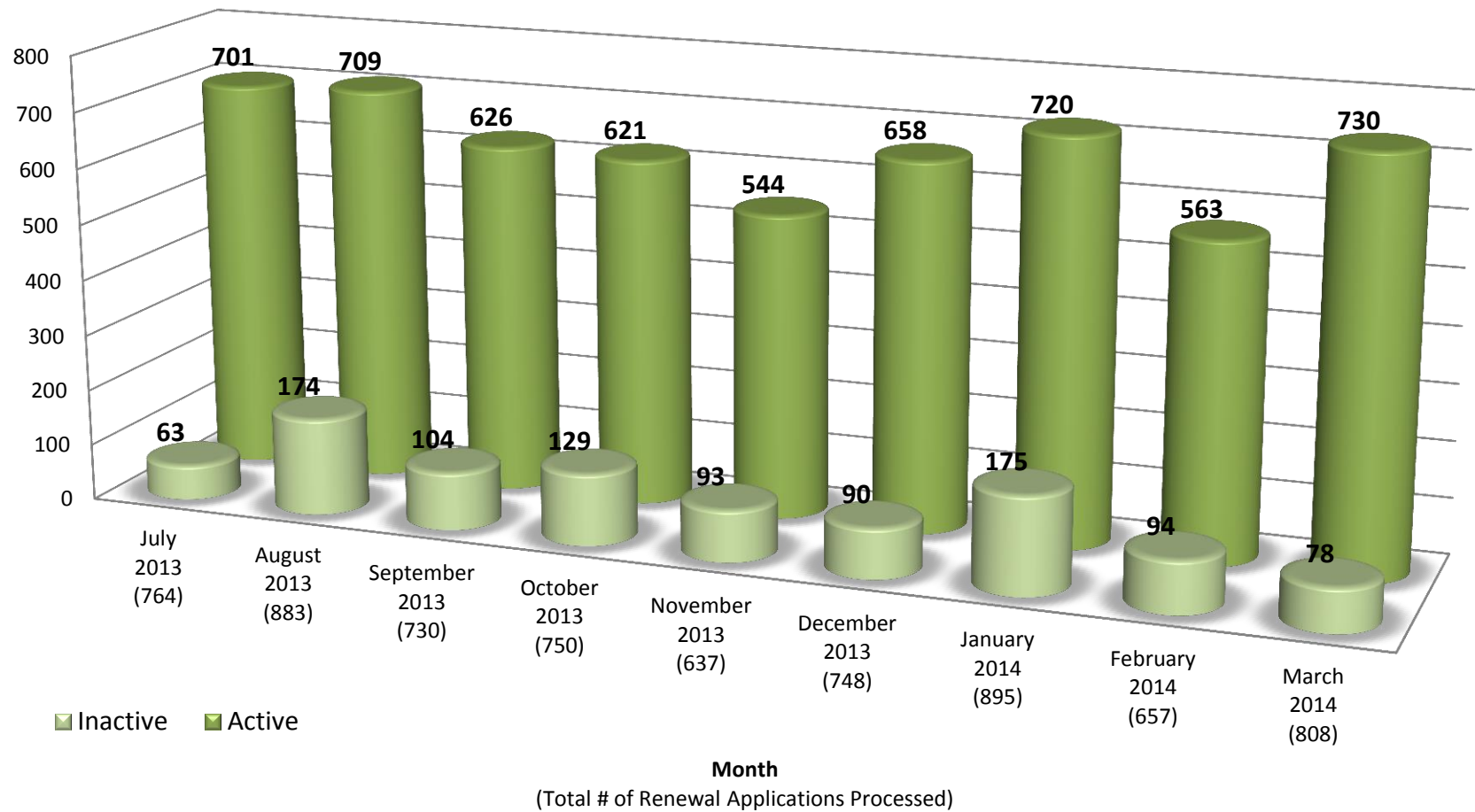
Background:

Attached are statistics pertaining to renewal applications for your review.

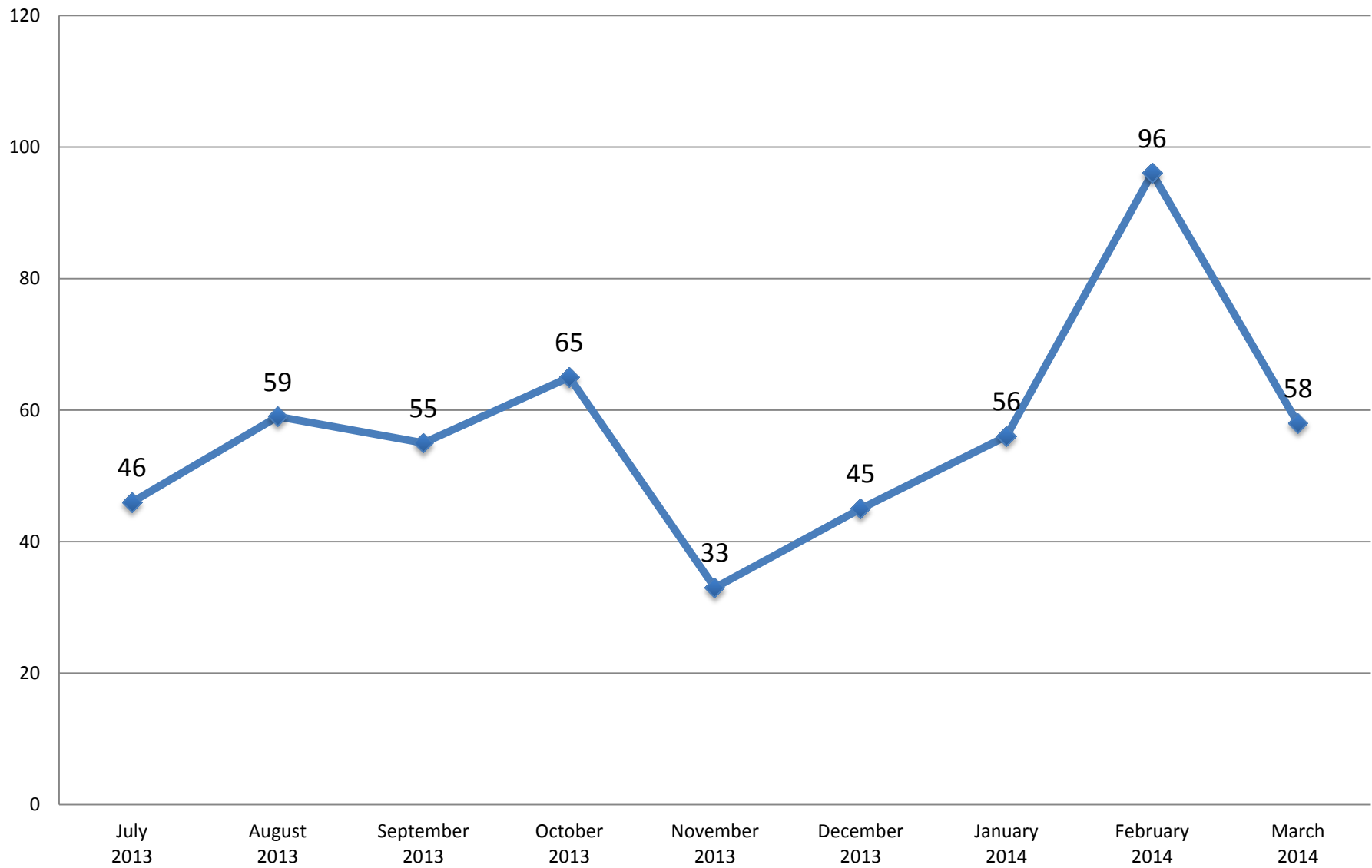
Action Requested:

This item is for informational purposes only, but will be a standing Committee item for updates.

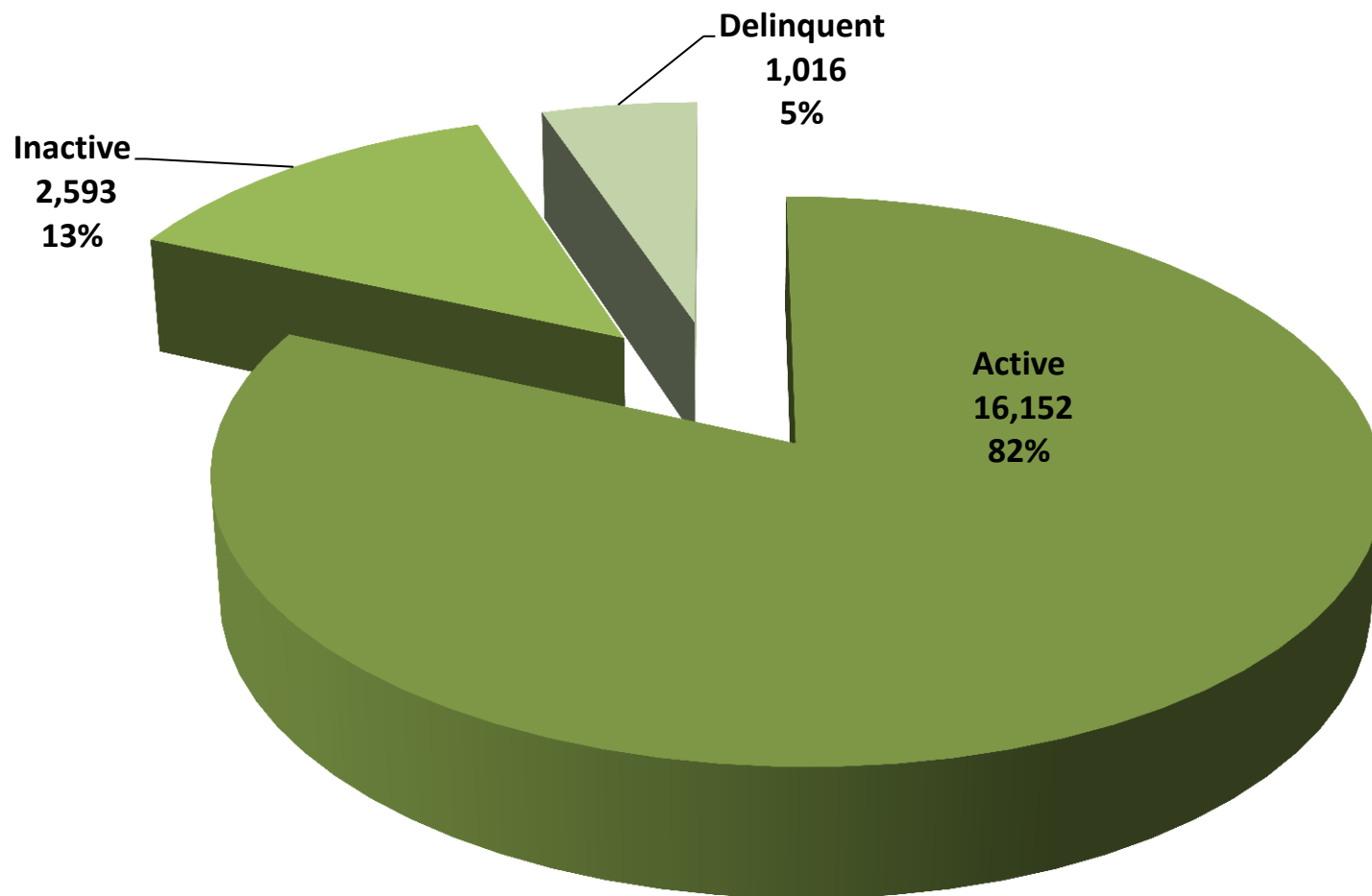
Psychologist Renewal Applications Processed



Psychological Assistant Renewal Applications Processed



Psychologist License Statuses





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MEMORANDUM

DATE	May 1, 2014
TO	Psychology Board Members
FROM	<i>Colette McDowell</i> Colette McDowell Continuing Education Analyst
SUBJECT	Agenda Item 10 (Licensing Committee) (d): Continuing Education Report

CE Audit Statistics:

Please find attached the statistics (as of April 28, 2014) for the Continuing Education (CE) Audits for May through September of 2013. Audits for the months of January through April of 2013 were reported as complete at the February Board meeting. Internal audits on CE submissions began due to a regulation change which was made effective January 1, 2013. Prior to internal audits being implemented, CE was monitored by the Mandatory Continuing Education for Psychologists Accrediting Agency (MCEPAA).

For the months of January through June, approximately 5% (approximately 35 licensees per month) of the renewing licensees were selected for audit. Beginning with July, approximately 10% (approximately 70 licensees) are being selected for inclusion in the audit.

Below are some additional details:

May 2013:

On October 17, 2013, 42 licensees were selected for audit for the month of May; 41 (97.62%) have been determined to be in compliance. The one licensee with a pending audit has had physical mail returned as undeliverable, and has not yet responded to an e-mail notification which was sent on April 15, 2014.

June 2013:

On October 23, 2013, 35 licensees were selected for audit for the month of June; 34 (97.14%) have been determined to be in compliance. The one licensee with a pending audit has been notified of her deficiencies and has not yet provided the additional documentation needed to come into compliance.

July 2013:

On December 5, 2013, 76 licensees were selected for audit for the month of July; 67 (88.16%) have been determined to be in compliance. Of the 9 licensees with a pending audit, one has provided documentation but was deficient in some way. They were notified of their deficiencies and their options for coming into compliance. All 9 were sent second requests on April 9, 2014.

August 2013:

On January 7, 2014, 74 licensees were selected for audit for the month of August; 70 (93.33%) have been determined to be in compliance. The 5 licensees with a pending audit were sent second requests on April 15, 2014.

September 2013:

On April 7, 2014, 77 licensees were selected for audit for the month of September; 23 (29.87%) have been determined to be in compliance. The letters advising these licensees that they've been selected for audit requested proof of compliance within 30 days (May 7, 2014).

October through December 2013:

I expect to initiate the audit for the month of October in the coming weeks and anticipate initiating the audit for successive months approximately monthly thereafter, for 10% of the renewing licensees.

Action Requested:

This item is for information purposes only. No action requested.

Continuing Education Information:

Please find attached a document entitled "Continuing Education Information" which was recently developed to provide an overview of the CE requirements for licensees as well as Board staff.

Action Requested:

This item is for information purposes only. No action requested.

Draft Language Regarding Continuing Education/Professional Development/Cultural Diversity Regulations:

Background:

At the October 2013 Board meeting, the Continuing Education (CE) Committee recommended that draft regulations regarding CE be accepted, authorized staff to begin the rulemaking process. The Board carried the motion encompassing this recommendation.

Prior to the February meeting, verbiage was added to the draft regulations addressing proration of CE requirements for licensees renewing for the first time as well as guidelines for licensees whose renewal cycles span effective dates of both the current and the new regulations. These modifications were approved by the Board at the February Board meeting.

Verbiage has been added to the draft regulations addressing discussions held at the February Board meeting, as follows:

- A four-hour minimum was added to the Law and Ethics requirement (highlighted in yellow on page 7),
- A four-hour minimum was added to the Cultural Diversity/Social Justice requirement (highlighted in yellow on page 7),
- Maximum hours for category A3 (Professional Activities) was increased from nine to 12 (highlighted in yellow on page 8),
- Maximum hours for category A4 (Conferences/Conventions) was increased from four to six (highlighted in yellow on page 8),
- Verbiage was added to category A3 (Professional Activities): program development and evaluation, and relevant administrative activities in service of psychology and/or mental health (highlighted in yellow on pages 3 and 8), and
- Verbiage was added allowing licensees to claim attendance at Board meetings for CE credit (highlighted in yellow on pages 2 and 9).

Changes to the "Verification Logs" corresponding to the modifications listed above have also been made (draft attached).

Sections of 1397.62 (shown in green font on pages 13 and 14) are not applicable to the draft regulations. Staff recommends that this verbiage be removed.

Verbiage addressing implementation of AB 1588 will be discussed separately, under Agenda Item 10(l).

Action Requested:

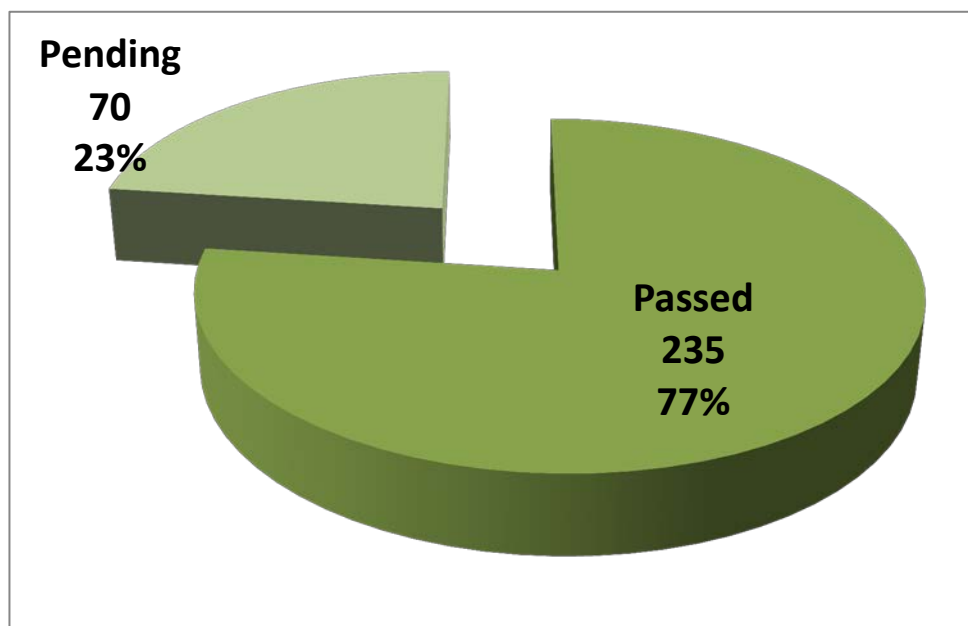
Conduct an open discussion regarding the attached proposed amendments to the Board's CE program regulations (including the Verification Logs).

If the proposed amendments are accepted, direct staff to:

- Make any discussed changes, as well as any non-substantive changes, and
- Take all steps to initiate the formal rulemaking process regarding the proposed amendments to the California Code of Regulations, Title 16, Sections 1397.60, 1397.61, 1397.62, and 1397.67.

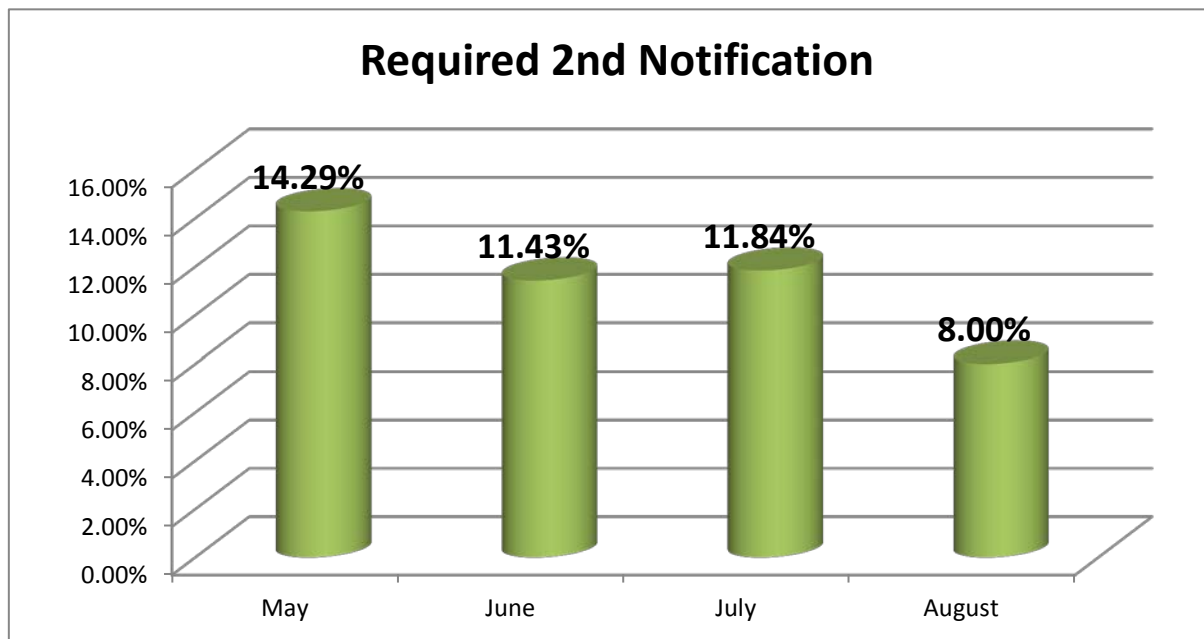
Continuing Education Audits

Month	Total # of Licensees Selected for Audit:	# Passed:	% Passed:	# Pending:	% Pending:	# Failed: (Referred to Citation & Fine Program)	% Failed:
May	42	41	97.62%	1	2.38%		
June	35	34	97.14%	1	2.86%		
July	76	67	88.16%	9	11.84%		
August	75	70	93.33%	5	6.67%		
September	77	23	29.87%	54	70.13%		
Totals	305	235	77.05%	70	22.95%	0	0.00%



Continuing Education Audits

Month	Average Processing Time (Days): (Initial to Final Notices)	Date Audit Initiated:	Date Audit Concluded:	Initiation to Conclusion (Days):	# Required a 2nd Notification:	% Required 2nd Notification:
May	30.6	10/17/2013			6	14.29%
June	32.1	10/23/2013			4	11.43%
July	27.7	12/5/2013			9	11.84%
August	24.3	1/7/2014			6	8.00%
September	12.5	4/7/2014				
Totals	22.8				52	11.74%



Continuing Education Information

Hour requirements

36 hours of Continuing Education (CE) are required for each 2-year renewal period (please see below for information regarding pro-ratio for first-time renewals).

- A minimum of 25% (9 hours) must be “live.”
 - Webinars in which there is interaction with the instructor in real time (via instant messaging, for example), are considered "live".

Psychologists self-certify the number of hours they have completed on their renewal form (whether online or paper).

Courses or presentations less than one hour in length are not acceptable.

First time-renewal pro-ratio of hours

- 1.5 hours of CE must be accrued for each month or partial month that the license was effective prior to expiration. A minimum of 25% must be “live.”
 - For example, a license issued March 28, 2013 and expiring September 30, 2014 would have been in effect for 18 months and 3 days upon expiration. In order to renew, the licensee would have to have accrued a total of 28.5 hours of approved continuing education (1.5 hours x 19 months).

# of Months License was Effective	Minimum CEU's Required	Minimum “Live” hours (25%)
13	19.5	4.875
14	21	5.25
15	22.5	5.625
16	24	6
17	25.5	6.375
18	27	6.75
19	28.5	7.125
20	30	7.5
21	31.5	7.875
22	33	8.25
23	34.5	8.625
24	36	9

Law & Ethics requirement

Under the current regulations, there is no hour requirement or certificate required for Laws & Ethics. Licensees must check a box self-certifying that they have kept abreast of changes to laws (statutes and regulations) and ethics. There is no specified method regarding how the information must be obtained. Licensees can take a continuing education course, review Web sites, participate in grand rounds, etc.

Approval requirements

The Board of Psychology recognizes and accepts for continuing education credit courses that are provided by entities approved by:

- APA (American Psychological Association),
- CPA (California Psychological Association), or
- CMA (California Medical Association)/ACCME (Accreditation Council for Continuing Medical Education)
 - CME (Continuing Medical Education) courses must be specifically applicable and pertinent to the practice of psychology.
 - “AMA [American Medical Association] PRA [Physician’s Recognition Award] Category 1 Credit TM” is acceptable¹

Audits & Retention of Records

Licensees must retain their CE records for a minimum of four (4) years; the Board conducts random audits and, if selected, will contact the licensee for proof of completion.

Exemptions or Exceptions from CE requirements

Exemptions are available (pursuant to California Code of Regulations, Title 16, §1397.62) for the following reasons:

- total physical or mental disability of the psychologist for a period of at least one year,
- total physical or mental disability of an immediate family member for at least one year where the psychologist has total responsibility for the care of that family member, or
- engagement in active military service.

A licensee may request a reasonable accommodation according to the Americans with Disabilities Act which would exempt them from the on-site participation requirement.

If a licensee wishes to request an exemption or reasonable accommodation, they should send a written request to the Board (to the letterhead address or via e-mail to bopmail@dca.ca.gov), with supporting documentation from a licensed physician and surgeon or, in the case of a mental disability, a licensed psychologist or board certified or board eligible psychiatrist.

The “Out-of-State CE Waiver” is no longer available (effective January 1, 2013).

Reactivation

If a license is inactive, the licensee must provide proof of 36 hours of CE in order to reactivate. They must be completed in the 24 months immediately preceding reactivation. Additional information regarding reactivation can be obtained is on the reactivation form, which can be accessed on the Board’s Web site.

¹ The phrase “AMA PRA Category 1 Credit” is a trademark of the American Medical Association.

§ 1397.60. Definitions.

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2013, and becomes inoperative on December 31, 2015.

~~As used in this article:~~

~~(a) "Conference" means a course consisting of multiple concurrent or sequential free-standing presentations. Acceptable presentations must meet the requirements of section 1397.61(c).~~

~~(b) "Continuing education" (CE) means the variety of forms of learning experiences, including, but not limited to, lectures, conferences, seminars, workshops, grand rounds, in-service training programs, video conferencing, and independent learning technologies.~~

~~(c) "Course" or "presentation" means an approved systematic learning experience of at least one hour in length. One hour shall consist of 60 minutes of actual instruction. Courses or presentations less than one hour in duration shall not be acceptable.~~

~~(d) "Grand rounds" or "in-service training program" means a course consisting of sequential, free-standing presentations designed to meet the internal educational needs of the staff or members of an organization and is not marketed, advertised or promoted to professionals outside of the organization. Acceptable presentations must meet the requirements of section 1397.61(c).~~

~~(e) "Independent learning" means the variety of forms of organized and directed learning experiences that occur when the instructor and the student are not in direct visual or auditory contact. These include, but are not limited to, courses delivered via the Internet, CD-ROM, satellite downlink, correspondence and home study. Self-initiated, independent study programs that do not meet the requirements of section 1397.61(c) are not acceptable for continuing education. Except for qualified individuals with a disability who apply to and are approved by the Board pursuant to section 1397.62(c), independent learning can be used to meet no more than 75% (27 hours) of the continuing education required in each renewal cycle. Independent learning courses must meet the requirements of section 1397.61(c).~~

~~(f) "Provider" means an organization, institution, association, university, or other person or entity assuming full responsibility for the course offered, whose courses are accepted for credit pursuant to section 1397.61(c)(1).~~

Note: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Sections 29 and 2915, Business and Professions Code.

§ 1397.60. Definitions.

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2016.

Continuing Professional Development (CPD) means one of thirteen continuing education (CE) learning activities grouped under four different categories. The four categories and thirteen learning activities, as described in section 1397(e), include: (1) Professional (Peer Consultation, Practice Outcome Monitoring (POM), Professional Activities, Conferences/Conventions, Examination Functions); (2) Academic (Academic Courses, Academic Instruction, Supervision, Publications); (3) Sponsored Continuing Education Coursework (including Independent/Online Learning); and (4) Board Certification.

As used in this article:

(a) "Academic Course" means completing and earning credit for a graduate-level course related to psychology from an institution whose degree meets the requirements of Section 2914 of the Code. A licensee must be able to demonstrate how coursework relates to managing the professional, scientific, business or administrative aspects of providing psychological services. CE hours shall be granted pursuant to section 1397.61(e).

(b) "Academic Instruction" means teaching semester-long, or equivalent, graduate-level course related to psychology in an institution whose degree meets the requirements of Section 2914 of the Code. An instructor may be granted CE hours for each course taught only once during a renewal cycle.

(c) "Attendance at a California Board of Psychology Meeting (Full Board or Committee)" means attendance at a full day Board meeting (may be awarded six hours of continuing education credit per renewal period) or attendance at a separately noticed full committee meeting of the Board (may be awarded two hours of continuing education per renewal period). The Board shall designate on its public agenda which day(s) shall be eligible for continuing education credit. A psychologist requesting continuing education pursuant to this subdivision must sign in and out on an attendance sheet at the Board or Committee meeting that requires the individual to provide his or her first and last name, license number, time of arrival and time of departure from the meeting.

(d) "Board Certification" means earning a certification from the American Board of Professional Psychology (ABPP).

(e) "Conference/Convention" means a professional gathering that consists of multiple concurrent or sequential free-standing presentations related to the practice of psychology where the licensee (or petitioner) interacts with colleagues

and participates in the social, interpersonal, professional, and scientific activities that are part of the environment of those gatherings. CE credit can be accrued for Conference/Convention attendance in addition to credit for sponsored CE coursework earned for sessions at the same conference/convention.

(f) “Examination Functions” means serving in any examination development related function for the Board.

(g) “Peer Consultation” means structured and organized interaction with colleague(s) designed to broaden professional knowledge and expertise and reduce professional isolation. Training pursuant to this section may be obtained through case consultation or reading or research groups with other mental health professionals.

(h) “Practice Outcome Monitoring (POM)” means the periodic application of standardized outcome assessment protocols with clients/patients, in order to monitor one’s own practice process and outcomes, with the goal of assessing the effectiveness of one’s therapeutic approach(es). Examples of POM include, but are not limited to, the Beck Depression Inventory (BDI), Beck Anxiety Inventory (BAI), the Outcome Rating Scale (ORS), and Session Rating Scale (SRS), participation in a hospital or health care system’s formal quality assurance program that focuses on monitoring patient outcomes, as deemed appropriate throughout the course of treatment. All outcome measures utilized must match the patient’s presenting concerns at the time treatment is rendered and must be sensitive to presenting cultural variables in treatment. When using non-standardized measures, a rationale must be included.

(i) “Professional Activities” means ongoing participation in, but not limited to, serving on psychological association boards or committees, editorial boards of peer reviewed journals related to psychology or other mental health discipline, scientific grant review teams, or boards of regulatory bodies, program development and evaluation, and relevant administrative activities in service of psychology and/or mental health. A licensee must demonstrate the role(s) he or she has assumed and must demonstrate how the various roles he or she holds supports the public service work of the profession, and reduces professional isolation.

(j) “Provider” means an organization, institution, association, university, or other person or entity assuming full responsibility for the course offered, whose courses are accepted for credit pursuant to section 1397.61(f)(1).

(k) “Publications” means authoring or co-authoring peer-reviewed journal articles, book chapters, book(s), or editing or co-editing a book related to psychology or other mental health discipline.

(l) "Sponsored Continuing Education Coursework" means any structured, sequenced learning activity, whether conducted in-person, online, or self-directed (e.g. home-study) pursuant to section 1397.61(f)(1). Credit may be granted only once during a renewal cycle for each course completed. "Course" or "presentation" means an approved systematic learning experience.

(m) "Supervision" means overseeing the supervised professional experience of a pre-licensed trainee accruing hours toward licensure pursuant to section 1387.

Note: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Sections 29 and 2915, Business and Professions Code.

§ 1397.61. Continuing Education Requirements. [Effective January 1, 2013.]

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2013, and becomes inoperative on December 31, 2015.

~~(a) Except as provided in section 2915(e) of the Business and Professions Code and section 1397.62 of these regulations, each licensed psychologist shall certify on the application for license renewal that he or she has completed the continuing education requirements set forth in section 2915 of the Code. A licensee who renews his or her license for the first time after the initial issuance of the license is only required to accrue continuing education for the number of months that the license was in effect, including the month the license was issued, at the rate of 1.5 hours of approved continuing education per month. Continuing education earned via independent learning pursuant to section 1397.60(e) shall be accrued at no more than 75% of the continuing education required for the first time renewal. The required hours of continuing education may not be accrued prior to the effective date of the initial issuance of the license. A licensee who falsifies or makes a material misrepresentation of fact on a renewal application or who cannot verify completion of continuing education by producing verification of attendance certificates, whenever requested to do so by the Board, is subject to disciplinary action under section 2960 of the Code.~~

~~(b) Any person renewing or reactivating his or her license shall certify under penalty of perjury to the Board of Psychology as requested on the application for license renewal, that he or she has obtained training in the subject of laws and ethics as they apply to the practice of psychology in California. The training shall include recent changes/updates on the laws and regulations related to the practice of psychology; recent changes/updates in the Ethical Principles of Psychologists and Code of Conduct published by the American Psychological Association; accepted standards of practice; and other applications of laws and ethics as they affect the licensee's ability to practice psychology with safety to the~~

public. Training pursuant to this section may be obtained in one or more of the following ways:

- (1) Formal coursework in laws and ethics taken from an accredited educational institution;
- (2) Approved continuing education course in laws and ethics;
- (3) Workshops in laws and ethics;
- (4) Other experience which provide direction and education in laws and ethics including, but not limited to, grand rounds or professional association presentation.

If the licensee chooses to apply a specific continuing education course on the topic of laws and ethics to meet the foregoing requirement, such a course must meet the content requirements named above, must comply with section 1397.60(c), and may be applied to the 36 hours of approved continuing education required in Business and Professions Code section 2915(a).

(c) The Board recognizes and accepts for continuing education credit courses pursuant to this section. A licensee will earn one hour continuing education credit for each hour of approved instruction.

(1) Continuing education courses shall be:

- (A) provided by American Psychological Association (APA), or its approved sponsors;
- (B) Continuing Medical Education (CME) courses specifically applicable and pertinent to the practice of psychology and that are accredited by the California Medical Association (CMA) or the Accreditation Council for Continuing Medical Education (ACGME); or
- (C) provided by the California Psychological Association, or its approved sponsors.
- (D) approved by an accrediting agency for continuing education courses taken prior to January 1, 2013, pursuant to this section as it existed prior to January 1, 2013.

(2) Topics and subject matter for all continuing education shall be pertinent to the practice of psychology. Course or learning material must have a relevance or direct application to a consumer of psychological services.

(3) No course may be taken and claimed more than once during a renewal period, nor during any twelve (12) month period, for continuing education credit.

(4) An instructor may claim the course for his/her own credit only one time that he/she teaches the acceptable course during a renewal cycle, or during any twelve (12) month period, receiving the same credit hours as the participant.

(d) Examination Functions. A licensee who serves the Board as a selected participant in any examination development related function will receive one hour of continuing education credit for each hour served. Selected Board experts will

~~receive one hour of continuing education credit for each hour attending Board sponsored Expert Training Seminars. A licensee who receives approved continuing education credit as set forth in this paragraph shall maintain a record of hours served for submission to the Board pursuant to section 1397.61(e).~~

~~(e) A licensee shall maintain documentation of completion of continuing education requirements for four (4) years following the renewal period, and shall submit verification of completion to the Board upon request. Documentation shall contain the minimum information for review by the Board: name of provider and evidence that provider meets the requirements of section 1397.61(c)(1); topic and subject matter; number of hours or units; and a syllabus or course description. The Board shall make the final determination as to whether the continuing education submitted for credit meets the requirements of this article.~~

~~(f) Failure to provide all of the information required by this section renders any application for renewal incomplete and not eligible for renewal.~~

Note: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Sections 29, 32, 2915 and 2915.7, Business and Professions Code.

§ 1397.61. Continuing Education Requirements.

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2016.

(a) Except as provided in section 2915(e) of the Business and Professions Code and section 1397.62 of these regulations, a psychologist shall certify under penalty of perjury to the Board on the application for license renewal that he or she has completed the continuing education requirements set forth in this Article and Section 2915 of the Code. A psychologist who falsifies or makes a material misrepresentation of fact on a renewal application, or who cannot verify the hours in which he or she engaged in the CPD activities by producing the documentation required by this Article whenever requested to do so by the Board, is subject to citation or to disciplinary action under section 2960 of the Code.

A psychologist who renews his or her license for the first time after the initial issuance of the license is only required to accrue continuing education for the number of months that the license was in effect, including the month the license was issued, at the rate of 1.5 hours of approved continuing education per month. The required hours of continuing education may not be accrued prior to the effective date of the initial issuance of the license, but must otherwise accrue those hours consistent with subdivision (e).

(b) A psychologist renewing or reactivating his or her license shall certify on the application for license renewal or reactivation that he or she has engaged in a minimum of four (4) hours of continuing education learning activities in the subject of laws and ethics, for each renewal period, as they apply to the practice of psychology in California. This includes recent changes or updates on the laws and regulations related to the practice of psychology; recent changes or updates in the Ethical Principles of Psychologists and Code of Conduct published by the American Psychological Association; accepted standards of practice; and other applications of laws and ethics as they affect the licensee's ability to practice psychology safely. The four (4) hours shall be considered part of the thirty-six (36) hour continuing education requirement.

The licensee must verify the continuing education learning activity(s) that were utilized to meet this requirement on a form provided by the Board "CE Verification Log", rev. 04/2014.

(c) A psychologist renewing or reactivating his or her license shall certify on the application for license renewal or reactivation that he or she has engaged in a minimum of four (4) hours of continuing education learning activities, for each renewal period, pertinent to cultural diversity and social justice issues as they apply to the practice of psychology in California. Cultural diversity pertains to differences in age, race, culture, ethnicity, nationality, immigration status, gender, sexual orientation, socioeconomic status, religion/spirituality, and physical ability. Social Justice pertains to the historical, social and political inequities in the treatment of people from non-dominant groups, while addressing the various injustices and different types of oppression that contribute to individual, family and community mental health concerns. The four (4) hours shall be considered part of the thirty-six (36) hour continuing education requirement.

The licensee must verify the continuing education learning activity(s) that were utilized to meet this requirement on a form provided by the Board "CE Verification Log", rev. 04/2014.

(d) Topics and subject matter for all continuing education shall be pertinent to the practice of psychology. Course or learning material must have a relevance or direct application to a consumer of psychological services.

(e) The Board recognizes and accepts for continuing education credit hours that meet the description of the activities below. With the exception of 100% ABPP Board certification, a licensee shall accrue hours during each renewal period (including the first time after the initial issuance of the license) from at least two (2) of the four (4) CPD activity categories: Professional; Academic; Sponsored Continuing Education; and Board Certification. A licensee shall receive no more credit than the maximum number of hours allowed per renewal period specified for each activity listed below.

Continuing Education/Continuing Professional Development Matrix

CE/CPD Activity	Maximum # of Hours Allowed each Renewal Period	Hours Credited by Activity
A. Professional Activity		
1. Peer Consultation (including, but not limited to, case consultation, reading or research groups) Licensee shall maintain a record of hours for submission to the Board.	1 hour minimum, if used 18 hours maximum	1 hour of activity = 1 hour credited
2. Practice Outcome Monitoring (assessing patient/client outcomes via protocol, including the use of repeated standardized outcome assessment protocols in order to assess patient/client outcomes) Licensee shall maintain a record of hours for submission to the Board.	9 hours	1 patient/client of practice outcome monitoring = 1 hour credited
3. Professional Activities (including, but not limited to, serving on psychological association boards or committees, editorial boards of peer-reviewed journals related to psychology, scientific grant review teams or board member of regulatory body, program development and evaluation, and relevant administrative activities in service of psychology and/or mental health) Licensee shall maintain a record of hours for submission to the Board.	4.5 hours minimum, if used 12 hours maximum	1 year = 9 hours credited 6 months = 4.5 hours credited
4. Conferences/Conventions (attendance at professional gatherings, as distinct from credit for sponsored CE course(s) while attending the conference) Licensee shall maintain a record of hours for submission to the Board.	6 hours	1 full conference day attendance = 1 hour credited
5. Examination Functions (examination development and related attendance at Board-sponsored Examination Training Seminars) Licensee shall maintain a record of hours for submission to the Board.	12 hours	1 seminar day participation = 6 hours credited

6. Attendance at a California Board of Psychology Meeting (Full Board or Committee)	8 hours	1 day of Full Board Meeting = 6 hours credited 1 Committee Meeting = 2 hours credited
B. Academic		
7. Academic Courses (completing and earning credit for a graduate-level course related to psychology from an institution <u>whose degree meets the requirements of § 2914 of the Code</u>) Licensee shall maintain a record of hours for submission to the Board.	18 hours (each course counts only once for each renewal period)	1 sem. unit course = 6 hrs credited 2 sem. unit course = 12 hrs credited 3 sem. unit course = 18 hrs credited 1 qtr. unit course = 4.5 hrs credited 2 qtr. unit course = 9 hrs credited 3 qtr. unit course = 13.5 hrs credited 4 qtr. unit course = 18 hrs credited
8. Academic Instruction (includes: (1) Teaching a semester-long or equivalent, graduate-level course related to psychology at an institution whose degree meets the requirements of § 2914 of the Code; or (2) Presenting a sponsored CE course that relates to the practice of psychology) Licensee shall maintain a record of hours for submission to the Board.	18 hours (each course taught counts only once for each renewal period)	1 course (semester or equivalent in the quarter hour system) = 18 hours credited 1 full day workshop = 8 hours credited ½ day workshop = 4 hours credited
9. Supervision (overseeing the supervised professional experience of a pre-licensed trainee accruing hours toward licensure pursuant to § 1387) Licensee shall maintain a record of hours for submission to the Board.	1 hour minimum, if used 18 hours maximum	1 hour = 1 hour credited
10. Publications (authoring or co-authoring peer-reviewed articles, book chapters, books, or editing or co-editing of peer-reviewed journal, etc.) Licensee shall maintain a record of hours for submission to the Board.	9 hours	1 publication = 9 hours credited

C. Sponsored Continuing Education		
11. Sponsored Continuing Education Coursework [approved pursuant to § 1397.61(f)(1)] – teaching or taking. Licensee shall maintain a record of hours for submission to the Board.	18 hours (each course counts only once per renewal period)	1 hour = 1 hour credited
D. Board Certification		
12. ABPP Board Certification (can count for 100% of required CE in the year that certification is awarded).	36 hours	Certification awarded = 36 hours credited
13. “Senior Option” ABPP Board Certification (can count for 50% of required CE in the year that certification is awarded).	18 hours	Certification awarded = 18 hours credited

(f) Sponsored continuing education courses pursuant to this section will earn one hour of continuing education credit for each hour of approved instruction.

(1) These continuing education courses shall be:

(A) provided by American Psychological Association (APA), or its approved providers;

(B) Continuing Medical Education (CME) courses specifically applicable and pertinent to the practice of psychology and that are accredited by the California Medical Association (CMA) or the Accreditation Council for Continuing Medical Education (ACCME) or the American Medical Association (AMA); or

(C) provided by the California Psychological Association, or its approved providers.

(D) approved by an accrediting agency for continuing education courses taken prior to January 1, 2016, pursuant to this section as it existed prior to January 1, 2016.

(2) No sponsored continuing education coursework may be taken and claimed more than once during a renewal period, for continuing education credit.

(g) A licensee shall document completion of continuing education activities on CPD Verification Logs provided by the Board (Form “CE Verification Log”, rev. 04/2014). Documentation shall contain sufficient information for review and verification by the Board: activity category and a description of the activity, date of activity, number of hours engaged in activity, name of consultant (if any), type of outcome monitoring (if any), professional association served (if any), name and place of publication (if any), name and place of course taken or taught (if any), name of provider (if any) and evidence that provider meets the requirements of section 1397.61(c)(1); topic and subject matter; number of hours or units; a syllabus or course description (if any). The Board shall make the final

determination as to whether the documentation submitted meets the requirements of this article. A licensee shall retain Verification Logs and supporting documentation for a minimum of four (4) years following the renewal, and shall submit documentation to the Board upon request.

(h) Failure to provide all of the information required by this section renders any application for renewal incomplete and not eligible for renewal.

Note: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Sections 29, 32, 2915 and 2915.7, Business and Professions Code.

§ 1397.62. Continuing Education Exemptions and Exceptions.

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2013, and becomes inoperative on December 31, 2015.

~~At the time of making application for renewal of a license, a psychologist may as provided in this section request an exemption or an exception from all or part of the continuing education requirements.~~

~~(a) The Board shall grant an exemption only if the psychologist verifies in writing that, during the two year period immediately prior to the expiration date of the license, he or she:~~

~~(1) Has been engaged in active military service reasonably preventing completion of the continuing education requirements, except that a licensee granted an exemption pursuant to this section shall still be required to fulfill the laws and ethics requirement set forth in section 1397.61(b); or~~

~~(2) Has been prevented from completing the continuing education requirements for reasons of health or other good cause which includes:~~

~~(A) Total physical and/or mental disability of the psychologist for at least one year; or~~

~~(B) Total physical and/or mental disability of an immediate family member for at least one year where the psychologist has total responsibility for the care of that family member.~~

~~Verification of a physical disability under subsection (a) (2) shall be by a licensed physician and surgeon or, in the case of a mental disability, by a licensed psychologist or a board certified or board eligible psychiatrist.~~

~~(b) An exception to the requirements of Business and Professions Code section 2915(d) may be granted to licensed psychologists who are not engaged in the direct delivery of mental health services for whom there is an absence of available continuing education courses relevant to their specific area of practice.~~

~~(1) An exception granted pursuant to this subsection means that the Board will accept continuing education courses that are not acceptable pursuant to section 1397.61(c) provided that they are directly related to the licensee's specific area of~~

practice and offered by recognized professional organizations. The Board will review the licensee's area of practice, the subject matter of the course, and the provider on a case-by-case basis. This exception does not mean the licensee is exempt from completing the continuing education required by Business and Professions Code section 2915 and this article. (2) Licensees seeking this exception shall provide all necessary information to enable the Board to determine the lack of available approved continuing education and the relevance of each course to the continuing competence of the licensee. Such a request shall be submitted in writing and must include a clear statement as to the relevance of the course to the practice of psychology and the following information:

- (A) Information describing in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course), particularly as it relates to the practice of psychology.
- (B) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held and length of experience and expertise in the relevant subject matter), particularly as it relates to the practice of psychology.
- (C) Information that shows the course provider's qualifications to offer the type of course being offered (e.g., the provider's background, history, experience and similar courses previously offered by the provider), particularly as it relates to the practice of psychology.

(3) This subsection does not apply to licensees engaged in the direct delivery of mental health services.

(c) Psychologists requiring reasonable accommodation according to the Americans with Disabilities Act may be granted an exemption from the on-site participation requirement and may substitute all or part of their continuing education requirement with an American Psychological Association or accreditation agency approved independent learning continuing education program. A qualified individual with a disability must apply to the Board to receive this exemption.

(d) Any licensee who submits a request for an exemption or exception that is denied by the Board shall complete any continuing education requirements within 120 days of the notification that the request was denied.

NOTE: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Section 2915, Business and Professions Code.

HISTORY:

1. New section filed 2-16-2012; operative 1-1-2013, at which time the previous version of section 1397.62 is inoperative (Register 2012, No. 7).

§ 1397.62. Continuing Education Exemptions and Exceptions.

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2016.

At the time of or prior to renewal of a license, a psychologist may as provided in this section request an exemption or an exception from all or part of the continuing education requirements.

(a) The Board shall grant an exemption only if the psychologist verifies in writing that, during the two year period immediately prior to the expiration of the license, he or she:

(1) Has been called to active military duty, except that a licensee granted an exemption pursuant to this section shall still be required to fulfill the laws and ethics requirement set forth in section 1397.61(b) and the cultural diversity/social justice requirement set forth in section 1397.61(c); or

(2) Has not engaged in the practice of psychology and has been prevented from completing the continuing education requirements for reasons of health or other good cause, which includes:

(A) Total physical and/or mental disability of the psychologist for at least one year; or

(B) Total physical and/or mental disability of an immediate family member for at least one year where the psychologist has total responsibility for the care of that family member.

Verification of a physical disability under subsection (a)(2) shall be by a licensed physician and surgeon or, in the case of a mental disability, by a licensed psychologist or a board certified or board eligible psychiatrist.

(b) An exception to the requirements of Business and Professions Code section 2915(d) may be granted to a psychologist who is engaged in non-mental health services for whom there is an absence of available continuing education courses relevant to his or her specific area of practice.

(1) An exception granted pursuant to this subsection means that the Board will accept continuing education that is not acceptable pursuant to section 1397.61(e) provided that it is a professional development activity that directly relates to the licensee's specific area of practice. The Board will review the licensee's area of practice, the activity or course, and the provider, if any, on a case-by-case basis. This exception does not mean the licensee is exempt from completing the continuing education required by Business and Professions Code section 2915 and this article.

(2) A licensee seeking this exception shall provide all necessary information to enable the Board to determine the lack of available approved continuing education and the relevance of each course or activity to the continuing professional development of the licensee.

Such a request shall be submitted in writing and must include a clear statement as to the relevance of the activity or course to the practice of psychology and the following information:

(A) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course), or the activity engaged in, particularly as it relates to the practice of psychology.

(B) Information that shows the course instructor's, if any, qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held and length of experience and expertise in the relevant subject matter), particularly as it relates to the practice of psychology.

(C) Information that shows the course provider's, if any, qualifications to offer the type of course being offered (e.g., the provider's background, history, experience and similar courses previously offered by the provider), particularly as it relates to the practice of psychology.

(3) This subsection does not apply to licensees engaged in the delivery of mental health services.

(d) Any licensee who submits a request for an exemption or exception that is denied by the Board shall complete any continuing education requirements within 120 days of the notification that the request was denied.

NOTE: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Section 2915, Business and Professions Code.

HISTORY:

1. New section filed 2-16-2012; operative 1-1-2013, at which time the previous version of section 1397.62 is inoperative (Register 2012, No. 7).

§ 1397.67. Renewal After Inactive or Delinquent Expired Status.

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2013, and becomes inoperative on December 31, 2015.

~~(a) To activate a license which has been placed on inactive status pursuant to section 2988 of the Code, the licensee must submit evidence of completion of the requisite 36 hours of qualifying continuing education courses for the two-year period prior to establishing the license as active.~~

~~(b) For the renewal of a delinquent expired psychologist license within three years of the date of expiration, the applicant for renewal shall provide evidence of completion of 36 hours of qualifying continuing education courses for the two-year period prior to renewing the license.~~

~~After a license has been delinquent expired for three years, the license is automatically cancelled and the applicant must submit a complete licensing application, meet all current licensing requirements, and successfully pass the licensing examination just as for the initial licensing application unless the board grants a waiver of the examination pursuant to section 2946 of the Code.~~

NOTE: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Section 2915, 2984, and 2988, Business and Professions Code.

HISTORY:

1. New section filed 2-16-2012; operative 1-1-2013, at which time the previous version of section 1397.67 is inoperative (Register 2012, No. 7).

§ 1397.67. Renewal After Inactive or Expired Status.

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2016.

(a) To activate a license that has been placed on inactive status pursuant to section 2988 of the Code, the licensee must submit evidence of completion of the requisite 36 hours of qualifying continuing education for the two-year period prior to establishing the license as active.

(b) For the renewal of an expired psychologist license within three years of the date of expiration, the applicant for renewal shall provide evidence of completion of 36 hours of qualifying continuing education for the two-year period prior to renewing the license.

After a license has been expired for three years, the license is automatically cancelled and the applicant must submit a complete licensing application, meet all current licensing requirements, and successfully pass the licensing examination just as for the initial licensing application unless the Board grants a waiver of the examination pursuant to section 2946 of the Code.

NOTE: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Section 2915, 2984, and 2988, Business and Professions Code.

HISTORY:

1. New section filed 2-16-2012; operative 1-1-2013, at which time the previous version of section 1397.67 is inoperative (Register 2012, No. 7).

CONTINUING EDUCATION (CE)/aka CONTINUING PROFESSIONAL DEVELOPMENT (CPD)
SUMMARY VERIFICATION FORM

Please do not submit any CE documentation with your renewal

If you are selected for an audit, you will be notified; at that time, you will submit these logs and documentation to the Board.

CPD Category	Max Hours Allowed	Description of Activity(s) Completed	Date Completed	# of Hours Awarded (Not to exceed max allowed)	<u>Check if applicable to:</u>	
					Laws & Ethics Requirement	Cultural Diversity Requirement
Peer Consultation	18					
Practice Outcome Monitoring	9					
Professional Activities	12					
Conferences / Conventions	6					
Board Meeting Attendance (Full Board or Committee)	12					
Examination Functions	12					
Academic Courses	18					
Academic Instruction	18					
Supervision	18					
Publications	9					
Sponsored Continuing Education Coursework	18					
ABPP Certification	36					
"Senior" ABPP Certification	18					

Total Hours Earned for Renewal Period:

CONTINUING EDUCATION (CE)/aka CONTINUING PROFESSIONAL DEVELOPMENT (CPD)
DETAILED VERIFICATION FORM

Name: _____
Address: _____
Telephone #: _____
e-mail: _____

Identify below the activities completed for fulfilling the CE/CPD requirements.
Retain all verifying documentation in your records. You may be asked to provide this documentation at a later date (e.g. in the event you are selected for an audit).

Peer Consultation

*Check if Applicable to: Laws & Ethics Requirements (L&E): ☐ Cultural Diversity/Social Justice Requirement (CD/SJ): ☐

Date(s) of Meeting(s): _____
Brief Description: _____
of Hours: _____
Person Attesting to Meetings (retain in your records a signed attendance log attesting to your presence)
Applicability to Practice: _____

Practice Outcome Monitoring

*Check if Applicable to: L&E: ☐ CD/SJ: ☐

Date(s) of Session(s): _____
Client/Patient ID (Please be mindful of confidentiality): _____
of Hours: _____
Applicability to Practice: _____
*Retain in your records a log including dates, # of hours, details of activities/discussions

Professional Activities

*Check if Applicable to: L&E: ☐ CD/SJ: ☐

Name of Association/Regulatory Body: _____
Date of Appointment: _____
Duties: _____
Applicability to Practice: _____
*Retain in your records verification documentation from organization

CONTINUING EDUCATION (CE)/aka CONTINUING PROFESSIONAL DEVELOPMENT (CPD)
DETAILED VERIFICATION FORM

Conferences / Conventions	*Check if Applicable to: L&E: <input type="checkbox"/> CD/SJ: <input type="checkbox"/>
Date(s) of Meeting(s): _____	
Nature of Conference / Convention: _____	
# of Hours: _____	
Applicability to Practice: _____	
*Retain in your records documentation attesting to your presence / participation	
Board Meeting Attendance	*Check if Applicable to: L&E: <input type="checkbox"/> CD/SJ: <input type="checkbox"/>
Date(s) of Meeting(s): _____	
# of Hours: _____	
Examination Functions	*Check if Applicable to: L&E: <input type="checkbox"/> CD/SJ: <input type="checkbox"/>
Name of Association/Regulatory Body: _____	
Date of Appointment: _____	
Duties: _____	
Applicability to Practice: _____	
*Retain in your records verification documentation from organization	
Academic Courses	*Check if Applicable to: L&E: <input type="checkbox"/> CD/SJ: <input type="checkbox"/>
Name(s) of Course(s): _____	
Mode(s) of Delivery (in person, online, video, etc.): _____	
Academic Institution: _____	
# of Hours (per course): _____	
Applicability to Practice: _____	
*Retain in your records verification documentation from provider/academic institution (including course description / syllabus)	
Academic Instruction	*Check if Applicable to: L&E: <input type="checkbox"/> CD/SJ: <input type="checkbox"/>
Name(s) of Course(s): _____	
Mode(s) of Delivery (in person, online, video, etc.): _____	
Provider / Academic Institution: _____	
# of Hours (per course): _____	
Applicability to Practice: _____	
*Retain in your records verification documentation from provider/academic institution (including course description / syllabus)	

CONTINUING EDUCATION (CE)/aka CONTINUING PROFESSIONAL DEVELOPMENT (CPD)
DETAILED VERIFICATION FORM

Supervision

*Check if Applicable to: L&E: ☐ CD/SJ: ☐

Name(s) of Supervisee(s): _____

of Hours: _____

Applicability to Practice: _____

*Retain in your records a log including dates, # of hours, details of activities/discussions

Publications

*Check if Applicable to: L&E: ☐ CD/SJ: ☐

Title(s) of Publication(s): _____

Title(s) of Journal Article(s): _____

of Hours: _____

Applicability to Practice: _____

Sponsored Continuing Education Coursework

*Check if Applicable to: L&E: ☐ CD/SJ: ☐

Name(s) of Course(s): _____

Mode(s) of Delivery (in person, online, video, etc.): _____

Provider: _____

of Hours (per course): _____

Applicability to Practice: _____

*Retain in your records copies of certificates

Describe how you have complied with the Cultural Diversity/Social Justice Requirement (4 hour minimum):

Name(s) of CPD Activity(s): _____

Mode(s) of Delivery (in person, online, video, etc.): _____

Applicability to Practice: _____

Describe how you have complied with the Law & Ethics Requirement (4 hour minimum):


Name(s) of CPD Activity(s): _____

Mode(s) of Delivery (in person, online, video, etc.): _____

Applicability to Practice: _____



MEMORANDUM

DATE	May 8, 2014
TO	Psychology Board Members
FROM	 Lavinia Snyder Licensing/Registration Coordinator
SUBJECT	Satisfaction Survey Results

Background:

Attached is the most current Satisfaction Survey Results available.

Action Requested:

This item is for informational purposes only, but will be a standing Committee item for updates.

[illegible]

Application Process															
5. Type of Application															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total	Percentage	
Registration applications	1												1	50%	
License applications			1										1	50%	
													2	100%	
6. Please rate the ease of completing the application.															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total	Percentage	
Excellent													0	0%	
Very Good													0	0%	
Good													0	0%	
Fair			1										1	50%	
Poor	1												1	50%	
													2	100%	
7. Was the application processed in a timely manner?															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total	Percentage	
Yes													0	0%	
No	1	1											2	100%	
													2	100%	
8. Were you contacted in a timely manner regarding any deficiencies in your application?															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total	Percentage	
Yes													0	0%	
No	1	1											2	100%	
Not applicable													0	0%	
													2	100%	
9. How would you rate the courteousness helpfulness and responsiveness of the state person who processed your application?															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total	Percentage	
Excellent													0	0%	
Very Good													0	0%	
Good													0	0%	
Fair													0	0%	
Poor	1	1											2	100%	
													2	100%	
10. If a licensing application, how did you apply?															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total	Percentage	
Online													0	0%	
US Mail			1										1	100%	
In Person													0	0%	
Exam Process (Licensure Applicants Only)														1	100%

[illegible]



MEMORANDUM

DATE	April 28, 2014
TO	Psychology Board Members
FROM	 Lavinia Snyder Licensing/Registration Coordinator
SUBJECT	Discussion of Supervised Professional Experience – Proposed Statutory and Regulation Changes to Business and Professions Code Section 2914 (c) and Title 16, CCR, Sections 1387 (b) (10), (11), and 1387.1 (h)

Background:

At the last Board meeting, the Board instructed staff to combine sections 1387 (b) (10) and (b) (11) of the California Code of Regulations removing any repetitive language and to process statutory change to Section 2914 (c) of the Business and Professions Code.

Board staff met with, Dr. Jacqueline Horn, Licensing Committee Chairperson, on April 17, 2014 to discuss amending sections 1387 (b) (10) and (b) (11) of the Code. The outcome of that meeting resulted in the proposed amendments attached.

Action

The recommended motion is to give staff the authority to pursue the regulatory change as written (barring any non-substantive changes).

**Department of Consumer Affairs
Board of Psychology**

Proposed additions are shown as underlined

Proposed deletions are shown as ~~strike through~~

B&P Section 2914 (c)

"Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology. If the supervising licensed psychologist fails to provide verification to the board of the experience required by this subdivision within 30 days after being so requested by the applicant, the applicant may provide written verification directly to the board.

~~If the applicant sends verification directly to the board, the applicant shall file with the board a declaration of proof of service, under penalty of perjury, of the request for verification. A copy of the completed verification forms shall be provided to the supervising psychologist and the applicant shall prove to the board that a copy has been sent to the supervising psychologist by filing a declaration of proof of service under penalty of perjury, and shall file this declaration with the board when the verification forms are submitted. The supervising licensed psychologist shall provide verification to the Board of the experience required by this subdivision as required by the Board.~~

Upon receipt by the board of the applicant's verification and declarations, a rebuttable presumption affecting the burden of producing evidence is created that the supervised, professional experience requirements of this subdivision have been satisfied. The supervising psychologist shall have 20 days from the day the board receives the verification and declaration to file a rebuttal with the board."

**Department of Consumer Affairs
Board of Psychology**

Proposed additions are shown as underlined
Proposed deletions are shown as ~~strike-through~~

CCR Section 1387 (b) (10)

~~“(10) Except for the accrual of SPE by a psychological assistant in a private practice setting as provided for in section 1387(b)(11). Prior~~ to the start of the experience, the primary supervisor and the supervisee shall together prepare an agreement document that outlines the structure and sequence of the planned program of supervision to accomplish the goals and objectives of the plan (“plan”) experience. Accrual of hours prior to preparing such an agreement the may result in those hours not counting toward the licensure requirements. The agreement shall accompany the application for registration, if any, and identify ~~identifies~~ at least the following:

- Name, license number and signature of primary supervisor;
- Name and signature of supervisee;
- Statutory authority under which the supervisee will function;
- Start date of the experience and the anticipated completion date;
- Duties to be performed in a sequential structured plan as defined in this
- section;
- Address of the locations at which the duties will be performed; and
- Goals and objectives of the plan for SPE, including how socialization into the
- profession will be achieved; and
- How and when the supervisor will provide periodic assessments and feedback to the supervisee as to whether or not he or she is performing to the level of competence as expected.

Additionally, the agreement document shall reflect that both supervisor and supervisee have discussed and understand each term of SPE as required by the California Code of Regulations. ~~The primary supervisor shall maintain the document until the hours of supervised experience are completed.~~

CCR Section 1387 b (11)

Once the supervised experience outlined in the agreement document has been completed, the primary supervisor shall submit to the supervisee both the agreement, unless previously submitted, pursuant to Section 1387 (b) (10) and a verification of experience form signed by the primary supervisor under penalty of perjury, directly to the Board both the document and a verification of the experience signed by the primary supervisor under penalty of perjury, in a sealed envelope , signed across the seal envelope for submission to the board by the supervisee along with his or her application. The verification shall certify to completion of the hours consistent with the terms of the supervision-agreement document. The supervisor must indicate, in his or her best professional judgment, whether the supervisee demonstrated an overall

performance at or above the level of minimal competence expected for the supervisee's level of education, training and experience. When SPE is accrued in a formal pre-doctoral internship or postdoctoral training program, the program's training director shall be authorized to perform the verification and rating duties of the primary supervisor provided that the internship training director is a licensed psychologist who possesses a valid, active license free of any disciplinary action.

If the SPE is not consistent with the terms of the agreement or if the supervisee did not demonstrate an overall performance at or above level of competence expected for the supervisee's level of education, training and experience, the SPE may not count towards the licensure requirements.

~~(11) Due to lack of standardization in training, a psychological assistant in a private practice setting shall submit the plan document as described in subsection (b)(10) for supervised professional experience, together with their application, to the Board, for prior approval as provided for in section 2914(c) of the Code prior to the accrual of SPE. A private practice setting is defined as those settings allowed pursuant to section 1387(a)(1)(C) and 1387(a)(2)(C), except a Welfare and Institutions Code section 5614 clinic or a Health and Safety Code section 1204.1 clinic. SPE that is accrued prior to the approval of the plan will not count toward qualifying the applicant for licensure.~~

(c) Delegated Supervision Requirements:

(1) Except as provided in 1391.5, which regulates the supervision of psychological assistants, primary supervisors may delegate supervision to other qualified psychologists or to other qualified mental health professionals including licensed marriage and family therapists, licensed educational psychologists, licensed clinical social workers and board certified psychiatrists.

(2) The primary supervisor remains responsible for providing the minimum one hour per week of direct, individual face-to-face supervision.

§ 1387.1. Qualifications and Responsibilities of Primary Supervisors.

All primary supervisors shall be licensed psychologists, except that board certified psychiatrists may be primary supervisors of their own registered psychological assistants. In this regard, a maximum of 750 hours of experience out of the required 3000, can be supervised by a board certified psychiatrist and can be counted toward meeting the SPE licensing requirements.

(a) Primary supervisors shall possess and maintain a valid, active license free of any formal disciplinary action, and shall immediately notify the supervisee of any disciplinary action, including revocation, surrender, suspension, probation terms, or changes in licensure status including inactive license, delinquent license or any other license status change that affects the primary supervisor's ability or qualifications to supervise.

(b) Primary supervisors who are licensed by the board shall complete a minimum of six (6) hours of supervision coursework every two years.

(1) Primary supervisors shall certify under penalty of perjury to completion

of this coursework requirement each time the supervisor completes a verification form as referenced in section 1387(b)(10).

(c) Primary supervisors shall be in compliance at all times with the provisions of the Psychology Licensing Law and the Medical Practice Act, whichever is applicable, and the regulations adopted pursuant to these laws.

(d) Primary supervisors shall be responsible for ensuring compliance at all times by the trainee with the provisions of the Psychology Licensing Law and the regulations adopted pursuant to these laws.

(e) Primary supervisors shall be responsible for ensuring that all SPE including record keeping is conducted in compliance with the Ethical Principles and Code of Conduct of the American Psychological Association.

(f) Primary supervisors shall be responsible for monitoring the welfare of the trainee's clients.

(g) Primary supervisors shall ensure that each client or patient is informed, prior to the rendering of services by the trainee (1). that the trainee is unlicensed and is functioning under the direction and supervision of the supervisor; (2). that the primary supervisor shall have full access to the treatment records in order to perform supervision responsibilities and (3). that any fees paid for the services of the trainee must be paid directly to the primary supervisor or employer.

(h) Primary supervisors shall be responsible for monitoring the performance and professional development of the trainee and how and when the supervisor will provide periodic assessments and feedback to the supervisee as to whether or not her or she is performing to the level of competence as expected.

(i) Primary supervisors shall ensure that they have the education, training, and experience in the area(s) of psychological practice they will supervise.

(j) Primary supervisors shall have no familial, intimate, business or other relationship with the trainee which would compromise the supervisor's effectiveness, and/or which would violate the Ethical Principles and Code of Conduct of the American Psychological Association.

(k) Primary supervisors shall not supervise a trainee who is now or has ever been a psychotherapy client of the supervisor.

(l) Primary supervisors shall not exploit trainees or engage in sexual relationships or any other sexual contact with trainees.

(m) Primary supervisors shall require trainees to review the pamphlet "Professional Therapy Never Includes Sex."

(n) Primary supervisors shall monitor the supervision performance of all delegated supervisors.


NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Section 2914, Business and Professions Code.

HISTORY:

1. New section fi led 7-6-2000; operative 8-5-2000 (Register 2000, No. 27).
2. Repealer of first paragraph, amendment of subsection (b), new subsections (c)-(c)(3) and subsection relettering filed 7-17-2002; operative 1-1-2003 (Register 2002, No. 29).
3. Amendment fi led 12-16-2004; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2004, No.51).
4. Amendment of subsection (m) fi led 7-28-2005; operative 8-27-2005 (Register 2005, No. 30).



MEMORANDUM

DATE	April 25, 2014
TO	Psychology Board Members
FROM	 Lavinia Snyder Licensing/Registration Coordinator
SUBJECT	Discuss Limitation of Exemption Period granted under Business and Professions Code Section 2910 and Welfare and Institutions Code Section 5751.2

Background:

Board staff met with the Licensing Committee Chairperson, Dr. Jacqueline Horn, on April 24, 2014 to discuss limitation of exemption period granted under Business and Professions Code Section 2910 and Welfare and Institutions Code Section 5751.2.

Issues discussed are as follows:

- Determine limitation of exemption for gaining supervised professional experience under Section 2910 of the code.
- Remove B&P Section 2910 (e) which states: Such persons do not provide direct health or mental health services.
- Include language to reference Welfare and Institutions Code Section 5751.2 and Health and Safety Code Section 1277 (b) (1-3).

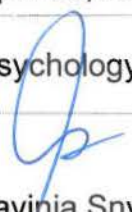
After the meeting, it was decided that further discussion was required and that staff would bring forth recommendations for statutory changes at the August Board meeting.

Action

No action required



MEMORANDUM

DATE	April 25, 2014
TO	Psychology Board Members
FROM	 Lavinia Snyder Licensing/Registration Coordinator
SUBJECT	Accommodation Policy for English as a Second Language (ESL) Test Candidates

Background:

At the last Board meeting, the Board decided to continue providing accommodations for applicants with ESL and to amend current Board policy. Board staff met with Dr. Jacqueline Horn, Licensing Committee Chairperson, on April 24, 2014 to discuss appropriate accommodations for ESL exam candidates.

After the discussion, it was determined that the Board will need regulatory language for ESL accommodation. Attached are the following documents for your review.

- Current Board Policy
- Proposed amendments to Section 1388 of the California Code of Regulation
- Request for Exam Accommodation for ESL Candidates

Action

The recommended motion is to give staff the authority to pursue the regulatory change as written (barring any non-substantive changes).

Current Board Policy

The Board's policy on ESL was adopted on 07/27/1991. This policy allows candidates who claim ESL to request extra time to take the examination (upon adequate prior notice) of such need provided both of the following conditions are met:

- a) The candidate submits proof that original entry into the United States occurred within the last ten years; and
- b) Original entry into the United States did not occur prior to the candidate's beginning of University setting.

Proof consists of copies of the candidate's entry papers.

**Department of Consumer Affairs
Board of Psychology**

Draft Language

Proposed additions are shown as underlined
Proposed deletions are shown as ~~strike-through~~

§ 1388. Examinations.

- (a) The board recognizes the expertise of the Department of Consumer Affairs' (DCA) Office of Examination Resources (OER). The board shall utilize the services of the OER in licensing examination development and validation through an interagency agreement.
- (b) An applicant shall successfully take and pass the licensing examinations prior to being licensed. The licensing examinations shall consist of the Association of State and Provincial Psychology Boards' (ASPPB) Examination for Professional Practice in Psychology (EPPP), and the California Psychology Supplemental Examination (CPSE) except that the EPPP and the CPSE shall be waived for those applicants who meet the criteria in section 1388.6 of this chapter. Such applicants shall be required to take and pass the California Psychology Law and Ethics Examination (CPLÉE).
- (c) An applicant is eligible to take the EPPP upon completion of a qualifying doctorate degree and 1500 hours of qualifying professional experience. An applicant shall pass the EPPP and complete all 3000 hours of supervised professional experience prior to being eligible for the CPSE or the CPLÉE, whichever is applicable, pursuant to section 1388.6.
- (d) Upon application, the board will notify applicants of their eligibility to take the EPPP. Applicants are responsible for completing any administrative requirements for taking the EPPP established by ASPPB or its agent, including paying any fees. This subsection applies to those re-taking the EPPP as well as to those taking it for the first time.
- (e) For forms of the EPPP taken prior to September 1, 2001, the passing score is the score that was recognized by the board at that time. For computer administered forms of the EPPP, the board shall apply a scaled score of 500 as recommended by ASPPB.
- (f) Qualified applicants desiring to take the CPSE or the CPLÉE, for those applications who qualify for a waiver of the CPSE pursuant to section 1388.6, shall submit to the board the fee set forth in section 1392 of this chapter. Applicants shall comply with all instructions established by the DCA examination vendor for taking the CPSE or the CPLÉE.
- (g) The passing score on the CPSE and the CPLÉE shall be determined for each form of the examination by a criterion referenced procedure performed by OER.
- (h) An applicant with English as their second language may be eligible for additional time when taking the EPPP or CPLÉE. Applicants must provide TOEFL certification and submit such certification to the Board with their Request for Exam Accommodation for ESL Candidates.

2942, 2943 and 2960, Business and Professions Code.

HISTORY:

1. Amendment fi led 12-22-76; effective thirtieth day thereafter (Register 76, No. 52).
2. Amendment of subsection (b) fi led 2-14-77; effective thirtieth day thereafter (Register 77, No. 8).
3. Repealer and new section fi led 11-21-77; effective thirtieth day thereafter (Register 77, No. 48).
4. Amendment of subsection (b) fi led 4-26-79; effective thirtieth day thereafter (Register 79, No. 17).
5. Amendment fi led 6-15-83; effective thirtieth day thereafter (Register 83, No. 25).
6. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations fi led 3-5-90 (Register 90, No. 20).
7. Amendment of subsection (b) and Note fi led 6-14-93; operative 7-1-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 25).
8. Amendment of subsection (c) and Note fi led 8-11-95; operative 9-10-95 (Register 95, No. 32).
9. Amendment of subsection (b) fi led 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 1-8-99 order transmitted to OAL 5-7-99 and fi led 6-15-99 (Register 99, No. 25).
11. Amendment of subsections (a)–(c) and new subsections (d)–(g) fi led 7-11-2001; operative 8-10-2001 (Register 2001, No. 28).
12. Change without regulatory effect amending subsection (f) fi led 8-13-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 33).
13. Amendment of subsections (a)–(c) and (e) and new subsections (h)–(i) fi led 12-19-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). A Certificate of Compliance must be transmitted to OAL by 5-1-2002 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 12-19-2001 order transmitted to OAL 1-8-2002 and fi led 2-20-2002 (Register 2002, No. 8).
15. Amendment fi led 2-11-2003; operative 3-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 7).
16. Amendment of subsections (b), (c), (f) and (g) fi led 5-12-2006; operative 5-12-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 19).
17. Amendment of subsections (b), (c), (f) and (g) fi led 4-1-2008; operative 4-1-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 14).



EXAM ACCOMMODATIONS FOR ESL CANDIDATES

Please complete this form if English is your second language and you are requesting time and a half on your exam. All requests must be submitted to Board before taking an examination.

Name:

Last First

Native Language: _____ Country of Citizenship: _____

Have you attended school in the United States? Yes ___ No ___

If yes, please list:

Name of School Length of Time Degree Earned

Name of School Length of Time Degree Earned

TOEFL Score Results: _____ Date of Exam: _____

- ☐ I declare under penalty of perjury under the laws of the State of California that all the foregoing is true and correct.

Applicant's Signature: _____ DATE: _____

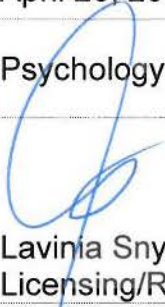
Approved: _____

Denied: _____

Board Official Signature: _____ Date: _____



MEMORANDUM

DATE	April 25, 2014
TO	Psychology Board Members
FROM	 Lavinia Snyder Licensing/Registration Coordinator
SUBJECT	Licensing Action Plan- Proposed Improvements to the Licensing Process Report - Update

STAFFING:

Staff continues to work hard to address backlog for initial applications to become a psychologist.

CHANGES MADE TO ADDRESS APPLICATION BACKLOG:

- Hired the following positions:
 - 2 Retired Annuitants
 - 1 Permanent Intermittent Program Tech II
 - 1 Permanent Intermittent Staff Service Analysts
 - 1 Staff Service Analysts
 - 1 Volunteer
- Vacant Positions
 - 2 Staff Service Analysts
- DCA/Consumer Information Center (CIC)

CIC took over the Board's phone system as of March 10, 2014. Below are statistics provided by CIC.

Dates	Calls Offered	Calls Handled	Average Wait Time
3/10			
03/11			
03/12	34	27	0:56

03/13	67	61	0:36
03/14	30	25	0:47
03/17	73	68	0:38
03/18	54	34	0:41
03/19	71	38	0:41
03/20	50	33	0:39
03/21	65	57	0:35
03/24	177	112	1:01
03/25	57	47	0:51
03/26	70	59	0:53
03/27	51	44	1:38
03/28	35	27	1:32
04/07	63	53	1:10
04/08	53	38	1:37
04/09	20	19	1:09
04/10	51	44	1:32
04/11	37	27	2:11
04/14	50	45	1:39
04/15	21	18	2:30
04/16	76	35	2:42
04/17	41	33	1:42
04/18	31	26	2:52
04/21	39	28	8:49
04/22	39	25	4:46
04/23	44	37	1:25
04/24	40	31	1:59
04/25	39	32	2:09
Total	1478	1123	

On 03/27/2014, staff conducted three secret shopper calls to CIC. The results of those three calls were below expectations. All calls were immediately transferred to the Board. We expressed our concerns and CIC assures us that they are committed to providing the service we need.

On 04/09/2014, another Secret Shopper Call to CIC was conducted and the calls this time were answered by CIC representatives, however only one representative was able to answer the question right. Additional CIC Staff training has been discussed with management and the Board will follow-up.

4. Department of Consumer Affairs/Central Cashiering Unit (CCU)

We met with CCU on 03/21/2014 to discuss cashiering issues and concerns. Due to the delays and numerous cashiering issues experienced by licensing and enforcement staff, we decided to take back the mail and initially process checks at the Board level as of June 1, 2014. Staff developed a cashiering procedures manual to establish guidelines when processing the Board's mail and applications. The goal is processing mail and checks , it will improve the licensing timeframes.

5. YouTube Video

Working in conjunction with the Department's Public Affairs office, staff developed a YouTube video that explains the Psychology licensure process. We also plan to develop the following YouTube videos:

- Psychological Assistant
- Registered Psychologist
- Psychologist License Renewal
- Psychological Assistant Renewal

BREEZE UPDATE

The Board continues to experience various issues challenges and spends a considerable amount of time testing and submitting tickets to fix the issues in BreEze. We found 29 issues that need to be addressed, 14 tickets have been submitted and 15 pending tickets are scheduled for submission.

STATUTORY AND REGULATORY CHANGES

Board staff met with Licensing Committee Chairperson, Dr. Jacqueline Horn, on April 17, 2014 to discuss Business and Professions Code 2914 (c) and California Code of Regulation Sections 1387 (b) (10), 1387 (b) (11) and 1387.1 (h). The outcome of that the meeting resulted in the proposed amendments to the statute and regulations as discussed in the Licensing Committee Agenda item 10 (f).

Action

This item is for informational purposes only, but will be a standing Committee item for updates.



BOARD OF PSYCHOLOGY – Administration

1625 N. Market Blvd., Suite N-215, Sacramento, CA 95834
P 916.574.7720 F 916.574.8672 www.psychology.ca.gov

Outreach and Education Committee Agenda

Pepperdine University Graduate School of Education and Psychology
6100 Center Drive, Rooms 333-334
Los Angeles, CA 90045
(310) 568-5600

Committee Members

Miguel Gallardo, Psy.D., Chairperson
Lucille Acquaye-Badoo, Public Member
Linda Starr, Public Member

Legal Counsel

Norine Marks

Board Staff

Antonette Sorrick, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
Lavinia Snyder, Licensing Coordinator
Jonathan Burke, Administrative Coordinator
Colette McDowell, Continuing Education/Renewals Coordinator

Thursday, May 15-16, 2014

Committees are not webcast; however each Committee's report is webcast when the full board reconvenes as noticed on the attached agenda. A link to the webcast will be available on the Board's Web site at 9:00 a.m., February 20-21, 2014, or you may access it at: http://www.dca.ca.gov/publications/multimedia/webcast_current.shtml. Links to agenda items with attachments are available at www.psychology.ca.gov, prior to the meeting date.

Friday, May 16, 2014

- a) Review and Approve Draft Strategic Plan (A. Sorrick)
- b) Review and Approve Communications Plan (A. Sorrick)
- c) Social Media Update (J. Burke)
- d) Web site Changes/Additions (J. Burke)
- e) Newsletter (J. Burke)
- f) Outreach Activities Update (A. Sorrick)
- g) Public comment for items not on the agenda

h) Adjournment

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.

*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.*

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

BOARD OF PSYCHOLOGY

1625 N. Market Blvd., N-215, Sacramento, CA 95834

P (916) 574-7720 F (916) 574-8671 www.psychboard.ca.gov



MEMORANDUM

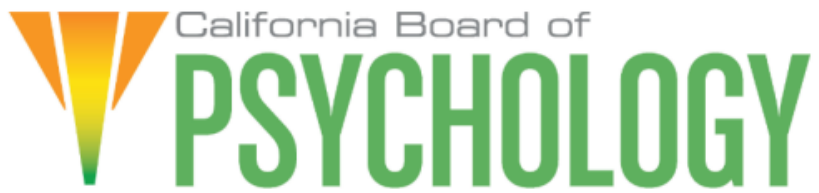
DATE	April 21, 2014
TO	Psychology Board Members
FROM	Antonette Sorrick Executive Officer
SUBJECT	Review and Approve Draft Strategic Plan (a)

Background:

The Board convened for Strategic Planning on March 14-15, 2014. SOLID staff drafted the attached Strategic Plan and staff reviewed and made edits where appropriate.

Action Requested:

To approve the draft Strategic Plan as written.



2014-2018



Strategic Plan

Adopted:

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California Board of Psychology Members

Michael Erickson, Ph.D., President

Miguel Gallardo, Psy.D, Vice President

Lucille Acquaye-Baddoo, Public Member

Johanna Arias-Bhatia, Public Member

Andrew Harlem, Ph.D.

Jacqueline Horn, Ph.D.

Nicole J. Jones, Public Member

Stephen Phillips, J.D., Psy.D.

Linda L. Starr, Public Member

EDMUND G. BROWN, JR., GOVERNOR

ANNA M. CABALLERO, SECRETARY, BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY

DENISE D. BROWN, DIRECTOR, DEPARTMENT OF CONSUMER AFFAIRS

ANTONETTE SORRICK, EXECUTIVE OFFICER, BOARD OF PSYCHOLOGY

Message from the Board President



As President of the Board of Psychology it is a privilege to introduce the 2014 Strategic Plan and to express appreciation for the work and contribution of all Board members and staff in developing our current Strategic Plan which includes a number of areas for increased emphasis and change in 2014 and forward.

The Board will continue its primary focus on the following areas:

- Protecting the health, safety and welfare of consumers
- Advocating for the highest principles of professional psychological service, and
- Empowering consumers through education on licensee/registrant discipline actions and through providing best available information on current trends in psychological service options

In addressing the aforementioned areas, we intend to continue protecting the public while also looking for additional ways to advocate the highest principles for the profession and empowering the consumer through information and education. Additional areas of focus will include:

- Increased emphasis on reducing licensing times, greater transparency about the disciplinary process, and additional outreach and education to licensees, stakeholders and the public
- Continuing the process of developing and adopting regulations on telepsychology
- Greater involvement in the legislative process with proactive involvement on issues affecting the Board and psychology
- Promulgating and codifying new regulations for Continuing Professional Development
- Understanding the value of providing excellent customer service in all we do

I would like to thank the reader of this document for helping to achieve our goals and look forward to our continued communications over the next five years.

A handwritten signature in black ink that reads "Michael Erickson".

Michael Erickson, Ph.D.
Board President

About the California Board of Psychology

The California Board of Psychology dates back to 1958 when the first psychologists were certified in the State. The Board of Psychology is one of 30 regulatory entities that fall under the organizational structure of the Department of Consumer Affairs. Historically, the Board has been closely affiliated with the Medical Board of California.

The Board consists of nine members (currently five licensed psychologists and four public members) who are appointed to the Board for four-year terms. Each member may serve a maximum of two consecutive terms. The five licensed members and two public members are appointed by the Governor. One public member is appointed by the Senate Rules Committee, and one public member is appointed by the Speaker of the Assembly. Public members cannot be licensed by the Board of Psychology or by any other Department of Consumer Affairs healing arts board.

The Board's Executive Officer is appointed by the Board to ensure that the Board functions efficiently and serves solely in the interests of the consumers of psychological services in the State of California.

The Board of Psychology is funded totally through license, application, and examination fees. The Board receives absolutely no tax money from the general revenue fund of the State of California.

The Board of Psychology exists solely to serve the public by:

- Protecting the health, safety, and welfare of consumers of psychological services with integrity honesty, and efficiency;
- Advocating the highest principles of professional psychological practice;
- Empowering the consumer through education on licensee/registrant disciplinary actions and through providing the best available information on current trends in psychological service options.

How Does the Board Accomplish its Mission?

The Board accomplishes its mission by working to ensure that psychologists provide consumers appropriate and ethical psychological services and do not exploit consumers by abusing the power advantage inherent in any professional relationship. The Board also works to ensure:

- Those entering the profession of psychology possess the competencies deemed necessary to practice psychology independently and safely. This is achieved by requiring candidates for a license to possess an appropriate doctorate degree from a State-approved or accredited university and by requiring the completion of a minimum of 3,000 hours of supervised professional experience. Each license applicant must also pass a national written examination and a California examination. In addition, in order to renew a license, a psychologist must complete 36 hours of approved Continuing Education every two years.
- The Board's enforcement efforts are focused on protecting the public from exploitative, unscrupulous, and/or otherwise incompetent licensed psychologists.
- Through outreach and education efforts, the Board can provide targeted messaging for its direct and indirect stakeholders.

Who Does the Board Regulate?

The Board of Psychology regulates psychologists, psychological assistants, and registered psychologists. Licensed psychologists may practice independently in any private or public setting. Psychological assistants must possess a qualifying master's degree and are registered to a licensed psychologist or to a board-certified psychiatrist as employees who may provide limited psychological services to the public under the direct supervision of the psychologist or psychiatrist to whom they are registered. Registered psychologists must possess a doctoral degree that meets licensure requirements and have completed at least 1,500 hours of qualifying supervised professional experience. Registered psychologists are registered to engage in psychological activities at nonprofit community agencies that receive a minimum of 25% 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.

2010 Strategic Plan Accomplishments

The California Board of Psychology has accomplished the following since the adoption of the 2010 Strategic Plan.

1. The Board participated in the development, implementation and testing for the Department of Consumer Affairs' new licensing and enforcement database system, BreEZe. The Board was part of the first rollout of the BreEZe system in 2013. This new system will improve the functionality of the Board's core functions.
2. The Board worked with stakeholders to establish new Continuing Education (CE) requirements for licensees that provide a competency-based Continued Professional Development model.
3. The Board implemented new CE regulations to redefine the Board's continuing education provider approval system and transfer the auditing system for continuing education hours from the Mandatory Continuing Education for Psychologists Accrediting Agency (MCEPAA) to the Board.
4. Pursuant to the Consumer Protection Enforcement Initiative (CPEI), the Board established draft Uniform Standards Related to Substance-Abusing Licensees. These standards will guide all disciplinary decisions brought before the Board.
5. In order to be more transparent and accessible to the Board's stakeholders, the Board utilized webcasting technology for meetings and posted all meeting materials on its Web site prior to each meeting.
6. In an effort to meet the needs of the Board's consumers, the Board's enforcement staff completed a comprehensive training program including the following: Basic and Advanced Investigative Training by the Council for Licensing Enforcement and Regulation (CLEAR), and the Department of Consumer Affairs' Enforcement Academy.

Mission

The Board of Psychology advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the profession.

Vision

A California with the best psychological services in the nation.

Values

Transparency

Integrity

Consumer Protection

Inclusiveness

Excellence

Accountability

Strategic Goals

1 LICENSING

The Board of Psychology provides applicants, licensees, and registrants a method for providing psychological services in California.

2 CONTINUING EDUCATION

The Board works to ensure qualified and competent to provide psychological services in the State of California.

3 LAWS AND REGULATIONS

The Board works to establish and maintain fair and just statutes and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient and cost-effective practices.

4 ENFORCEMENT

The Board protects the health and safety of consumers of psychological services through the active enforcement of the statutes and regulations governing the safe practice of psychology in California.

5 OUTREACH

The Board proactively educates, informs, and engages consumers, licensees, students and other stakeholders about the practice of psychology and the laws that govern it.

6 ORGANIZATIONAL EFFECTIVENESS

The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

Goal 1: Licensing

The Board of Psychology provides applicants, licensees, and registrants a method for providing psychological services in California.

1.1 Perform a process analysis (to include an analysis of staff time, resources, and equipment) to ensure the Board is using and/or asking for resources that are needed to identify methods to reduce licensing processing times.

1.2 Establish and implement a plan to address current and future licensing backlogs.

1.3 Submit a budget change proposal to establish a full-time licensing manager position and/or additional full-time licensing positions, if needed as determined by the licensing process analysis (objective 1.1).

1.4 Establish communication tools to facilitate the licensing process for applicants.

1.5 Evaluate the effectiveness of the BreEZe system, and work with DCA to identify and implement system improvements to the licensing process.

1.6 Provide customer service training to licensing staff to enhance service to stakeholders.

1.7 Review statutes and regulations regarding Psychological Assistant, Supervised Professional Experience, and Exempt Settings and make changes to clarify the initial intent of the law.

1.8 Provide “hard-card” pocket licenses for licensed psychologists and registered psychological assistants.

1.9 Create “Retired” status for licensed psychologists.

Goal 2: Continuing Education

The Board works to ensure qualified and competent individuals are licensed to provide psychological services in the State of California.

2.1 Promulgate Continuing Education/Continuing Professional Development (CE/CPD) regulations and ensure Board staff and licensees are educated about the new requirements.

Goal 3: Laws and Regulations

The Board works to establish and maintain fair and just statutes and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient and cost-effective practices.

3.1 Create a greater presence in the legislative arena to more proactively address issues affecting the Board, the psychology profession, and the public.

3.2 Adopt regulations to clarify and strengthen the Board's position on the practice of telepsychology.

Goal 4: Enforcement

The Board protects the health and safety of consumers of psychological services through the active enforcement of the statutes and regulations governing the safe practice of psychology in California.

- 4.1 Educate consumers and licensees by providing transparent information about enforcement processes and outcomes.
- 4.2 Identify and seek clarification to strengthen statutory and regulatory language regarding Statement of Issues, and public reprimands.
- 4.3 Modify the Board's Web site to include dedicated information and resources on license probation to include probationer forms.
- 4.4 Establish standardized training and educational resources for Expert Reviewers to improve effectiveness and consistency.
- 4.5 Improve probation monitoring by using HIPAA-compliant technology.
- 4.6 Evaluate the effectiveness of the BreEZe system, and work with DCA to identify and implement improvements for the enforcement process.
- 4.7 Perform a comprehensive process analysis of the Board's enforcement program to identify and implement improvements that will decrease processing times.
- 4.8 Submit a budget change proposal to establish additional full-time enforcement positions, if needed, as determined by the enforcement process analysis (objective 4.7).

Goal 5: Outreach

The Board proactively educates, informs, and engages consumers, licensees, students and other stakeholders on the practice of Psychology and the laws which govern it.

5.1 Develop and implement a communication plan identifying stakeholders, messages to communicate, and message communication methods.

5.2. Increase Board visibility at schools, professional conferences, public events, etc. to better educate consumers and licensees about the Board.

Goal 6: Organizational Effectiveness

The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

6.1 Cross train staff to ensure Board-wide understanding of all intra-departmental functions to improve Board effectiveness.

6.2 Provide professional development for staff to facilitate opportunities for advancement and professional growth.

6.3 Perform a program analysis of the Board's operational procedures to streamline Board staff functions and processes.

6.4 Develop procedure manuals for Board and DCA policies and make available for all Board staff in a centralized location.

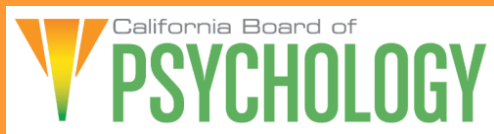
6.5 Identify and implement tools and communication methods to improve Board member understanding of Board staff activities between meetings.

Strategic Planning Process

To understand the environment in which the Board operates and identify factors that could impact the Board's success, the California Department of Consumer Affairs' SOLID unit conducted an environmental scan of the internal and external environments by collecting information through the following methods:

- An online survey sent to 5,000 stakeholders, comprised of psychology professionals, professional associations, California colleges, and others who expressed interest in the strategic direction of the Board. The online survey received 794 responses.
- Telephone interviews with Board members in February, 2014.
- Focus group discussion with Board staff in February, 2014.

The most significant themes and trends identified from the environmental scan were discussed by the Board during a strategic planning session facilitated by SOLID on March 14 and 15, 2014. This information guided the Board in the development of its mission, vision, and values, while directing the strategic goals and objectives outlined in this 2014 – 2018 Strategic Plan.



CALIFORNIA BOARD OF PSYCHOLOGY

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Sacramento, CA 95834

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Prepared by:



Department of Consumer Affairs
1747 N. Market Blvd., Suite 270
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This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the California Board of Psychology in January and February 2014. Subsequent amendments may have been made after Board adoption of this plan.



The content from this page forward contains action items developed at the strategic planning session.

These action items will not appear in the strategic plan adopted at the May meeting.

Mission, vision, values promotion

The methods below were identified by Board members as ways to inform stakeholders of the Board's mission, vision, and values. Methods are ranked from most frequently suggested to least frequently suggested.

<u>Method</u>	<u>Frequency of suggestion</u>
Web site	10
Board agenda/meetings	8
Letterhead	8
Business cards	6
E-mail signature	6
Newsletter	5
Plaque on wall in office/lobby	4
Facebook/social media	3
Publications	3
Posters	2
Ads	1
Board procedure manual	1
Outreach efforts	1
Policy book	1
Practice act	1
Presentations	1
Video	1

Goal 2: Continuing Education

The Board works to ensure qualified and competent individuals are licensed to provide psychological services in the State of California.

2.1 Promulgate Continuing Education/Continuing Professional Development (CE/CPD) regulations and ensure Board staff and licensees are educated on the new requirements.

2.1.1 Develop procedures and train staff about CE/CPD regulations.

2.1.2 Educate licensees about new CE/ CPD regulations.

2.1.3 Implement CE/ CPD regulations.

Goal 3: Laws and Regulations

The Board works to establish and maintain fair and just statutes and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient and cost-effective practices.

3.1 Create a greater presence in the legislative arena to more proactively address issues affecting the Board and the psychology profession.

3.1.1 Identify impact to staff

3.1.2 Review current legislation to identify and revise language (if needed)

3.1.3 Send quarterly e-bulletin with legislative updates

3.1.4 Establish a framework for tracking, reviewing, and analyzing legislation that includes the pros and cons of legislation, as well as the Board staff's recommended position.

3.2 Adopt regulations to clarify and strengthen the Board's position on the practice of telepsychology.

3.2.1 Identify impact to staff

3.2.2 Review current statutory and regulatory language and revise language (if needed)

Goal 6: Organizational Effectiveness

The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

6.1 Cross train staff to ensure Board-wide understanding of all intra-departmental functions to improve Board effectiveness.

6.2 Provide professional development for staff to facilitate opportunities for advancement and professional growth.

6.2.1 Provide training on customer service, time management, and organizational skills.

6.2.2 Include methods to ensure staff achieves their potential and to increase staff morale.

6.2.3 Perform a staff skills and morale survey in 2014 and two years later to measure impact of training.

6.3 Perform a program analysis of the Board's operational procedures to streamline Board staff functions and processes.

6.3.1 Develop organizational chart outlining position and position responsibilities.

6.4 Develop procedure manuals for Board and DCA policies and make available for all Board staff in a centralized location.

6.4.1 Establish filing system to organize filing room.

6.4.3 Develop a clear understanding of Board member roles and staff roles.

6.4.4 Set guidelines to ensure faster response times to phone calls and e-mail messages.

6.5 Identify and implement tools and communication methods to improve Board member understanding of Board staff activities between meetings.

6.5.1 Develop a Board Member education program (in addition to Board Member Orientation Training) to educate Board members on their involvement as Board members with regard to staff/Board member responsibilities, legislative actions, political tool box, etc.



BOARD OF PSYCHOLOGY

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MEMORANDUM

DATE	April 21, 2014
TO	Psychology Board Members
FROM	Antonette Sorrick Executive Officer
SUBJECT	Review and Approve Communications Plan (b)

Background:

The attached Communications Plan (Plan) is a result of the Board's Strategic Plan. The plan will guide the Board's outreach and education efforts over the next five years.

Action Requested:

To approve the Communications Plan as written.

Board of Psychology Communications Plan

Background

Strategic Plan Goal – INSERT GOAL

OBJECTIVE X: Develop a Communications Plan

The goal of the Board's Communications Plan is to use a wide array of communication tools to provide outreach and education to the Board's stakeholders. The Plan will be measured by utilizing the most economically sound, efficient, and effective methods.

Communications Vehicles

Web site (text, video content)

E-mail

ListServ

Physical Mail

Social Media – Facebook, YouTube, Twitter

News Releases/Press Advisories/Opinion Editorials/Letters to the Editor

Periodic Print Publications

Quarterly Newsletter

Meeting and Event Materials

Legislative and Regulatory Documents

Surveys

Reports

Presentations at Events

Audience (Stakeholders)

Direct Stakeholders

Consumers of Psychological Services

Students/Applicants/Licensees/Registrants (Psychologists, Registered Psychologists, Psychological Assistants)

Board Members

Board Staff

Educational Institutions

Training Sites

Indirect Stakeholders

Policy Makers (local, State and Federal Government)

Law Enforcement

Association of State and Provincial Psychology Boards

Parallel Industries (Mental Health Organizations)
Professional Associations (e.g. California Psychological Association)
Other Regulatory Entities (Board of Behavioral Sciences, Medical Board of California)
Business Community
Media
General Public

Information

Meeting Information (Board, Committee Meetings)
Regulatory Hearing Information
Publications (e.g. Newsletter)
Changes to statutes/regulations (Advisories)
Reports to the Legislature (Annual Reports, Sunset Review)
Department of Consumer Affairs Reports (Performance Measures)
Strategic Plan
Campaign Information (e.g. Value of a California License)
Issue Updates (e.g. Policy Changes)

What the Board Wants to Accomplish via a New Communications Plan (Objectives and Tactics)

1. Provide Excellent Customer Service to Stakeholders
 - Provide information to consumers
 - Respond appropriately to consumer complaints (both jurisdictional and non-jurisdictional)
 - Provide clear and timely information to applicants/licensees/registrants
2. Recognition as a Valued Resource
 - Information provided by the Board is not only useful, but timely and user-friendly to stakeholders
3. Provide Transparent and Easy-to-Access Information
 - Through all communications mediums, especially the Board's Web site, provide information to targeted stakeholder groups
4. Visibility for the Board and the Industry it represents
 - Increasing the output of information from the Board by leveraging partnerships; therefore, providing recognition to the psychological community
5. Influence Government, Media, Licensees, Consumers, and Other Audiences
 - Provide information regarding issues such as telepsychology, access to psychological services, changing demographics and its impact on practice, etc. to bring about awareness in the community-at-large and influence public policy.

Target Audiences for Board Communications

Direct Stakeholders

Consumers of Psychological Services

Students/Applicants/Licensees/Registrants (Psychologists, Registered Psychologists, Psychological Assistants)

Board Members

Board Staff

Indirect Stakeholders

Policy Makers (local, State and Federal Government)

Law Enforcement

Educational Institutions

Association of State and Provincial Psychology Boards

Parallel Industries (Mental Health Organizations)

Professional Associations

Other Regulatory Entities (Board of Behavioral Sciences, Medical Board of California)

Business Community

Media

General Public

Tools and Timetable to Meet Each Objective

1. Provide Excellent Customer Service to Stakeholders
 - Meeting Information (Board, Committee Meetings) – As Scheduled
 - Regulatory Hearing Information – As Scheduled
 - Publications (e.g. Newsletter) - Quarterly
 - Changes to statutes/regulations (Advisories) – As Published
 - Create and Maintain Targeted E-mail Lists (Diversity, Geographic, Schools, Consumer Groups) to Communicate Legislative, Regulatory, and Process Changes Within the Board's Operations – As Needed
 - Provide Information Regarding the Application, Renewal, and Complaint Process that is User-Friendly, Transparent, and Accountable to Stakeholders – As Needed
 - Board Staff will Provide Updates to Board Members on Meeting Items Between Meetings – As Needed
2. Recognition as a Valued Resource
 - Posting of local, State and Federal law changes, proposed legislation and regulations – As Needed
 - Provide Research Papers, Articles, and other Newsworthy Items on Board's Social Media Pages – As Needed

3. Provide Transparent and Easy to Access Information
 - Annual Reports to the Legislature – Annually
 - Practice Act Update - Annually
 - Sunset Review Report – As Legislatively Mandated
 - Department of Consumer Affairs Reports (Performance Measures) – Monthly
 - Provide Updates to Applicants Regarding Licensing Process, Timeframes, Fees, and Requirements – As Needed
 - Educate Licensees Regarding Benefits of New Continuing Education and Competency Requirements (E-mail/Web site, Newsletter, Leverage Partnerships with Stakeholders, Physical Attendance at Organization Meetings such as California Psychological Association). – After Changes Go Into Effect
 - Provide Up-to-Date Enforcement Statistics and Information Regarding the Complaint and Enforcement Process (E-mail/Web site, Newsletter, Leverage Partnerships with Stakeholders, Physical Attendance at Organization Meetings such as California Psychological Association). – As Needed
 - Provide a Legislative and Regulatory Digest in Each Newsletter – Quarterly
 - Update Board's Web site for Ease of Use – As Needed
4. Visibility for the Board and the Industry and it represents
 - Campaign Information (e.g. Value of a California License) – Annually
 - Attendance at Conferences and Public Events (Create Proactive Agendas to Increase Likelihood of Approval to Attend) – As Needed
 - Increase visibility of Board by conducting Board Meetings at schools. - Quarterly
5. Influence Government, Media, Licensees, Professional Associations, Consumers, and Other Audiences
 - Campaign Information (e.g. Value of a California License) - Annually
 - Legislation/Regulation – As Needed

How Will the Board Measure the Results of the Communications Plan?
(Evaluation)

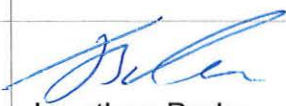
- Status updates by Outreach and Education Committee (web hits, social media participation, surveys, ListServ membership, participation at designated events, readership for publications)

BOARD OF PSYCHOLOGY

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MEMORANDUM

DATE	April 30, 2014
TO	Psychology Board Members
FROM	 Jonathan Burke Administrative Services Coordinator
SUBJECT	Social Media Update

Background:

Web site:

	Top 5 Pages	Content	Views
1	/index.shtml	Homepage	33,603
2	/faq.shtml	Psychologist FAQ Applicants	2,820
3	/licensee/index.shtml	Licensee Homepage	2,812
4	/licensee/licpsych.shtml	Licensee Application	2,107
5	/applicants/license.shtml	Overview of Psychologist Licensure	1,963

Facebook:

Total "Likes": 42 Total Posts (12/19/13 – 5/1/14): 24

Most Popular Post: 3/24/14: 3 SSA Positions in Licensing Unit

Twitter:

Followers: 35

Following: 127

Total Tweets (12/19/13 – 5/1/14): 28

Action Requested:

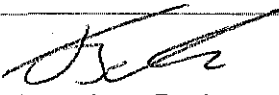
This item is for informational purposes only.

BOARD OF PSYCHOLOGY

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MEMORANDUM

DATE	April 30, 2014
TO	Psychology Board Members
FROM	 Jonathan Burke Administrative Services Coordinator
SUBJECT	Web site Changes/Additions

Background:

During the Web site rebranding process, five members of staff (Web site Task Force) volunteered to review the Web site page by page and recommend edits to the internet team. This Task Force will continue to meet regularly in the future to maintain the current site. The new Web site design went live on 4/28/14. Responses from Board members, staff, and the public have been positive.

Action Requested:


There is no action requested at this time.

BOARD OF PSYCHOLOGY

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MEMORANDUM

DATE	April 30, 2014
TO	Psychology Board Members
FROM	 Jonathan Burke Administrative Services Coordinator
SUBJECT	Newsletter

Background:

Attached is the Spring Newsletter.

Action Requested:

There is no action requested of the Board at this time

Journal

***** The California Department of Consumer Affairs, Board of Psychology Newsletter *****

IN THIS ISSUE:

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President's Message

By Michael Erickson, Ph.D., President, California Board of Psychology

Greetings and happy spring to you! With this issue, the Board of Psychology introduces its new newsletter.

In this edition, we will provide you with updates about new Board members, staff, and the new Strategic Plan.

We look forward to providing you up-to-date information about our services and the changing profession of psychology.

Strategic Planning and its Importance to You

By Michael Erickson, Ph.D., President, Board of Psychology

As defined by the Department of Consumer Affairs' SOLID Planning Solutions unit, strategic planning is a process by which we can envision the future and develop the necessary procedures and operations to influence and achieve that future.

If you are a licensee/registrant, applicant, consumer, law enforcement agency, educational institution, policymaker, or interested party, you have a vested interest in the activities of the Board of Psychology. The Board conducted a strategic planning session in March. Before March, the Board solicited feedback from stakeholders via survey to focus our goals and priorities for the next five years.

Using a broad range of collaborative techniques, we are optimistic about addressing future challenges and developing a realistic strategic plan that continues to emphasize consumer protection and that also encourages excellence in psychological services from our licensees. We remain, as always, committed to consumer protection and providing excellent customer service to current and future licensees/registrants.

www.psychology.ca.gov



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BoardofPsychology](https://www.facebook.com/BoardofPsychology)



twitter.com/BDofPsychology
Twitter handle: @BDofPsychology



To verify a license: www.breeze.ca.gov

To update address of record or e-mail
address [www.breeze.ca.gov/datamart/
loginCADCA.do](http://www.breeze.ca.gov/datamart/loginCADCA.do)

Contact us: bopmail@dca.ca.gov

Sign up for our e-mail list:
www.pyschology.ca.gov



LEGISLATIVE UPDATE

SB 127 (Gaines) Firearms: mentally disordered persons

Chapter 753, Statutes of 2013

What is the new law?

SB 127 requires a psychotherapist to notify local law enforcement within 24 hours when a person or a person's family member communicates to the therapist a serious threat of physical violence against a reasonably identifiable victim or victims. The purpose of this statutory change is to "add certainty and consistency" to the reporting requirements and to remove any confusion or ambiguity in the definition of "immediately."

SB 127 defines the time within which a licensed psychotherapist must communicate a serious threat to a local law enforcement entity as 24 hours.

Background

Formerly, licensed psychotherapists were required to "immediately" notify local law enforcement when a person or a person's family member communicates to the therapist a serious threat of physical violence against a reasonably identifiable victim or victims, and required the local law enforcement agency to immediately notify the Department of Justice.

Existing law prohibits a person from possessing a firearm or deadly weapon for a period of six (6) months when the person has communicated a serious threat of physical violence against a reasonably identifiable victim or victims to a licensed psychotherapist. Existing law requires the licensed psychotherapist to immediately report the identity of the person to a local law enforcement agency, and requires the local law enforcement agency to immediately notify the Department of Justice.

How it will affect you?

As of January 1, 2014, licensed psychotherapists must notify local law enforcement within 24 hours when a person or a person's family member communicates to the therapist a serious threat of physical violence against a reasonably identifiable victim or victims.

For more information on this law visit this Web site http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB127

SB 666 (Steinberg) Employment: retaliation

Chapter 577, Statutes of 2013

What is the new law?

SB 666 provides for the suspension or revocation of an employer's business license for retaliation based on citizenship/immigration status. The law also grants discretionary disciplinary authority to licensing agencies at the Department of Consumer Affairs. The Board is permitted to take into account the potential impact of the suspension of the license on employees.

Background

Existing State and federal laws contain provisions that define unlawful discrimination and lawful employment practices by employers and employment agencies to protect both prospective

and current employees against employment discrimination. There was, however, no authority granted to licensing agencies at the Department of Consumer Affairs to discipline employment infractions by licensees.

How it will affect you?

As of January 1, 2014 the Board has the authority to pursue discretionary disciplinary action against licensees who have been found guilty of violating the above employment law.

For more information on this law visit this Web site http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB666



California Board of Psychology Board Member Profiles



Michael R. Erickson, Ph.D.

On August 6, 2010, Governor Arnold Schwarzenegger appointed **Michael R. Erickson, Ph.D.**, to the California Board of Psychology. Since 1980, Dr. Erickson has been in private practice focusing on clinical and forensic psychology and a qualified medical evaluator for the California Division of Workers' Compensation Medical Unit. Prior to private practice, Dr. Erickson was a clinical instructor for the University of California, Davis, School of Medicine, and a director of consultation and training at Eskaton-American River Mental Health Center. Dr. Erickson is a member of the American Psychological Association, California Psychological Association, and National Register of Health Service Providers. He earned a bachelor's degree in psychology and his doctorate in clinical psychology from the University of Oregon. Dr. Erickson also began his career as a Peace Corps volunteer in Colombia.



Lucille Acquaye-Baddoo

On June 1, 2011, **Lucille Acquaye-Baddoo** was appointed by Speaker John Perez to the California Board of Psychology. Ms. Acquaye-Baddoo is currently an adjunct instructor of political science at Los Angeles Harbor College. She has served as assistant director at a local Head Start and as an administrator at the grantee level. She is a member of a local parliamentarian association, and reviews applications for the California Mental Health Loan Assumption Program. Previously, she worked for Los Angeles Job Corps, the Housing Authority of the City of Los Angeles, and other agencies and organizations. Lucille also acted as consultant and program director for Children's Institute, Inc., for more than a year. Her employment history also includes the Federation of Preschools and Community Education Centers, Inc., for more than two years. She earned a bachelor's degree in sociology/behavioral science and a Master of Public Administration degree from California State University, Dominguez Hills. She continues to be a life-long learner.



Linda L. Starr

On January 9, 2013, Senate Pro Tem Darrell Steinberg appointed **Linda L. Starr** to the California Board of Psychology. Ms. Starr retired as Director of the Accounting Department from the California State Senate after 30 years of service. Ms. Starr was previously appointed by Senator John Burton to the California Veterinary Medical Board, where she served as a member for nine years. She currently serves on the Sacramento SPCA board of directors and the California State Senate Alumni Association.



Johanna Arias-Bhatia, J.D.

On August 10, 2012, **Johanna Arias-Bhatia, J.D.**, of Los Angeles, was appointed by Governor Edmund G. Brown, Jr. to the California Board of Psychology. Ms. Arias-Bhatia has served as fair hearings and government affairs manager at the South Central Los Angeles Regional Center since 2004 and was a health consumer advocate at Neighborhood Legal Services of Los Angeles County from 1999 to 2003. She earned a Juris Doctor degree from Loyola University New Orleans College of Law.



California Board of Psychology Board Member Profiles (continued)



Andrew Harlem, Ph.D.

On August 10, 2012, **Andrew Harlem, Ph.D.**, of San Rafael, was appointed by Governor Edmund G. Brown Jr. to the California Board of Psychology. Dr. Harlem has been a clinical psychologist in private practice since 2004 and has served on the editorial board of *Psychoanalytic Dialogues* since 2011. He has been an associate professor at the California Institute of Integral Studies since 2006, where he served as director of clinical training from 2006 to 2010. Dr. Harlem was a Peace Corps volunteer from 1992 to 1994. He earned a doctorate in human development from the University of Chicago and completed a postdoctoral fellowship at Harvard Medical School/Cambridge Health Alliance. Dr. Harlem served as president of the Northern California Society for the Psychoanalytic Psychology Board of Directors from 2009 to 2011.



Nicole J. Jones

On August 10, 2012, **Nicole J. Jones**, of Los Angeles, was appointed by Governor Edmund G. Brown Jr. to the California Board of Psychology. Ms. Jones is currently director of external affairs at Crystal Stairs, Inc. Previously, she was the associate director of corporate and foundation relations at Loyola Marymount University. Prior to this position, Ms. Jones worked in philanthropy, serving at The California Wellness Foundation, the California Community Foundation, the Indianapolis Foundation, and Southern California Grantmakers. Ms. Jones also served as field representative for California Assemblyman Kevin Murray and Watts field deputy for Los Angeles City Councilman Rudy Svorinich. In addition, Ms. Jones completed the National Urban Fellows Program and the Coro Fellows Program in public affairs. She currently serves on the Cal Alumni Association (University of California, Berkeley) Board and the Greater Los Angeles American Heart Association Affiliate Board.



Stephen Phillips, Psy.D., J.D.

On September 25, 2013, **Stephen Phillips, Psy.D., J.D.**, of Los Angeles, was appointed by Governor Edmund G. Brown Jr. to the California Board of Psychology. Dr. Phillips has been a clinical psychologist in private practice since 2002, an adjunct faculty and clinical supervisor at the Wright Institute Los Angeles since 2001, and an adjunct instructor at the California School of Professional Psychology at Alliant International University since 1999. He was a psychological assistant for Elaine Schulman, Ph.D., from 2000 to 2002, an attorney in private practice from 1995 to 2004, and served in multiple positions at Shapiro, Posell, Rosenfeld & Close from 1985 to 1994, including managing partner, litigation department chairperson, and associate. Dr. Phillips earned a Juris Doctor degree from the University of Chicago Law School and a Doctor of Psychology degree in clinical psychology from the California School of Professional Psychology.

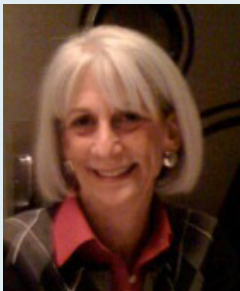


California Board of Psychology Board Member Profiles (continued)



Miguel Gallardo, Psy.D.

On December 17, 2012, **Miguel Gallardo, Psy.D.**, of Aliso Viejo, was appointed by Governor Edmund G. Brown Jr. to the California Board of Psychology, where he has served since 2010. Dr. Gallardo is an associate professor of psychology and director of Aliento, The Center for Latina/o Communities, at Pepperdine University's Graduate School of Education and Psychology. He maintains an independent/consultation practice where he conducts therapy with adolescents and adults and consults with organizations and universities on developing culturally responsive systems. He teaches courses on multicultural and social justice, intimate partner violence, and professional practice issues. Dr. Gallardo's areas of scholarship and research interests include understanding the psychotherapy process when working with ethnocultural communities, particularly the Latina/o community and in understanding the processes by which individuals develop cultural awareness and responsiveness. Dr. Gallardo is currently director of research and evaluation for the Multi-Ethnic Collaborative of Community Agencies, a nonprofit organization dedicated to serving monolingual Arab, Farsi, Korean, Vietnamese, and Spanish speaking communities. Dr. Gallardo has published refereed journal articles, books, and book chapters in the areas of multicultural psychology, Latina/o psychology, and ethics and evidence-based practices. Dr. Gallardo is a fellow of the American Psychological Association.



Jacqueline Horn, Ph.D.

On October 21, 2013, **Jacqueline Horn, Ph.D.**, of Sacramento, was appointed by Governor Edmund G. Brown Jr. to the California Board of Psychology. Dr. Horn has been a clinical psychologist in private practice since 1983 and a lecturer at the University of California, Davis, Department of Psychology since 1981. She was director of Psychological Services at Heritage Oaks Hospital from 1985 to 1995, a psychologist at Eskaton from 1982 to 1985, and Staff Psychologist at Napa State Hospital from 1981 to 1982. Dr. Horn earned a Master of Science degree in clinical psychology and a Doctor of Philosophy degree in clinical psychology from Vanderbilt University's Peabody College of Education and Human Development.



Antonette Sorrick

On November 25, 2013, **Antonette Sorrick** was hired as Executive Officer of the California Board of Psychology. Since March 2008, Ms. Sorrick served as the Executive Officer for the State Board of Guide Dogs for the Blind. From 2005 to 2008, Ms. Sorrick served as Deputy Director for Board Relations for the Department of Consumer Affairs and from 2004 to 2005 as the Department's Assistant Deputy Director for the Consumer and Community Relations Division. Before her appointments to the Department of Consumer Affairs, Ms. Sorrick served as a policy and research manager for the California Building Industry Association.



What to Expect From Your California Licensed Psychologist

By Jacqueline Horn, Ph.D., Board Member

The task of choosing someone for therapy or to help an organization function more effectively can be a daunting task. Most people don't know the difference between a psychologist, psychiatrist, marriage and family therapist, or social worker. Even though there are many similarities between these different specialties, there are also significant differences. Psychologists hold doctoral degrees and are trained to work with children, adults, individuals, couples, families, and organizations, depending on the particular training program attended. They work in a variety of settings—private therapy offices, hospitals and medical schools, military settings, businesses, prisons, schools, and others. They deal with many issues such as depression, anxiety, post-traumatic stress disorder, and learning difficulties.

Below are some guidelines that the California Board of Psychology hopes will help in choosing a psychologist and some information about what can be expected when one engages the services of a psychologist:

- Verify on the California Board of Psychology's Web site that the psychologist's license is current.
- Clarify with the psychologist that he or she is trained to help with the issues to be addressed and has experience to do so.
- The psychologist should fully inform all clients about billing arrangements, how he or she may be contacted when needed other than at scheduled appointment times, what procedures are in effect when the psychologist is unavailable, and the limits of confidentiality. This information is usually exchanged in the form of a written informed consent form or contract.



- Expect that the psychologist will have only one role with any person in therapy—that of a professional in the therapist-client relationship. There should be no social, sexual, familial, or other relationship with the psychologist, nor should the psychologist attempt that.
- Individuals have the right to refuse a particular type of treatment or intervention; to request (or refuse) electronic recordings of any meetings with the psychologist; and to obtain a second opinion at any time about any intervention proposed or occurring.

Individuals should feel comfortable working with their psychologist, and should be able to address any concerns or issues without fear of reprisal. This kind of respectful relationship between the psychologist and client usually has the potential for a positive outcome to the work undertaken.

The Board of Psychology hopes the above information is helpful when deciding to engage the services of a psychologist.



Submitting Your Supervision Agreement Form: Plan Ahead

By Lani Snyder, California Board of Psychology, Licensing / Registration Coordinator

The purpose of the supervision agreement form is to ensure that the supervisor and the person being supervised have a mutual understanding and agreement about the scope and goals for the supervision experience before the start of the training, as well as to ensure that both parties understand the Board's supervision requirements before training begins. Below are some suggestions to consider when preparing and submitting a supervision agreement to ensure the full accrual of supervised hours:

- Print and consider using the supervision agreement form from the Board of Psychology's Web site prior to the beginning of training.
- Set an appointment with your supervisor to review and discuss the supervision requirements.

- Sign and date the form after reviewing the plan.
- Applicants should retain a copy of the signed supervision agreement plan for their records.
- Supervisors must submit the original supervision agreement form together with the verification of experience form directly to the Board at the end of the training.

For psychological assistants, the process is slightly different. The form must also be completed prior to the start of training, however we recommend submitting the plan and application together for registration to the Board because the Board is required to approve the plan. The supervision agreement form must be accompanied with a supervision plan. For samples of a supervision plan, visit www.psychology.ca.gov.

Communicating to Our Audience

By Johanna Arias-Bhatia, J.D., Board Member

The Board of Psychology has historically striven for excellence in psychology for Californians. To that end, the information sharing for licensees/registrants, applicants, consumers, and interested parties should be easily accessible. To respond to this challenge, the Board will be overhauling its current Web site and extending its forms of communication to social media. In an age where laws and regulations are constantly changing, stakeholders of the Board should know where to look for the information they desire.

Web site enhancements:

- Links will be more intuitive.
- Instructions to forms will be reviewed for plain language style.
- Links to statutes and regulations will be embedded in documents with citations.

- New URL—from www.psychboard.ca.gov to www.psychology.ca.gov.
- Instructional videos for applicants and renewing licensees/registrants.

Social media presence:

- Like us on Facebook at <https://www.facebook.com/BoardofPsychology—CA Board of Psychology>.
- Follow us on Twitter at [@BDofPsychology](https://twitter.com/BDofPsychology).
- Join our e-mail list at www.psychology.ca.gov.

If you have a suggestion for changes to the Board's Web site, or have an idea to make our communications more clear for you, please let us know by e-mailing us at bopmail@dca.ca.gov.



2014 Board Meeting Calendar

BOARD MEETING

May 15-16, 2014 – Los Angeles, CA

BOARD MEETING

August 21-22, 2014 – Bay Area

BOARD MEETING

November 20-21, 2014 – San Diego, CA

* * * * *

2014 Board Members

Michael Erickson, Ph.D. (President)

Miguel Gallardo, Psy.D. (Vice-President)

Lucille Acquaye-Baddoo

Johanna Arias-Bhatia, J.D.

Andrew Harlem, Ph.D.

Nicole J. Jones

Linda L. Starr

Stephen Phillips, J.D., Psy.D.

Jacqueline Horn, Ph.D.

* * * * *



BOARD CONTACT INFORMATION

1625 North Market Blvd., Suite N-215
Sacramento, CA 95834

E-mail: bopmail@dca.ca.gov

Web page: www.psychology.ca.gov

Telephone: (916) 574-7720

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Fax: (916) 574-8672

BOARD OF PSYCHOLOGY

1625 N. Market Blvd., N-215, Sacramento, CA 95834

P (916) 574-7720 F (916) 574-8671 www.psychboard.ca.gov



MEMORANDUM

DATE	April 24, 2014
TO	Psychology Board Members
FROM	Antonette Sorrick Executive Officer
SUBJECT	Outreach Activities Update (f)

Stakeholder Meetings

- 12/12/13 – Executive Officer Antonette Sorrick had a meet and greet with Ed Howard (Center for Public Interest Law).

Center for Public Interest Law Founded in 1980, the [University of San Diego School of Law's Center for Public Interest Law](#) (CPIL) serves as an academic center of research and advocacy in regulatory and public interest law. CPIL focuses its efforts on the study of an extremely powerful, yet often overlooked, level of government: state regulatory agencies. Under the supervision of experienced public interest attorneys and advocates, CPIL law student interns study California agencies that regulate business, professions, and trades.



CPIL publishes the **California Regulatory Law Reporter**, a unique legal journal that covers the activities and decisions of 25 major California regulatory agencies.

In addition to its academic program, CPIL has an advocacy component. Center faculty, professional staff, and interns represent the interests of the unorganized and underrepresented in California's legislature, courts, and regulatory agencies. CPIL attempts to make the regulatory functions of California government more efficient and visible by serving as a public monitor of state regulatory activity. The Center has been particularly active in reforming the state's professional discipline systems for attorneys and physicians, and in advocating public interest reforms to the state's open meetings and public records statutes.

- 1/10/14 – Board President Michael Erickson and Executive Officer Antonette Sorrick had a meet and greet with Jo Linder Crow, PhD and staff at California Psychological Association (CPA). We look forward to working with CPA on issues of mutual concern.
- 4/10-13/14 - The Board attended the CPA Convention April 10-13, 2014 in Monterey, California. Board President Michael Erickson, Executive Officer Antonette Sorrick, Assistant Executive Officer Jeffrey Thomas, and Continuing Education/Renewals Coordinator Colette McDowell attended. The Board had an informational booth and attended some of the seminars.
- 4/10-13/14 – Board Member Jacqueline Horn attended the Association of State and Provincial Psychology Boards' 2014 Midyear Meeting in San Antonio, Texas. She presented a talk on the new APA/Commission on Accreditation (CoA) *Standards of Accreditation* for health service psychology training programs.

Action Requested:

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

2014 Board Meeting/Event Calendar

Event/ Date	Location
CPA Division II Annual Conference TBD	TBD
Closed Session Teleconference Board Meeting* February 7, 2014	Sacramento, CA
Board Meeting* February 20-21, 2014	Sacramento, CA
Strategic Planning Session March 14-15, 2014	Riverside, CA
ASPPB Midyear Meeting April 10-13, 2014	San Antonio, TX
CPA Convention April 10-13, 2014	Monterey, CA
Board Meeting* May 15-16, 2014	Los Angeles, CA
APA Convention August 7-10, 2014	Washington, DC
Board Meeting* August 21-22, 2014	Bay Area
LACPA Convention October 18, 2014	Culver City, CA
ASPPB Annual Meeting October 22-26, 2014	Palm Springs, CA
Board Meeting* November 20-21, 2014	San Diego, CA

*All issues for inclusion on the Board meeting agenda must be submitted to the Board at least 3 weeks prior to the meeting date. Any items received after that time will not be listed on the agenda and will not be discussed. Please submit all agenda items to the Board of Psychology at 1625 North Market Boulevard, Suite N-215, Sacramento, CA 95834.

BOARD OF PSYCHOLOGY

1625 N. Market Blvd., N-215, Sacramento, CA 95834

P (916) 574-7720 F (916) 574-8671 www.psychboard.ca.gov



MEMORANDUM

DATE	April 22, 2014
TO	Psychology Board Members
FROM	Antonette Sorrick Executive Officer
SUBJECT	Executive Officer's Report (a-c)

Background:

Attached are the latest organizational chart and draft scope of work for the CPS Program Analysis.

Action Requested:

This item is for informational purposes only.

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Board of Psychology Committee Assignments

Committee	Chairperson	Members
Licensing Committee	Jacqueline Horn, Ph.D.	Stephen Phillips, Psy.D., Johanna Arias-Bhatia
Policy and Advocacy Committee	Nicole Jones	Michael Erickson, Ph.D., Andrew Harlem, Ph.D.
Outreach and Education Committee	Miguel Gallardo, Psy.D.	Lucille Acquaye-Baddoo, Linda Starr

0310 - Psychology

Analysis of Fund Condition

Prepared 4/29/14

(Dollars in Thousands)

Governor's Budget

Governor's Budget

	ACTUAL	CY	BY	BY + 1	BY + 2
NOTE: \$7.5 Million General Fund Loan Outstanding	2012-13	2013-14	2014-15	2015-16	2016-17
BEGINNING BALANCE	\$ 4,616	\$ 5,082	\$ 4,315	\$ 3,611	\$ 2,816
TOTAL REVENUE	\$ 3,669	\$ 3,778	\$ 3,886	\$ 3,883	\$ 3,881
TOTAL EXPENDITURES	\$ 3,203	\$ 4,545	\$ 4,590	\$ 4,678	\$ 4,772
FUND BALANCE	\$ 5,082	\$ 4,315	\$ 3,611	\$ 2,816	\$ 1,925
MONTHS IN RESERVE	13.4	11.3	9.3	7.1	4.7

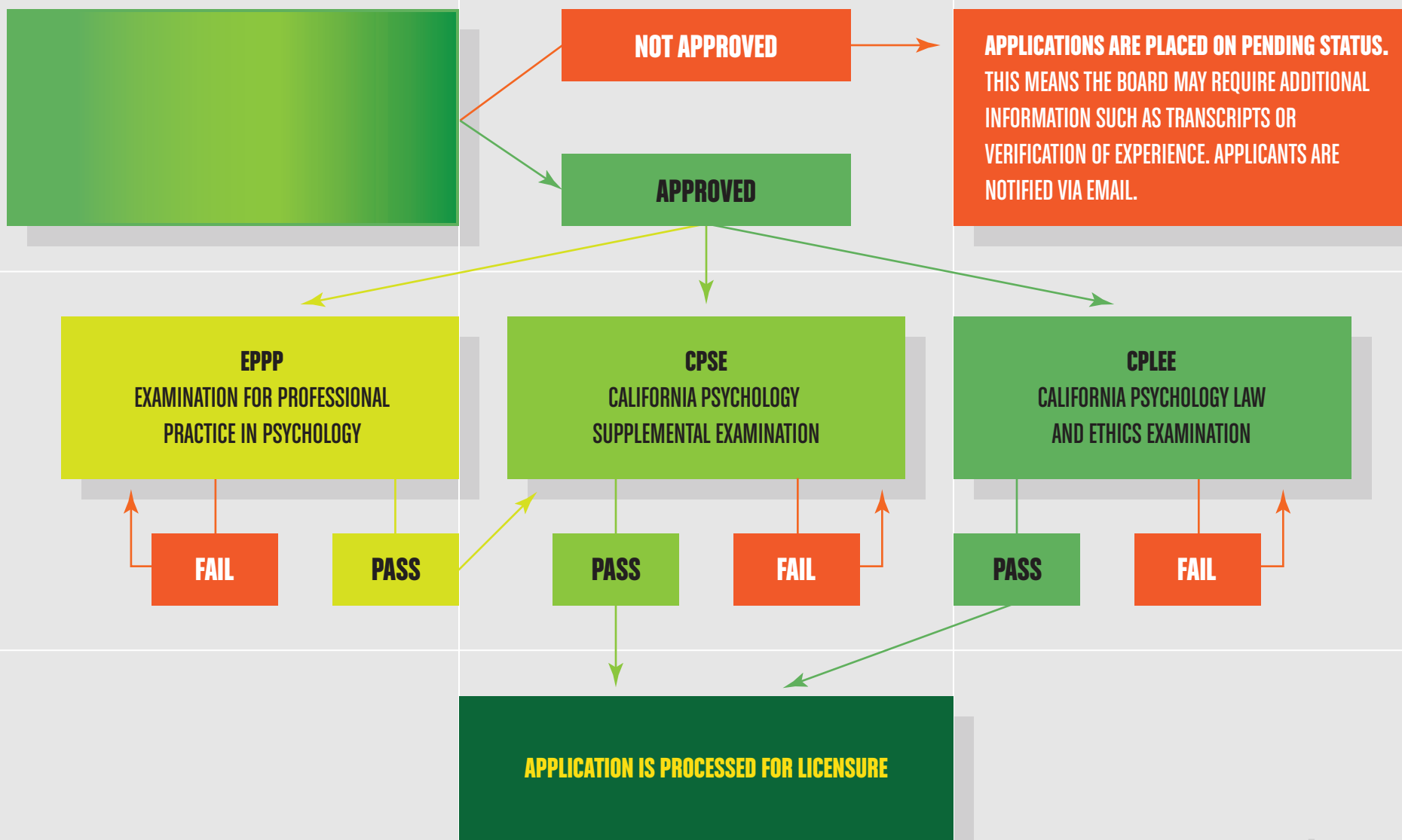
Board of Psychology Budget Items	
Non-Discretionary Budget	
Personal Services <i>Permanent Staff, Per Diem, Benefits</i>	\$ 1,493,000
Operating Expenses <i>Facilities, Departmental Distributed, Statewide Prorata, Credit Card Processing, Examinations, Enforcement</i>	\$ 2,453,000
Discretionary Budget	
Personal Services <i>Temporary Help, Overtime</i>	\$ 57,000
Operating Expenses <i>General Operating Expenses, Equipment, Travel, Maintenance Contracts, Printing, Postage</i>	\$ 573,000
Total Budget	\$ 4,576,222

**CALIFORNIA STATE BOARD OF PSYCHOLOGY
EXPENDITURE PROJECTION
As of 3/31/2014**

OBJECT DESCRIPTION	FY 2012-13		FY 2013-14				
	ACTUAL +	PY +	BUDGET	CY +	PERCENT	PROJECTIONS	UNENCUMBERED
	ENCUMBRANCE (MONTH 13)	ENCUMBRANCE YTD					
			ALLOTMENT	ENCUMBRANCE YTD	OF BUDGET SPENT YTD	TO YEAR END	BALANCE
PERSONAL SERVICES							
Civil Service - Permanent	\$ 750,799	\$ 558,750	\$ 986,958	\$ 594,894	60%	\$ 815,379	\$ 171,579
Civil Service - Permanent Statutory-Exempt (EO)	\$ 665,129	\$ 494,498	\$ 897,138	\$ 548,175	61%	\$ 743,175	\$ 153,963
Civil Service - Temporary	\$ 85,670	\$ 64,253	\$ 89,820	\$ 46,719	52%	\$ 72,204	\$ 17,616
Temp Help - Blanket	\$ 70,251	\$ 59,491	\$ 57,000	\$ 94,847	166%	\$ 134,889	\$ (77,889)
Overtime	\$ 43,890	\$ 41,453	\$ 47,000	\$ 79,889	170%	\$ 109,889	\$ (62,889)
Appointed Per Diem	\$ 26,361	\$ 18,038	\$ 10,000	\$ 14,957	150%	\$ 25,000	\$ (15,000)
Staff Benefits	\$ 5,600	\$ 4,200	\$ 12,164	\$ 7,200	59%	\$ 12,000	\$ 164
TOTAL PERSONAL SERVICES	\$ 324,544	\$ 242,255	\$ 493,561	\$ 259,201	53%	\$ 355,268.93	\$ 138,292
	\$ 1,151,194	\$ 864,696	\$ 1,549,683	\$ 956,142	62%	\$ 1,317,537	\$ 232,146
OPERATING EXPENSES AND EQUIPMENT							
Fingerprint Report	\$ 16,055	\$ 14,340	\$ 50,164	\$ 2,157	4%	\$ 4,000	\$ 46,164
General Expense	\$ 40,858	\$ 29,713	\$ 85,125	\$ 32,550	38%	\$ 40,000	\$ 45,125
Minor Equipment	\$ 23,370	\$ 17,899	\$ -	\$ 13,890	0%	\$ 25,000	\$ (25,000)
Printing	\$ 10,789	\$ 7,682	\$ 129,034	\$ 19,656	15%	\$ 12,000	\$ 117,034
Communications	\$ 6,471	\$ 3,554	\$ 67,825	\$ 2,713	4%	\$ 5,000	\$ 62,825
Postage	\$ 26,404	\$ 21,136	\$ 93,604	\$ 15,136	16%	\$ 25,000	\$ 68,604
Insurance	\$ -	\$ -	\$ -	\$ -	0%	\$ -	\$ -
In-State Travel	\$ 37,574	\$ 26,957	\$ 64,266	\$ 16,243	25%	\$ 40,000	\$ 24,266
Out-Of-State Travel	\$ -	\$ -	\$ -	\$ -	0%	\$ -	\$ -
Training	\$ 458	\$ 103	\$ 13,626	\$ 1,418	10%	\$ 4,000	\$ 9,626
Facilities	\$ 305,342	\$ 164,010	\$ 138,628	\$ 149,277	108%	\$ 165,000	\$ (26,372)
Utilities	\$ -	\$ -	\$ -	\$ -	0%	\$ -	\$ -
C/P Internal	\$ -	\$ -	\$ 2,625	\$ -	0%	\$ -	\$ 2,625
C/P External	\$ 32,312	\$ 85,073	\$ 41,000	\$ 79,617	194%	\$ 90,000	\$ (49,000)
Examinations	\$ 88,375	\$ 113,771	\$ 304,541	\$ 37,482	12%	\$ 81,000	\$ 223,541
Departmental Distributed	\$ 431,873	\$ 347,616	\$ 528,672	\$ 396,505	75%	\$ 528,672	\$ -
Department Services	\$ 48,540	\$ 41,196	\$ 53,836	\$ 41,196	77%	\$ 50,000	\$ 3,836
Consolidated Data Centers	\$ 936	\$ 781	\$ 5,074	\$ 489	10%	\$ 1,000	\$ 4,074
Data Processing	\$ 15,729	\$ 10,568	\$ 7,358	\$ 2,180	30%	\$ 1,000	\$ 6,358
Statewide Prorata	\$ 189,890	\$ 142,418	\$ 213,222	\$ 159,917	75%	\$ 213,222	\$ -
Enforcement	\$ 871,610	\$ 619,440	\$ 1,227,939	\$ 682,178	56%	\$ 1,035,000	\$ 192,939
Attorney General	\$ 497,990	\$ 356,613	\$ 576,237	\$ 443,099	77%	\$ 630,000	\$ (53,763)
Office of Administrative Hearings	\$ 69,664	\$ 52,064	\$ 115,627	\$ 58,455	51%	\$ 75,000	\$ 40,627
Evidence Witness Fees	\$ 104,145	\$ 65,808	\$ 90,366	\$ 65,961	73%	\$ 115,000	\$ (24,634)
Court Reporters	\$ 2,683	\$ 570	\$ -	\$ 3,045	0%	\$ 15,000	\$ (15,000)
MBC - Investigative	\$ 197,043	\$ 144,385	\$ 445,709	\$ 111,614	25%	\$ 200,000	\$ 245,709
Replacement Equipment	\$ -	\$ -	\$ -	\$ 8,959	0%	\$ -	\$ -
Additional Equipment	\$ -	\$ -	\$ -	\$ -	0%	\$ -	\$ -
Other Items of Expense	\$ -	\$ -	\$ -	\$ -	0%	\$ -	\$ -
Vehicle Operations	\$ -	\$ -	\$ -	\$ -	0%	\$ -	\$ -
Special Items of Expense	\$ -	\$ -	\$ -	\$ -	0%	\$ -	\$ -
TOTAL	\$ 3,297,781	\$ 2,510,952	\$ 4,576,222	\$ 2,617,704	57%	\$ 3,637,431	\$ 938,791
Scheduled Reimbursements	\$ (10,039)	\$ (7,185)	\$ (47,000)	\$ (5,058)	11%	\$ (47,000)	\$ -
Unscheduled Reimbursements	\$ (25,600)	\$ (18,996)	\$ (4,000)	\$ (8,181)	205%	\$ (4,000)	\$ -
Investigative Cost Recovery	\$ (104,804)	\$ (73,400)	\$ -	\$ (76,220)	0%	\$ -	\$ -
GRAND TOTAL	\$ 3,157,338	\$ 2,411,371	\$ 4,525,222	\$ 2,528,245	56%	\$ 3,586,431	\$ 938,791

Surplus/Deficit 20.75%

EXAMINATION FLOWCHART





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PSYCHOLOGY

APPLICATION FLOWCHART

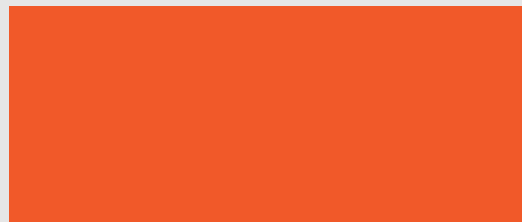
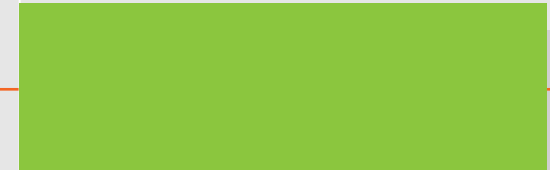


**ROUTED TO CASHIERING
(PROCESS TAKES TWO WEEKS)**

**ROUTED TO THE
BOARD OF PSYCHOLOGY**

**ONCE APPLICATIONS ARE EVALUATED
THEY ARE ENTERED INTO BreEZe.**

**APPLICATIONS ARE ROUTED TO THE
LICENSING UNIT FOR PROCESSING.
APPLICATIONS ARE EVALUATED IN THE ORDER
IN WHICH THEY ARE RECEIVED.**





PSYCHOLOGY

COMPLAINT REVIEW FLOWCHART



ENTERED INTO BreZe

- Acknowledgement letter sent
- Referred if individual not licensed by the Board
- Complaint file assigned to analyst for review

REFER TO APPROPRIATE AGENCY



QUALITY OF CARE ISSUE

- Request medical release
- Request additional information from complainant
- Obtain patient records and response from psychologist

TECHNICAL VIOLATION (e.g., Failure to release patient records, false/misleading advertising)

- Request psychologist response and related documentation

URGENT/HIGH PRIORITY

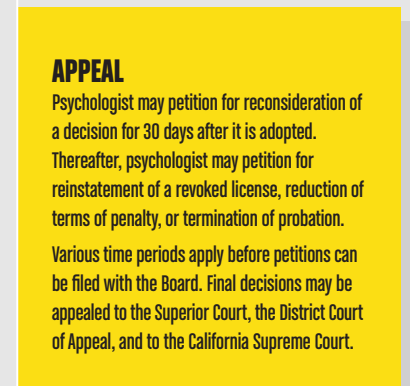
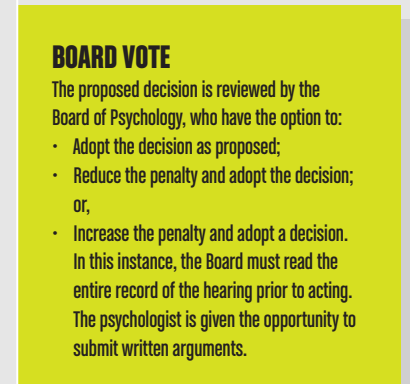
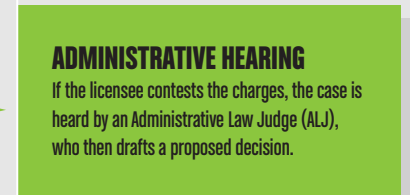
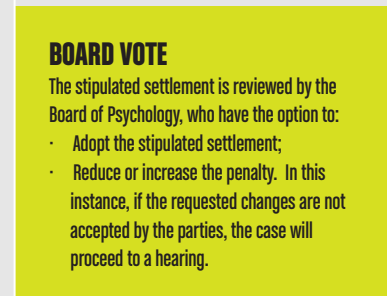
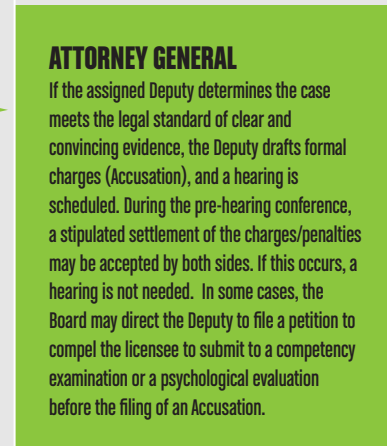
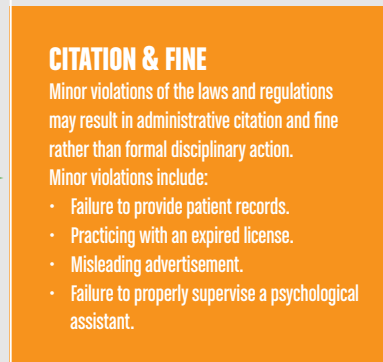
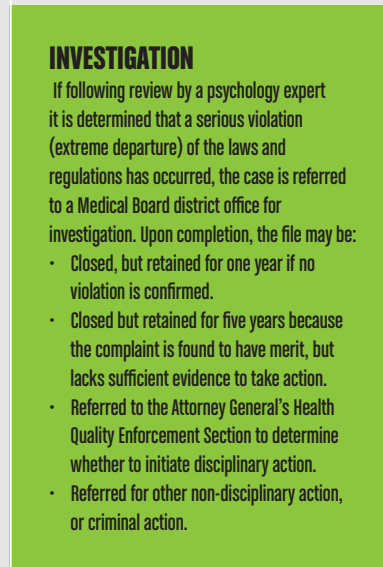
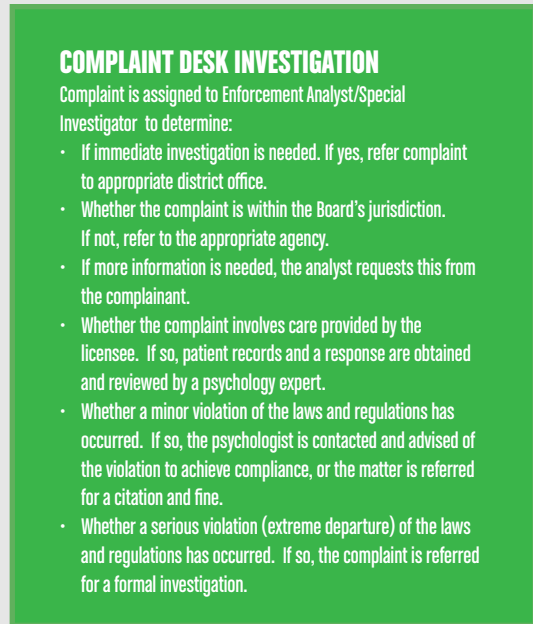
- Sexual Misconduct
- Psychologist Impairment
- Serious Criminal Arrest/Conviction
- Mental Illness

INITIAL EXPERT REVIEW TO DETERMINE IF TREATMENT IS WITHIN STANDARD OF PRACTICE OR IF ADDITIONAL INVESTIGATION IS NEEDED

REFER TO ENFORCEMENT COORDINATOR TO DETERMINE COMPLAINT DISPOSITION:

- CLOSE - NO VIOLATION
- CLOSE - EDUCATIONAL LETTER
- CLOSE - INSUFFICIENT EVIDENCE OR COMPLIANCE OBTAINED
- REFER TO CITE/FINE
- REFER TO INVESTIGATION

ENFORCEMENT FLOWCHART

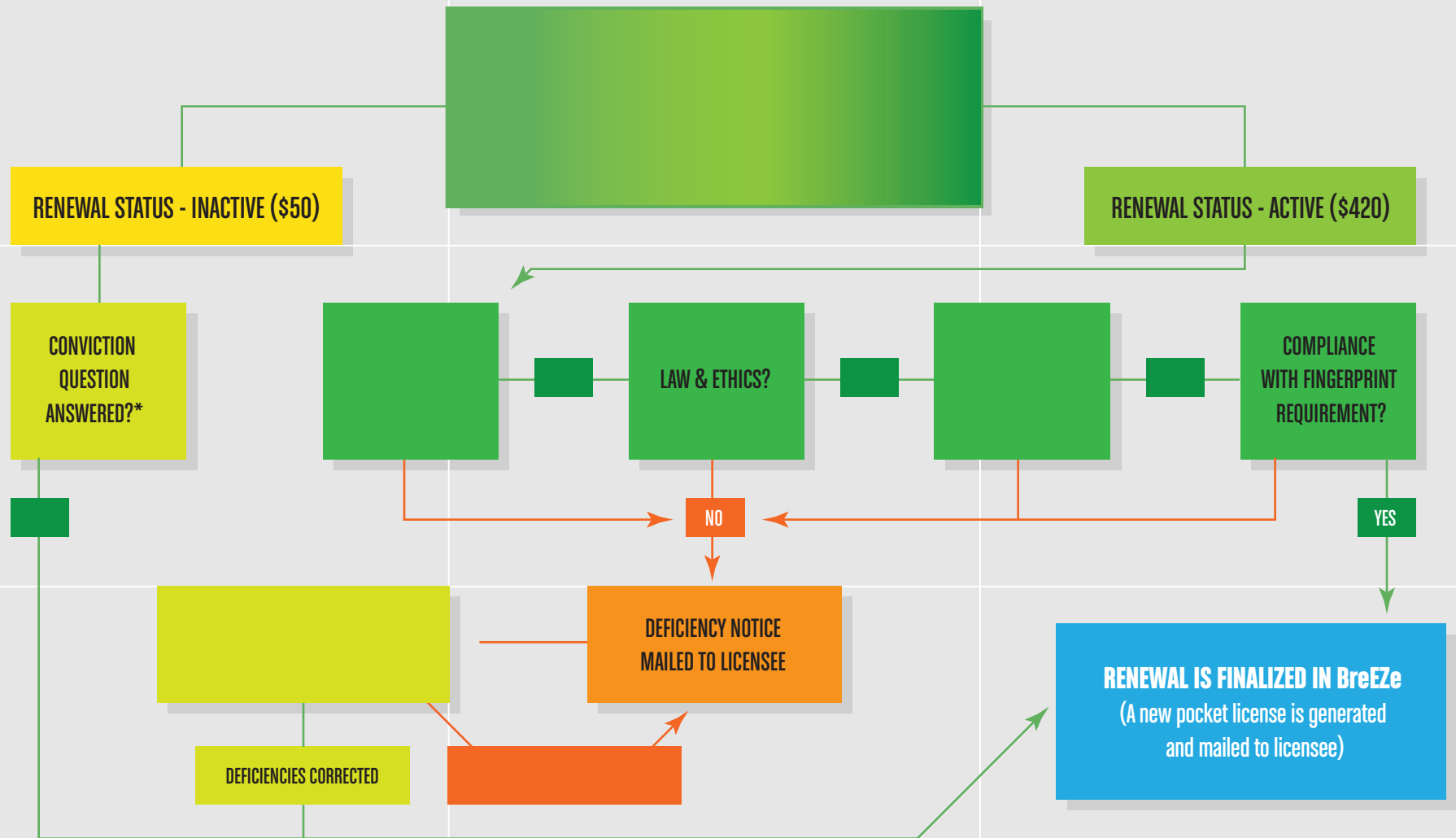




PSYCHOLOGY

PSY RENEWALS FLOWCHART

Licenses expire the last day of the month of the licensee's birth, every other year. The initial license period will be between 13 and 24 months depending on the license issue date and the licensee's birthday.



*If a conviction is disclosed, Enforcement is advised

**36 CEU's are required; this is pro-rated for first-time renewals at a rate of 1.5 hours per month or portion of month the license was in effect

dca

Board of Psychology

1625 N. Market Blvd., Suite N215

Sacramento, CA 95834

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MEMORANDUM

Date April 25, 2014

To Board of Psychology Members

From Gina Bayless
Enforcement Coordinator
DCA/California Board of Psychology

Subject **Enforcement Program Report**

Please find attached the Overview of Enforcement Activity displaying complaint, investigation, and discipline statistics for the current fiscal year to date. Unfortunately, due to conversion to BreZE, statistical reports are not yet available. The statistics provided in the attached report were gathered manually. Staff is continuing to work with BreZE staff to test reports and resolve issues.

Nicole Walker, accepted a Special Investigator position with Emergency Medical Services Authority. Her last day with the Board is April 30, 2014. Ms. Walker performed the duties of a Special Investigator which included conducting complaint investigations, preparing investigation reports, and issuing citations. Ms. Walker's caseload will be reassigned to existing enforcement staff until this vacancy is filled.

The Board hired a new Probation Coordinator, Barbara Tanner, who started on April 17, 2014. Ms. Tanner will be monitoring all probationers, conducting probation intake meetings and annual probation meetings.

Action Requested:

No action requested

BOARD OF PSYCHOLOGY
Overview of Enforcement Activity

License & Registration*	08/09	09/10	10/11	11/12	12/13	13/14**
Psychologist	20,307	21,019	21,527	22,020	22,688	****
Registered Psychologist	324	320	312	320	349	****
Psychological Assistant	1397	1429	1507	1635	1727	****
Cases Opened	08/09	09/10	10/11	11/12	12/13	13/14**
Complaints Received	786	712	785	747	707	638
Criminal Conviction Reports Received	72	54	48	70	42	115
Investigations Opened	88	79	83	107	73	****
Cases sent to DA	2	3	3	5	6	****
Cases sent to AG	23	38	37	34	38	****
Filings						
Accusations	8	23	21	27	31	19
Statement of Issues	9	8	4	4	2	3
Petition to Revoke Probation	0	0	0	3	1	2
Petitions to Compel Psych. Exam	0	0	1	1	0	1
Petitions for Penalty Relief	3	1	0	1	1	2
Petition for Reinstatement	1	1	0	2	1	1
Petitions for Reconsideration	0	1	0	0	2	0
Filing Withdrawals/Dismissals						
Accusations Withdrawn	0	0	2	0	0	1
Accusations Dismissed	0	1	0	1	1	0
Statement of Issues Withdrawn	5	0	2	1	0	0
Citations						
Citations Ordered	5	10	9	18	10	****
Decisions (Penalty)						
Revocations	1	3	2	4	2	4
Revocation, Stayed, Probation	7	9	12	11	11	11
Revocation, Stayed, Probation, Susp.	3	0	0	0	0	0
Voluntary Surrender	8	3	2	11	10	9
Reprimands	0	0	1	2	0	2
ISO/TRO/ASO/PC23 Ordered	3	4	1	4	3	2
Statement of Issues-License Denied	1	1	0	1	1	0
Statement of Issues-License Granted***	4	5	4	3	6	3
Petitions for Penalty Relief Denied***	1	0	0	0	0	0
Petitions for Penalty Relief Granted***	3	1	1	1	1	1
Petition for Reinstatement Granted***	1	0	0	0	1	0
Petition for Reinstatement Denied***	0	0	1	1	1	0
Reconsiderations Denied***	0	0	1	0	1	0
Reconsiderations Granted***	0	1	0	0	1	0
Orders Compelling Psych. Exam***	0	0	0	1	0	1
Other	2	1	2	0	1	0
Total Decisions	24	22	21	34	29	28
Decisions (Violation Type)						
Gross Negligence/Incompetence	5	4	4	3	5	3
Improper Supervision	0	0	1	0	0	1
Repeat Negligent Acts	0	0	0	1	0	3
Self Abuse of Drugs or Alcohol	2	3	3	12	1	8
Dishonesty/Fraud	0	3	0	2	2	1
Mental Illness	1	0	0	0	2	0
Aiding Unlicensed Practice	0	0	0	0	0	0
General Unprofessional Conduct	1	1	1	0	2	4
Probation Violation	1	0	0	2	1	2
Sexual Misconduct	6	1	2	6	9	1
Conviction of a Crime	7	9	8	5	5	5
Discipline by Another State Board	1	0	1	1	0	0
Other	0	0	0	0	0	0

*Doesn't include cancelled, revoked, or surrendered license/registration

** Numbers from 7/1/2013 thru 4/22/2014

*** Not included in Total Decisions or Violation Type

EXPLANATION OF LANGUAGE

Below are broad, brief descriptions of statistical categories contained in the Board of Psychology's Overview of Enforcement Activity

Cases Opened: This category includes 1) all **complaints** that were received in the fiscal year indicated, regardless of source; 2) all **investigations** that were opened during that fiscal year as a result of a complaint filed with the board, regardless of when the complaint was received; and 3) all cases that were referred, during that fiscal year, to the **Office of the Attorney General or the District Attorney's Office**, regardless of when the complaint was originally received.

Investigation – After “informal” staff review, the complaint is “formally” investigated by in-house staff or by investigators (peace officers) of the Medical Board of California.

Filings:

Accusation – Formal statement of charges against licensee.

Statement of Issues – Formal statement of reasons why an application for license/registration should be denied.

Petition to Compel Psychological - Request to compel licensee to submit a psychological examination.

Petition for Penalty Relief – A process whereby one can petition for reinstatement of their revoked or surrender license or request early termination of probation or modification of a condition of probation.

Petition for Reconsideration – A process whereby one can petition the Board to reconsider a final decision of the Board.

Accusation/Statement of Issues Withdrawn – The formal statement of charges/reasons is withdrawn by the board.

Accusation Dismissed – The case is dismissed after a hearing has been held and the dismissal decision is adopted by the Board.

Statement of Issues – License Granted – After a hearing, or as a result of a settlement, an applicant is granted a license or registration with or without terms and conditions (i.e. probation, coursework).

Petitions for Penalty Relief Granted – A Petition for Reinstatement of a license or registration is granted by the Board, or a Petition for Termination or Modification of Probation is granted by the Board.

Reconsiderations Granted – A Petition for Reconsideration is granted by the Board.

Citations Ordered: This tool is used for various minor violations such as false advertising or misrepresentation. Citations and fines are public information but are not considered to be disciplinary actions.

Decision (Penalty): - This category indicated the actual disciplinary action (penalty) rendered against the licensee or registrant that was ordered by the board in the fiscal year indicated.

Revoked - The license is canceled, voided, rescinded. The right to practice is ended.

Revoked, Stayed, Probation - "Stayed" means the revocation is postponed. Professional practice may continue so long as the licensee complies with specific probationary terms and conditions. Violation of probation may result in the revocation that was postponed.

Suspension - The licensee is prohibited from practicing for a specific period of time.

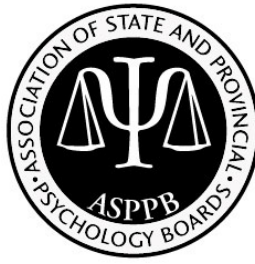
License Surrender - While charges are still pending, the licensee turns in the license - subject to acceptance by the board. The right to practice is ended.

Reprimands/Reprovals - An option that is most commonly negotiated between the Board, the licensee, and his/her counsel. Such a letter is an option in settlement of an Accusation. Typically, the letter of reprimand or reproof is a viable option if the violations alleged are relatively minor and no patient harm occurred. It includes a summary of the allegations, acknowledges the impropriety of the acts summarized and can include mandated coursework that the licensee must take, cost recovery to the Board for investigation and essentially may include any other term or condition listed in the Board's Disciplinary Guidelines.

ISO – Interim Suspension Order – When a licensee or registrant is required to immediately suspend the practice of psychology. This occurs through the hearing process in cases where the evidence indicates that the licensee is likely to engage in behaviors that present an immediate threat to the public health, safety and welfare.

Other - Includes atypical decisions that do not fall into the above categories.

Decisions (Violation Type): This category indicates each violation that a licensee or registrant committed that resulted in the disciplinary action that was rendered during the fiscal year indicated. These violations are grounds for disciplinary action as found in the *Laws and Regulations Relating to the Practice of Psychology*.



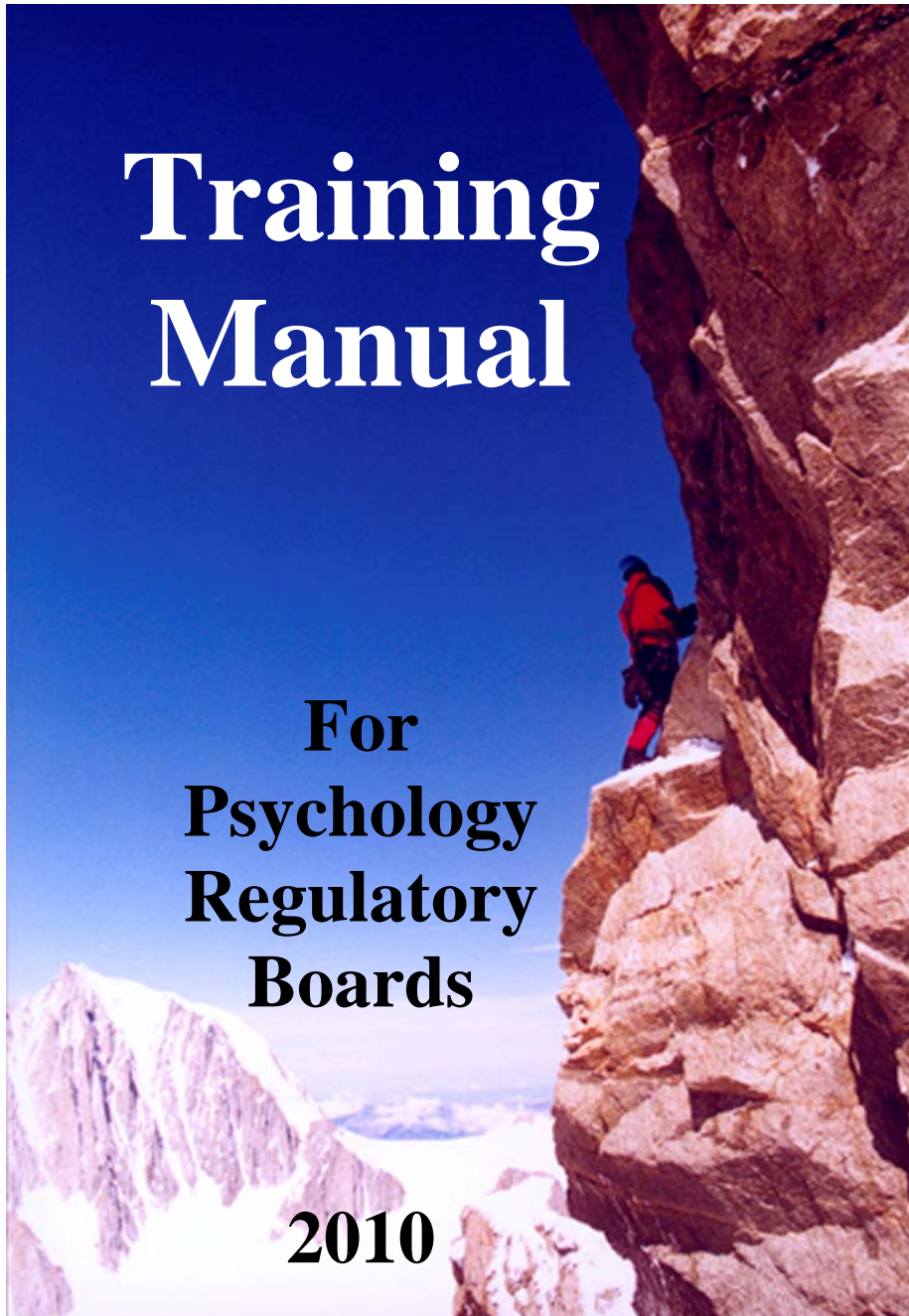
ASPPB

Association of State & Provincial Psychology Boards

Training Manual

**For
Psychology
Regulatory
Boards**

2010



TRAINING MANUAL FOR PSYCHOLOGY REGULATORY BOARDS

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INTRODUCTION

By and large the people who serve the public as members of professional regulatory boards give millions of hours a year of under compensated service to the citizens of the states and provinces of the United States and Canada. Board members, and those who serve as staff to professional regulatory boards, are some of the most dedicated and least appreciated individuals in both countries.

At the same time, from the outset most board members are ill prepared for their jobs as professional regulators. Many have served admirably as members and officers of professional associations whose purposes and goals are quite different from those of regulatory boards. Professional associations exist for a number of reasons, but their primary purposes are the promotion of a profession and its individual members. A professional regulatory board, while typically made up of a majority of professionals, exists to protect the public. Understanding and appreciating this difference is of primary importance to success as a regulator.

Professional regulation involves much in the way of legislation and litigation and most board members are not trained in the law. Some struggle with the litigiousness of rule making and adjudication, the two primary functions of any regulatory board. Input from local counsel is essential to understanding the role board members play since statutes and rules vary from jurisdiction to jurisdiction.

This manual is designed to assist board members through the transition from novice board member to experienced professional regulator. This manual can be used to facilitate a workshop or retreat to train new and even experienced board members as they transition into this new role as professional regulator.

Organizing a Training Session

A successful training session for new and more experienced professional regulators must be comprehensive but streamlined as much as practical and possible. A full day should be allowed for the session, since this manual does not include many issues that may be specific to certain professions.

The training session should include the current board chair and chief staff officer or board administrator. Local legal counsel to the board should also be present and prepared to make several presentations on issues outlined in the manual.

While such a training session can be conducted off-site, the better approach may be to hold the session in the board's offices. After the introduction of the all participants, the board chair or administrator should introduce each member of the professional staff. Those staff members that have responsibility for important agency functions should be present to describe their responsibilities at the outset of the session. Particular attention should be paid to accurately describing the parameters of special programs, such as an alternative disciplinary program or a dispute resolution process. If possible, those persons should remain available during the day in case questions arise. A tour of the office should occur at some time during the session.

Someone other than the board's chair or administrator should be in charge of leading the training session and should begin her/his responsibilities at this point, starting with a review of any other written materials prepared for the training session.

Resources Professional Regulators Will Need

A good professional regulator has to learn a great deal about state/provincial government in a short period of time. Over the years significant standardization has occurred and there are a number of identifiable documents that every regulator needs to read regardless of the jurisdiction he/she serves. Those include:

1. U.S., Canadian Federal, State, Provincial Constitutions
2. The enabling statute that creates this board
3. The rules and regulations by which the board operates
4. The jurisdiction's Administrative Procedure Act (APA)
5. The jurisdiction's Open Meetings Law
6. The jurisdiction's Public Information Act
7. The jurisdiction's Ethics Law
8. Attorney General's Opinions; Executive Orders
9. Any other statute local counsel suggests adding to this manual

There are other resources that some boards will need depending on the size and scope of their responsibilities. Many of these documents are more pertinent to board administrators and staff than board members and typically involve personnel and/or employment matters.

Definitions

There are some words or terms that are used quite often when regulators discuss the tasks involved in regulating a profession. Some definitions might be helpful to new board members and staff persons. Those include:

Adjudication - A decision made by an administrative agency acting in a quasi-judicial capacity; the decision making process for an administrative agency.

Administrative Law -The body of law, both statutory and case law, that deals with the manner in which agencies operate.

Contested Case - A matter which an agency must deal with in a formal way, under the applicable provisions of the Administrative Procedure Act.

Jurisdiction - The legal authority by which an agency exerts its control over a licensee or a professional issue; a geographical and political entity such as a state, province or territory that is empowered to regulate professional activity to protect its citizens.

Responsibilities of Regulatory Board Members

1. First and foremost, professional regulatory board exists to serve the people of the jurisdiction and your focus as a board member is to assist in that goal.
2. An individual is a public official and a public servant when serving as a member of a regulatory board.
3. There are many ways in which a board works to achieve its goal of public protection. The first is setting appropriate policies and goals for your administrator(s) and staff. Board members set policies, they don't implement them. Be knowledgeable, be thoughtful, and have purpose when setting policies, then let your administrator(s) carry them out.
4. One of the primary responsibilities of a board member is to ensure that the agency is financially sound and its funds are lawfully and wisely spent. Oversee the expenditure of funds by reviewing finances for the board as a whole, not by personal review of every organizational voucher.
5. A strong board is an asset to the people that you serve. Support your administrator(s) and staff and see that their needs for education, training and staff development are met.
6. Let your board administrator be in charge and responsible for implementing the policies established by the board. Provide adequate compensation, direction, motivation and feedback.
7. Offer your own particular skills to the board and staff when necessary and appropriate. A properly functioning board works as a team.
8. Organize a plan for your board. Consider particular needs, goals, the expertise of various members and terms of office. Make your plan at least three years in length and don't worry about day-to-day activities. See and concentrate on the big picture.
9. Participate in board meetings and other board activities. Respond promptly to requests from the board chair or staff so that the board can discharge its duties in a timely and responsible manner.
10. Finally, don't lose sight of #1.

GENERAL RULES FOR BOARD MEMBERS

Appointments to Office

Board members are typically appointed to office by the executive branch of government, although other methods exist in some jurisdictions. Prospective board members should ascertain that they meet the statutory qualifications for appointment before accepting the appointment. It is very important that members continue to meet the requirements while serving in their official capacities. Failing to do so can result in challenges to official board actions and may result in liability. Once appointed, they should carry out any statutory mandates regarding the oath of office and filing of credentials.

Roles and Duties

The roles and duties of members of boards are typically defined in statutes and regulations. Members are expected to carry out these duties which typically include: assessing candidates' qualifications for certification and licensure, conducting hearings, adjudicating disciplinary matters, and adopting rules and regulations. These responsibilities are done with the goal of protecting public health, safety, and welfare. On occasion boards are required to cooperate with other state and federal agencies to enforce other laws and regulations.

Conflict of Interest

Board members are public officials and should conduct their public duties in a manner that avoids criticism and liability. Board members should not attempt to regulate economics of the profession through board activities. When acting as a board member, you should be both seen by others and comfortable within yourself that you can be impartial, reasonable and fair in your judgments and actions.

Much thought should be given to the advisability of being both a board member and an officer of a professional association at the same time, or a committee member of such association, if the association's activities could possibly influence decisions to be made as a board member. Participation simply as a member of an association should not be discouraged however. Remember, that problems are created most often by the appearance of impropriety rather than by actual misconduct.

Board members who perceive even a potential conflict of interest should act swiftly to resolve the conflict. This may mean resignation from an office or committee membership. In disciplinary matters before the board it may mean that a board member is recused, unless recusal would render adjudication impossible. Remember, sometimes it is only the appearance of impropriety that leads to serious problems.

Confidentiality

In the very beginning of a term, each board member should ascertain the types of information to which he/she is privy; i.e., what is confidential or privileged and what is public. Some documents and/or records of the agency are public and subject to public scrutiny.

However, it is best to avoid disclosure of the sensitive details contained in a licensee's file unless appropriately requested. Timing, as with many things, is an important issue. Consent orders may eventually become public documents, but may be confidential until they are executed. In many jurisdictions, investigatory files are completely confidential.

Some discussion should be held on the matter of the appropriateness of public comments by board members and staff. New board members should be cautioned about discussing board related business with licensees involved in the disciplinary process. If possible, some understanding should be reached regarding whose responsibility it is to communicate as the official spokesperson for the agency, particularly if the sources seeking comment are the media or individuals affiliated with the legislative process.

PAUSE YOUR DISCUSSIONS AND HAVE STAFF OR COUNSEL DISTRIBUTE COPIES OF YOUR JURISDICTION'S PUBLIC RECORDS LAW(S) AND HAVE THEM COMMENT ON THE FOLLOWING:

1. What board records are open to public inspection without notice? Are there any limitations that can or should be imposed?
2. What are the limitations on public inspection that are contained in statutes such as the Americans with Disabilities Act?
3. Do the copyright laws affect public inspection and/or copying? If so, what does the staff need to know?
4. Can the board charge for making copies of public documents? If so, are there limitations?
5. Who is (are) the official spokesperson(s) for the board?
6. What can board members discuss with other licensees or the press?

Notes:

CONDUCT OF BOARD MEETINGS

Every professional regulatory board holds meetings, but some meet much more often than others. Some suggestions regarding meetings may be helpful.

Notices

Many states and provinces have statutes that direct agencies to give public notice of the time and place that agency meetings are to be held. These legal mandates normally establish how the notice must be transmitted, and set out the necessary time frames. Agency staff should be responsible for knowing the applicable guidelines and complying with them.

PAUSE YOUR DISCUSSIONS AND HAVE STAFF OR COUNSEL DISTRIBUTE COPIES OF YOUR JURISDICTION'S OPEN MEETINGS LAWS AND COMMENT ON THE FOLLOWING:

1. What steps must be taken to advertise a board meeting? Are there exceptions to the general rule?
2. Who is allowed to attend board meetings? Are there any limitations on the attendance by media such as audio/visual recording devices?
3. Under what circumstances can a board meeting be closed to the public? Are these situations mandatory or can they be waived?
4. Are all disciplinary hearings open or closed meetings? And who decides, the agency or the respondent?

Quorum

Either statute or internal rules and regulations will establish the number of members that must be present for a board to conduct business. Usually a majority is required, but in some circumstances a lesser number may be legally sufficient. Minutes of the meetings should always reflect the presence of the appropriate number of members.

Responsibilities of the Chairperson

1. Recognize board members entitled to speak or propose motions. Note: some motions may be made while another member has the floor. Speaker must state the purpose of the interruption so the chair can rule on its validity.
2. Restate motions after they have been made, then open discussion. This ensures that everyone is clear about the action being debated and allows more time for the motion to be accurately recorded.

3. Close discussion and put motions to vote. Votes on undebatable motions should be called immediately. If any member objects to closing discussion on a debatable motion, a $\frac{2}{3}$ vote is required in order to close a debate. Restate the motion exactly as it was made or amended before calling for a vote.
4. Announce the result of a vote immediately. A tie vote defeats a motion requiring a majority of those voting. The chair may vote to make or break a tie.
5. Avoid entering into any controversy or interfering with legitimate motions.
6. Maintain order and proper procedure, making necessary rulings promptly and clearly.
7. Expedite board business in every way compatible with the rights of board members. You can allow brief remarks on nondebatable motions, advise board members how to take action (proper motion or form of motion), or propose routine action without a formal vote ("If there is no objection, these minutes will stand approved as read. Hearing no objections, so ordered.").
8. Protect the board from frivolous motions intended to obstruct the board's business. You can refuse to entertain such motions. Never adopt such a course, however, merely to expedite business.
9. Guard the board's time by having them vote to adopt an agenda at the beginning of the meeting. Follow the agenda faithfully. Do not permit unauthorized interruptions by spectators.

PAUSE YOUR DISCUSSIONS AND CONSIDER HOW FORMAL YOUR BOARD MEETINGS SHOULD BE. ASK COUNSEL IF THERE ARE STATUTORY MANDATES RELATIVE TO THIS ISSUE.

Notes:

Principles of Parliamentary Procedure

Based on Robert's Rules of Order

1. Parliamentary procedure requires that all board members have equal rights; there be mutual respect among board members; and the rights of the minority to initiate motions, debate, and have their votes counted be protected, while at the same time the will of the majority governs.

2. Only one item may be under consideration at a time.
3. The majority vote decides the questions.
4. Any question which limits board members' rights of discussion or which changes the agreed order of business requires a $\frac{2}{3}$ vote of the members present.
5. Any matter once decided cannot be brought up again at the same meeting, except by a motion to reconsider (see Motions, section 2 for procedure).
6. The simplest, clearest and most expeditious way is considered proper, so long as it does not violate the rights of board members.

Proposing and Disposing of a Motion

1. Gain floor by being recognized by chair.
2. State motion: "I move that..."
3. Motion is seconded by any member without gaining floor. (Second not required under Keesey's Modern Parliamentary Procedure)
4. Chair states motion (if proper) and opens it for discussion (if debatable).
5. During discussion the motion may be amended or disposed of by postponement (to a time certain or indefinitely), referred to a committee, or tabled.
6. The chair puts the motion to a vote when there is no further discussion.
7. The chair announces the outcome of the vote.

Motions

1. Motion To Take From Table: Requires second, majority vote, not debatable, not amendable.
 - A. Purpose: To bring up for consideration an issue that has been laid on the table.
 - B. Effect Of Adoption: Puts motion before board again in exactly the same condition as when laid on table.
2. Motion to Reconsider: Requires second, majority vote, debatable, not amendable.
 - A. Purpose: To set aside a previous vote and reconsider the question for adoption or rejection.

- B. Restrictions: Used only if vote cannot be reversed with more simple procedures.
 - (a) Motion must be made by member who voted on the prevailing side.
 - (b) May not be made later than the next meeting after the vote to which it applies.
 - (c) If action has already been taken, vote cannot be reversed.
 - (d) Motion may be made when another member has the floor, but its consideration is the same for a main motion.
 - C. Effect Of Motion: Stops any action authorized by the original vote.
 - D. Effect Of Adoption: Sets aside original vote, puts matter back to where it was before that vote was taken.
3. Main Motion: Requires second, majority vote, amendable, debatable.
- A. Purpose: To bring an issue up for consideration or action.
 - B. Effect Of Adoption: Action authorized.
4. Motion To Postpone Indefinitely: Requires second, majority vote, debatable, not amendable.
- A. Purpose: To kill main motion without a formal vote; trial vote to test strength.
5. Motion To Amend A Motion: Requires second, majority vote, debatable, not amendable.
- A. Purpose: to put motion in most acceptable form before voting on it, by striking out or inserting words or substituting one paragraph or motion for another.
 - B. Restrictions: An amendment to a pending amendment may be proposed, but not an amendment to the third degree.
 - (a) No idea already inserted by an amendment may be changed by a later amendment.
 - (b) No germane amendment is in order as long as it is not identical in effect to a no vote on the main motion.
 - (c) Not debatable if motion to which it applies is not debatable.
 - C. Effect Of Adoption: Changes the wording of the pending motion.
6. Motion To Refer To A Committee: Requires second, majority vote, debatable, amendable.
- A. Purpose: To have a matter studied by a committee.
 - B. Form: Motion may include membership of committee and instructions to it, and may

be amended with respect to these matters.

- C. Effect Of Adoption: Disposes of motion until committee reports back or is discharged by the board.
7. Motion To Postpone Definitely: Requires second, majority vote debatable, amendable.
- A. Purpose: To put off action on a motion until a later time.
 - B. Form: Motion must specify time at which matter will be taken up again and may be amended in this regard.
 - C. Effect Of Adoption: Disposes of matter until time set.
8. Motion To Limit Debate Or Extend Limits: Requires second, $\frac{2}{3}$ vote, not debatable, amendable.
- A. Purpose: To regulate length of time a question may be discussed or length of time allotted to each speaker.
 - B. Form: Motion states limits and may be amended in this regard.
9. Motion On Previous Question: Requires second, $\frac{2}{3}$ vote, not debatable, amendable.
- A. Purpose: To have discussion ended immediately and a vote taken.
 - B. Form: May specify only the immediately pending question, of all pending questions.
 - C. Effect Of Adoption: Chair must immediately put question to a vote and allow no further discussion.
 - D. Note: This motion should not be confused with the call for the "question" which is only a suggestion that the board members are ready to vote, and may not be used to deprive any board member of the right to continue the discussion if desired.
10. Motion To Lay On The Table: Requires second, majority vote, not debatable, not amendable.
- A. Purpose: To set a matter aside temporarily. May be moved after the previous question has been ordered.
 - B. Effect Of Adoption: Matter on table may be brought up again, but not later than the next meeting, by adoption of a main motion to take it off the table.
11. Motion Relating To Voting: Requires second, majority vote, not debatable, amendable.

- A. Purpose: To provide a manner of voting (i.e., by ballot, voice, show of hands) order in which questions will be voted upon, appointment of tellers, etc.
12. Question Of Order: No second, decision of chair, not debatable, not amendable.
- A. Purpose: To ask that a rule being violated be observed.
 - B. Form: Floor is gained, even while another is talking, by stating, "Chairperson, I rise to a point of order". Chairs ask member to state point, then rules whether point is well taken.
 - (a) If Point Accepted: Chair makes ruling.
 - (b) If Not Accepted: Chair overrules point of order.
13. Division Of Board: No second, no vote necessary, not debatable, not amendable.
- A. Purpose: To secure a recount of a vote by a more accurate method than originally.
 - B. Form: Board member, without recognition, says, "I call for a division".
 - C. Effect Of Motion: Chair must retake vote by show of hands or written vote which can be counted.
14. Appeal Chair's Decision: Requires second, majority vote, debatable, not amendable.
- A. Purpose: To overrule a decision made by the chair.
 - B. Form: "Chairperson, I appeal from the decision of the chair".
 - C. Restrictions: Must be made as soon as the decision is announced. Debatable if pending question is debatable. Can be laid on the table, which takes the pending question with it.
 - D. Effect Of Adoption: If less than majority sustain chair, decision is reversed.
15. Motion To Recess: Requires second, majority vote, not debatable, not amendable.
- A. Purpose: To provide a short interruption of the meeting.
 - B. Amendable: As to length of recess.
 - C. Restrictions: Treated as a main motion if no other matter pending or if proposed recess is not to be taken immediately.
16. Motion To Adjourn: Requires second, majority vote, not debatable, not amendable.

- A. Purpose: To end the meeting immediately.
 - B. Restrictions: Treated as a main motion if qualified in any way.
 - C. Effect Of Adoption: chair must adjourn meeting immediately, although necessary announcements may be made and a motion to fix a time for the next meeting may be entertained.
17. Motion To Fix Time For Next Meeting: Requires second, majority vote, not debatable, amendable.
- A. Purpose: To set time for next meeting (either regular or special).
 - B. Restrictions: Treated as a main motion if no other question pending or if provision has already been made for another meeting on this day or the next.

Minutes

Many state/territorial/provincial codes require agencies to keep minutes of their meetings. This is a serious mandate and should not be taken lightly. Strict adherence to laws and regulations pertaining to minutes is absolutely necessary. Some states/territories/provinces may also have filing requirements for agency minutes. The form and content of minutes are usually flexible, however they should contain a concise summary of the meeting and business conducted. By all means, make sure that authorizations for travel, or the expenditure of funds, are properly noted in the minutes of the meetings that precede such travel and/or expenditures.

Emergency Meetings

Most state/provincial notice requirements make provisions for "emergency" meetings. The agency will probably be required to state the reason for the "emergency" meeting within the notice that will also be required. Such meetings should only be called when an emergency does exist and delayed action would cause serious problems.

PAUSE YOUR DISCUSSIONS AND ASK COUNSEL IF THERE ARE STATUTES OR CASE LAW WITHIN YOUR JURISDICTION THAT OUTLINE WHAT CAN OR CAN'T BE DONE IN AN "EMERGENCY" SITUATION.

Notes:

RULEMAKING

One of the primary responsibilities of the professional regulatory board is the promulgation

of rules to complement the enabling statute. Rulemaking can be laborious, but the process and the product are extremely important.

Virtually every statute that creates an agency to regulate any profession, allows the agency to adopt rules and regulations to carry out its statutory mandate. These rules and regulations are absolutely necessary because they provide for the manner in which the agency conducts business. Statutes never can be specific enough to delineate the many facets of professional life; rules and regulations provide the necessary framework. There is no such thing as inherent rule making authority; legislative delegation is required. Once authorized, the failure to make necessary rules may lead to problems. Athay v. State, Dept. of Business Regulation, 626 P.2d 956 (Utah 1981).

Definition

A "rule" or "regulation" basically means any agency statement that (a) implements, interprets, or prescribes law or policy, and (b) describes the procedure or practice requirements of an agency. The term does not include statements concerning only the internal management or organization of the agency, not affecting private rights or procedures.

Proper Promulgation

Almost every jurisdiction has an Administrative Procedures Act (APA). This statute typically dictates the steps that must be taken to adopt an agency rule. The requirements for rule making procedures vary across jurisdictions, but usually include:

- (1) published notice;
- (2) explanation or statement of purpose and effect;
- (3) filing of the proposed rule;
- (4) statutory authority by which the proposed rule is to be adopted;
- (5) requests for comment and/or hearing and the procedures for submitting or obtaining same; and
- (6) necessary deadlines.

The publication of adopted rules, proposed rules and repealed rules normally occurs in a jurisdictional official publication. Strict compliance with the mandates for promulgation of a rule is absolutely necessary. Fitzgerald v. Oregon Bd. of Optometry, 706 P.2d 586 (Or. App. 1985).

PAUSE YOUR DISCUSSIONS AND HAVE STAFF OR COUNSEL DISTRIBUTE THE RULE MAKING MANDATES OF YOUR JURISDICTION'S APA.

Notes:

Limitations on Rulemaking

While the legislature can delegate to an agency the authority to adopt rules and regulation,

there are limitations on the rulemaking authority. First, the scope and effect of rules must remain within statutory parameters. Any rule that exceeds or alters the authority contained in the statute is subject to be voided, if challenged. Dept. of Professional Reg. v. Sherman College, 682 So.2d 559 (Fla.App.1 Dist. 1995); Dioguardi v. Superior Court, 909 P.2d 481 (Ariz. App. 1995).

Most APA's contain a provision that allows rules to be challenged in the same manner that contested cases are adjudicated. Should such a challenge be made, a fact-finding hearing may be necessary with an order issued by either a hearing officer or the Board. Rules properly adopted and within legal parameters should be upheld. Marchetti v. Alabama Bd. of Examiners in Psychology, 494 So.2d. 448 (Ala.Civ.App. 1986); Pukin v. New York State Department of Health, 649 N.Y.S. 2d 191 (A.D.3 Dept. 1996); Billings v. Wyoming Bd of Outfitters, 2001 WY 81 (2001).

Legislative Oversight

Please note that all APA's have a mechanism that allows the legislature or legislative committee to oversee the promulgation of agency rules. Most APA's require an agency to deliver copies of proposed rules to this committee. Given the large number of rules that are proposed each month there is a real question as to how much oversight is actually exercised. However, regular review of proposed rules is a typical assignment for lobbyists for special interest groups. Those individuals usually call legislative attention to rules their employees oppose.

Emergency Rulemaking

An emergency rule is one that is necessitated by a impending need or an immediate danger. These rules are normally limited to state or provincial action that is deemed necessary to protect the public health, safety, or welfare. The agency must be able to document both the danger and the need to act on an emergency basis.

Under most APA's, an emergency rule can only be in effect for a set period of time, i.e., 90 to 120 days. At the end of this period of time, the rule normally cannot be renewed. During the time the emergency rule is in effect, the agency can pursue the usual methods of rulemaking. Emergency rulemaking should not be exercised unless absolutely necessary.

Notes:

NONCOMPLIANCE ISSUES

Alabama has a training manual for the state regulatory boards and commissions. That manual sets out a number of frequent noncompliance issues. The manual explains: "a review of

past legal compliance reports and sunset review reports, reveals that instances of noncompliance have a history of repeating.” Department of Examiners of Public Accounts, Training Manual for Alabama Regulatory Boards and Commissions, 1st Ed. April 2002. The following is a list of the most common noncompliance issues set out in the manual:

Reasonable (advance) public notice of meetings was not given.

Improper use of executive session(s).

Meetings held by conference call.

Minutes of all meetings were not taken.

Minutes were not signed.

Minutes did not reflect individual votes.

Minutes were not approved.

Incorrect travel expense reimbursement.

Inadequate segregation of duties.

Inadequate documentation associated with receipts and/or disbursements.

Noncompliance with the Alabama Competitive Bid Law.

Charging fees not authorized by law (most frequent enlargement of law issue)

Failure to maintain a receipt log and failure to reconcile the receipt log to deposits.

Failure to deposit receipts in a timely manner.

Non-authorized purchases or purchases not allowed by law.

Inaccuracy of recorded leave accrual start dates of employees.

Improper accountability for annual, sick, personal and compensatory leave balances.

Failure to require a Social Security Number on licensee forms.

Inadequate procedures to insure that agency maintains documentation of each licensee’s compliance with requirements necessary to do business in Alabama, including paying fees.

Failure to obtain and implement a State Records Commission-approved Records Disposition Authority.

Implementation of policies that are rules without complying with the Administrative Procedure Act.

Charging fees in excess of reasonable cost of copying public records.

Inadequate controls over property.

Noncompliance with submission of property inventory listings to the State Auditor's Office as required.

Failure to send annual reports to the Governor and/or other officials.

Failure to establish a recycling program

ADJUDICATION

The second major function of any administrative agency is adjudication. The subject matter as regards adjudication can vary and does not always involve disciplinary actions. On many occasions decisions that agencies make, if contested by an aggrieved party, become adjudicatory in nature. Denial of an application for initial licensure is a prime example. When this happens, the contested case provisions of most administrative procedure acts are triggered.

Contested Cases

In the administrative procedure acts of all jurisdictions, there are provisions that instruct the agency on how it must proceed to adjudicate an issue, whether it be the attainment of appropriate educational credentials or a license revocation. Typical provisions tell the agency what it must do in terms of notice, pleadings, and proceedings leading to a formal resolution of the issue at hand. The steps to be taken are in many ways similar to the manner in which an agency must promulgate its rules.

Assessing Candidates for Initial Licensure

The preliminary denial of a initial application for licensure can trigger the contested case provisions of an administrative procedures act. This will only happen, however, on rare occasions. At the same time, assessing candidates' qualifications for initial licensure is an important part of the life of a regulatory board and its members.

With some professions, the education, training and examinations required for initial licensure are so standardized that these functions are handled completely by staff persons. With smaller agencies in other professions where education and training is less standardized, some of these responsibilities lie with individual board members.

PAUSE YOUR DISCUSSIONS AT THIS POINT AND ASK STAFF TO DISCUSS THE QUALIFICATIONS FOR LICENSURE IN THE JURISDICTION AND THE WAY IN WHICH THOSE QUALIFICATIONS ARE ASSESSED.

Notes:

Each board member should satisfy himself/herself that the methods used to assess qualifications for initial licensure are rigorous enough to protect the public and at the same time altogether fair to the applicant. It should be noted that at this point in time, due to the passage of the Americans With Disabilities Act, there is an ongoing legal debate regarding the ability of boards to inquire into applicants past problems with alcohol, drugs and/or emotional or mental illness.

PAUSE YOUR DISCUSSIONS AND ASK COUNSEL TO PROVIDE THE PARTICIPANTS WITH THE LATEST ON THE AMERICANS WITH DISABILITIES ACT AND APPLICATIONS FOR AN INITIAL LICENSE.

Notes:

Informal Resolution of Complaints

Every administrative procedure act recognizes the fact that not every complaint or dispute involving a regulatory board requires the formal process that results in a hearing under the contested case provisions of the act. Consequently, each APA contains a method by which these matters can be settled informally.

In many ways the word informal is a poor one. Complaints settled informally still involve legal documents that outline rights and responsibilities and contain appropriate waivers. Some APA's refer to settlement by stipulation, consent order or similar words or phrases.

Most informal resolutions involve allegations of professional misconduct. However, some such resolutions involve applicants that are licensed on probation due to prior problems with drugs, alcohol or other chemical substances.

PAUSE YOUR DISCUSSIONS AND ASK COUNSEL TO DETAIL THE STEPS LEADING TO THE INFORMAL SETTLEMENT OF A COMPLAINT AND TO USE SAMPLES OF LEGAL DOCUMENTS TO ILLUSTRATE THESE COMMENTS:

Notes:

Disciplinary Actions for Alleged Professional Misconduct

While it is sad, it is also true that every year there are thousands of violations of state and provincial practice acts that lead to complaints and to disciplinary actions. Larger agencies typically employ trained investigators to investigate these complaints and work with agency attorneys to draft statements of charges and notice of hearings. In some jurisdictions with some agencies, formal hearings are heard by hearing officers who draft findings of fact, conclusions of law and recommended orders that are reviewed and either accepted or rejected by the boards themselves. In some jurisdictions, with some agencies, boards hear the cases themselves and utilize the services of a hearing officer to rule on evidentiary matters and other legal issues. And, in some jurisdictions, with some agencies, some boards hear cases and the presiding officer of the board actually serves as the hearing officer. Regardless of which model is used to adjudicate, a final order must be produced. The final order will include findings of fact, conclusions of law and a order either dismissing the case or imposing sanctions.

PAUSE YOUR DISCUSSIONS AND HAVE COUNSEL DISCUSS ANY NUANCES IN YOUR JURISDICTION'S STATUTE OR CASE LAW THAT AFFECT THE PRECEDING GENERAL INSTRUCTION. ASK COUNSEL TO COMMENT ON THE FOLLOWING ASPECTS OF THE DISCIPLINARY PROCESS AND TO ILLUSTRATE THOSE COMMENTS WITH SAMPLES OF RELEVANT LEGAL DOCUMENTS:

1. The manner in which cases are investigated.
2. The scope of pre-hearing discovery in your jurisdiction.
3. The procedure for notifying respondents and proceeding to hearing.
4. The burden of proof in disciplinary cases and any statute of limitations.
5. The way in which cases are tried including the roles of the prosecutor and the hearing officer.
6. The decision making process.
7. The contents and preparation of the final order.
8. Any other responsibilities of the agency including making orders public and providing an index.

Notes:

AGENCY AND THE EXECUTIVE BRANCH OF GOVERNMENT

A professional regulatory board is an agency that operates within the executive branch of government. It has a relationship with the legislative and judicial branches, but also with other agencies within the executive branch.

Relationship to Other Executive Agencies

Any professional regulatory board is only one of numerous state/provincial agencies; it has to operate in cooperation with certain other agencies. For example, the board's primary counsel will undoubtedly be the Attorney General. A good working relationship with the staff of that agency is critical.

The need to cooperate with other agencies can be said of several other agencies such as the State Auditor's Office, the Examiners of Public Accounts, the Secretary of State, and the Legislative Fiscal Office. Board members and staff should know and understand the inter-relationship between the agencies and strive toward a successful, collaborative relationship.

Attorney General: In many jurisdictions, an Assistant Attorney General will be assigned to represent the board. A good working relationship is crucial. Often important opinions on legal issues will be requested from the Attorney General; the content can be most critical.

Auditors: Virtually every jurisdiction will be audited at least annually by the appropriate state/provincial auditors or examiners of public accounts. Board members should closely supervise staff functions involving governmental funds.

Budgetary Process: There is considerable variance in how boards receive their annual funding. Some receive an annual appropriation from their state/provincial legislature; other boards have access to the funds generated from renewals, application fees, and exam fees.

Ethics Commission: Many jurisdictions have ethics laws that relate to the activities of board members and public employees. If such statutes, particularly those involving use of public monies and/or equipment are violated, reports must be made to the appropriate individuals or entities.

PAUSE YOUR DISCUSSIONS AND HAVE STAFF EXPLAIN THE BOARD'S
RELATIONSHIP TO OTHER EXECUTIVE AGENCIES.

Notes:

THE AGENCY AND THE LEGISLATURE

Lawmaking

Most state/provincial legislatures are designed similarly to the United States Congress in a bicameral manner. The larger chamber in numerical terms, is typically called the House, while the smaller chamber is often referred to as the Senate. (The nomenclature will differ in Canadian jurisdictions.) While the rules of legislative operation vary from state to state, there are a number of commonalities which can be discussed.

A law or statute begins as a bill, introduced in either or both the House or Senate. In both chambers the procedures are likely to be identical. First the bill is read and sent to a committee. This is a very important step in the process. Assignment to the appropriate committee can insure a favorable report, whereas assignment to another committee may result in defeat. The committee room is where the bill must gain momentum or fall by the wayside. There it can be favorably reported and move on its way; it can be amended; it can be indefinitely postponed and thereby killed; and perhaps worst of all, it can languish and never be brought up for a vote.

When the bill is favorably reported from committee, it will be read for a second time and placed on the calendar of that chamber. If it has been reported in a form acceptable to its sponsors, they will attempt to move it toward a vote. This is not as simple as it sounds, and here the more technical legislative rules come into play. On the first day of the regular session of any legislature, hundreds, maybe a thousand bills are introduced, read and assigned to committees. A proportionate number of these bills will be reported from committee following their initial meetings.

Committees report to the Speaker or Lieutenant Governor in a particular order, normally the financial committees first, then the judiciary committees and on down the line. The bills are placed on the calendar in the same order in which they are reported. If the committee to which your bill was assigned reports tenth, even if it's unopposed in committee, it may take its place on the calendar behind a hundred other bills. You can imagine the effect of a week or two weeks' delay caused by requests for public hearings on the bill. Once it is placed that far down the calendar, its only hope is with the Rules Committee. That committee determines the priority of bills when the regular calendar is abandoned and a special order calendar adopted, and that calendar is likely to change every day according to the wishes of the hierarchy.

In any event, assuming the bill comes out of committee, takes its place on the calendar and proceeds to a vote, a number of other things can happen. Again, it can be passed or killed, amended or substituted, or carried over to languish and die. Assuming it passes, it will be transmitted to the other chamber and go through the same process. It will be read, sent to committee if reported favorably, then read again and placed on that chamber's calendar. If it is ultimately voted on and passed in the form it came over in, then it will go to the governor for his signature or veto. If it has been amended, it most probably will go to a conference committee composed of small groups of senators and representatives appointed by the Speaker or Lt. Governor. If the bill can be agreed upon by the conferees prior to the adjournment of the legislature sine die, then it will pass in the agreed upon version and go to the Governor for his signature or possible veto.

Most board members are terribly naive about legislative matters. They tend to think that because their particular bill is meritorious that it should pass without objection. They fail to understand that just because they care about a change in licensing law does not mean that anyone else will care, particularly a state, territorial or provincial legislator. Therein lies the key to successful passage of bills. Without a sponsor who is dedicated to working a bill through to final passage, the measure is probably doomed. Simply agreeing to sponsor a bill, for most legislators, means very little and you should understand that early on.

Most legislators do understand the word commitment, but alas, most board members do not. If involved in legislative activity, don't assume anything. If a legislator commits to vote for a bill in committee, don't assume she'll vote for it on the floor. Ask her and see. Get her full commitment or find out why she's not willing to give you that.

Whatever you do, don't ignore the leadership. A bill that matters to only a few people has very little chance generally, but if it matters to the Speaker or Lt. Governor, its chances improve measurably. Of course, the Governor must be considered also. In most states, he/she has veto power requiring an overriding vote of both chambers. The Governor also has the authority to attach executive amendments which could aid or destroy your efforts so his/her office should not be ignored.

PAUSE YOUR GENERAL DISCUSSIONS AND ASK STAFF TO REVIEW ANY KNOWN LEGISLATION YOUR BOARD WILL BE ASKED TO RESPOND TO IN THE IMMEDIATE FUTURE.

Notes:

Sunset Review

Sunset legislation is currently in existence in thirty-plus states of the United States. Statutes vary in form but almost all require automatic termination of state administrative boards and agencies unless the state legislature votes to continue their existence. Normally, a board is notified well in advance of its termination date and informed as to the review procedure. Moreover, it has happened that administrative agencies have not been notified in sufficient time to prepare adequately for sunset review. Consequently, all boards should immediately determine when their sunset review date is and begin to prepare for that review.

Perhaps the most important part of Sunset Review is understanding the legislature and the sunset review process. First, it is extremely political in nature as most legislators view sunset as a way of making points with the electorate by reducing state government. To be successful in

sunset review, board members have to become politically aware, if not politically active. To do this, they should determine who the Sunset Committee members are and in particular the chairperson or chairpersons of the committee. They should actively seek to determine what the Sunset Committee members are really searching for during the review process. Do they want to know how much money state boards are spending and whether their budgets are too large, or are they utilizing sunset review as an effort to gain some form of executive reorganization? The best source to utilize in obtaining this information is the Sunset Committee staff which is normally charged with the responsibility of compiling reports on all agencies reviewed by the Sunset Committee. The staff is extremely important and its determination may be critical to the success of your board. If a formal staff person is not assigned to a sunset committee for compiling such data, you might inquire with your state Examiners of Public Accounts. Almost certainly there will be an audit conducted prior to sunset review, and this may in some states be the staff assistance provided to the committee.

The audit is the key document in the sunset review process. It can make or break the efforts of the agency. Each board must be prepared to defend criticisms within the audit, criticisms which may be leveled by auditors who have little or no understanding of the professions they are reviewing. It is probable, and you should expect the sunset audit to draw critical conclusions, sometimes unsupported by logic or explanatory data.

Dealing with such a document is difficult, but even more difficult is obtaining it in sufficient time for rebuttal. The auditor's deadline relates only to the sunset hearing, not to any opportunity for rebuttal of illogical conclusions. You may find the newspaper has a copy before you do. Plan for such possibilities and insist on a chance to rebut the auditor's conclusions. Use any political muscle you can to force the audit into the open in sufficient time for you to prepare to respond.

To successfully survive the sunset process, boards must be prepared for their sunset review. In that regard, it is advisable that every board, far in advance of its review date, have a pre-sunset meeting and an extensive self-evaluation session.

Some points that boards should consider are:

1. Is the board in harmony with its state association and/or boards with overlapping jurisdiction? Some boards have been sunsetted because of internal dissension among the practicing professionals within the jurisdiction. And, while the board is clearly autonomous from the professional association, it is good to know where criticism will come from. Additionally, a board would be well advised to know in advance if problems exist with other regulated professions and their respective boards.
2. Each board should be prepared to report to the Sunset Committee about consumer complaints that it has received. It is very important that legislators understand the severity of problems with unauthorized and unqualified practitioners. A board might make itself some points for budget hearings in this regard if it can show that more enforcement is needed rather than a cutback.

3. A board should be prepared to explain questions relative to limiting competition and should be prepared to answer questions regarding application denials and the reasons for such. It should be prepared to explain the standards for licensure; any uniformity that it can point to with the neighboring states would be helpful. Additionally, each board should be prepared to explain any exemptions in the law and the pros and cons of such exemptions. Knowledge of the board's own practice act is imperative, and the board's spokespersons should be prepared to explain all of its rules and regulations and any prohibitions that it may have on advertising, corporate practice or the like. Information on any disciplinary actions which can be released should be released as evidence of the board's on-going efforts to protect the public. Be cautious in this regard lest you release something that is privileged information.
4. Each board must know its opposition. If allied professions have previously sought licensure status and been unsuccessful in that regard, they may view sunset as a way of accomplishing their goal in another manner. If there have been extensive conflicts with other professions, then the board should be prepared to defend the stand it took. A board would be well advised to consult with the staff of the sunset committee in advance of its hearing to determine if any witnesses are going to appear from out-of-state. It is not unlikely that some member of a consumer group or other individuals will be prepared to appear at a sunset hearing and speak against the continuation of the board.
5. The question of whether a board could/should be merged with another board is likely to come up. Those members present for sunset review should be able to explain what effect it would have on the quality of services if the board is merged with another board and what problems could arise.
6. Each board should be prepared to justify and explain its budget in detail. If its funds are separate and distinct from the state's General Fund, a justification should be ready. If the board is responsible for continuing education and is pursuing its implementation actively, this can be an important point to make during sunset review.
7. One potential point of concern is the question of equal employment opportunities. The board should have some facts and figures readily available on the number of minority applicants, the number licensed and the number refused, as well as, the reason for refusing these applicants.
8. The board should be prepared to explain and defend its application and exam procedures. If complaints have been received about the length of time required for processing and the number of individuals refused or having failed the exam, sufficient explanation should be prepared well in advance of the sunset hearing.
9. Spokespersons for the board should also be prepared to explain, and if necessary to defend, expenditures for out-of-state travel.
A few "Do's" and "Don'ts" might be of some help:

Things to DO in regard to your actual sunset hearing:

1. DO attend another board's sunset review hearing in advance of your board's review date and observe the sunset review process. The lessons learned by observing other boards in the process can be extremely helpful.
2. DO determine the review authority of the sunset committee and have the board's attorney review any requests for confidential information. He/She should also prepare a list of cases to substantiate your legal authority to regulate the profession.
3. DO compute the value of donated time and be prepared to report on whether or not a state supported super board could replace similar type boards.
4. DO create an office procedures manual if you have not already done so and have it available for the sunset committee staff and the committee.
5. DO document the work that you have done so that nothing is left to the imagination.
6. DO have a good attitude about sunset as it can be very helpful in increasing the effectiveness of the board.

A few things that you DON'T want to do in regard to a sunset hearing:

1. DON'T forget your sunshine law if one exists in your state. If you have to have a meeting to prepare for sunset review with other boards or with the sunset staff or with the state association, you may have to give notice to the public in advance of the hearing.
2. DON'T tell the sunset review committee that your profession is unique. Sunset committees no longer accept this rationale for non-conference to statutory mandates.
3. DON'T forget the Governor's office. In all but one state of the Union, the Governor has veto power over legislation and his/her office should not be ignored. Remember that a Governor can refuse to sign a continuation bill passed by the House and Senate and eliminate an agency in this manner.

Notes:

Legislative Questions

Sunset hearings in all jurisdictions are preceded by a lengthy audit. Invariably, questions are put to boards with instructions to answer same in accordance with published criteria and standards. A typical example is set out below.

FOR ESTABLISHED PROFESSIONS, THESE QUESTIONS MAY SEEM SUPERFLUOUS,

BUT THEY DO RAISE REGULATORY CONSCIOUSNESS.

1. Criteria And Standards:

A. A profession or occupation shall be regulated by the state only when:

- (a) It can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety or welfare of the public, and the potential for the harm is recognizable and not remote or speculative.
- (b) The public can reasonably be expected to benefit from an assurance of initial continuing professional ability.
- (c) The public cannot be effectively protected by other means.

B. After evaluating the criteria in subsection A of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a profession or occupation, the least restrictive method of regulation shall be imposed, consistent with the public interest and this section:

- (a) If existing common law and statutory civil remedies and criminal sanctions are insufficient to reduce or eliminate existing harm, regulation should occur through enactment of stronger civil remedies and criminal sanctions.
- (b) If a professional or occupational service involves a threat to the public and the service is performed primarily through business entities or facilities that are not regulated, the business entity or the facility should be regulated rather than its employee practitioners.
- (c) If the threat to the public health, safety or welfare including economic welfare is relatively small, regulation should be through a system of registration.
- (d) If the consumer may have a substantial interest in relying on the qualifications of the practitioner, regulation should be through a system of certification.
- (e) If it is apparent that the public cannot be adequately protected by any other means, a system of licensure should be imposed.

C. Any of the issues set forth in subsections 1A and 1B of this section and section 2 below may be considered in terms of their application to professions and occupations generally.

2. Information Requested: Prior to review under this chapter and prior to consideration by the legislature of any bill which proposes to regulate a profession or occupation, the profession or occupation being reviewed or seeking regulation shall explain each of the following factors:

A. Why regulation is necessary including:

- (a) The nature of the potential harm or threat to the public if the profession or

occupation is not regulated.

- (b) Specific examples of the harm or threat identified in subsection (a).
- (c) The extent to which consumers will benefit from a method of regulation which permits identification of competent practitioners, indicating typical employers, if any, of practitioner.

B. The extent to which practitioners are autonomous, as indicated by:

- (a) The degree to which the profession or occupation requires the use of independent judgment, and the skill or experience required in making such judgment.
- (b) The degree to which practitioners are supervised.

C. The efforts that have been made to address the concerns that give rise to the need for regulation including:

- (a) Voluntary efforts, if any, by members of the profession or occupation to:
 - (1) Establish a code of ethics.
 - (2) Help resolve disputes between practitioners and consumers.
- (b) Recourse to and the extent of use of existing law.

D. Why the alternatives to licensure specified in this subsection would not be adequate to protect the public interest:

- (a) Stronger civil remedies or criminal sanctions.
- (b) Regulation of the business or facility providing the service rather than the employee practitioners.
- (c) Regulation of the program or service rather than the individual practitioners.
- (d) Registration of all practitioners.
- (e) Certification of practitioners.
- (f) Other alternatives.

E. The benefit to the public if regulation is granted including:

- (a) How regulation will result in reduction or elimination of the harms or threats identified under subsection A of this section.
- (b) The extent to which the public can be confident that a practitioner is competent.
 - (1) Whether the registration, certification or licensure will carry an expiration date.
 - (2) Whether renewal will be asked only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement.
 - (3) The standards of registration, certification, or licensure as compared with the standards of other jurisdictions.
 - (4) The nature and duration of the educational requirement, if any, including,

but not limited to, whether such educational program includes a substantial amount of supervised field experience; whether educational programs exist in this state; whether there will be an experience requirement; whether the experience must be acquired under a registered, certified, or licensed practitioner; whether there are alternative routes of entry or methods of satisfying the eligibility requirements and qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met.

F. The form and powers of the regulatory entity including:

- (a) Whether the regulatory entity is or would be a board composed of members of the profession or occupation and public members, or a state agency, or both, and if appropriate, their respective responsibilities in administering the system of registration, certification or licensure.
- (b) The composition of the board, if any, and the number of public members, if any.
- (c) The powers and duties of the board of state agency regarding examinations.
- (d) The system for receiving complaints and taking disciplinary action against practitioners.

G. The extent to which regulation might harm the public including:

- (a) Whether regulation will restrict entry into the profession or occupation:
 - (1) Whether the standards are the least restrictive necessary to insure safe and effective performance.
 - (2) Whether persons who are registered, certified or licensed in a jurisdiction which the board or agency believes has requirements that are substantially equivalent to those of this state will be eligible for endorsement or some form of reciprocity.
- (b) Whether there are similar professions or occupations which should be included, or portions of the profession or occupation which should be excluded from regulation.

H. How the standards of the profession or occupation will be maintained:

- (a) Whether effective quality assurance standards exist in the profession or occupation, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics.
- (b) How the proposed form of regulation will assure quality:
 - (1) The extent to which a code of ethics, if any, will be adopted.
 - (2) The grounds for suspension, revocation, or refusal to renew registration, certification or licensure.

I. A profile of the practitioners in this state, including a list of associations,

organizations, and other groups representing the practitioners including an estimate of the number of practitioners in each group.

- J. The effect that registration, certification or licensure will have on the costs of the services to the public.

PAUSE YOUR GENERAL DISCUSSIONS AND DETERMINE WHAT PLANS YOUR BOARD NEEDS TO MAKE REGARDING SUNSET REVIEW.

Notes:

THE AGENCY AND THE JUDICIAL PROCESS

Litigation

Lawsuits are commonplace within the world of professional regulation. They can and are filed for a variety of reasons; i.e., admission to exams, to challenge actions taken by boards, to block disciplinary efforts, and so forth. Boards themselves are finding that oftentimes they must initiate litigation in order to effect their own purposes.

Just what is litigation? Basically it involves disputes which are properly resolvable by a court of law. There are different types of litigation. **This section of the manual is devoted to suits that are not appeals from agency decisions.** There are certain basic phases of a lawsuit that all board members should be acquainted with. The first phase can be referred to as the pleadings phase of the suit. A lawsuit begins with the filing of a complaint or petition which sets out the activity complained of, the grounds for relief, and the damages to which the person may be entitled. The person filing the lawsuit is normally referred to as the plaintiff, complainant, or petitioner. Those who must defend the suit are normally referred to as the defendants or respondents.

When the lawsuit is filed, an accompanying document called a summons is also prepared. That document, along with a copy of the complaint, is served on each individual who is named as a defendant. The summons gives notice to the defending party as to the plaintiff's name, the court in which the case has been filed, and most importantly, the date by which a responsive pleading is required. It is not unusual for a board member to be sued and consequently receive a summons and complaint. When and if this happens, contact counsel immediately because the time for responding begins to run from the date you are served.

The responsive pleadings are normally either a motion to dismiss and/or motion for summary judgment or an answer. Motions to dismiss or for summary judgment are pleadings which are designed to end the litigation without trial based on the law alone. An answer is exactly that. It is the defendant's response by which he admits or denies any wrongdoing and/or liability. There are a number of other documents which may be filed within the pleading phase

of the lawsuit, but are more technical than the intent of this manual.

The next phase of a lawsuit is the "discovery" phase. It is aptly named because each party to the lawsuit, during this phase, attempts to discover what the other's case actually is. This is a step forward from the old days when surprise at trial was the rule, rather than the exception. The rules of civil procedure, which have been enacted in most states now, are designed so that theoretically there are no surprises at the time of trial. This is done in an effort to more equitably serve the rights of the parties. During the discovery each side may utilize various techniques designed to uncover facts and expose weaknesses and strengths of the respective parties.

The two most important tools in discovery are written interrogatories and depositions. Written interrogatories are questions propounded to parties which they are required to answer under oath. This is the least expensive form of discovery, but can only be served on other parties. A deposition may be utilized with parties and other witnesses. A deposition is basically a question and answer session involving the prospective witness, counsel for both sides and a court reporter who takes the sworn testimony of the deponent. This discovery tool is used not only to discover the alleged facts of the case, but to preserve testimony which may be used at trial if the witness is unavailable and to observe the demeanor of the potential witness.

Should you ever have to answer interrogatories, you will be able to utilize the assistance of counsel in formulating responses. They are questions which must be answered truthfully, and the individual answering the question must so affirm or swear as to their truthfulness. A deposition can be a very effective tool for a litigant since it allows a party to assess the witness' ability to testify, and it provides a fertile ground for producing inconsistent statements that may prove to weaken that side's case. You should never let your deposition be taken without advising your attorney. It is a common ploy of many lawyers to initiate such a lawsuit against a party who will ultimately be dismissed from the case when other parties are added. In the meantime, the party filing the suit, prior to adding the additional parties, will already have noticed and taken the depositions of future parties who unknowingly submit to the deposition without the advice of their attorneys.

Discovery is the phase of the lawsuit which takes the longest period of time, and it can go on seemingly forever. It is expensive and time consuming, but it is an absolute necessity if a case is to be tried properly.

The next phase of litigation is the trial of the case itself. The party which filed the lawsuit has the burden of going forward with the evidence and proving its case by a preponderance of the evidence. Trials are basically of two types: jury trials and non-jury trials.

Compared to jury trials, non-jury trials are quick and relatively simple. The trial judge's responsibilities create the differences. In a jury trial, the judge must be very careful to shield the jury from inadmissible evidence. When a judge sits alone, he can simply disregard improper evidence; further, there is no necessity for written or oral jury charges. Everything has advantages and disadvantages though. So far as decision making goes, juries are much faster than judges, as cases can be taken under advisement for long periods of time.

A typical trial of either sort would begin with an opening statement from both plaintiff and defendant. This phase is for the purpose of advising the court or jury of what each side expects to prove from the evidence. This exchange is followed by the plaintiff's case in chief. Evidence is elicited through oral testimony and physical exhibits. Each side has, of course, the opportunity to cross-examine the other side's witnesses following its direct examination.

After the plaintiff rests, defense counsel will ordinarily move for a directed verdict. If the plaintiff has produced substantial evidence on each element of his claim, this motion will be denied and the defense will put on its case in the same manner as the plaintiff did. Following the close of the defendant's case, the plaintiff is normally allowed to call any rebuttal witness. The case then goes to the jury following the court's oral charge, or is taken under submission by the trial judge. When a decision is made, various motions may be filed and an appeal may be taken.

Appeals are costly, time consuming, and involve the transcription of the record, briefs and argument of counsel. Some appeals may be directly to the highest court of the jurisdiction, while others may lie to an intermediate court. The difference in trial and appeal is principally the manner of presentation of the case. On appeal, evidence is presented through the record made in trial court, and arguments by counsel are limited to written briefs and short oral arguments. Review by the appellate court is for the most part limited to alleged error at the trial stage, although occasionally other issues may be considered.

Cases can also remain on appeal for long periods of time, and swift decisions should not be expected. When a decision is made, the appellate court may affirm the lower court's decision, affirm in part and reverse in part, reverse for a new trial or reverse and render.

PAUSE YOUR DISCUSSIONS AND ASK COUNSEL TO COMMENT ON THE BOARD'S
ROLE IN ANY CURRENT LITIGATION THAT INVOLVES THE AGENCY.

Appeals from Agency Decisions

Virtually any contested case can result in a decision adverse to a party that can be appealed to a court of general jurisdiction. These "appeals" are lawsuits, but they differ markedly from the other type of lawsuits discussed above.

Appeals of agency decisions are usually confined to the review of the record of the proceedings that resulted in the agency's decision. In most such appeals the reviewing court is bound to affirm if there is substantial evidence that the agency's decision was correct and not arbitrary or capricious. The reviewing court will also consider challenges to the fairness of the process the board used to reach its decision.

Many of the appeals from disciplinary cases involve the adjudication process and situations in which boards disagreed with recommendations made by hearing officers.

PAUSE YOUR DISCUSSIONS AND HAVE COUNSEL EXPLAIN THE BOARD'S AUTHORITY TO OVERRULE A HEARING OFFICER'S RECOMMENDATIONS AND THE PROPER WAY TO DO SO.

Notes:

Liability

There are several types of liability which board members should be aware of. First is the liability of the board itself for injunctive relief. Basically there are two types of injunctive relief: mandatory or prohibitory. These are remedies requiring defendants to do or refrain from doing particular acts. In some states, other proceedings may be called by other names, such as writ or mandamus or prohibition, but the results are similar in nature.

Injunctive type relief in state court is the least troublesome type of liability since it lies directly against the agency and rarely involves damages or attorney's fees. Other types of liability -- for actual damages, for misconduct or violation of an individual's civil rights -- are far more intimidating. Of particular concern are the far reaching aspects of 42 U.S.C. §1983, et seq., which assess attorney fees almost automatically against unsuccessful litigants even if only injunctive relief has been secured.

A board member who cannot bear the threat of litigation needs to resign immediately for his/her own well-being and that of the board. Threats of lawsuits are commonplace, even everyday events for many boards. The handful of suits that do occur are vexious and time consuming. But, liability is not common. There are many defenses to such actions, particularly if the lawsuit involves the exercise of the board's adjudicative function. In fact, when exercising this function there is significant case law that holds that board members are absolutely immune from liability. Hicks v. Georgia Board of Pharmacy, 553 F.Supp. 314 (N.D.Ga. 1982); Bettencourt v. Board of Reg. in Medicine, 904 F.2d 772 (1st Cir.1990); Watts v. Burkhart, 978 F.2d 269 (6th Cir. 1992); O'Neal v. Mississippi Board of Nursing, 113 F.3d 62 (5th Cir. 1996); and Wang v. New Hampshire Board of Registration in Medicine, 55 F.3d 698 (1st Cir. 1995). But see also: Lapides v. Board of Regents, 122 S.Ct. 1640 (2002); Edwards v. Gerstein, 237 SW 3d 580 (MO.banc 2007).

Most state governments have insurance protection that extends to members of professional regulatory boards. However, staff is responsible for compliance with the various regulations that make this coverage available. Make sure these regulations are followed to the letter. Many jurisdictions have statutes that also provide immunity from civil liability to members of non-profit corporations and "other such boards and commissions". If a lawsuit occurs these statute(s) should not be overlooked.

Board members and staff should also seek competent advice regarding matters related to use of state equipment and reimbursement for travel expenses. Statutes and rules regarding anything involving state monies should be followed to the letter.

PAUSE YOUR DISCUSSIONS AND ASK COUNSEL TO DISCUSS ANY THOUGHTS REGARDING BOARD MEMBER LIABILITY IN YOUR JURISDICTION.

Occasionally the threat of antitrust liability is raised. The U.S. courts have spoken to this issue on a number of occasions and the state action immunity doctrine has provided a significant umbrella of protection for agency members. Hoover v. Ronwin, 466 U.S. 558 (1982); Brazil v. Arkansas Bd. of Dental Examiners, 593 F.Supp. 1354 (D.C.Ark.1984); Leigh v. Board of Registration in Nursing, 506 N.E.2d (Miss. 1987); Hass v. Oregon State Bar, 883 F. 2d 1453 (9th Cir. 1989); Otworth v. The Florida Bar, 71 F. Supp. 2d 1209 (M.D.Fla. 1999); South Carolina State Bd. v. F.T.C., 455 F. 3rd 436 (4th Cir. 2006).

Of more concern is the agency's liability for violation of more recently passed laws such as the Americans With Disabilities Act (ADA), codified as 42 U.S.C. 12001, et. seq.. This law impacts the manner in which the board assesses initial and current fitness to practice. Doe v. State of Conn., Dept. of Health Services, 75 F. 3rd 81 (2nd Cir. 1996).

PAUSE YOUR DISCUSSIONS AND ASK STAFF AND COUNSEL TO DISCUSS COMPLIANCE ISSUES RELATIVE TO THE ADA.

Notes:

THE AGENCY AND THE PUBLIC

While the agency is accountable to the legislature each time sunset review occurs, it must be accountable to the public every day. As many critics of professional regulatory boards quickly point out, the purpose of such regulation is to protect the public, not the professions. Other critics say that it's just as important to protect the public from the regulatory boards.

Regardless of the point of view, legislatures have made regulatory agencies accountable in a number of ways. State statutes which typically apply to boards and their members, as well as other agencies and employees, may include a competitive bid law, an ethics act, a freedom of information act and a sunshine law. While discussed earlier, this manual would be incomplete without some formal acknowledgment of those laws that relate to the agency and the public.

Freedom of Information Acts (Open Records)

A number of jurisdictions may have what is commonly referred to as a Freedom of Information Act. The state/provincial act may predate the federal Freedom of Information Act or

may be patterned after it. That particular statute was passed in 1967 and amended in 1974. The Act is codified as part of the Federal Administrative Procedure Act, 5 U.S.C. 552. Its general purpose is to provide citizens access to public information on the federal level.

Of course, this handbook is for members of professional regulatory boards. In that regard, most state statutes include Freedom of Information Act. For more information on state FIOA laws, see Project, Government Information and the Rights of Citizens, 73 Mich.L.Rev. 971 (1975). For those U.S. jurisdictions which do not have a similar statute there is also precedent for common law rights of access to information held by state governments. City of St. Matthews v. Voice of St. Matthews, 519 S.W.2d 811. (KY App. 1974).

Sunshine Laws (Open Meetings)

This particular type of law which could well be described as an open meeting law, had been enacted in all fifty (50) states of the Union before Congress passed the Federal Government in the Sunshine Act, 5 U.S.C. 552(b). The concept embodied in such laws includes the concept that publicity is a helpful preventive for many of the more common ills of those who govern the public. Sunshine Acts open agency meetings to the public and the press. Violation of such acts, for whatever reason, innocent or not, can prove costly and may result in the invalidation of actions taken at such meetings. Polillo v. Deane, 379 A.2d 211 (N.J. 1977). Invalidation is not the only result. Two others which come to mind are adverse publicity and possible repercussions during sunset hearings. Cantrell v. State Board of Registration, 26 S.W. 3d 824, (Mo. App.W.D. 2000); Commonwealth MA v. Bd. Selectmen Town, No. 062167C (Ma.Super. Oct. 30, 2006).

In order to conduct your board meetings properly, be sure to consult with counsel and have counsel extract the relevant Sunshine law from your state code. Make sure that your Executive Secretary is aware of any notice requirements within this statute and the manner in which such notice must be given.

At the same time, do not ignore the exceptions found in the Sunshine Act. Invariably there will be exceptions to the general rule which will allow for deliberations behind closed doors. There are ten (10) such categories in the federal statute, and while state statutes will probably not contain so many exceptions, you can be assured that such categories as the character or good name of an individual will be included in many such acts. Careful scrutiny of the act may avoid nasty litigation for defamation, libel or slander.

THE AGENCY AND OTHER ORGANIZATIONS THAT INTERACT WITH PROFESSIONAL REGULATION

Association of State and Provincial Psychology Boards

The Association of State and Provincial Psychology Boards is the cumulative body of all state, territorial and provincial boards that regulate the practice of psychology in the U.S. and Canada. Currently, ASPPB has 64 state, territorial and provincial members. ASPPB creates the Examination for Professional Practice in Psychology (EPPP), which is used to assess candidates for licensure in most of the member jurisdictions. ASPPB also takes responsibility for maintaining the disciplinary data bank and for transferring EPPP scores among the jurisdictions. ASPPB holds two membership meetings, one in the fall and one in the early spring. Both meetings have educational components in which both plenary and small group sessions are devoted to licensure, discipline and other regulatory issues. ASPPB also produces many publications that it makes available not only to its own members, but to the public and other interested entities. ASPPB is located at 7177 Halcyon Summit Drive, Montgomery, Alabama 36117. Its web site can be found at <http://asppb.org>.

Citizen Advocacy Center

Citizen Advocacy Center (CAC) is a private non-profit organization that provides support and training for public members of professional regulatory boards. CAC also conducts research and sponsors educational conferences on public issues related to health care quality assurance. CAC's address is 1424 16th Street, N.W. #105, Washington, D.C., 20036.

Council on Licensure, Enforcement and Regulation

Council on Licensure, Enforcement and Regulation (CLEAR) is a non-profit organization that is involved in education and training for those involved in professional regulation. CLEAR sponsors a certification course for agency investigators and educational conferences on both the regional and national levels. CLEAR's address is 201 West Short Street, Lexington, Kentucky, 40509; (606) 231-1892.

Federation of Associations of Regulatory Boards

Federation of Associations of Regulatory Boards (FARB) is a non-profit organization made up of 12 associations of regulatory boards. FARB sponsors three educational conferences per year including the Annual Forum, Attorney Certification Course and Leadership Conference. Information about FARB can be located at www.farb.org.

National Organization for Competency Assurance

National Organization for Competency Assurance (NOCA) is a non-profit organization that provides educational opportunities for entities that certify various health care providers. NOCA can be reached at 1200 19th Street, N.W., Suite 300, Washington, D.C., 20036-2422; (202) 859-1165.



BOARD OF PSYCHOLOGY – Administration

1625 N. Market Blvd., Suite N-215, Sacramento, CA 95834
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Policy and Advocacy Committee Agenda

Pepperdine University Graduate School of Education and Psychology
6100 Center Drive, Rooms 333-334
Los Angeles, CA 90045
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Committee Members

Nicole Jones, Chairperson
Michael Erickson, Ph.D.
Andrew Harlem, Ph.D.

Legal Counsel

Norine Marks

Board Staff

Antonette Sorrick, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
Lavinia Snyder, Licensing Coordinator
Jonathan Burke, Administrative Coordinator
Colette McDowell, Continuing Education/Renewals Coordinator

Thursday, May 15-16, 2014

Committees are not webcast; however each Committee's report is webcast when the full board reconvenes as noticed on the attached agenda. A link to the webcast will be available on the Board's Web site at 9:00 a.m., February 20-21, 2014, or you may access it at: http://www.dca.ca.gov/publications/multimedia/webcast_current.shtml. Links to agenda items with attachments are available at www.psychology.ca.gov, prior to the meeting date.

Thursday, May 15, 2014

- a) Legislation Update, Review and Action, as Necessary (J. Burke)
 - 1. AB 790 (Gomez) – Child Abuse Reporting (Position)
 - 2. AB 1505 (Garcia) – Child Abuse: Mandated Reporters (Position)
 - 3. AB 1702 (Maienschein) – Professions and Vocations: Incarceration (Position)
 - 4. AB 1758 (Patterson) – Healing arts: License Renewal Fees (Position)
 - 5. AB 1843 (Gordon/Jones) – Child Custody Evaluations (Position)
 - 6. AB 2041 (Jones) – Developmental Services: Regional Centers (Position)
 - 7. AB 2165 (Patterson) – Professions and Vocations: Licenses (Position)
 - 8. AB 2198 (Levine) – Mental Health Professionals and Suicide Prevention (Position)
 - 9. AB 2396 (Bonta) – Convictions: Expungement: Licenses (Position)
 - 10. SB 1446 (DeSaulnier) – Health Care Coverage (Position)
 - 11. Legislative Status Report & 2014 Legislative Calendar

- b) Regulation Update, Review and Action, as Necessary (J. Burke)
 - 1) Title 16, CCR, Section 1397.12 – Uniform Standards Related to Substance Abuse and Disciplinary Guidelines
 - 2) Title 16, CCR, Sections 1388, 1388.6, 1389, 1392 – Examinations, License Requirements and Waiver of Examination, Reconsideration of Examinations, Psychologist Fees
 - 3) Title 16, CCR, Sections 1397.60, 1397.61, 1397.62, 1397.67 – Definitions, Continuing Education Requirements, Continuing Education Exemptions and Exceptions, Renewal After Inactive or Delinquent Status
- c) Discussion Regarding the California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting - Penal Code Sections 261.5, 288, and 11165.1 (J. Burke)
- d) Public Comment for Items Not on the Agenda
- e) Adjournment

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.

*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.*

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

BOARD OF PSYCHOLOGY

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MEMORANDUM

DATE	April, 30 2014
TO	Psychology Board Members
FROM	 Jonathan Burke Administrative Services Coordinator
SUBJECT	Policy and Advocacy Committee Agenda Items a) 1-10

Background:

Policy and Advocacy Committee – (Jones – Chairperson, Erickson, Harlem)

- a) Legislation Update, Review and Action, as Necessary
 - 1) AB 790 (Gomez) – Child Abuse Reporting (Position)
 - 2) AB 1505 (Garcia) – Child Abuse: Mandated Reporters (Position)
 - 3) AB 1702 (Maienschein) – Professions and Vocations: Incarceration (Position)
 - 4) AB 1758 (Patterson) – Healing arts: License Renewal Fees (Position)
 - 5) AB 1843 (Gordon/Jones) – Child Custody Evaluations (Position) **In Hand Carry**
 - 6) AB 2165 (Patterson) – Professions and Vocations: Licenses (Position)
 - 7) AB 2198 (Levine) – Mental Health Professionals and Suicide Prevention (Position)
 - 8) AB 2396 (Bonta) – Convictions: Expungement: Licenses (Position)
 - 9) SB 1446 (DeSaulnier) – Health Care Coverage (Position) **In Hand Carry**
 - 10) Legislative Status Report & 2014 Legislative Calendar

Action Requested:

Please find attached the analysis and language for the above bills. The Board's staff have recommended a position for each. Agenda items a5) and a9) have been included in the Hand Carry Supplement due to anticipated changes in the language.

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 790 **VERSION:** INTRODUCED FEBRUARY 21, 2013

AUTHOR: GOMEZ **SPONSOR:** CALIFORNIA POLICE CHIEFS
ASSOCIATION

RECOMMENDED POSITION: WATCH

SUBJECT: CHILD ABUSE: REPORTING

Existing Law:

- 1) Specifies that licensees of the Board of Psychology (Board) are mandated reporters under the Child Abuse and Neglect Reporting Act and as such, he or she must submit a report whenever in their professional capacity, they have knowledge of, or observe a child who is known, or reasonably suspected to have been, a victim of child abuse or neglect. (Penal Code (PC) §§11165.7(a)(21) – (25) and 11166(a))
- 2) Requires mandated reports of suspected child abuse or neglect be made to any police or sheriff's department, the county probation department, or the county welfare department. (PC §11165.9)
- 3) Requires the initial mandated report be made via telephone immediately or as soon as practicably possible. A written follow-up report must then be sent within 36 hours of receipt of information about the incident. (PC §11166(a))
- 4) States that when two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect and are in agreement, that the telephone report may be made by a mutually designated reporter on behalf of the group. One written report may then be made and signed by that designated member. If any members learn that the member designated to make the mandated report did not do so, then they must make the report. (PC §11166(h))

This Bill:

- 1) This bill would narrow the provision of law allowing a "team" of mandated child abuse and neglect reporters to select one member to file the mandated report to apply only to health care providers, as defined. Specifically, this bill:
- 2) Requires the person who makes the report to provide the names of all the other members of the reporting team, and provides that he or she shall not be subject to criminal penalties or other sanctions for failing to include one or more names of those persons if the failure to do so is accidental or inadvertent.

Comment:

- 1) **Author's Intent.**

- 2) The author indicates that agencies that receive the mandated reports benefit from multiple names, because it allows them to compile a list of all witnesses, and provides different perspectives from the various mandated reporters that can be helpful in an investigation.

3) Recent Example.

In its analysis of this bill, the Assembly Committee on Public Safety cites a recent case where a teacher pulled a 5-year old student from his chair and kicked him. School employees reported the incident to their superiors; however, they decided to investigate the incident internally instead of making a mandated report. Eventually, the child's parents learned of the incident and called the police.

4) Recommended Position: Watch

5) Support and Opposition.

Support:

American Federation of State, County and Municipal Employees
California Police Chiefs Association
County Welfare Directors Association of California
California Teachers Association
California Dental Association; Crime Victims Alliance;
Child Abuse Prevention Center

Opposition:

California Public Defenders Association
California Association of Marriage and Family Therapists

6) History

2013

Aug. 30	In committee: Held under submission
June. 24	In committee: Placed on APPR. Suspense file.
June. 11	From committee: Do pass and re-refer to Com. On APPR. (Ayes 6. Noes 1.) (June 11). Re-referred to Com. On APPR.
June. 04	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. PUB. S.
June. 03	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. PUB. S.
May. 29	In committee: Set, first hearing. Hearing canceled at the request of author
May. 9	Referred to Com. On PUB. S.
Apr. 29	In Senate. Read first time. To Com. on RLS. for assignment.
Apr. 29	Read third time. Passed. Ordered to the Senate.
Apr. 11	Read second time. Ordered to third reading.
Apr. 10	From committee: Do pass. (Ayes 17. Noes 0.) (April 10).
Apr. 3	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 2). Re-referred to Com. on APPR.
Mar. 4	Referred to Com. on PUB. S.
Feb. 22	From printer. May be heard in committee March 24.
Feb. 21	Read first time. To print.

AMENDED IN SENATE JUNE 4, 2013

AMENDED IN SENATE JUNE 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 790

Introduced by Assembly Member Gomez

February 21, 2013

An act to amend Section 11166 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 790, as amended, Gomez. Child abuse: reporting.

The Child Abuse and Neglect Reporting Act requires a mandated reporter, as defined, to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Existing law further requires the mandated reporter to make an initial report by telephone to the agency immediately or as soon as is practicably possible, and to prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident.

Existing law additionally provides that, when 2 or more mandated reporters have joint knowledge of suspected child abuse or neglect, they may select a member of the team by mutual agreement to make and sign a single report. Any member who has knowledge that the member designated to report has failed to do so is required to thereafter make the report.

This bill would limit these latter provisions to mandated reporters who are health care providers, thereby requiring every mandated reporter who is not a health care provider and who has knowledge of suspected child abuse or neglect to make an individual report. The bill would require the person who files a single report on behalf of multiple health care providers who are mandated reporters to include the names of ~~other mandated reporters, if known, who have knowledge of known or suspected instances of child abuse or neglect~~ *the other members of the reporting team*, as specified. The bill would provide that a person making the report would not be subject to criminal penalties or other sanctions for failing to include one or more names of those persons if his or her failure to include those names is accidental or inadvertent.

Because this bill would expand the definition of a crime, it would impose a state-mandated 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.
State-mandated local program: yes.

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

1 SECTION 1. Section 11166 of the Penal Code is amended to
2 read:
3 11166. (a) Except as provided in subdivision (d), and in
4 Section 11166.05, a mandated reporter shall make a report to an
5 agency specified in Section 11165.9 whenever the mandated
6 reporter, in his or her professional capacity or within the scope of
7 his or her employment, has knowledge of or observes a child whom
8 the mandated reporter knows or reasonably suspects has been the
9 victim of child abuse or neglect. The mandated reporter shall make
10 an initial report by telephone to the agency immediately or as soon
11 as is practicably possible, and shall prepare and send, fax, or
12 electronically transmit a written followup report within 36 hours
13 of receiving the information concerning the incident. The mandated
14 reporter may include with the report any nonprivileged
15 documentary evidence the mandated reporter possesses relating
16 to the incident.

1 (1) For purposes of this article, “reasonable suspicion” means
2 that it is objectively reasonable for a person to entertain a suspicion,
3 based upon facts that could cause a reasonable person in a like
4 position, drawing, when appropriate, on his or her training and
5 experience, to suspect child abuse or neglect. “Reasonable
6 suspicion” does not require certainty that child abuse or neglect
7 has occurred nor does it require a specific medical indication of
8 child abuse or neglect; any “reasonable suspicion” is sufficient.
9 For purposes of this article, the pregnancy of a minor does not, in
10 and of itself, constitute a basis for a reasonable suspicion of sexual
11 abuse.

12 (2) The agency shall be notified and a report shall be prepared
13 and sent, faxed, or electronically transmitted even if the child has
14 expired, regardless of whether or not the possible abuse was a
15 factor contributing to the death, and even if suspected child abuse
16 was discovered during an autopsy.

17 (3) Any report made by a mandated reporter pursuant to this
18 section shall be known as a mandated report.

19 (b) If after reasonable efforts a mandated reporter is unable to
20 submit an initial report by telephone, he or she shall immediately
21 or as soon as is practicably possible, by fax or electronic
22 transmission, make a one-time automated written report on the
23 form prescribed by the Department of Justice, and shall also be
24 available to respond to a telephone followup call by the agency
25 with which he or she filed the report. A mandated reporter who
26 files a one-time automated written report because he or she was
27 unable to submit an initial report by telephone is not required to
28 submit a written followup report.

29 (1) The one-time automated written report form prescribed by
30 the Department of Justice shall be clearly identifiable so that it is
31 not mistaken for a standard written followup report. In addition,
32 the automated one-time report shall contain a section that allows
33 the mandated reporter to state the reason the initial telephone call
34 was not able to be completed. The reason for the submission of
35 the one-time automated written report in lieu of the procedure
36 prescribed in subdivision (a) shall be captured in the Child Welfare
37 Services/Case Management System (CWS/CMS). The department
38 shall work with stakeholders to modify reporting forms and the
39 CWS/CMS as is necessary to accommodate the changes enacted
40 by these provisions.

1 (2) This subdivision shall not become operative until the
2 CWS/CMS is updated to capture the information prescribed in this
3 subdivision.

4 (3) This subdivision shall become inoperative three years after
5 this subdivision becomes operative or on January 1, 2009,
6 whichever occurs first.

7 (4) On the inoperative date of these provisions, a report shall
8 be submitted to the counties and the Legislature by the State
9 Department of Social Services that reflects the data collected from
10 automated one-time reports indicating the reasons stated as to why
11 the automated one-time report was filed in lieu of the initial
12 telephone report.

13 (5) Nothing in this section shall supersede the requirement that
14 a mandated reporter first attempt to make a report via telephone,
15 or that agencies specified in Section 11165.9 accept reports from
16 mandated reporters and other persons as required.

17 (c) Any mandated reporter who fails to report an incident of
18 known or reasonably suspected child abuse or neglect as required
19 by this section is guilty of a misdemeanor punishable by up to six
20 months confinement in a county jail or by a fine of one thousand
21 dollars (\$1,000) or by both that imprisonment and fine. If a
22 mandated reporter intentionally conceals his or her failure to report
23 an incident known by the mandated reporter to be abuse or severe
24 neglect under this section, the failure to report is a continuing
25 offense until an agency specified in Section 11165.9 discovers the
26 offense.

27 (d) (1) A clergy member who acquires knowledge or a
28 reasonable suspicion of child abuse or neglect during a penitential
29 communication is not subject to subdivision (a). For the purposes
30 of this subdivision, "penitential communication" means a
31 communication, intended to be in confidence, including, but not
32 limited to, a sacramental confession, made to a clergy member
33 who, in the course of the discipline or practice of his or her church,
34 denomination, or organization, is authorized or accustomed to hear
35 those communications, and under the discipline, tenets, customs,
36 or practices of his or her church, denomination, or organization,
37 has a duty to keep those communications secret.

38 (2) Nothing in this subdivision shall be construed to modify or
39 limit a clergy member's duty to report known or suspected child
40 abuse or neglect when the clergy member is acting in some other

1 capacity that would otherwise make the clergy member a mandated
2 reporter.

3 (3) (A) On or before January 1, 2004, a clergy member or any
4 custodian of records for the clergy member may report to an agency
5 specified in Section 11165.9 that the clergy member or any
6 custodian of records for the clergy member, prior to January 1,
7 1997, in his or her professional capacity or within the scope of his
8 or her employment, other than during a penitential communication,
9 acquired knowledge or had a reasonable suspicion that a child had
10 been the victim of sexual abuse that the clergy member or any
11 custodian of records for the clergy member did not previously
12 report the abuse to an agency specified in Section 11165.9. The
13 provisions of Section 11172 shall apply to all reports made pursuant
14 to this paragraph.

15 (B) This paragraph shall apply even if the victim of the known
16 or suspected abuse has reached the age of majority by the time the
17 required report is made.

18 (C) The local law enforcement agency shall have jurisdiction
19 to investigate any report of child abuse made pursuant to this
20 paragraph even if the report is made after the victim has reached
21 the age of majority.

22 (e) (1) Any commercial film, photographic print, or image
23 processor who has knowledge of or observes, within the scope of
24 his or her professional capacity or employment, any film,
25 photograph, videotape, negative, slide, or any representation of
26 information, data, or an image, including, but not limited to, any
27 film, filmstrip, photograph, negative, slide, photocopy, videotape,
28 video laser disc, computer hardware, computer software, computer
29 floppy disk, data storage medium, CD-ROM, computer-generated
30 equipment, or computer-generated image depicting a child under
31 16 years of age engaged in an act of sexual conduct, shall
32 immediately, or as soon as practically possible, telephonically
33 report the instance of suspected abuse to the law enforcement
34 agency located in the county in which the images are seen. Within
35 36 hours of receiving the information concerning the incident, the
36 reporter shall prepare and send, fax, or electronically transmit a
37 written followup report of the incident with a copy of the image
38 or material attached.

39 (2) Any commercial computer technician who has knowledge
40 of or observes, within the scope of his or her professional capacity

1 or employment, any representation of information, data, or an
2 image, including, but not limited, to any computer hardware,
3 computer software, computer file, computer floppy disk, data
4 storage medium, CD-ROM, computer-generated equipment, or
5 computer-generated image that is retrievable in perceivable form
6 and that is intentionally saved, transmitted, or organized on an
7 electronic medium, depicting a child under 16 years of age engaged
8 in an act of sexual conduct, shall immediately, or as soon as
9 practicably possible, telephonically report the instance of suspected
10 abuse to the law enforcement agency located in the county in which
11 the images or material are seen. As soon as practicably possible
12 after receiving the information concerning the incident, the reporter
13 shall prepare and send, fax, or electronically transmit a written
14 followup report of the incident with a brief description of the
15 images or materials.

16 (3) For purposes of this article, “commercial computer
17 technician” includes an employee designated by an employer to
18 receive reports pursuant to an established reporting process
19 authorized by subparagraph (B) of paragraph (41) of subdivision
20 (a) of Section 11165.7.

21 (4) As used in this subdivision, “electronic medium” includes,
22 but is not limited to, a recording, CD-ROM, magnetic disk memory,
23 magnetic tape memory, CD, DVD, thumbdrive, or any other
24 computer hardware or media.

25 (5) As used in this subdivision, “sexual conduct” means any of
26 the following:

27 (A) Sexual intercourse, including genital-genital, oral-genital,
28 anal-genital, or oral-anal, whether between persons of the same or
29 opposite sex or between humans and animals.

30 (B) Penetration of the vagina or rectum by any object.

31 (C) Masturbation for the purpose of sexual stimulation of the
32 viewer.

33 (D) Sadomasochistic abuse for the purpose of sexual stimulation
34 of the viewer.

35 (E) Exhibition of the genitals, pubic, or rectal areas of any
36 person for the purpose of sexual stimulation of the viewer.

37 (f) Any mandated reporter who knows or reasonably suspects
38 that the home or institution in which a child resides is unsuitable
39 for the child because of abuse or neglect of the child shall bring
40 the condition to the attention of the agency to which, and at the

1 same time as, he or she makes a report of the abuse or neglect
2 pursuant to subdivision (a).

3 (g) Any other person who has knowledge of or observes a child
4 whom he or she knows or reasonably suspects has been a victim
5 of child abuse or neglect may report the known or suspected
6 instance of child abuse or neglect to an agency specified in Section
7 11165.9. For purposes of this section, “any other person” includes
8 a mandated reporter who acts in his or her private capacity and
9 not in his or her professional capacity or within the scope of his
10 or her employment.

11 (h) (1) When two or more health care providers, who are
12 required to report, jointly have knowledge of a known or suspected
13 instance of child abuse or neglect, and when there is agreement
14 among them, the telephone report may be made by a member of
15 the team selected by mutual agreement and a single report may be
16 made and signed by the selected member of the reporting team.
17 Any member who has knowledge that the member designated to
18 report has failed to do so shall thereafter make the report. The
19 person who makes the report pursuant to this subdivision shall
20 provide the names of all ~~other mandated reporters, if known, who~~
21 ~~have knowledge of known or suspected instances of child abuse~~
22 ~~or neglect~~ *the other members of the reporting team*, but he or she
23 shall not be subject to criminal penalties or other sanctions for
24 failing to include one or more names of those persons if his or her
25 failure to do so is accidental or inadvertent.

26 (2) For purposes of this subdivision, a “health care provider”
27 means any person licensed or certified pursuant to Division 2
28 (commencing with Section 500) of the Business and Professions
29 Code, *or licensed pursuant to the Osteopathic Initiative Act, or*
30 *the Chiropractic Initiative Act.*

31 (i) (1) The reporting duties under this section are individual,
32 and no supervisor or administrator may impede or inhibit the
33 reporting duties, and no person making a report shall be subject
34 to any sanction for making the report. However, internal procedures
35 to facilitate reporting and apprise supervisors and administrators
36 of reports may be established provided that they are not inconsistent
37 with this article.

38 (2) The internal procedures shall not require any employee
39 required to make reports pursuant to this article to disclose his or
40 her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of

1 receiving the information concerning the incident to any agency
2 to which it makes a telephone report under this subdivision.

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

O

Bill No.	Author(s)	Title	Brief Summary	Date Last Amended	Status	Recommended Board Position
AB 2041	Jones	Developmental Services: Regional Centers: Behavioral Health Treatment	This bill would require that a regional center classify a vendor as a behavior management consultant or behavior management assistant under certain conditions.	4/22/2014	Senate Rules Committee	Watch
SB 22	Beall	Health Care Coverage: Mental Health Parity	Requires health service plans to provide evidence of compliance with mental health parity laws.	5/28/2013	Assembly Appropriations Committee	Watch
AB 2058	Wilk	Open Meetings	This bill would modify the definition of "state body" in the Bagley-Keen Act to exclude an advisory body with less than 3 individuals, except for certain standing committees.	4/9/2014	Assembly Appropriations Committee	Watch
AB 186	Maienschein	Professions and Vocations: Military Spouses: Temporary Licenses	Allows a board under DCA to issue provisional/temporary license to a military spouse.	7/1/2013	Senate Business Professions and Economic Development Committee	Watch
AB 2198	Levine	Mental Health Professionals: Suicide Prevention	This bill would require a psychologist who began graduate study on or after January 1, 2016, to complete a minimum of 15 contact hours of coursework in suicide assessment, treatment, and management before licensure. Requires a licensee who began graduate study prior to January 1, 2016, to take a six-hour continuing education course in suicide assessment, treatment, and management in order to renew his or her license.	4/21/2014	Senate Business Professions and Economic Development Committee	Watch

AB 2165	Patterson	Professions and Vocations: Licenses	This bill would require licensing boards to review licensing applications within 45 days, and to issue a license within those 45 days if the applicant meets licensing requirements. Exams must also be offered six times per year.	4/10/2014	Assembly Business Professions and Consumer Protection Committee	Watch
AB 213	Logue	Healing Arts: Licensure/Certification Requirements: Military Experience	Requires boards under DCA to accept education/training/experience completed by an applicant in military service	4/18/2013	Assembly Appropriations Committee	Watch
AB 790	Gomez	Child Abuse: Reporting	Changes child abuse reporting requirements for mandated reporters	6/4/2013	Senate Appropriations Committee	Watch
SB 176	Galgiani	Administrative Procedures	Requires a state agency proposing to adopt regulations to involve parties subject to the regulations prior to the hearing notice	8/7/2013	Assembly Appropriations Committee	Watch
AB 809	Logue	Healing Arts: Telehealth	Consent for services re-defined to allow verbal consent for present and subsequent visits and does not preclude in-person health care	6/25/2013	Senate Health Committee	Watch
AB 1640	Jones-Sawyer	Sex offenders: registration	The bill would authorize a person who is convicted, on or before January 1, 2015, of sodomy, oral copulation, and sexual penetration, if in each case the offender participates in the offense with another person who is under 18 years of age or when the offender is over 21 years of age and participates in the offense with another person who is under 16 years of age to seek discretionary relief from the registration requirement	4/2/2014	Assembly Floor	Watch
AB 1843	Jones	Child Custody Evaluations: Confidentiality	Allows the Board to access child custody evaluation reports to investigate a complaint of licensee unprofessional conduct.	3/28/2014	Assembly Judiciary Committee	Support
SB 1446	De Saulnier	Health Care Coverage: Small Employer Market	This is our Omnibus Bill	4/28/2014	Senate Health Committee	Support

AB 1505	Garcia	Child Abuse: Mandated Reporters	This bill would instead make instances of sodomy or oral copulation with a minor reportable as sexual abuse only if the conduct involves either a person over 21 years of age or a minor under 16 years of age.	4/24/2014	Assembly Public Safety Committee	Oppose Unless Amended
AB 1702	Maienschein	Professions and Vocations: Incarceration	This bill would provide that an individual, who applies for a license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing the application or a denial of the license solely on the basis that the individual was incarcerated.	4/23/2014	Assembly Appropriations Committee	Oppose
AB 1758	Patterson	Healing Arts: Licensure Renewal Fees	Provides that the fee imposed for the initial license under the professions and vocations code of existing law shall be prorated on a monthly basis	4/3/2014	Assembly Appropriations Committee	Oppose
AB 2396	Bonta	Convictions: Expungement: Licenses	Prohibits the Board from denying a license based solely on a conviction that has been dismissed pursuant to provisions of existing law.	4/21/2014	Assembly Business Professions and Consumer Protection Committee	Oppose

2014 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICES OF THE SECRETARY OF THE SENATE & THE ASSEMBLY CHIEF CLERK
October 22, 2013

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

FEBRUARY						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

MARCH						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

APRIL						
S	M	T	W	TH	F	S
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6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MAY						
S	M	T	W	TH	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

- Jan. 1

Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 6

Legislature Reconvenes (J.R. 51(a)(4)).
- Jan. 10

Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 17

Last day for **policy committees** to hear and report to Fiscal committees fiscal bills introduced in their house in 2013 (J.R. 61(b)(1)).
- Jan. 20

Martin Luther King, Jr. Day.
- Jan. 24

Last day for any committee to hear and report to the **Floor** bills introduced in their house in 2013 (J.R. 61(b)(2)). Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31

Last day for each house to **pass bills introduced in 2013** in their House (Art. IV, Sec. 10(c)), (J.R. 61(b)(3)).
- Feb. 17

President’s Day.
- Feb. 21

Last day for bills to be **introduced** (J.R. 61(b)(4)), (J.R. 54(a)).
- Mar. 31

Cesar Chavez Day
- Apr. 10

Spring Recess begins at end of this day’s session (J.R. 51(b)(1)).
- Apr. 21

Legislature reconvenes from **Spring Recess** (J.R. 51(b)(1)).
- May 2

Last day for **policy committees** to hear and report to Fiscal Committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).
- May 9

Last day for **policy committees** to hear and report to the floor **non-fiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 16

Last day for **policy committees** to meet prior to June 2 (J.R. 61(b)(7)).
- May 23

Last day for **fiscal committees** to hear and report to the floor Bills introduced in their house (J.R. 61(b)(8)). Last day for **fiscal Committees** to meet prior to June 2 (J.R. 61 (b)(9)).
- May 26

Memorial Day
- May 27 - 30

Floor Session Only. No committee may meet for any purpose (J.R. 61(b)(10)).
- May 30

Last day for bills to be **passed out of the house of origin** (J.R. 61(b)(11)).

JUNE						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

JULY						
S	M	T	W	TH	F	S
		1	2	3	4	5
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

AUGUST						
S	M	T	W	TH	F	S
					1	2
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

- June 2** Committee meetings may resume (J.R. 61(b)(12)).
- June 15** Budget must be passed by midnight (Art. IV, Sec. 12(c)(3)).
- June 26** Last day for a legislative measure to qualify for the November 4 general election ballot (Election code Sec. 9040).
- June 27** Last day for policy committees to meet and report bills (J.R. 61(b)(13)).
- July 3** Summer Recess begins at the end of this day’s session if Budget Bill has been passed (J.R. 51(b)(2)).
- July 4** Independence Day
- Aug. 4** Legislature reconvenes from Summer Recess (J.R. 51(b)(2)).
- Aug. 15** Last day for fiscal committees to meet and report bills to the Floor (J.R. 61(b)(14)).
- Aug. 18 – 31 Floor Session only.** No committees, other than conference committees and Rules committee, may meet for any purpose (J.R. 61(b)(15)).
- Aug. 22** Last day to amend bills on the Floor (J.R. 61(b)(16)).
- Aug. 31** Last day for each house to pass bills (Art. IV, Sec. 10(c)), (J.R. 61(b)(17)). Final recess begins at the end of this day’s session (J.R. 51(b)(3)).

IMPORTANT DATES OCCURRING DURING FINAL RECESS

- 2014**
- Sept. 30

Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor’s possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).
- Nov. 4

General Election
- Nov. 30

Adjournment Sine Die at midnight (Art. IV, Sec. 3(a)).
- Dec. 1

12 m. convening of 2015-16 Regular Session (Art. IV, Sec. 3(a)).
- 2015**
- Jan. 1

Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 5

Legislature reconvenes (JR 51(a)(1)).

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 1505

VERSION: AMENDED APRIL 24, 2014

AUTHOR: GARCIA

SPONSOR: AUTHOR

RECOMMENDED POSITION: OPPOSE UNLESS AMENDED

SUBJECT: CHILD ABUSE: MANDATED REPORTERS

Existing Law:

1) CANRA, Penal Code section 11164 et seq., requires certain enumerated mandated reporters, including psychologists and registered psychological assistants, to report to appropriate authorities suspected child abuse or neglect. "Child abuse" includes sexual abuse as defined in Penal Code section 11165.1, and includes certain acts of sodomy (Penal Code section 286) and oral copulation (Penal Code section 288a), and certain lewd and lascivious acts (Penal Code section 288).

2) Since 1986, the law has been clear that reporters are not required to report consensual sexual intercourse between minors under age 14 as sexual abuse under Penal Code section 288 in the absence of any other signs of abuse. (See *Planned Parenthood Affiliates of California et al., v. John K. Van de Kamp* (1986) 181 Cal.App.3d 245.) Historically, however, the Board of Psychology, as well as several other healing arts boards, has acknowledged different reporting requirements for acts of sodomy and oral copulation between minors than for other sexual acts, like sexual intercourse, that has been discussed and outlined in secondary source materials for psychologists to assist psychologists' compliance with the law. Specifically, according to these long-standing sources, practitioners do not have to report their knowledge of non-abusive consensual sexual conduct between minors of a like age to authorities except in instances when acts of sodomy or oral copulation have occurred.

This Bill:

1) This bill would instead make instances of sodomy or oral copulation with a minor reportable as sexual abuse only if the conduct involves either a person over 21 years of age or a minor under 16 years of age.

Comments:

1) **Author's Intent.** Current reporting requirements for mandated reporters of child abuse are confusing and inconsistent. Mandated reporting requirements vary depending on the type of sexual act (Penile/Vaginal intercourse, Oral or Anal) and ages

of those involved. Currently consensual oral and anal sex is illegal with anyone under the age of 18, and constitutes a mandated report. In the case of prosecution, authorities are required to designate a victim and a perpetrator even where the sexual act is consensual. Simpler reporting requirements would ensure that reporters are more confident and knowledgeable about what needs to be reported, and result in increased safety for our youth. AB 1505 would categorize consensual Anal and Oral sex the same as consensual Penile and Vaginal sex amongst people 16 to 21.

2) Current Reporting Requirements. Historically, several healing arts boards, including the Board of Psychology, have interpreted CANRA to place a distinction between acts of sodomy and oral copulation and other sexual acts. Specifically, practitioners do not have to report their knowledge of non-abusive consensual sexual conduct between minors of a like age to authorities except in instances when acts of sodomy or oral copulation have occurred. Further, this historical interpretation of CANRA is included in education materials to ensure psychologists comply with the law.

3) Recommended Position: Oppose unless amended.

4) Support and Opposition.

Support:

American Association of Marriage and Family Therapists*

Opposition:

None at this time.

5) History

2014

Apr. 24	From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.
Mar. 24	Re-referred to Com. on PUB. S.
Mar. 20	From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.
Mar. 20	Referred to Com. on PUB. S.
Jan. 15	From printer. May be heard in committee February 14.
Jan. 14	Read first time. To print.

*Letter of support sent before amendments of 4/24/14. AMFT may reconsider their support.

AMENDED IN ASSEMBLY APRIL 24, 2014

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1505

Introduced by Assembly Member Garcia

January 14, 2014

An act to amend Section 11165.1 of the Penal Code, relating to mandated reporters.

LEGISLATIVE COUNSEL'S DIGEST

AB 1505, as amended, Garcia. Child abuse: mandated reporters.

Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect, including sexual abuse.

Under existing law, sexual abuse is reportable if it involves unlawful sexual intercourse between a person 21 years of age or older with a minor who is under 16 years of age. Existing law makes sexual abuse reportable if any person participates in an act of sodomy or oral copulation with a person who is under 18 years of age.

This bill would instead make instances of sodomy or oral copulation *with a minor* reportable as sexual abuse only if ~~any person over 21 years of age participates in an act of sodomy or oral copulation with a person who is under 16 years of age~~ *the conduct involves either a person over 21 years of age or a minor under 16 years of age*.

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

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

1 SECTION 1. Section 11165.1 of the Penal Code is amended
2 to read:
3 11165.1. As used in this article, “sexual abuse” means sexual
4 assault or sexual exploitation as defined by the following:
5 (a) (1) Except as specified in paragraph (2), “sexual assault”
6 means conduct in violation of one or more of the following
7 sections: Section 261 (rape), subdivision (d) of Section 261.5
8 (statutory rape), 264.1 (rape in concert), 285 (incest), 286
9 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision
10 (c) of Section 288 (lewd or lascivious acts upon a child), 288a
11 (oral copulation), 289 (sexual penetration), or 647.6 (child
12 molestation).
13 (2) For purposes of this article, “sexual assault” does not include
14 conduct in violation of the following:
15 (A) Paragraph (1) of subdivision (b) of Section 286 unless it
16 ~~meets the criteria specified in paragraph (2) of subdivision (b) of~~
17 ~~Section 286 involves either a person over 21 years of age or a~~
18 ~~minor under 16 years of age.~~
19 (B) Paragraph (1) of subdivision (b) of Section 288a unless it
20 ~~satisfies the criteria specified in paragraph (2) of subdivision (b)~~
21 ~~of Section 288a involves either a person over 21 years of age or~~
22 ~~a minor under 16 years of age.~~
23 (b) Conduct described as “sexual assault” includes, but is not
24 limited to, all of the following:
25 (1) Penetration, however slight, of the vagina or anal opening
26 of one person by the penis of another person, whether or not there
27 is the emission of semen.
28 (2) Sexual contact between the genitals or anal opening of one
29 person and the mouth or tongue of another person.
30 (3) Intrusion by one person into the genitals or anal opening of
31 another person, including the use of an object for this purpose,
32 except that, it does not include acts performed for a valid medical
33 purpose.
34 (4) The intentional touching of the genitals or intimate parts,
35 including the breasts, genital area, groin, inner thighs, and buttocks,

1 or the clothing covering them, of a child, or of the perpetrator by
2 a child, for purposes of sexual arousal or gratification, except that,
3 it does not include acts which may reasonably be construed to be
4 normal caretaker responsibilities; interactions with, or
5 demonstrations of affection for, the child; or acts performed for a
6 valid medical purpose.

7 (5) The intentional masturbation of the perpetrator's genitals in
8 the presence of a child.

9 (c) "Sexual exploitation" refers to any of the following:

10 (1) Conduct involving matter depicting a minor engaged in
11 obscene acts in violation of Section 311.2 (preparing, selling, or
12 distributing obscene matter) or subdivision (a) of Section 311.4
13 (employment of minor to perform obscene acts).

14 (2) A person who knowingly promotes, aids, or assists, employs,
15 uses, persuades, induces, or coerces a child, or a person responsible
16 for a child's welfare, who knowingly permits or encourages a child
17 to engage in, or assist others to engage in, prostitution or a live
18 performance involving obscene sexual conduct, or to either pose
19 or model alone or with others for purposes of preparing a film,
20 photograph, negative, slide, drawing, painting, or other pictorial
21 depiction, involving obscene sexual conduct. For the purpose of
22 this section, "person responsible for a child's welfare" means a
23 parent, guardian, foster parent, or a licensed administrator or
24 employee of a public or private residential home, residential school,
25 or other residential institution.

26 (3) A person who depicts a child in, or who knowingly develops,
27 duplicates, prints, or exchanges, a film, photograph, videotape,
28 negative, or slide in which a child is engaged in an act of obscene
29 sexual conduct, except for those activities by law enforcement and
30 prosecution agencies and other persons described in subdivisions
31 (c) and (e) of Section 311.3.

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 1702

VERSION: INTRODUCED FEBRUARY 21, 2014

AUTHOR: MAIENSHEIN

SPONSOR: AFSCME LOCAL 2620

RECOMMENDED POSITION: OPPOSE

SUBJECT: PROFESSIONS AND VOCATIONS: INCARCERATION

Overview:

This bill would prohibit a board under the Department of Consumer Affairs (DCA) from denying or delaying an application solely on the grounds that the applicant was incarcerated.

Existing Law:

1) Permits a board under DCA to deny a license on the grounds that the applicant has been convicted of a crime, only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which they are applying for licensure. (Business and Professions Code (BPC) §480)

2) Permits a board to suspend, revoke, or exercise any authority to discipline a licensee for conviction of a crime only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license is issued. (BPC §490)

3) States that a crime or act is substantially related to the qualifications, functions, or duties of a person holding a license if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by his or her license in a manner consistent with public health, safety, or welfare. (California Code of Regulations (CCR) Title 16, Division 18, §1812)

This Bill:

1) Prohibits a board from delaying the processing of an application, or denying a license to, an otherwise eligible applicant who has satisfied any licensing requirements while incarcerated, solely based on the fact that the applicant was incarcerated. (BPC §480.5(a))

2) Allows for delay in processing, or denial of licensure, if the incarceration was for a crime substantially related to the qualifications, functions, or duties of the business or profession. (BPC §4980.5(a))

3) States that this provision does not apply to a petition for reinstatement of a license. (BPC §480.5(b))

4) States that this provision does not apply to the licensure of chiropractors. (BPC §480.5(c))

Comment:

1) Background. The author's office is running this bill in an effort to reduce crime and reward rehabilitation. They note that two-thirds of former inmates will re-offend, many within the first year of being released from prison.

The author notes studies that show if an inmate learns vocational skills in prison, he or she is less likely to re-offend upon release. However, if the inmate learns vocational skills that require a license, he or she often must wait longer to receive a license, because the law allows licensing boards to impose licensing restrictions on those who have criminal convictions.

2) Intent Unclear. The author's office cites a problem with the law giving licensing boards the power to impose additional restrictions on those who have been convicted of a crime. However, the Board may only do this if the conviction is substantially related to the practice of the profession. This bill does not remove the provision that discipline can be taken if the conviction was substantially related to the profession.

3) Delays in Processing Time. This bill prohibits a board from delaying the processing of an application based on the fact that the applicant was incarcerated.

All applicants with a conviction or other disciplinary action are automatically routed to the Board's Enforcement Division for further investigation. For these applicants, there will be a delay simply because additional staff time is needed to determine if the crime was "substantially related" and to determine if disciplinary measures are necessary.

Delays due to the enforcement process can vary from weeks to several months, depending on the complexity of the case. An applicant with a conviction from two decades ago that is not substantially related will likely be cleared quickly, while an applicant with a recent conviction may take longer while investigators gather documentation and review the facts of the case.

4) Recommended Position: Oppose

5) Support and Opposition.

Support:

- American Federation of State, County, and Municipal Employees (AFSCME)
Local 2620 (Sponsor)

Opposition:

- None on file.

5) History

2014

Apr. 22 From committee: Do pass as amended and re-refer to Com. on APPR.
(Ayes 14. Noes 0.)

Feb. 20 Referred to Com. on B.,P. & C.P.

Feb. 14 From printer. May be heard in committee March 16.

Feb. 13 Read first time. To print

AMENDED IN ASSEMBLY APRIL 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1702

Introduced by Assembly Member Maienschein
(Coauthor: Senator Mitchell)

February 13, 2014

An act to add Section 480.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1702, as amended, Maienschein. Professions and vocations: incarceration.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, among other entities. Existing law establishes various eligibility criteria needed to qualify for a license and authorizes a board to deny a license on the grounds that the applicant has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

This bill would provide that an individual who has satisfied any of the requirements needed to obtain a license while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing the application or a denial of the license solely based on the prior incarceration, except when the incarceration was for a crime substantially related to the qualifications, functions, or duties of the business or profession. *on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.*

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

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

- 1 SECTION 1. Section 480.5 is added to the Business and
2 Professions Code, to read:
3 480.5. (a) An individual who has satisfied any of the
4 requirements needed to obtain a license regulated under this ~~code~~
5 *division* while incarcerated, who applies for that license upon
6 release from incarceration, and who is otherwise eligible for the
7 license shall not be subject to a delay in processing his or her
8 application or a denial of the license solely ~~based on the prior~~
9 ~~incarceration, except as provided in Section 480.~~ *on the basis that*
10 *some or all of the licensure requirements were completed while*
11 *the individual was incarcerated.*
12 (b) Nothing in this section shall be construed to apply to a
13 petition for reinstatement of a license *or to limit the ability of a*
14 *board to deny a license pursuant to Section 480.*
15 (c) This section shall not apply to the licensure of individuals
16 under the initiative act referred to in Chapter 2 (commencing with
17 Section 1000) of Division 2.

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 1758

VERSION: AMENDED APRIL 3, 2014

AUTHOR: PATTERSON

SPONSOR: AUTHOR

RECOMMENDED POSITION: OPPOSE

SUBJECT: HEALING ARTS: INITIAL LICENSE FEES: PRORATION

Overview:

The bill would require the initial license fee for Psychologists to be prorated on a monthly basis.

Existing Law:

- 1) Provides that licenses for psychologists expire at 12 midnight on the last date of the birth month of the licensee during the second year of a two-year term, if not renewed, and requires the Board to establish an initial license fee that is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued and to establish by regulation procedures for the administration of the birth date renewal program, including the establishment of a pro rata formula for the payments of fees. (BPC §§2982, 2987)

This Bill:

- 1) Will amend Section 2987 (c) of the Business and Professions Code by inserting this language: "*The initial license fee shall be prorated on a monthly basis*". (BPC §2987 (c))

Comment:

- 1) **Author's Intent.** According to the author, "Various sections of the [BPC] state that licenses for..., psychologists,... expire at 12 midnight on the last day of the licensee's birth month on the second year of their second term." These licenses, with some exceptions, are required to pay a full two-year renewal fee when this date occurs after they first receive their licenses.
- 2) **Current Practice.** When a license is issued by the Board, to maintain the birth date renewal system, the license is issued for a period of between 12 and 24 months based on the issue date and the licensee's birth month. For instance, if a license is issued March 26, 2014 and the licensee has a February birthday, the license will

expire February 29, 2016 (23 months and 5 days). However, if the license is issued March 26, 2014 and the licensee has a March birthday, the license will expire on March 31, 2015 (12 months and 5 days).

- 3) Impact.** We would lose revenue with the reduced initial fee. BBS prorates manually based on the time the application is received. This means they need in house cashiering and staff time dedicated to calculating the fees. We would need approximately one full time Office Technician.

However, there will be no fiscal impact with implementing this procedure within the Board provided that BreEze is able to calculate the fee proration automatically. If BreEze cannot process fees automatically then staff would have to manually process the fees for each individual request for initial licensure. Manually processing each application could cause possible delays in issuing the license. There would also be a possibility of incorrect amounts being charged and a cost associated with (approximately \$9.00 for each refund) with fixing. On average we receive 14 requests for initial licensure per week. That is about 700+ licenses issued per year. .

4) Recommended Position: Oppose

5) Support and Opposition.

Support:

☐ None on file.

Opposition:

☐ None on file.

6) History

2014

Apr. 22	From committee: Do pass and re-refer to Com. on APPR. (Ayes 14. Noes 0.) (April 22). Re-referred to Com. on APPR.
Apr. 7	Re-referred to Com. on B.,P. & C.P.
Apr. 3	From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Mar. 24	Re-referred to Com. on B.,P. & C.P.
Mar. 20	From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Feb. 27	Referred to Com. on B.,P. & C.P.
Feb. 18	From printer. May be heard in committee March 20.
Feb. 14	Read first time. To print.

AMENDED IN ASSEMBLY APRIL 3, 2014
AMENDED IN ASSEMBLY MARCH 20, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1758

Introduced by Assembly Member Patterson

February 14, 2014

An act to amend Sections ~~1715, 1935, 2423, 2456.1, 2535, 2570.10, 2644, 2982, 3523, 4900, 4965, and 5600~~ *1724, 1944, 2435, 2538.57, 2570.16, 2688, 2987, 4842.5, 4905, 4970, and 5604* of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1758, as amended, Patterson. Healing arts: ~~license renewal fees.~~
initial license fees: proration.

Existing law provides for the regulation and licensure of various professions and vocations. Existing law requires that licenses issued to certain licensees, including, among others, architects, acupuncturists, ~~dental auxiliaries~~, dental hygienists, dentists, occupational therapists, physical therapists, physicians and surgeons, psychologists, ~~speech-language pathologists~~, and veterinarians, expire at 12 midnight on either the last day of the birth month of the licensee or at 12 midnight of the legal birth date of the licensee during the second year of a two-year term if not renewed.

This bill would ~~provide~~ *require* that the fee *for an initial temporary or permanent license, or an original license, as specified*, imposed ~~for the first renewal of a license issued pursuant to these provisions shall~~ be prorated on a monthly basis.

~~This bill would instead provide that a license issued to a dental hygienist expires, if not renewed or specifically excepted, 2 years after the date the license was issued or last renewed.~~

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

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

- 1 *SECTION 1. Section 1724 of the Business and Professions*
2 *Code is amended to read:*
3 1724. The amount of charges and fees for dentists licensed
4 pursuant to this chapter shall be established by the board as is
5 necessary for the purpose of carrying out the responsibilities
6 required by this chapter as it relates to dentists, subject to the
7 following limitations:
8 (a) The fee for application for examination shall not exceed five
9 hundred dollars (\$500).
10 (b) The fee for application for reexamination shall not exceed
11 one hundred dollars (\$100).
12 (c) The fee for examination and for reexamination shall not
13 exceed eight hundred dollars (\$800). Applicants who are found to
14 be ineligible to take the examination shall be entitled to a refund
15 in an amount fixed by the board.
16 (d) The fee for an initial license and for the renewal of a license
17 shall not exceed four hundred fifty dollars (\$450). *The fee for an*
18 *initial license shall be prorated on a monthly basis.*
19 (e) The fee for a special permit shall not exceed three hundred
20 dollars (\$300), and the renewal fee for a special permit shall not
21 exceed one hundred dollars (\$100).
22 (f) The delinquency fee shall be the amount prescribed by
23 Section 163.5.
24 (g) The penalty for late registration of change of place of
25 practice shall not exceed seventy-five dollars (\$75).
26 (h) The application fee for permission to conduct an additional
27 place of practice shall not exceed two hundred dollars (\$200).
28 (i) The renewal fee for an additional place of practice shall not
29 exceed one hundred dollars (\$100).
30 (j) The fee for issuance of a substitute certificate shall not exceed
31 one hundred twenty-five dollars (\$125).

1 (k) The fee for a provider of continuing education shall not
2 exceed two hundred fifty dollars (\$250) per year.

3 (l) The fee for application for a referral service permit and for
4 renewal of that permit shall not exceed twenty-five dollars (\$25).

5 (m) The fee for application for an extramural facility permit
6 and for the renewal of a permit shall not exceed twenty-five dollars
7 (\$25).

8 The board shall report to the appropriate fiscal committees of
9 each house of the Legislature whenever the board increases any
10 fee pursuant to this section and shall specify the rationale and
11 justification for that increase.

12 *SEC. 2. Section 1944 of the Business and Professions Code is*
13 *amended to read:*

14 1944. (a) The committee shall establish by resolution the
15 amount of the fees that relate to the licensing of a registered dental
16 hygienist, a registered dental hygienist in alternative practice, and
17 a registered dental hygienist in extended functions. The fees
18 established by board resolution in effect on June 30, 2009, as they
19 relate to the licensure of registered dental hygienists, registered
20 dental hygienists in alternative practice, and registered dental
21 hygienists in extended functions, shall remain in effect until
22 modified by the committee. The fees are subject to the following
23 limitations:

24 (1) The application fee for an original license and the fee for
25 *the* issuance of an original license shall not exceed two hundred
26 fifty dollars (\$250). *The fee for the issuance of an original license*
27 *shall be prorated on a monthly basis.*

28 (2) The fee for examination for licensure as a registered dental
29 hygienist shall not exceed the actual cost of the examination.

30 (3) For third- and fourth-year dental students, the fee for
31 examination for licensure as a registered dental hygienist shall not
32 exceed the actual cost of the examination.

33 (4) The fee for examination for licensure as a registered dental
34 hygienist in extended functions shall not exceed the actual cost of
35 the examination.

36 (5) The fee for examination for licensure as a registered dental
37 hygienist in alternative practice shall not exceed the actual cost of
38 administering the examination.

39 (6) The biennial renewal fee shall not exceed one hundred sixty
40 dollars (\$160).

1 (7) The delinquency fee shall not exceed one-half of the renewal
2 fee. Any delinquent license may be restored only upon payment
3 of all fees, including the delinquency fee, and compliance with all
4 other applicable requirements of this article.

5 (8) The fee for issuance of a duplicate license to replace one
6 that is lost or destroyed, or in the event of a name change, shall
7 not exceed twenty-five dollars (\$25) or one-half of the renewal
8 fee, whichever is greater.

9 (9) The fee for certification of licensure shall not exceed one-half
10 of the renewal fee.

11 (10) The fee for each curriculum review and site evaluation for
12 educational programs for dental hygienists who are not accredited
13 by a committee-approved agency shall not exceed two thousand
14 one hundred dollars (\$2,100).

15 (11) The fee for each review of courses required for licensure
16 that are not accredited by a committee-approved agency, the
17 Council for Private Postsecondary and Vocational Education, or
18 the Chancellor's Office of the California Community Colleges
19 shall not exceed three hundred dollars (\$300).

20 (12) The initial application and biennial fee for a provider of
21 continuing education shall not exceed five hundred dollars (\$500).

22 (13) The amount of fees payable in connection with permits
23 issued under Section 1962 is as follows:

24 (A) The initial permit fee is an amount equal to the renewal fee
25 for the applicant's license to practice dental hygiene in effect on
26 the last regular renewal date before the date on which the permit
27 is issued.

28 (B) If the permit will expire less than one year after its issuance,
29 then the initial permit fee is an amount equal to 50 percent of the
30 renewal fee in effect on the last regular renewal date before the
31 date on which the permit is issued.

32 (b) The renewal and delinquency fees shall be fixed by the
33 committee by resolution at not more than the current amount of
34 the renewal fee for a license to practice under this article nor less
35 than five dollars (\$5).

36 (c) Fees fixed by the committee by resolution pursuant to this
37 section shall not be subject to the approval of the Office of
38 Administrative Law.

39 (d) Fees collected pursuant to this section shall be collected by
40 the committee and deposited into the State Dental Hygiene Fund,

1 which is hereby created. All money in this fund shall, upon
2 appropriation by the Legislature in the annual Budget Act, be used
3 to implement the provisions of this article.

4 (e) No fees or charges other than those listed in this section shall
5 be levied by the committee in connection with the licensure of
6 registered dental hygienists, registered dental hygienists in
7 alternative practice, or registered dental hygienists in extended
8 functions.

9 (f) The fee for registration of an extramural dental facility shall
10 not exceed two hundred fifty dollars (\$250).

11 (g) The fee for registration of a mobile dental hygiene unit shall
12 not exceed one hundred fifty dollars (\$150).

13 (h) The biennial renewal fee for a mobile dental hygiene unit
14 shall not exceed two hundred fifty dollars (\$250).

15 (i) The fee for an additional office permit shall not exceed two
16 hundred fifty dollars (\$250).

17 (j) The biennial renewal fee for an additional office as described
18 in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

19 (k) The initial application and biennial special permit fee is an
20 amount equal to the biennial renewal fee specified in paragraph
21 (6) of subdivision (a).

22 (l) The fees in this section shall not exceed an amount sufficient
23 to cover the reasonable regulatory cost of carrying out the
24 provisions of this article.

25 *SEC. 3. Section 2435 of the Business and Professions Code is*
26 *amended to read:*

27 2435. The following fees apply to the licensure of physicians
28 and surgeons:

29 (a) Each applicant for a certificate based upon a national board
30 diplomate certificate, each applicant for a certificate based on
31 reciprocity, and each applicant for a certificate based upon written
32 examination, shall pay a nonrefundable application and processing
33 fee, as set forth in subdivision (b), at the time the application is
34 filed.

35 (b) The application and processing fee shall be fixed by the
36 board by May 1 of each year, to become effective on July 1 of that
37 year. The fee shall be fixed at an amount necessary to recover the
38 actual costs of the licensing program as projected for the fiscal
39 year commencing on the date the fees become effective.

1 (c) Each applicant who qualifies for a certificate, as a condition
2 precedent to its issuance, in addition to other fees required herein,
3 shall pay an initial license fee, if any, in an amount fixed by the
4 board consistent with this section. The initial license fee shall not
5 exceed seven hundred ninety dollars (\$790). *The initial license fee*
6 *shall be prorated on a monthly basis.* An applicant enrolled in an
7 approved postgraduate training program shall be required to pay
8 only 50 percent of the initial license fee.

9 (d) The biennial renewal fee shall be fixed by the board
10 consistent with this section and shall not exceed seven hundred
11 ninety dollars (\$790).

12 (e) Notwithstanding subdivisions (c) and (d), and to ensure that
13 subdivision (k) of Section 125.3 is revenue neutral with regard to
14 the board, the board may, by regulation, increase the amount of
15 the initial license fee and the biennial renewal fee by an amount
16 required to recover both of the following:

17 (1) The average amount received by the board during the three
18 fiscal years immediately preceding July 1, 2006, as reimbursement
19 for the reasonable costs of investigation and enforcement
20 proceedings pursuant to Section 125.3.

21 (2) Any increase in the amount of investigation and enforcement
22 costs incurred by the board after January 1, 2006, that exceeds the
23 average costs expended for investigation and enforcement costs
24 during the three fiscal years immediately preceding July 1, 2006.
25 When calculating the amount of costs for services for which the
26 board paid an hourly rate, the board shall use the average number
27 of hours for which the board paid for those costs over these prior
28 three fiscal years, multiplied by the hourly rate paid by the board
29 for those costs as of July 1, 2005. Beginning January 1, 2009, the
30 board shall instead use the average number of hours for which it
31 paid for those costs over the three-year period of fiscal years
32 2005–06, 2006–07, and 2007–08, multiplied by the hourly rate
33 paid by the board for those costs as of July 1, 2005. In calculating
34 the increase in the amount of investigation and enforcement costs,
35 the board shall include only those costs for which it was eligible
36 to obtain reimbursement under Section 125.3 and shall not include
37 probation monitoring costs and disciplinary costs, including those
38 associated with the citation and fine process and those required to
39 implement subdivision (b) of Section 12529 of the Government
40 Code.

1 (f) Notwithstanding Section 163.5, the delinquency fee shall be
2 10 percent of the biennial renewal fee.

3 (g) The duplicate certificate and endorsement fees shall each
4 be fifty dollars (\$50), and the certification and letter of good
5 standing fees shall each be ten dollars (\$10).

6 (h) It is the intent of the Legislature that, in setting fees pursuant
7 to this section, the board shall seek to maintain a reserve in the
8 Contingent Fund of the Medical Board of California in an amount
9 not less than two nor more than four months' operating
10 expenditures.

11 (i) Not later than January 1, 2012, the Office of State Audits
12 and Evaluations within the Department of Finance shall commence
13 a preliminary review of the board's financial status, including, but
14 not limited to, its projections related to expenses, revenues, and
15 reserves, and the impact of the loan from the Contingent Fund of
16 the Medical Board of California to the General Fund made pursuant
17 to the Budget Act of 2008. The office shall make the results of this
18 review available upon request by June 1, 2012. This review shall
19 be funded from the existing resources of the office during the
20 2011–12 fiscal year.

21 *SEC. 4. Section 2538.57 of the Business and Professions Code*
22 *is amended to read:*

23 2538.57. The amount of fees and penalties prescribed by this
24 article shall be those set forth in this section unless a lower fee is
25 fixed by the board:

26 (a) The fee for applicants applying for the first time for a license
27 is seventy-five dollars (\$75), which shall not be refunded, except
28 to applicants who are found to be ineligible to take an examination
29 for a license. Those applicants are entitled to a refund of fifty
30 dollars (\$50).

31 (b) The fees for taking or retaking the written and practical
32 examinations shall be amounts fixed by the board, which shall be
33 equal to the actual cost of preparing, grading, analyzing, and
34 administering the examinations.

35 (c) The initial temporary license fee is one hundred dollars
36 (\$100). *The fee for an initial temporary license shall be prorated*
37 *on a monthly basis.* The fee for renewal of a temporary license is
38 one hundred dollars (\$100) for each renewal.

39 (d) The initial permanent license fee is two hundred eighty
40 dollars (\$280). *The fee for an initial permanent license shall be*

1 *prorated on a monthly basis.* The fee for renewal of a permanent
2 license is not more than two hundred eighty dollars (\$280) for each
3 renewal.

4 (e) The initial branch office license fee is twenty-five dollars
5 (\$25). The fee for renewal of a branch office license is twenty-five
6 dollars (\$25) for each renewal.

7 (f) The delinquency fee is twenty-five dollars (\$25).

8 (g) The fee for issuance of a replacement license is twenty-five
9 dollars (\$25).

10 (h) The continuing education course approval application fee
11 is fifty dollars (\$50).

12 (i) The fee for official certification of licensure is fifteen dollars
13 (\$15).

14 *SEC. 5. Section 2570.16 of the Business and Professions Code*
15 *is amended to read:*

16 2570.16. Initial license and renewal fees shall be established
17 by the board in an amount that does not exceed a ceiling of one
18 hundred fifty dollars (\$150) per year. *The initial license fee shall*
19 *be prorated on a monthly basis.* The board shall establish the
20 following additional fees:

21 (a) An application fee not to exceed fifty dollars (\$50).

22 (b) A late renewal fee as provided for in Section 2570.10.

23 (c) A limited permit fee.

24 (d) A fee to collect fingerprints for criminal history record
25 checks.

26 *SEC. 6. Section 2688 of the Business and Professions Code is*
27 *amended to read:*

28 2688. The amount of fees assessed in connection with licenses
29 issued under this chapter is as follows:

30 (a) (1) The fee for an application for licensure as a physical
31 therapist submitted to the board prior to March 1, 2009, shall be
32 seventy-five dollars (\$75). The fee for an application submitted
33 under Section 2653 to the board prior to March 1, 2009, shall be
34 one hundred twenty-five dollars (\$125).

35 (2) The fee for an application for licensure as a physical therapist
36 submitted to the board on or after March 1, 2009, shall be one
37 hundred twenty-five dollars (\$125). The fee for an application
38 submitted under Section 2653 to the board on or after March 1,
39 2009, shall be two hundred dollars (\$200).

1 (3) Notwithstanding paragraphs (1) and (2), the board may
2 decrease or increase the amount of an application fee under this
3 subdivision to an amount that does not exceed the cost of
4 administering the application process, but in no event shall the
5 application fee amount exceed three hundred dollars (\$300).

6 (b) The examination and reexamination fees for the physical
7 therapist examination, physical therapist assistant examination,
8 and the examination to demonstrate knowledge of the California
9 rules and regulations related to the practice of physical therapy
10 shall be the actual cost to the board of the development and writing
11 of, or purchase of the examination, and grading of each written
12 examination, plus the actual cost of administering each
13 examination. The board, at its discretion, may require the licensure
14 applicant to pay the fee for the examinations required by Section
15 2636 directly to the organization conducting the examination.

16 (c) (1) The fee for a physical therapist license issued prior to
17 March 1, 2009, shall be seventy-five dollars (\$75).

18 (2) The fee for a physical therapist license issued on or after
19 March 1, 2009, shall be one hundred dollars (\$100).

20 (3) Notwithstanding paragraphs (1) and (2), the board may
21 decrease or increase the amount of the fee under this subdivision
22 to an amount that does not exceed the cost of administering the
23 process to issue the license, but in no event shall the fee to issue
24 the license exceed one hundred fifty dollars (\$150).

25 (4) *The fee assessed pursuant to this subdivision for an initial*
26 *physical therapist license issued on or after January 1, 2015, shall*
27 *be prorated on a monthly basis.*

28 (d) (1) The fee to renew a physical therapist license that expires
29 prior to April 1, 2009, shall be one hundred fifty dollars (\$150).

30 (2) The fee to renew a physical therapist license that expires on
31 or after April 1, 2009, shall be two hundred dollars (\$200).

32 (3) Notwithstanding paragraphs (1) and (2), the board may
33 decrease or increase the amount of the renewal fee under this
34 subdivision to an amount that does not exceed the cost of the
35 renewal process, but in no event shall the renewal fee amount
36 exceed three hundred dollars (\$300).

37 (e) (1) The fee for application and for issuance of a physical
38 therapist assistant license shall be seventy-five dollars (\$75) for
39 an application submitted to the board prior to March 1, 2009.

(2) The fee for application and for issuance of a physical therapist assistant license shall be one hundred twenty-five dollars (\$125) for an application submitted to the board on or after March 1, 2009. The fee for an application submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of administering the application process, but in no event shall the application fee amount exceed three hundred dollars (\$300).

(f) (1) The fee to renew a physical therapist assistant license that expires prior to April 1, 2009, shall be one hundred fifty dollars (\$150).

(2) The fee to renew a physical therapist assistant license that expires on or after April 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision to an amount that does not exceed the cost of the renewal process, but in no event shall the renewal fee amount exceed three hundred dollars (\$300).

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h) (1) The duplicate wall certificate fee shall be fifty dollars (\$50). The duplicate renewal receipt fee amount shall be fifty dollars (\$50).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing duplicates, but in no event shall that fee exceed one hundred dollars (\$100).

(i) (1) The endorsement or letter of good standing fee shall be sixty dollars (\$60).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing an endorsement or letter, but in no event shall the fee amount exceed one hundred dollars (\$100).

SEC. 7. Section 2987 of the Business and Professions Code is amended to read:

1 2987. The amount of the fees prescribed by this chapter shall
2 be determined by the board, and shall be as follows:

3 (a) The application fee for a psychologist shall not be more than
4 fifty dollars (\$50).

5 (b) The examination and reexamination fees for the
6 examinations shall be the actual cost to the board of developing,
7 purchasing, and grading of each examination, plus the actual cost
8 to the board of administering each examination.

9 (c) The initial license fee is an amount equal to the renewal fee
10 in effect on the last regular renewal date before the date on which
11 the license is issued. *The initial license fee shall be prorated on a*
12 *monthly basis.*

13 (d) The biennial renewal fee for a psychologist shall be four
14 hundred dollars (\$400). The board may increase the renewal fee
15 to an amount not to exceed five hundred dollars (\$500).

16 (e) The application fee for registration and supervision of a
17 psychological assistant by a supervisor under Section 2913, which
18 is payable by that supervisor, shall not be more than seventy-five
19 dollars (\$75).

20 (f) The annual renewal fee for registration of a psychological
21 assistant shall not be more than seventy-five dollars (\$75).

22 (g) The duplicate license or registration fee is five dollars (\$5).

23 (h) The delinquency fee is twenty-five dollars (\$25).

24 (i) The endorsement fee is five dollars (\$5).

25 Notwithstanding any other ~~provision of~~ law, the board may
26 reduce any fee prescribed by this section, when, in its discretion,
27 the board deems it administratively appropriate.

28 SEC. 8. *Section 4842.5 of the Business and Professions Code*
29 *is amended to read:*

30 4842.5. The amount of fees prescribed by this article is that
31 fixed by the following schedule:

32 (a) The fee for filing an application for examination shall be set
33 by the board in an amount it determines is reasonably necessary
34 to provide sufficient funds to carry out the purposes of this chapter,
35 not to exceed three hundred fifty dollars (\$350).

36 (b) The fee for the California registered veterinary technician
37 examination shall be set by the board in an amount it determines
38 is reasonably necessary to provide sufficient funds to carry out the
39 purposes of this chapter, not to exceed three hundred dollars (\$300).

(c) The initial registration fee shall be set by the board at not more than three hundred fifty dollars (\$350); ~~except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the board at not more than one hundred seventy-five dollars (\$175) and shall be prorated on a monthly basis.~~ The board may adopt regulations to provide for the waiver or refund of the initial registration fee ~~where~~ when the registration is issued less than 45 days before the date on which it will expire.

(d) The biennial renewal fee shall be set by the board at not more than three hundred fifty dollars (\$350).

(e) The delinquency fee shall be set by the board at not more than fifty dollars (\$50).

(f) Any charge made for duplication or other services shall be set at the cost of rendering the services.

(g) The fee for filing an application for approval of a school or institution offering a curriculum for training registered veterinary technicians pursuant to Section 4843 shall be set by the board at an amount not to exceed three hundred dollars (\$300). The school or institution shall also pay for the actual costs of an onsite inspection conducted by the board pursuant to Section 2065.6 of Title 16 of the California Code of Regulations, including, but not limited to, the travel, food, and lodging expenses incurred by an inspection team sent by the board.

(h) The fee for failure to report a change in the mailing address is twenty-five dollars (\$25).

SEC. 9. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the board and shall be credited to the Veterinary Medical Board Contingent Fund:

(a) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars (\$350).

(b) The fee for the California state board examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars (\$350).

(c) The fee for the Veterinary Medicine Practice Act examination shall be set by the board in an amount it determines

1 reasonably necessary to provide sufficient funds to carry out the
2 purpose of this chapter, not to exceed one hundred dollars (\$100).

3 (d) The initial license fee shall be set by the board not to exceed
4 five hundred dollars (\$500) ~~except that, if the license is issued less~~
5 ~~than one year before the date on which it will expire, then the fee~~
6 ~~shall be set by the board at not to exceed two hundred fifty dollars~~
7 ~~(\$250) and shall be prorated on a monthly basis.~~ The board may,
8 by appropriate regulation, provide for the waiver or refund of the
9 initial license fee ~~where~~ *when* the license is issued less than 45
10 days before the date on which it will expire.

11 (e) The renewal fee shall be set by the board for each biennial
12 renewal period in an amount it determines is reasonably necessary
13 to provide sufficient funds to carry out the purpose of this chapter,
14 not to exceed five hundred dollars (\$500).

15 (f) The temporary license fee shall be set by the board in an
16 amount it determines is reasonably necessary to provide sufficient
17 funds to carry out the purpose of this chapter, not to exceed two
18 hundred fifty dollars (\$250).

19 (g) The delinquency fee shall be set by the board, not to exceed
20 fifty dollars (\$50).

21 (h) The fee for issuance of a duplicate license is twenty-five
22 dollars (\$25).

23 (i) Any charge made for duplication or other services shall be
24 set at the cost of rendering the service, except as specified in
25 subdivision (h).

26 (j) The fee for failure to report a change in the mailing address
27 is twenty-five dollars (\$25).

28 (k) The initial and annual renewal fees for registration of
29 veterinary premises shall be set by the board in an amount not to
30 exceed four hundred dollars (\$400) annually.

31 (l) If the money transferred from the Veterinary Medical Board
32 Contingent Fund to the General Fund pursuant to the Budget Act
33 of 1991 is redeposited into the Veterinary Medical Board
34 Contingent Fund, the fees assessed by the board shall be reduced
35 correspondingly. However, the reduction shall not be so great as
36 to cause the Veterinary Medical Board Contingent Fund to have
37 a reserve of less than three months of annual authorized board
38 expenditures. The fees set by the board shall not result in a
39 Veterinary Medical Board Contingent Fund reserve of more than
40 10 months of annual authorized board expenditures.

1 *SEC. 10. Section 4970 of the Business and Professions Code*
2 *is amended to read:*

3 4970. The amount of fees prescribed for licensed acupuncturists
4 shall be those set forth in this section unless a lower fee is fixed
5 by the board in accordance with Section 4972:

6 (a) The application fee shall be seventy-five dollars (\$75).

7 (b) The examination and reexamination fees shall be the actual
8 cost to the Acupuncture Board for the development and writing
9 of, grading, and administering of each examination.

10 (c) The initial license fee shall be three hundred twenty-five
11 dollars (\$325), ~~except that if the license will expire less than one~~
12 ~~year after its issuance, then the initial license fee shall be an amount~~
13 ~~equal to 50 percent of the initial license fee and shall be prorated~~
14 ~~on a monthly basis.~~

15 (d) The renewal fee shall be three hundred twenty-five dollars
16 (\$325) and in the event a lower fee is fixed by the board, shall be
17 an amount sufficient to support the functions of the board in the
18 administration of this chapter. The renewal fee shall be assessed
19 on an annual basis until January 1, 1996, and on and after that date
20 the board shall assess the renewal fee biennially.

21 (e) The delinquency fee shall be set in accordance with Section
22 163.5.

23 (f) The application fee for the approval of a school or college
24 under Section 4939 shall be three thousand dollars (\$3,000).

25 (g) The duplicate wall license fee is an amount equal to the cost
26 to the board for the issuance of the duplicate license.

27 (h) The duplicate renewal receipt fee is ten dollars (\$10).

28 (i) The endorsement fee is ten dollars (\$10).

29 (j) The fee for a duplicate license for an additional office
30 location as required under Section 4961 shall be fifteen dollars
31 (\$15).

32 *SEC. 11. Section 5604 of the Business and Professions Code*
33 *is amended to read:*

34 5604. The fees prescribed by this chapter for architect
35 applicants or architect licenseholders shall be fixed by the board
36 as follows:

37 (a) The application fee for reviewing a candidate's eligibility
38 to take any section of the examination may not exceed one hundred
39 dollars (\$100).

(b) The fee for any section of the examination administered by the board may not exceed one hundred dollars (\$100).

(c) The fee for an original license at an amount equal to the renewal fee in effect at the time the license is issued, ~~except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect at the time the license is issued.~~

The fee for an original license shall be prorated on a monthly basis. The board may, by appropriate regulation, provide for the waiver or refund of the fee for an original license if the license is issued less than 45 days before the date on which it will expire.

(d) The fee for an application for reciprocity may not exceed one hundred dollars (\$100).

(e) The fee for a duplicate license may not exceed twenty-five dollars (\$25).

(f) The renewal fee may not exceed four hundred dollars (\$400).

(g) The delinquency fee may not exceed 50 percent of the renewal fee.

(h) The fee for a retired license may not exceed the fee prescribed in subdivision (c).

~~SECTION 1. Section 1715 of the Business and Professions Code is amended to read:~~

~~1715. (a) Licenses issued pursuant to this chapter, unless specifically excepted, expire at 12 midnight on the legal birth date of a licensee of the board during the second year of a two-year term if not renewed.~~

~~(b) The board shall establish procedures for the administration of the birth date renewal program, including, but not limited to, the establishment of a pro rata formula for the payment of fees by licensees affected by the implementation of the program and the establishment of a system of staggered license expiration dates to ensure that a relatively equal number of licenses expire annually.~~

~~(c) The fee imposed for the first renewal of a license issued pursuant to this chapter shall be prorated on a monthly basis.~~

~~SEC. 2. Section 1935 of the Business and Professions Code is amended to read:~~

~~1935. If not renewed, a license issued under the provisions of this article, unless specifically excepted, expires at 12 midnight on the last day of the month of the legal birth date of the licensee during the second year of a two-year term. To renew an unexpired~~

1 license, the licensee shall, before the time at which the license
2 would otherwise expire, apply for renewal on a form prescribed
3 by the committee and pay the renewal fee prescribed by this article.
4 The fee imposed for the first renewal of the license shall be
5 prorated on a monthly basis.

6 SEC. 3.— Section 2423 of the Business and Professions Code is
7 amended to read:

8 2423. (a) ~~Notwithstanding Section 2422:~~

9 (1) ~~All physician and surgeon's certificates, certificates to~~
10 ~~practice podiatric medicine, registrations of spectacle lens~~
11 ~~dispensers and contact lens dispensers, and certificates to practice~~
12 ~~midwifery shall expire at 12 midnight on the last day of the birth~~
13 ~~month of the licensee during the second year of a two-year term~~
14 ~~if not renewed.~~

15 (2) ~~Registrations of dispensing opticians will expire at midnight~~
16 ~~on the last day of the month in which the license was issued during~~
17 ~~the second year of a two-year term if not renewed.~~

18 (b) ~~The Division of Licensing shall establish by regulation~~
19 ~~procedures for the administration of a birth date renewal program,~~
20 ~~including, but not limited to, the establishment of a system of~~
21 ~~staggered license expiration dates such that a relatively equal~~
22 ~~number of licenses expire monthly.~~

23 (c) ~~To renew an unexpired license, the licensee shall, on or~~
24 ~~before the dates on which it would otherwise expire, apply for~~
25 ~~renewal on a form prescribed by the licensing authority and pay~~
26 ~~the prescribed renewal fee. The fee imposed for the first renewal~~
27 ~~of the license shall be prorated on a monthly basis.~~

28 SEC. 4.— Section 2456.1 of the Business and Professions Code
29 is amended to read:

30 2456.1. (a) ~~All osteopathic physician's and surgeon's~~
31 ~~certificates shall expire at 12 midnight on the last day of the birth~~
32 ~~month of the licensee during the second year of a two-year term~~
33 ~~if not renewed on or before that day.~~

34 (b) ~~The board shall establish by regulation procedures for the~~
35 ~~administration of a birth date renewal program, including, but not~~
36 ~~limited to, the establishment of a system of staggered license~~
37 ~~expiration dates such that a relatively equal number of licenses~~
38 ~~expire monthly.~~

39 (c) ~~To renew an unexpired license, the licensee shall, on or~~
40 ~~before the dates on which it would otherwise expire, apply for~~

1 renewal on a form prescribed by the board and pay the prescribed
2 renewal fee. The fee imposed for the first renewal of the license
3 shall be prorated on a monthly basis.

4 SEC. 5. Section 2535 of the Business and Professions Code is
5 amended to read:

6 2535. (a) All licenses issued as of January 1, 1992, shall expire
7 at 12 a.m. of the last day of the birth month of the licensee during
8 the second year of a two-year term if not renewed.

9 (b) All licenses issued under this chapter, except those licenses
10 issued pursuant to subdivision (a), shall expire at 12 a.m. of the
11 last day of the birth month of the licensee during the second year
12 of a two-year term, if not renewed.

13 (c) To renew an unexpired license, the licensee shall, on or
14 before the date of expiration of the license, apply for renewal on
15 a form provided by the board, accompanied by the prescribed
16 renewal fee. The fee imposed for the first renewal of the license
17 shall be prorated on a monthly basis.

18 SEC. 6. Section 2570.10 of the Business and Professions Code
19 is amended to read:

20 2570.10. (a) Any license issued under this chapter shall be
21 subject to renewal as prescribed by the board and shall expire
22 unless renewed in that manner. The board may provide for the late
23 renewal of a license as provided for in Section 163.5. The fee
24 imposed for the first renewal of the license shall be prorated on a
25 monthly basis.

26 (b) In addition to any other qualifications and requirements for
27 licensure renewal, the board may by rule establish and require the
28 satisfactory completion of continuing competency requirements
29 as a condition of renewal of a license.

30 SEC. 7. Section 2644 of the Business and Professions Code is
31 amended to read:

32 2644. (a) Every license issued under this chapter shall expire
33 at 12 a.m. on the last day of the birth month of the licensee during
34 the second year of a two-year term, if not renewed.

35 (b) To renew an unexpired license, the licensee shall, on or
36 before the date on which it would otherwise expire, apply for
37 renewal on a form prescribed by the board, pay the prescribed
38 renewal fee, and submit proof of the completion of continuing
39 competency required by the board pursuant to Section 2649. The
40 licensee shall disclose on his or her license renewal application

1 any misdemeanor or other criminal offense for which he or she
2 has been found guilty or to which he or she has pleaded guilty or
3 no contest. The fee imposed for the first renewal of the license
4 shall be prorated on a monthly basis.

5 SEC. 8. Section 2982 of the Business and Professions Code is
6 amended to read:

7 2982. (a) All licenses expire and become invalid at 12 midnight
8 on the last day of February, 1980, and thereafter shall expire at 12
9 midnight of the legal birth date of the licensee during the second
10 year of a two-year term, if not renewed.

11 (b) The board shall establish by regulation procedures for the
12 administration of the birth date renewal program, including but
13 not limited to, the establishment of a pro rata formula for the
14 payments of fees by licentiates affected by the implementation of
15 that program and the establishment of a system of staggered license
16 application dates such that a relatively equal number of licenses
17 expire annually.

18 (c) To renew an unexpired license, the licensee shall, on or
19 before the date on which it would otherwise expire, apply for
20 renewal on a form provided by the board, accompanied by the
21 prescribed renewal fee. The fee imposed for the first renewal of
22 the license shall be prorated on a monthly basis.

23 SEC. 9. Section 3523 of the Business and Professions Code is
24 amended to read:

25 3523. (a) All physician assistant licenses shall expire at 12
26 midnight of the last day of the birth month of the licensee during
27 the second year of a two-year term if not renewed.

28 (b) The board shall establish by regulation procedures for the
29 administration of a birthdate renewal program, including, but not
30 limited to, the establishment of a system of staggered license
31 expiration dates and a pro rata formula for the payment of renewal
32 fees by physician assistants affected by the implementation of the
33 program.

34 (c) To renew an unexpired license, the licensee shall, on or
35 before the date of expiration of the license, apply for renewal on
36 a form provided by the board, accompanied by the prescribed
37 renewal fee. The fee imposed for the first renewal of the license
38 shall be prorated on a monthly basis.

39 SEC. 10. Section 4900 of the Business and Professions Code
40 is amended to read:

1 ~~4900. (a) All veterinary licenses and veterinary technician~~
2 ~~registrations shall expire at 12 midnight of the last day of the birth~~
3 ~~month of the licensee or registrant during the second year of a~~
4 ~~two-year term if not renewed.~~

5 ~~(b) The board shall establish by regulation procedures for the~~
6 ~~administration of a birth date renewal program, including, but not~~
7 ~~limited to, the establishment of a system of staggered license and~~
8 ~~registration expiration dates and a pro rata formula for the payment~~
9 ~~of renewal fees by veterinarians and registered veterinary~~
10 ~~technicians affected by the implementation of the program.~~

11 ~~(c) To renew an unexpired license or registration, the licensee~~
12 ~~or registrant shall, on or before the date of expiration of the license~~
13 ~~or registration, apply for renewal on a form provided by the board,~~
14 ~~accompanied by the prescribed renewal fee. The fee imposed for~~
15 ~~the first renewal of the license shall be prorated on a monthly basis.~~

16 ~~(d) Renewal under this section shall be effective on the date on~~
17 ~~which the application is filed, on the date on which the renewal~~
18 ~~fee is paid, or on the date on which the delinquency fee, if any, is~~
19 ~~paid, whichever occurs last. If so renewed, the license or~~
20 ~~registration shall continue in effect through the expiration date~~
21 ~~provided in this section which next occurs after the effective date~~
22 ~~of the renewal, when it shall expire, if it is not again renewed.~~

23 ~~SEC. 11. Section 4965 of the Business and Professions Code~~
24 ~~is amended to read:~~

25 ~~4965. (a) Licenses issued pursuant to this chapter shall expire~~
26 ~~on the last day of the birth month of the licensee during the second~~
27 ~~year of a two-year term, if not renewed.~~

28 ~~(b) The board shall establish and administer a birth date renewal~~
29 ~~program.~~

30 ~~(c) To renew an unexpired license, the holder shall apply for~~
31 ~~renewal on a form provided by the board and pay the renewal fee~~
32 ~~fixed by the board. The fee imposed for the first renewal of the~~
33 ~~license shall be prorated on a monthly basis.~~

34 ~~SEC. 12. Section 5600 of the Business and Professions Code~~
35 ~~is amended to read:~~

36 ~~5600. (a) All licenses issued or renewed under this chapter~~
37 ~~shall expire at 12 midnight on the last day of the birth month of~~
38 ~~the licenseholder in each odd-numbered year following the issuance~~
39 ~~or renewal of the license.~~

1 ~~(b) To renew an unexpired license, the licenseholder shall,~~
2 ~~before the time at which the license would otherwise expire, apply~~
3 ~~for renewal on a form prescribed by the board and pay the renewal~~
4 ~~fee prescribed by this chapter. The fee imposed for the first renewal~~
5 ~~of the license shall be prorated on a monthly basis.~~
6 ~~(c) The renewal form shall include a statement specifying~~
7 ~~whether the licensee was convicted of a crime or disciplined by~~
8 ~~another public agency during the preceding renewal period and~~
9 ~~that the licensee's representations on the renewal form are true,~~
10 ~~correct, and contain no material omissions of fact, to the best~~
11 ~~knowledge and belief of the licensee.~~

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 2165

VERSION: AMENDED APRIL 21, 2014

AUTHOR: PATTERSON

SPONSOR: AUTHOR

RECOMMENDED POSITION: WATCH

SUBJECT: PROFESSIONS AND VOCATIONS: LICENSES

Overview:

This bill would require licensing boards to review licensing applications within 45 days, and to issue a license within those 45 days if the applicant meets licensing requirements.

Existing Law:

- 1) Defines a "license" as a license, certificate, registration, or other means to engage in a business or profession. (Business and Professions Code (BPC) §23.7)
- 2) Requires an applicant for licensure as a Psychologist, who meets specified education and experience requirements to be examined by the Board. (BPC §§2914 (d), 2941, 2942, and 2943)
- 3) Requires the Psychology licensing exams to be given at least twice per year. (BPC §2942)

This Bill:

- 1) Requires a licensing board to review each licensure application within 45 days of the filing date. (BPC §101.8)
- 2) If the applicant has satisfied all requirements for licensure, requires the licensing board to issue the license within the same 45 day period. (BPC §101.8)
- 3) Requires a licensing board to offer each required examination a minimum of six times per year. (BPC §101.8)

Comment:

- 1) Author's Intent.** The author's office introduced this bill because professional and vocational applicants are currently experiencing major delays in licensure application processing times. They are also concerned that several professions do not allow for testing upon graduation from school. Instead, the applicant must wait for their application to be processed before they obtain approval to take the test.

The purpose of this bill is to decrease application processing delays so that applicants are not forced to be unemployed while waiting for their application process to be completed.

- 2) Background.** The Board is currently experiencing backlogs in license processing times. This is due to several factors, including lack of staffing, an increase in the licensing population, and the implementation of the BreEZe system.

The Board staff is beginning to recover from these setbacks, and is attempting to reduce the current backlog. However, because the number of licensing staff has been the same since 2006 while, at the same time the licensing population has continued to increase, the remedy will not be immediate..

The Board recently received some good news, as the Governor's 2014-2015 budget includes three additional positions for the Board's licensing and enforcement units. DCA recently granted the Board's request to hire the three authorized before the 2014-2015 budget goes into effect. Therefore, the newly authorized positions in the licensing unit are expected to be in place shortly.

These new positions will provide significant relief in applicant processing times. Therefore, the Board expects processing times to be significantly reduced within the next six months.

- 3) Flow of Applications.** Any requirements that the Board maintain a particular number of days as its processing time are problematic because the flow of applications is never constant. Any request for a specific processing time would need to include an increased number of positions to get the job done, as well as a guarantee that those positions could be replaced regardless of the economic condition of the state.

Additionally, the legislation does not take into account that applicants can submit an application and their application fee of \$40.00, but their transcript, verification of experience form and supervision agreement form have to be submitted separately. Transcripts are sent directly by the school. VOEs and supervision agreement forms have to be sent to the Board directly by the primary supervisor. Some time we may receive an application today but not receive the transcript and VOE six months later.

- 5) Exam Offerings.** This bill requires licensing boards offer required licensing exams a minimum of six times per year. To implement this there would be a significant, negative fiscal impact.

Exams are currently offered two times per year. Each exam is changed twice a year and the process of updating the question is very involved. The process requires subject matter experts and examination workshops consisting of Item Writers, Item Review, Exam Construction, and Passing Score Workshops. We conduct two examination workshops per year which cost about \$95,000 to host and develop. There are additional costs associated with the travel, accommodation and honorarium for each licensee who is invited to provide insight. We set aside at least \$1600.00 per licensee and we at least recruit a maximum of 10 licensees for each workshop.

- 6) Applies to Applicants for Licensure and Registration.** This bill would apply to applicants for licensure and registration, as it references BPC §23.7, which includes registrations in the definition of a license.

7) Recommended Position: Watch

8) Support and Opposition.

Support:

☐ None on file.

Opposition:

☐ None on file.

9) History

2014

Apr. 21 Re-referred to Com. on B.,P. & C.P.

Apr. 10 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.

Mar. 6 Referred to Com. on B.,P. & C.P.

Feb. 21 From printer. May be heard in committee March 23.

Feb. 20 Read first time. To print.

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2165

Introduced by Assembly Member Patterson

February 20, 2014

An act to add Section 101.8 to the Business and Professions Code, relating to ~~licensing~~ *professions and vocations*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2165, as amended, Patterson. Professions and vocations: licenses.

Under existing law, boards within the Department of Consumer Affairs license and regulate persons practicing various healing arts, professions, vocations, and businesses. Existing law requires these boards to establish eligibility and application requirements, including examinations, to license, certificate, or register each applicant who successfully satisfies applicable requirements.

This bill would require each board, *as defined*, to complete within 45 days the application review process with respect to each person who has filed with the board an application for issuance of a license, and to issue, within ~~that~~ *those* 45 days, a license to an applicant who *has* successfully satisfied all licensure requirements, *as specified*. The bill ~~would also require~~ *require* each board to offer each examination the board provides for ~~the applicant's passage of which is required for~~ licensure, a minimum of 6 times per year, *unless the board uses a national examination*. The bill would also authorize a person who has satisfied the educational requirements of the licensing act of which he or she seeks licensure to immediately apply for and take the professional examination required for licensure regardless of whether his or her

application for licensure is then pending with the board for which he or she seeks licensure.

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

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

1 SECTION 1. Section 101.8 is added to the Business and
2 Professions Code, to read:

3 101.8. (a) Notwithstanding any other law, every board, as
4 defined in Section 22, within 45 days following the filing date of
5 an application with the board for issuance of a license, as defined
6 in Section 23.7, to engage in the business or profession regulated
7 by that board, the board shall do both of the following:

8 (1) Complete the application review process.

9 (2) If the applicant has satisfied all of the requirements for
10 licensure under the applicable licensing act, issue the applicant the
11 applicable license.

12 *(b) For purposes of paragraph (2) of subdivision (a), an*
13 *applicant has satisfied all of the requirements for licensure under*
14 *the applicable licensing act only if all of the documents required*
15 *by the licensing board for licensure have been submitted to the*
16 *board, regardless of whether those documents are to be submitted*
17 *by the applicant with his or her application or separately by any*
18 *other person or entity, such as for purposes of, among other things,*
19 *verification of completion of the applicant's coursework, training,*
20 *or clinical experience, if required under the applicable licensing*
21 *act.*

22 ~~(b)~~

23 (c) Every board that offers an examination that an applicant is
24 required to complete successfully for licensure, shall offer that
25 examination a minimum of six times per year, *unless the board*
26 *uses a national examination.*

27 (d) *Notwithstanding any other law, a person who has satisfied*
28 *the educational requirements of the licensing act of which he or*
29 *she seeks licensure, such as graduation from a state-approved or*
30 *state-accredited school of which graduation is required by the*
31 *applicable licensing act, may immediately apply for and take the*
32 *professional examination required for licensure, regardless of*

- 1 *whether his or her application for licensure is then pending with*
- 2 *the board for which he or she seeks licensure.*

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CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 2198

VERSION: AMENDED APRIL 21, 2014

AUTHOR: LEVINE

SPONSOR: AUTHOR

RECOMMENDED POSITION: WATCH

SUBJECT: MENTAL HEALTH PROFESSIONALS: SUICIDE PREVENTION TRAINING

Existing Law:

- 1) Provides that the Board of Psychology (Board) is the state licensing entity for Psychologists, Registered Psychologists, and Psychological Assistants. (Business and Professions Code (BPC) §§2900, 2903, 2913)
- 2) Requires the director of the Department of Consumer Affairs to establish, by regulation, guidelines to prescribe components for mandatory continuing education programs administered by any board within the department. The guidelines shall be developed to ensure that mandatory continuing education is used as a means to create a more competent licensing population, thereby enhancing public protection. (Business and Professions Code §166)
- 3) Requires licensees of the Board of Psychology (Board), upon renewal of their license, to certify to the Board that he or she has completed at least 36 hours of approved continuing education in or relevant to their field of practice. (BPC §§2914.1, 2914.2, 2915 (a), 2915 (d) (1), 2915 (2) (a-b), 2915.5, 2915.7).

This Bill:

- 1) States the intent of the Legislature to help lower the suicide rate in California by requiring certain health professionals to complete training in suicide assessment, treatment, and management as part of their continuing education. (BPC §§2915.3, 2915.4)
- 2) Would require a Psychologist, whose graduate study begins on or after January 1, 2016, to complete a 15 hours of contact hours of coursework in suicide assessment, treatment, and management. (BPC §2915.3)

3) Would require a Psychologist, whose graduate study began prior to January 1, 2016, to complete a six-hour continuing education course in suicide assessment, treatment, and management. (BPC §2915.4 (a))

Comments:

1) Author's Intent. The intent of this bill is to ensure mental health professionals have concentrated training in suicide assessment, treatment, and management. In 2008, over 36,000 people died by suicide in the U.S., making it the 10th leading cause of death nationally. Several organizations, including the United States Department of Health and Human Services, and the Institute of Medicine, have indicated a need for improved education and training in suicide assessment.

2) Current Education Requirements. There is currently no specific requirement that a licensee of the Board has coursework covering suicide assessment, treatment, and management in his or her degree, or complete continuing education, which covers suicide assessment.

The courses below must be completed prior to licensure or at the first renewal, depending on when the applicant began graduate study:

- Spousal/partner abuse (15 hours);
- Human Sexuality (10 hours);
- Child Abuse (7 hours);
- Substance Abuse (15 hours);
- Aging/long term care (10 hours);

Conversations with one of the Board's subject matter experts indicated that suicide assessment is likely covered in Master's degree and post-doctoral programs, both in basic counseling skills courses and in trauma courses.

3) Continuing Education Requirements. The Board has several one-time continuing educational requirements that must be completed by its licensees. These additional courses must be completed prior to licensure or at the first renewal, depending on when the applicant began graduate study.

All licensees must also certify that they have kept abreast of changes to the law or ethical codes every renewal period. In total, a licensee must complete 36 hours of continuing education every renewal period. There is no requirement for suicide assessment, treatment, and management.

4) Recommended Position: Watch

5) Support and Opposition.

Support:

☐None at this time.

Opposition:

☐None at this time.

11) History

2014

Apr. 22	In committee: Set, first hearing. Hearing canceled at the request of author.
Apr. 22	Re-referred to Com. on B.,P. & C.P.
Apr. 21	From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Mar. 6	Referred to Com. on B.,P. & C.P.
Feb. 21	From printer. May be heard in committee March 23.
Feb. 21	Read first time. To print.

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2198

Introduced by Assembly Member Levine
(Principal coauthor: Senator Hill)

February 20, 2014

An act to add ~~Chapter 17 (commencing with Section 4999.150) to Division 2 of Sections 2915.3, 2915.4, 4980.393, 4980.394, 4989.21, 4989.35, 4996.27, 4996.275, 4999.37, and 4999.77 to the Business and Professions Code, relating to healing arts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2198, as amended, Levine. Mental health professionals: suicide prevention training.

Existing law provides for the licensure and regulation of various professionals who provide mental health-related services, including psychologists, marriage and family therapists, educational psychologists, *professional clinical counselors*, and clinical social workers. Under existing law, an applicant for licensure in these professions is required to complete certain coursework or training in order to be eligible for a license. Existing law also requires these professionals to participate in continuing education as a prerequisite for renewing their license.

~~This bill would require a mental health professional, defined to include, but not be limited to, certain types of professionals, to complete a training program in suicide assessment, treatment, and management that is administered by the relevant board or other state entity responsible for the licensure and regulation of the mental health professional. The bill would require the Department of Consumer Affairs to conduct a study evaluating the effect of evidence-based suicide assessment,~~

~~treatment, and management training on the ability of licensed health care professionals to identify, refer, treat, and manage patients with suicidal ideation, and would require the department, no later than January 1, 2016, to prepare and submit to the Legislature report summarizing the findings of that study.~~

This bill would require a psychologist, marriage and family therapist, educational psychologist, professional clinical counselor, and clinical social worker who began graduate study on or after January 1, 2016, to complete a minimum of 15 contact hours of coursework in suicide assessment, treatment, and management before he or she may be issued a license. The bill would also require, commencing January 1, 2016, a person licensed in these professions who began graduate study prior to January 1, 2016, to take a six-hour continuing education course in suicide assessment, treatment, and management in order to renew his or her license.

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

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

- 1 *SECTION 1. Section 2915.3 is added to the Business and*
- 2 *Professions Code, to read:*
- 3 *2915.3. (a) Any applicant for licensure as a psychologist who*
- 4 *began graduate study on or after January 1, 2016, shall complete,*
- 5 *as a condition of licensure, a minimum of 15 contact hours of*
- 6 *coursework in suicide assessment, treatment, and management.*
- 7 *(b) The board shall not issue a license to the applicant until the*
- 8 *applicant has met the requirements of this section.*
- 9 *SEC. 2. Section 2915.4 is added to the Business and Professions*
- 10 *Code, to read:*
- 11 *2915.4. (a) A licensee who began graduate study prior to*
- 12 *January 1, 2016, shall complete a six-hour continuing education*
- 13 *course in best practices for suicide assessment, treatment, and*
- 14 *management during his or her first renewal period after the*
- 15 *operative date of this section, and shall submit to the board*
- 16 *evidence acceptable to the board of the person's satisfactory*
- 17 *completion of that course.*
- 18 *(b) The board shall not issue a license to the applicant until the*
- 19 *applicant has met the requirements of this section.*

1 (c) Continuing education courses taken pursuant to this section
2 shall be applied to the 36 hours of approved continuing education
3 required by Section 2915.

4 (d) This section shall become operative on January 1, 2016.

5 SEC. 3. Section 4980.393 is added to the Business and
6 Professions Code, immediately following Section 4980.39, to read:

7 4980.393. (a) An applicant for licensure who began graduate
8 study on or after January 1, 2016, and whose education qualifies
9 him or her under Section 4980.36 or 4980.37 shall complete, as
10 a condition of licensure, a minimum of 15 contact hours of
11 coursework in suicide assessment, treatment, and management.

12 SEC. 4. Section 4980.394 is added to the Business and
13 Professions Code, to read:

14 4980.394. (a) A licensee who began graduate study before
15 January 1, 2016, shall complete a six-hour continuing education
16 course in best practices for suicide assessment, treatment, and
17 management, during his or her first renewal period after the
18 operative date of this section and shall submit to the board
19 evidence, acceptable to the board, of the person's satisfactory
20 completion of the course.

21 (b) Continuing education courses taken pursuant to this section
22 shall be applied to the 36 hours of approved continuing education
23 required by Section 4980.54.

24 (c) This section shall become operative on January 1, 2016.

25 SEC. 5. Section 4989.21 is added to the Business and
26 Professions Code, to read:

27 4989.21. (a) Any applicant for licensure as an educational
28 psychologist who began graduate study on or after January 1,
29 2016, shall complete, as a condition of licensure, a minimum of
30 15 contact hours of coursework in suicide assessment, treatment,
31 and management.

32 (b) The board shall not issue a license to the applicant until the
33 applicant has met the requirements of this section.

34 SEC. 6. Section 4989.35 is added to the Business and
35 Professions Code, to read:

36 4989.35. (a) A licensee who began graduate study before
37 January 1, 2016, shall complete a six-hour continuing education
38 course in best practices for suicide assessment, treatment, and
39 management, during his or her first renewal period after the
40 operative date of this section and shall submit to the board

1 *evidence, acceptable to the board, of the person's satisfactory*
2 *completion of the course.*

3 *(b) Continuing education courses taken pursuant to this section*
4 *shall be applied to the 36 hours of approved continuing education*
5 *required by Section 4989.34.*

6 *(c) This section shall become operative on January 1, 2016.*

7 *SEC. 7. Section 4996.27 is added to the Business and*
8 *Professions Code, immediately following Section 4996.26, to read:*

9 *4996.27. (a) Any applicant for licensure as a licensed clinical*
10 *social worker who began graduate study on or after January 1,*
11 *2016, shall complete, as a condition of licensure, a minimum of*
12 *15 contact hours of coursework in suicide assessment, treatment,*
13 *and management.*

14 *(b) The board shall not issue a license to the applicant until the*
15 *applicant has met the requirements of this section.*

16 *SEC. 8. Section 4996.275 is added to the Business and*
17 *Professions Code, immediately following Section 4996.27, to read:*

18 *4996.275. (a) A licensee who began graduate study prior to*
19 *January 1, 2016, shall complete a six-hour continuing education*
20 *course in best practices for suicide assessment, treatment, and*
21 *management, during his or her first renewal period after the*
22 *operative date of this section, and shall submit to the board*
23 *evidence, acceptable to the board, of the person's satisfactory*
24 *completion of the course.*

25 *(b) Continuing education courses taken pursuant to this section*
26 *shall be applied to the 36 hours of approved continuing education*
27 *required in Section 4996.22.*

28 *(c) This section shall become operative on January 1, 2016.*

29 *SEC. 9. Section 4999.37 is added to the Business and*
30 *Professions Code, to read:*

31 *4999.37. An applicant for examination eligibility or registration*
32 *who began graduate study on or after January 1, 2016, and whose*
33 *education qualifies him or her under Section 4999.32 or 4999.33*
34 *shall complete, as a condition of licensure, a minimum of 15*
35 *contact hours of coursework in suicide assessment, treatment, and*
36 *management.*

37 *SEC. 10. Section 4999.77 is added to the Business and*
38 *Professions Code, to read:*

39 *4999.77. (a) A licensee who began graduate study prior to*
40 *January 1, 2016, shall complete a six-hour continuing education*

1 *course in best practices for suicide assessment, treatment, and*
2 *management, during his or her first renewal period after the*
3 *operative date of this section, and shall submit to the board*
4 *evidence, acceptable to the board, of the person's satisfactory*
5 *completion of the course.*

6 *(b) Continuing education courses taken pursuant to this section*
7 *shall be applied to the 36 hours of approved continuing education*
8 *required in Section 4999.76.*

9 *(c) This section shall become operative on January 1, 2016.*

10 ~~SECTION 1. Chapter 17 (commencing with Section 4999.150)~~
11 ~~is added to Division 2 of the Business and Professions Code, to~~
12 ~~read:~~

13
14 ~~CHAPTER 17. MENTAL HEALTH PROFESSIONAL SUICIDE~~
15 ~~PREVENTION TRAINING~~
16

17 ~~4999.150. The Legislature finds and declares all of the~~
18 ~~following:~~

19 ~~(a) According to the federal Centers for Disease Control and~~
20 ~~Prevention:~~

21 ~~(1) In 2008, more than 36,000 people died by suicide in the~~
22 ~~United States, making it the 10th leading cause of death nationally.~~

23 ~~(2) During 2007 to 2008, inclusive, an estimated 569,000 people~~
24 ~~visited hospital emergency departments with self-inflicted injuries~~
25 ~~in the United States, 70 percent of whom had attempted suicide.~~

26 ~~(b) According to a national study, veterans face an elevated risk~~
27 ~~of suicide as compared to the general population, more than twice~~
28 ~~the risk among male veterans. Another study has indicated a~~
29 ~~positive correlation between posttraumatic stress disorder and~~
30 ~~suicide.~~

31 ~~(c) Research continues on how the effects of wartime service~~
32 ~~and injuries such as traumatic brain injury, posttraumatic stress~~
33 ~~disorder, or other service-related conditions, may increase the~~
34 ~~number of veterans who attempt suicide.~~

35 ~~(d) As more men and women separate from the military and~~
36 ~~transition back into civilian life, community mental health~~
37 ~~providers will become a vital resource to help these veterans and~~
38 ~~their families deal with issues that may arise.~~

39 ~~(e) Suicide has an enormous impact on the family and friends~~
40 ~~of the victim as well as the community as a whole.~~

1 (f) Approximately 90 percent of people who die by suicide had
2 a diagnosable psychiatric disorder at the time of death. Most suicide
3 victims exhibit warning signs or behaviors prior to an attempt.

4 (g) Improved training and education in suicide assessment,
5 treatment, and management has been recommended by a variety
6 of organizations, including the United States Department of Health
7 and Human Services and the Institute of Medicine.

8 (h) It is the intent of the Legislature to help lower the suicide
9 rate in this state by requiring certain health professionals to
10 complete training in suicide assessment, treatment, and
11 management as part of their continuing education, continuing
12 competency, or recertification requirements.

13 (i) The Legislature does not intend to expand or limit the existing
14 scope of practice of any health professional affected by this chapter.

15 4999.151. As used in this chapter, “mental health professional”
16 includes, but is not limited to, all of the following:

17 (a) A psychologist.

18 (b) A marriage and family therapist.

19 (c) A clinical social worker.

20 4999.152. Commencing January 1, 2015, a mental health
21 professional subject to this chapter shall complete a training
22 program in suicide assessment, treatment, and management as
23 prescribed by this chapter and administered by the relevant board
24 or other state entity responsible for the licensure and regulation of
25 the mental health professional.

26 4999.153. (a) The Department of Consumer Affairs shall
27 conduct a study evaluating the effect of evidence-based suicide
28 assessment, treatment, and management training on the ability of
29 licensed health care professionals to identify, refer, treat, and
30 manage patients with suicidal ideation.

31 (b) The Department of Consumer Affairs shall prepare and
32 submit to the Legislature, no later than January 1, 2016, a report
33 summarizing the findings of the study pursuant to subdivision (a).
34 The report shall be submitted in compliance with Section 9795 of
35 the Government Code.

36 (c) This section shall remain in effect only until January 1, 2019,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2019, deletes or extends that date.

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 2396

VERSION: AMENDED APRIL 21, 2014

AUTHOR: BONTA

SPONSOR: ALAMEDA COUNTY

RECOMMENDED POSITION: OPPOSE

SUBJECT: CONVICTIONS: EXPUNGEMENT: LICENSES

Existing Law:

- 1) Existing law permits a defendant to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty in any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or has been convicted of a misdemeanor and not granted probation and has fully complied with and performed the sentence of the court, or has been sentenced to a county jail for a felony, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted this or other specified relief and requires the defendant to be released from all penalties and disabilities resulting from the offense of which he or she has been convicted. (Penal Code §§ 1203.4, 1203.4a, or 1203.41)
- 2) Existing law provides for the licensure and regulation of Psychology by the Board. Existing law authorizes the board to deny, suspend, or revoke a license on various grounds, including, but not limited to, conviction of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued (BPC §§480, 481, 2963, 2966).

This Bill:

- 1) The bill seeks to remove the ability of DCA boards to deny licenses to applicants with expunged convictions. The Bill seeks to do this by amending Section 480 of the Business & Professions Code to read: "*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.*"

- 2) The Board currently cites Section 480 of the Business & Professions Code when denying a license to an applicant who has an expunged conviction. The intent of the legislation is to take away the discretion of the Board and require the licensing of those individuals with expunged convictions.

Comments:

- 1) **Author's Intent:** AB 2396 is designed to reduce employment barriers for people with criminal records who have been rehabilitated. The Act allows them the opportunity to pursue meaningful employment and work towards entering the middle class, instead of struggling in low-wage jobs, or returning to crime.
- 2) **Current Board Practice:** If the Board is prohibited from denying a license based solely on a conviction that has been dismissed pursuant to 1203.4 or a similar dismissal, the Board would be required to conduct an investigation to substantiate the underlying cause for the conviction. If a violation is substantiated the application can be denied and the application case will be transmitted to the AG for filing of a Statement of Issues (SOI) (BPC §485). Once the SOI is filed the matter can be set for hearing before an administrative law judge with the Office of Administrative Hearings (OAH).

Statistical Data License Denials

FY 12/13 - 7
FY 11/12 - 8
FY 10/11 - 12

Three year average: 9

3) Fiscal:

Investigation: The average cost of an investigation is \$3100.00 (25 hours @ \$124.00 per hour).

AG Hourly rate \$170

The average number of hours for filing of an SOI, preparing for hearing and appearing at hearing is 30.

30 x \$170 = \$5100.00

OAH

ALJ hourly rate \$187.00
 Filing costs \$76.00
 The average number of hours hearing is 7.
 $7 \times \$187 = \1309
 Hearing and filing $\$1309 + \$76 = \$1385$

Investigation	\$3100
AG	\$5100
<u>OAH</u>	<u>\$1385</u>
Cost per case	\$9585

Nine cases @ \$9585 per case would cost the board approximately \$86,265.50 each year.

Additionally this bill will create an additional obstacle in meeting the Consumer Protection Enforcement Initiative (CPEI) goals. The investigation that would be necessary to substantiate the underlying cause for the conviction will increase the overall processing time for this type of case.

4) Recommended Position: Oppose

3) Support and Opposition.

Support:

- Alameda County (Sponsor)

Opposition:

- Board of Pharmacy
- CSLB

5) History

Apr. 22 In committee: Set, first hearing. Hearing canceled at the request of author.
Apr. 22 Re-referred to Com. on B.,P. & C.P.
Apr. 21 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Apr. 1 Re-referred to Com. on B.,P. & C.P.
Mar. 28 From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Mar. 28 Referred to Com. on B.,P. & C.P.
Feb. 24 Read first time.
Feb. 23 From printer. May be heard in committee March 25.
Feb. 21 Introduced. To print.

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2396

Introduced by Assembly Member Bonta
(Coauthor: Assembly Member Skinner)

February 21, 2014

An act to amend Section 480 of the Business and Professions Code, relating to expungement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2396, as amended, Bonta. Convictions: expungement: licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license on various grounds, including, but not limited to, conviction of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law prohibits a board from denying a license on the ground that the applicant has committed a crime if the applicant shows that he or she obtained a certificate of rehabilitation in the case of a felony, or that he or she has met all applicable requirements of the criteria of rehabilitation developed by the board, as specified, in the case of a misdemeanor.

Existing law permits a defendant to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty in any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of

the period of probation, or has been convicted of a misdemeanor and not granted probation and has fully complied with and performed the sentence of the court, or has been sentenced to a county jail for a felony, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted this or other specified relief and requires the defendant to be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

This bill would prohibit a board from denying a license based solely on a conviction that has been dismissed pursuant to the above provisions.

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

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

1 SECTION 1. Section 480 of the Business and Professions Code
2 is amended to read:
3 480. (a) A board may deny a license regulated by this code
4 on the grounds that the applicant has one of the following:
5 (1) Been convicted of a crime. A conviction within the meaning
6 of this section means a plea or verdict of guilty or a conviction
7 following a plea of nolo contendere. Any action that a board is
8 permitted to take following the establishment of a conviction may
9 be taken when the time for appeal has elapsed, or the judgment of
10 conviction has been affirmed on appeal, or when an order granting
11 probation is made suspending the imposition of sentence,
12 irrespective of a subsequent order under the provisions of Section
13 1203.4, 1203.4a, or 1203.41 of the Penal Code.
14 (2) Done any act involving dishonesty, fraud, or deceit with the
15 intent to substantially benefit himself or herself or another, or
16 substantially injure another.
17 (3) (A) Done any act that if done by a licensee of the business
18 or profession in question, would be grounds for suspension or
19 revocation of license.
20 (B) The board may deny a license pursuant to this subdivision
21 only if the crime or act is substantially related to the qualifications,
22 functions, or duties of the business or profession for which
23 application is made.
24 (b) Notwithstanding any other provision of this code, a person
25 shall not be denied a license solely on the basis that he or she has

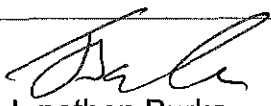
1 been convicted of a felony if he or she has obtained a certificate
2 of rehabilitation under Chapter 3.5 (commencing with Section
3 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she
4 has been convicted of a misdemeanor if he or she has met all
5 applicable requirements of the criteria of rehabilitation developed
6 by the board to evaluate the rehabilitation of a person when
7 considering the denial of a license under subdivision (a) of Section
8 482.

9 (c) Notwithstanding any other provisions of this code, a person
10 shall not be denied a license solely on the basis of a conviction
11 that has been dismissed pursuant to Section 1203.4, 1203.4a, or
12 1203.41.

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



MEMORANDUM

DATE	April 30, 2014
TO	Psychology Board Members
FROM	 Jonathan Burke Administrative Services Coordinator
SUBJECT	Regulations Update

Background:

Title 16, CCR, Section 1397.12 – Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

At the February Board Meeting staff was given the authority to make non-substantive changes to the Board approved language. The Executive Officer was delegated authority to set a hearing date.

The target date for the hearing is August 22, 2014. The package will be submitted to DCA's Legislative and Regulatory Review division on June 4, 2014.

Title 16, CCR, Sections 1388; 1388.6, 1389, 1392 – Examinations, License Requirements and Waiver of Examination, Reconsideration of Examinations, Psychologist Fees

At the February Board Meeting, Dr. Horn moved to amend the draft language so the number 500 was replaced with "the scale score as recommended by ASPPB". This was to accommodate changes in the passing score. This change has been incorporated and the regulation [package is being prepared.

The target date for the hearing is August 22, 2014. The package will be submitted to DCA's Legislative and Regulatory Review division on June 4, 2014.

Title 16, CCR, Sections 1397.60, 1397.61, 1397.62, 1397.67 – Definitions, Continuing Education Requirements, Continuing Education Exemptions and Exceptions, Renewal After Inactive or Delinquent Status

The updated language can be found in section K. of the Licensing Committee in the Hand Carry items: Discuss Implementation of AB 1588 (Atkins) – Military Duty Licensees: Fees and Continuing Education.


If the updated package is approved, the package will be noticed for hearing on November 21, 2014.

Action Requested:

Move discussion of Title 16, CCR, Sections 1397.60, 1397.61, 1397.62, 1397.67 – Definitions, Continuing Education Requirements, Continuing Education Exemptions and Exceptions, Renewal After Inactive or Delinquent Status to related item under the Licensing Committee.



MEMORANDUM

DATE	April 30, 2014
TO	Psychology Board Members
FROM	 Jonathan Burke Administrative Services Coordinator
SUBJECT	California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting - Penal Code Sections 261.5, 288, and 11165.1

Background:

Attached is the Board's letter for Senator Steinberg requesting a legal opinion regarding the confusion surrounding mandated reporting requirements under the Child Abuse and Neglect Reporting Act (CANRA).

At our February Board Meeting the Board moved to ask for an opinion from the Attorney General clearly stating whether oral copulation and sodomy between minors of like age is reportable. It is our hope that Senator Steinberg will use the language in our letter to seek an opinion on behalf our licensees and the Board. Board Member Linda Starr volunteered to deliver the letter to Senator Steinberg's staff and explain the importance of this issue. She confirmed delivery of the letter on X. She confirmed delivery of the letter on X.

Attached is the letter requesting an AG's opinion and the supporting secondary documents that were submitted:

- 1) Board of Behavioral Sciences' Legal Opinion
- 2) County of Santa Clara information sheet for mandated reporters. Comments on "hopelessly blurred" situation.
- 3) CAMFT Guide for Mandating Reporting that references the BBS opinion
- 4) Legal article arguing that oral copulation and sodomy are always mandated reports if they involve a minor
- 5) Guide for Psychologists published by Girls Incorporated of Alameda County that states that oral copulation and sodomy are mandated reporting.

- 6) Child Abuse Council of Santa Clara County reporting guidelines that indicate that oral copulation and sodomy are mandated reporting.

Action Requested:

There is no action required at this time.



March 21, 2014

The Honorable Darrell Steinberg,
California State Senate
State Capitol, Room 205
Sacramento, CA 95814

RE: Attorney General Opinion – Child Abuse and Neglect Reporting Act (“CANRA”)

Dear Senator Steinberg:

The Board of Psychology (Board) seeks your assistance in obtaining clarification from the Attorney General’s Office on the mandated reporting requirements under the Child Abuse and Neglect Reporting Act (“CANRA”).

CANRA, Penal Code section 11164 et seq., requires certain enumerated mandated reporters, including psychologists and registered psychological assistants, to report to appropriate authorities suspected child abuse or neglect. “Child abuse” includes sexual abuse as defined in Penal Code section 11165.1, and includes certain acts of sodomy (Penal Code section 286) and oral copulation (Penal Code section 288a), and certain lewd and lascivious acts (Penal Code section 288). Since 1986, the law has been clear that reporters are not required to report consensual sexual intercourse between minors under age 14 as sexual abuse under Penal Code section 288 in the absence of any other signs of abuse. (See *Planned Parenthood Affiliates of California et al., v. John K. Van de Kamp* (1986) 181 Cal.App.3d 245.) Historically, however, the Board of Psychology, as well as several other healing arts boards, has acknowledged different reporting requirements for acts of sodomy and oral copulation between minors than for other sexual acts, like sexual intercourse, that has been discussed and outlined in secondary source materials for psychologists to assist psychologists’ compliance with the law. Specifically, according to these long-standing sources, practitioners do not have to report their knowledge of non-abusive consensual sexual conduct between minors of a like age to authorities except in instances when acts of sodomy or oral copulation have occurred.

On April 11, 2013, the Board of Behavioral Sciences (BBS) received a legal opinion from its counsel that found that a reasonable reading of CANRA does not require the reporting of any consensual sexual activity between minors, and that no amendments to CANRA were necessary to clarify that interpretation. Counsel concluded, “It is not

necessary to amend the statute to remove sodomy and oral copulation, as these acts are not treated differently from other acts outlined in the code.” (The opinion has been made public by the Board of Behavioral Sciences, and is attached for your reference.)

While the Board generally agrees with the conclusion of the BBS legal opinion, a significant shift in the interpretation of CANRA after nearly 30 years of a different standard without a change in the statute is cause for confusion for the Board's licensees. The state professional association for psychologists, noting that the BBS opinion described a duty different from what has been described by educators for psychologists, raised the question with the Board as to what standard would the Board be relying upon in reviewing cases where CANRA was relevant. In addition to a long history of psychologists learning a standard for reporting sexual activity between minors of a like age that differentiates between the type of sex act (i.e., sodomy and oral copulation are reportable; intercourse is not), the Board is aware that violations of CANRA are enforced as misdemeanors. Issuing an opinion as the interpretation of a penal statute that may not be accurate carries criminal implications for its licensees even if the Board does not pursue an administrative action because of a different interpretation of the standard. Therefore, the Board is seeking an opinion from the Attorney General's Office on behalf of its licensees to clarify what CANRA requires them to report.

The Board is seeking your help in obtaining an Attorney General's Opinion on this matter because its impact will affect numerous healing arts licensing boards, including the Medical Board of California, BBS, and Board of Registered Nursing.

The specific legal questions to resolve are: What instances of non-abusive sexual conduct involving minors must a mandatory reporter report to child protective agencies under CANRA? Does CANRA require a distinction be made in reporting sexual conduct depending upon the nature of the conduct suspected?

It is the Board's hope that this opinion will clarify how healing arts boards properly educate their licensees as to the state of the law, and discipline their licensees for violations of the reporting requirements outlined in CANRA.

The Board appreciates any assistance your office can provide. If your office has any questions or concerns regarding this request, please feel free to have them contact me at (916) 574-7113.

Sincerely,


ANTONETTE SORRICK
Executive Officer, Board of Psychology

cc: Members, Board of Psychology
Kim Madsen, Executive Officer, Board of Behavioral Sciences

Attachment(s) or Enclosure(s):

- (i) BBS Legal Opinion

Continuing Education Resources and Guidelines that provide contradictory information for Mandated Reporters, or refer to the confusion surrounding this issue.

- (ii) County of Santa Clara information sheet for mandated reporters. Comments on "hopelessly blurred" situation.
- (iii) CAMFT Guide for Mandating Reporting that references the BBS opinion
- (iv) Legal article arguing that oral copulation and sodomy are always mandated reports if they involve a minor
- (v) Guide for Psychologists published by Girls Incorporated of Alameda County that states that oral copulation and sodomy are mandated reporting.
- (vi) Child Abuse Council of Santa Clara County reporting guidelines that indicate that oral copulation and sodomy are mandated reporting.

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members

Date: May 6, 2013

From: Christina Kitamura
Administrative Analyst

Telephone: (916) 574-7830

Subject: Legal Opinion Regarding CANRA Reform Proposal

Attached is a copy DCA's legal opinion regarding the CANFRA reform proposal. Although this information was released publicly during the April 2013 Policy and Advocacy Committee meeting, the attached document was not provided to the public. Furthermore, the document was not included in the public's copy of the board meeting materials.



MEMORANDUM

DATE	April 11, 2013
TO	Kim Madsen Members of the Board of Behavioral Sciences
FROM	DIANNE R. DOBBS Senior Staff Counsel, Legal Affairs
SUBJECT	Evaluation of CANRA Reform Proposal Related to Reporting of Consensual Sex Between Minors

Following presentation by Benjamin E. Caldwell, PsyD of a proposal to amend portions of the Child Abuse and Neglect Reporting Act ("CANRA") at the board meeting on February 28, 2013, the board requested a legal opinion on the proposal. The proposal seeks to amend CANRA to remove sodomy and oral copulation from the definition of sexual abuse, assault or exploitation. The purpose of the modification is to address concerns of mandated reporting in situations of consensual acts falling within these definitions when the actors are minors of like age under the law and the actions do not otherwise suggest other indications of abuse or neglect.

QUESTIONS PRESENTED

1. As written does Penal Code section 11165.1 require practitioners to report all conduct by minors that fall under the definition of sodomy and oral copulation?
2. Does the legal interpretation of CANRA warrant support of the proposed amendments?

SHORT ANSWERS

1. No. Court interpretation of CANRA dating back to 1986, and followed as recently as 2005 confirms that minors under and over age 14 can lawfully engage in consensual sexual activities with minors of a like age, and that not all sexual conduct involving a minor necessarily constitutes a violation of the law. That as such, a mandated reporter is required to report only those conditions and situations where the reporter has reason to know or suspects resulted from sexual conduct between the minor and an older adolescent or an adult and those contacts which resulted from undue influence, cohesion, use of force or other indicators of abuse.

2. No. Because practitioners are not required to report any non-abusive consensual sexual activities between minors of like age, amendment of the law is not necessary and should not be supported.

STATEMENT OF FACTS/BACKGROUND

1. Benjamin Caldwell PhD, ("Dr. Caldwell") Legislative and Advocacy Committee Chair of the American Association of Marriage and Family Therapy – California Division seeks to amend CANRA and is seeking the support of the Board of Behavioral Sciences ("Board").
2. Dr. Caldwell claims that CANRA's inclusion of sodomy and oral copulation in the definition of sexual assault found in Penal Code section 11165.1¹ requires mandated reporters to report all homosexual activities meeting these definitions whether or not the acts are consensual and not otherwise suggestive of abuse.
3. The Senior Legislative Assistant of Assembly member Tom Ammiano believes that Dr. Caldwell and others are misinterpreting CANRA.

ANALYSIS

CANRA does not require a mandated reporter to report incidents of consensual sex between minors of similar age, as provided in section 261.5, absent reasonable suspicion of force, exploitation or other indications of abuse. The California Court of Appeal decided this issue in its 1988 ruling in *Planned Parenthood v. Van De Kamp*. *Planned Parenthood v. Van De Kamp* (1988) 181 Cal.App.3d 245. In that case, Planned Parenthood sought to enjoin implementation of CANRA following an opinion of the Attorney General which provided that the inclusion of section 288 in the definition of sexual assault found in section 11165.1 (a) meant that all sexual activities between and with minors under age 14 was reportable. 67 Ops. Cal. Atty. Gen. 235 (1984).

In nullifying the AG's opinion, the court explored the legislative history and intent of CANRA and held that the legislative intent of the reporting law was to leave the distinction between abusive and non-abusive sexual relations to the judgment of those professionals who deal with children and who are by virtue of their training and experience particularly well suited to such judgment. The court reasoned that while the voluntary sexual conduct among minors under the age of 14 may be ill advised, it is not encompassed by section 288, and that the inclusion of that section in the reporting law does not mandate reporting of such activities. Id at 276.

¹ All further citations are to the Penal Code unless otherwise specified.

After the court's ruling in *Planned Parenthood*, the Legislature amended CANRA and did nothing to nullify or change the effect of the court's decision. As such, the Legislature is deemed to have approved the interpretation because where a statute has been construed by judicial decision and that construction is not altered by subsequent legislation, it must be presumed that the Legislature is aware of the judicial construction and approved of it. See *People v. Stockton* (1988) 203 Cal.App.3d 225, citing *Wilkoff v. Superior Ct.*

Following *Planned Parenthood* several other Court of Appeal cases adopted the reasoning of the court including *People v. Stockton* later in 1988, and most recently with *People v. Davis* in 2005. All these cases discuss the CANRA reporting requirements in the context of section 288 which relates to lewd and lascivious conduct with minors under 14. Though none of the cases discuss any of the other acts which also constitute sexual assault under section 11165.1(a), the same reasoning applies to those acts in that absent other indications of abuse, the law does not require the reporting of consensual sexual activities between minors of similar age for any of these acts. This interpretation is consistent with the well settled legal principle that statutes are to be construed with reference to the entire system of law of which they are a part, including the various codes, and harmonized wherever possible to achieve a reasonable result. *Cossack v. City of Los Angeles* (1974) 11 Cal.3d 726, 732.

Dr. Caldwell claims that section 11165.1(a) requires mandated reporters to report all minors engaged in sodomy and oral copulation even where the conduct is consensual and is devoid of evidence of abuse is not supported by the law. All conduct enumerated in section 11165.1(a) must be treated the same for purposes of reporting. To interpret the law otherwise would be against the intent of the legislature to leave the distinction between abusive and non-abusive sexual relations to the judgment of the professionals. An interpretation that would require the reporting of all sodomy and oral copulation without reasonable suspicion of abuse would lead to an absurd result. The court in *Planned Parenthood* said it best when it stated, "...statutes must be construed in a reasonable and commonsense manner consistent with their apparent purpose and the legislative intent underlying them, practical rather than technical, and promoting a wise policy rather than mischief or absurdity. Even a statute's literal terms will not be given effect if to do so would yield an unreasonable or mischievous result." *Planned Parenthood* at 245. Therefore, sexual conduct of minors that meet the definition of sodomy and oral copulation must be treated as all other sexual conduct noted in section 11165.1(a) and is only reported if the acts are nonconsensual, abusive or involves minors of disparate ages, conduct between minors and adults, and situations where there is reasonable suspicion of undue influence, coercion, force or other indicators of abuse.

Section 11165.1(b) further outlines limited examples of conduct which qualifies as sexual assault. There is also no evidence that any of the examples in that section would lead to a discriminatory result to justify removal of sodomy or oral copulation from subsection (a).

CONCLUSION

It is our opinion that CANRA does not require mandated reporters to report consensual sex between minors of like age for any of the actions noted in section 11165.1 unless the practitioner reasonably suspects that the conduct resulted from force, undue influence, coercion, or other indicators of abuse. Accordingly, it is not necessary to amend the statute to remove sodomy and oral copulation, as those acts are not treated differently from other acts outlined in the code.

DOREATHEA JOHNSON
Deputy Director, Legal Affairs



By: DIANNE R. DOBBS
Senior Staff Counsel
Legal Affairs

MANDATED REPORTERS: WHEN MUST YOU REPORT *CONSENSUAL* SEXUAL ACTIVITY INVOLVING MINORS?

The question of whether the Child Abuse and Neglect Reporting Act (CANRA) (Penal Code §§ 11165 - 11174) requires designated professionals to report consensual sexual activity involving minors remains a "hopelessly blurred" area of the law. On the one hand, *Planned Parenthood v. Van de Kamp* (1986) 181 Cal.App.3d 245 holds that laws which require the reporting of voluntary, nonabusive sexual behavior between minors of a similar age violate a minor's right to sexual privacy. On the other hand, *People v. Stockton Pregnancy Control Medical Clinic, Inc.* (1988) 203 Cal.App.3d 225, as well as legislative changes in 1997, affirm that certain types of sexual conduct involving minors still must be reported even if consensual. (See AB 327, Stats. 1997, c. 83.) The following guidelines are designed to synthesize conflicting legal authority and provide mandated reporters with reasonable guidance.

☞ **Both children are under age 14? No report is required** unless there is disparate age, intimidation, coercion, exploitation or bribery.

☞ **One child is under age 14, the other child is age 14 - 17? Yes, a report is required.** Penal Code sections 11165.1(a) and 288(a) afford special protection to children under age 14.

☞ **Both children are ages 14 - 17? No report is required**, unless the sexual activity involves incest (see Penal Code § 285, Family Code 2200) or there is evidence of abuse or an exploitative relationship.

☞ **The child is age 14 - 17, the other person 18 or older? No report is required**, unless the sexual activity involves one of the following: 1. Incest (see Penal Code § 285, Family Code 2200); 2. Unlawful Sexual Intercourse (also known as "Statutory Rape") involving a person over age 21 with a child age 14 or 15 (see Penal Code § 261.5(d)); and 3. Lewd and Lascivious Acts involving a child age 14 or 15 and a person who is at least ten years older than the child (see Penal Code § 288(c)(1)).

While consensual sexual intercourse between a child (a person under age 18) and an adult (a person age 18 or older) is still a crime and thus subject to prosecution, California law only requires that it be reported if the child is under age 16 and the adult is over age 21. (See Penal Code § 261.5(a).)

Note: Sodomy (Penal Code § 286); Oral Copulation (Penal Code § 288a) and Penetration by Foreign Object (Penal Code § 289) (which includes a penetration by a finger) are still listed as reportable offenses under Penal Code § 11165.1, but recent cases such as *People v. Hofsheier* (2006) 37 Cal. 4th 1185 and *Lawrence v. Texas* (2003) 539 U.S. 558 cast doubt on the constitutionality of treating these types of consensual sexual activity different from sexual intercourse.



Reporting Consensual Activity Between Minors:

The Confusion Unraveled

CATHERINE ATKINS, STAFF ATTORNEY
(Revised May 2013)

Time and time again, there seems to be much confusion with regard to whether an MFT must, or is even permitted to, report consensual sexual activity involving minors. The information below applies only to consensual sexual activity-not incest, date rape or any situation in which the minor did not fully consent to the sexual activity. Involuntary sexual activity involving minors, and incest involving a minor (even when voluntary), is always a mandatory report.

Below is a chart which identifies the various ages of children and consensual sexual activity at issue¹:

"Child" refers to the person that the mandated child abuse reporter is involved with.	Definitions and Comments	Mandatory Report	Not Mandatory Report
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A. Child younger than 14 years old

1. Partner is younger than 14 years old and of similar chronological or maturational age. Sexual behavior is voluntary & consensual. There are no indications of intimidation, coercion, bribery or other indications of an exploitive relationship.	See, <i>Planned Parenthood Affiliates of California v. John K. Van De Kamp</i> (1986) 181 Cal. App. 3d 245 (1986); See also, <i>In re Jerry M.</i> 59 Cal. App. 4th 289.		X
2. Partner is younger than 14 years old, but there is disparity in chronological or maturational age or indications of intimidation, coercion or bribery or other indications of an exploitive relationship.		X	

<i>"Child" refers to the person that the mandated child abuse reporter is involved with.</i>	Definitions and Comments	Mandatory Report	Not Mandatory Report
3. Partner is 14 years or older.		X	
4. Lewd & Lascivious acts committed by a partner of any age.	The perpetrator has the intent of "Arousing, appealing to or gratifying the lust, passions, or sexual desires of the perpetrator or the child". This behavior is generally of an exploitative nature; for instance, 'flashing' a minor-exposing one's genitals to a minor.	X	
5. Partner is alleged spouse and over 14 years of age.	The appropriate authority will determine the legality of the marriage.	X	

B. Child 14 or 15 years old

1. Partner is less than 14		X	
2. Unlawful Sexual Intercourse with a partner older than 14 and less than 21 years of age & there is no indication of abuse or evidence of an exploitive relationship.			X
3. Unlawful Sexual Intercourse with a partner older than 21 years of age.		X	

<i>"Child" refers to the person that the mandated child abuse reporter is involved with.</i>	Definitions and Comments	Mandatory Report	Not Mandatory Report
4. Lewd & Lascivious acts committed by a partner more than 10 years older than the child.	The perpetrator has the intent of "Arousing, appealing to or gratifying the lust, passions, or gratifying the lust, passions, or sexual desires of the perpetrator or the child". This behavior is generally of an exploitative nature; for instance, 'flashing' a minor-exposing one's genitals to a minor.	X	
5. Partner is alleged spouse and over 21 years of age.	The appropriate authority will determine the legality of the marriage.	X	

C. Child 16 or 17 years old

1. Partner is less than 14		X	
2. Unlawful Sexual Intercourse with a partner older than 14 & there is no indication of an exploitive relationship.			X
3. Unlawful Sexual Intercourse with a partner older than 14 & there is evidence of an exploitive relationship.		X	
4. Partner is alleged spouse and there is evidence of an exploitive relationship.	The appropriate authority will determine the legality of the marriage.	X	

D. Oral Copulation and Sodomy of Child under the age of 18

Historically most county agencies and professional associations stated that under Penal Code section 11165.1, all sodomy, oral copulation, penetration of a genital or anal opening by a foreign object, even if consensual, with a partner of any age, was a mandatory report.

However, on April 11, 2013, the Board of Behavioral Sciences (BBS) released an evaluation of the Child Abuse and Neglect Reporting Act (CANRA), specifically answering the question: "Did Penal Code 11165.1 require practitioners to report all conduct by minors that fall under the definition of sodomy and oral copulation?"

Counsel to the BBS stated, in summary, that court interpretations throughout the years confirmed that minors can lawfully engage in consensual sex with other minors *of like age*, without the necessity of a mandatory report. Counsel further stated that while the cases cited in her analysis did not directly discuss oral copulation and sodomy between minors, the same reasoning applied and as such, practitioners were not required to report all conduct by minors that fell under the definition of sodomy and oral copulation.

So what does this mean? When a provider learns of consensual, non-abusive sexual activity between two minors, the provider would:

1. Utilize the chart above to determine if the ages are "of like ages."
2. If there is a mandatory report, based on the ages above, for intercourse, certainly there would be a mandatory report for oral copulation or sodomy.
3. However, if there is no mandatory report, based on the ages above, according to the BBS, there would be no mandatory report necessary in the case of oral copulation or sodomy either.
4. Forced, coerced, and/or non-consensual sexual activity is always a mandatory report.

NOTE: It is important to note that the recent BBS evaluation is the BBS' interpretation of law. While the BBS evaluation would be a good evidentiary resource in defense of a provider who is challenged in court for not making a mandatory report for consensual oral copulation or sodomy, the laws regarding mandatory reporting have not changed. Since state law regarding reporting of consensual oral copulation and sodomy has not changed and this exact issue has not been examined by the courts, the conservative approach, in order to gain immunity from suit under CANRA, would be to continue to report those types of consensual acts between minors.

This information is intended to provide guidelines for addressing difficult legal dilemmas. It is not intended to address every situation that could potentially arise, nor is it intended to be a substitute for independent legal advice or consultation. When using such information as a guide, be aware that laws, regulations and technical standards change over time, and thus one should verify and update any references or information contained herein. ☞

REFERENCES

- 1 This chart was adapted from the Child Abuse Council of Santa Clara County found at www.cacsc.org.



Catherine L. Atkins, JD, is a Staff Attorney and the Deputy Executive Director at CAMFT. Cathy is available to answer members' questions regarding legal, ethical, and licensure issues.

Reporting Consensual Sexual Activity Involving Minors
(November/December 1999
Updated 2002)

By Bonnie R. Benitez, Attorney
Previously employed with CAMFT

There seems to be much confusion with regard to whether an MFT must or is even permitted to report consensual sexual activity involving minors. The information below applies only to consensual sexual activity-not incest, date rape or any situation in which the minor did not fully consent to the sexual activity.

The general rule is that consensual sexual activity is NOT reportable. Listed below are the three main exceptions to this general rule:

- (1) Sexual intercourse between a minor under 16 (15 and younger) and an adult 21 and over.
- (2) Lewd or lascivious conduct where the minor is 14 or 15 years old and the adult at least 10 years older than the minor. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.
- (3) Any consensual sexual contact between minors where one is over 14 years of age and one is under 14 years of age, which may apply to lewd touching if done with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the person involved or the child.

It is clear from these exceptions that a minor who is 16 or 17 years old can engage in any sexual activity (including intercourse) with anyone of any age with the exception of another minor who is under 14. While such sexual activity may be criminal (statutory rape if the minor is having intercourse with a sexual partner 18 or older), it is not reportable under the Child Abuse and Neglect Reporting Act and should therefore remain confidential.

Other sexual activity, which is not reportable, includes voluntary sexual conduct between children who are both under the age of 14 years and who are of similar age, maturity, and sophistication.

Some sexual conduct, while consensual, may be reportable due to the nature of the conduct. Penal Code section 11165.1 includes oral copulation and anal sex (sodomy) in the definition of sexual assault, without making allowances for the ages of the persons involved in the conduct. As a result, two 16-year-olds could engage in consensual sexual intercourse, and it would not be reportable as child abuse. However, oral sex between the same 16-year-olds would call for a report. As mandated reports, therapists are not investigators of child abuse. Therefore, a therapist need not inquire into the type of sexual activity a minor is having. However, if certain kinds of sexual conduct are brought to the attention of the mandated report, he or she would be required to make a report.

Because of the significant penalties and ramifications of not making a report, and because of the protections given to mandated reporters who do report their reasonable suspicions of child abuse, therapists will probably opt to make reports in cloudy situations. It is important for all mandated reporters to read and become familiar with the Child Abuse and Neglect Reporting Act (California Penal Code Sections 11164-11174.3).

This information is intended to provide guidelines for addressing difficult legal dilemmas. It is not intended to address every situation that could potentially arise, nor is it intended to be a substitute for independent legal advice or consultation. When using such information as a guide, be aware that laws, regulations and technical standards change over time, and thus one should verify and update any references or information contained herein.

Following are a few situations to contemplate with regard to minors and consensual sexual activity. Unless otherwise specified, each example is assumed to be consensual. Read the example and apply the rules listed above.

1. A 14-year-old girl discloses to you that she is engaging in sexual intercourse with her 20-year-old boyfriend.
2. A 17-year-old boy discloses to you that he is engaging in sexual intercourse with his 30-year-old neighbor.
3. A 23-year-old woman discloses to you that she is engaging in sexual intercourse with a 16-year-old friend of her younger brother.
4. A 13-year-old girl discloses to you that she is engaging in sexual activity, but not intercourse, with her 16-year-old boyfriend.
5. A 16-year-old girl discloses to you that she recently had intercourse with a former boyfriend who is 22 years old. She also indicates that she has not been sexually active with anyone else, and while she did not want to have sex with the former boyfriend she had been drinking and did not "fight him off."
6. A 10-year-old boy discloses to you that he and a friend who is 12 engaged in some sexual touching. The 10 year old also discloses that he initiated the sexual activity.
7. A 10-year-old boy discloses to you that he and a friend who is 12 engaged in some sexual touching. The 10 year old also discloses that the friend initiated the sexual activity.
8. A 27-year-old patient discloses to you that he had sex with a younger girl a few years ago. The girl is now 18.
9. A 15-year-old boy discloses to you that he has been engaging in sexual intercourse with a woman who is 22. The boy also discloses that he originally initiated the sexual activity and continues to pursue the woman.
10. A 14-year-old girl discloses to you that she has been engaging in sexual activity with her 15-year-old best friend, who is also a girl.
11. A 17-year-old discloses to you that he has been having anal intercourse with his 18-year-old girlfriend.
12. A 16-year-old discloses to you that she has been engaging in oral sex with her 16-year-old boyfriend.

Answers:

1. Not reportable. Does not fall under any of the exceptions.
2. Not reportable. Does not fall under any of the exceptions.
3. Not reportable. Does not fall under any of the exceptions.
4. Likely reportable. See exception (3); it is important to consider all of the facts and circumstances presented to determine whether the activity falls within the exception.
5. May be reportable. There is a question here as to whether the intercourse was consensual. If the minor indicates that the intercourse was consensual, the activity would not be reportable because she is 16 and the activity does not fall under any of the exceptions. If the minor indicates that the intercourse was not consensual, the activity would be reportable as sexual assault.
6. May be reportable. Consider the relative ages of the participants as well as their level of maturity. Here, the participants are of reasonably similar age, the activity was consensual and may be considered experimental activity. It is important to consider all of the facts and circumstances presented.
7. May be reportable. Consider the relative ages of the participants as well as their level of maturity. Here, the participants are of reasonably similar age, the activity was consensual and may be considered experimental activity. It is important to consider all of the facts and circumstances presented.
8. Not reportable. The girl is no longer a minor. Therapists do not report adults who were abused as children.
9. Mandated report, falls under exception (1).

10. Not reportable. Does not fall under any of the exceptions. However, it is important to consider all of the facts and circumstances presented.
11. Mandated report. Anal intercourse (sodomy) involving a minor of any age is reportable (see Penal Code section 11165.1(a)), regardless of the genders of the persons involved.
12. Mandated report. Oral copulation involving any a minor of any age is reportable.

This article was published in the November/December 1999 issue of The California Therapist and has been updated for 2002. The information contained in this article is intended to provide guidelines for addressing difficult legal dilemmas. It is not intended to address every situation that could potentially arise, nor is it intended to be a substitute for independent legal advice or consultation. When using such information as a guide, be aware that laws, regulations and technical standards change over time, and thus one should verify and update any references or information contained herein.

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Mandated Reporting of Suspected Child Abuse

Michael Donner, Ph.D. and the 2004 Expertise Series Task Force

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California law and the American Psychological Association Ethical Principles Of Psychologists and Code of Conduct (2002) require psychologists to protect confidentiality. It is a violation of law, and unprofessional conduct, to disclose confidential information received in psychotherapy unless permitted to do so by law. The Child Abuse and Neglect Reporting Act (CANRA) is a law which mandates or permits certain disclosures in specific situations.

Psychologists must keep in mind that CANRA defines most, if not all, of the terms that apply to the mandate or permission to report. Some behaviors that psychologists may consider abusive will not be defined as such in CANRA. Psychologists must be aware of CANRA's definitions, and apply those definitions to reporting situations. (Penal Code Section 11164-11174.4)

CANRA makes an important distinction between mandated reporting and permissible reporting. Failure to make a mandated report is illegal, subject to discipline by the Board of Psychology, and may lead to civil suit. Permissible reports are left to the psychologist's discretion and psychologists are legally permitted to go against the wishes of the child or parent in making them.

Psychologists who make mandatory or permissible reports may be sued but are immune from civil liability if they follow the law. The immunity applies to the decision-making leading to a report as well as to the report itself. However, the immunity may not apply to post-reporting actions that are outside the scope of the mandated report, such as, taking on an investigative role.

Civil immunity does not prevent the Board of Psychology from taking disciplinary action where a psychologist has made a frivolous report or has made a report for an improper purpose. To impose discipline, the Board of Psychology would need to establish that the psychologist engaged in an extreme departure from the standard of care, not just a mistake or error of judgment.

MANDATED REPORTING

When psychologists acting in their professional capacity have knowledge or a reasonable suspicion that a child has

been the victim of abuse or neglect *as defined by CANRA*, an oral and a written report must be completed.

Reports should be made as soon as reasonably possible by telephone. A report may be directed to a Police Department, Sheriff's Department, or Children's Protective Services, which are typically a part of the County Welfare Offices. A written report (a form for which can be provided by any of the above) must be submitted within 36 hours (PC 11166 [a]). If the suspected abuse occurred outside of California, the psychologist still must report in California because psychologists may not have immunity for reports made to officials outside of California.

DEFINITIONS

"Reasonable Suspicion"—This means that the education and training of psychologists in child abuse and neglect would lead a reasonable psychologist to suspect abuse. There must be some *objective* basis for suspecting abuse. A hunch, intuition or impression does not constitute an objective basis.

"A child has been the victim"—(1) The victim must still be a child, not an adult who was victimized as a child. (2) The abuse must have already occurred. A concern that abuse **COULD** occur is not reportable.

BEHAVIOR THAT MUST BE REPORTED

1. Sexual Abuse—Any form of non-consensual sexual activity between an adult and a child, i.e., someone 18 or over with someone under 18. Sexual activity includes any sexual or sexualized behavior that is intended to arouse the sexual desire of either the adult or the child, or sexually exploit the child. This includes intercourse, oral and anal sex, and a wide range of behaviors such as kissing, touching, fondling or groping (even through clothing), or showing of pornography (Penal Code Section 11165.1). A coerced agreement to perform sexual acts is not consent.

2. Reportable Consensual Sexual Activity - The rules involving **CONSENSUAL** activity are complicated and not necessarily intuitive. These should be read carefully and referred to as the situation requires. See table for further clarification.



a. Any consensual sexual activity between minors where one is 15 years old or over and the other is 13 or younger. This requirement includes the entire range of sexual activities, and probably includes behaviors that are normative and even age appropriate. However the CANRA mandates a report.

b. Any sexual activity between a child 14 or 15 years old and an adult at least 10 years older.

c. Sexual intercourse between a child 15 or younger and someone 21 or over. "Sexual intercourse" is genital intercourse between a male and a female.

d. Anal or oral sex when either partner is a minor 14 or older is a mandated report, even when the partner is also a minor, and even when intercourse would be permissible. For reasons not specified in CANRA, oral and anal sex are treated differently than intercourse.

e. SPECIAL NOTE - Voluntary sexual activity of any sort between children who are both under the age of 14 years and who are of similar age, maturity, and sophistication is not a mandated report.¹ This means that younger children can engage in voluntary sexual activity that would mandate a report if one of the minors were 14 or older.

3. Physical Abuse—Any *injury* caused *deliberately*. An accident is not abuse. An injury is defined in CANRA as a traumatic condition. This means serious harm, including cuts, burns, severe bruises, broken bones, welts or scars.²

a. Willful harming or injuring of a child or the endangering of the person or health of a child—This means behaviors in which the probability of serious flagrant disregard for the health and safety of children, or which result in significant psychological trauma. For example, a nine year old child was beaten with a wooden dowel so severely she was still bruised and swollen days later.³

b. Unlawful corporal punishment—Cruel or inhuman behavior that causes an injury. Beatings that left scars from belt buckles, black eyes, dragging a child by the hair, are all examples of unlawful corporal punishment. Physical discipline of a child, such as slapping, spanking

or grabbing to correct or punish breaches of rules, have been found to be acceptable as long as it is not excessive as described above. (In re Jose M.(1988), People v Checketts (1999) People v. Smith (2002) , Cal.App.4th)

4. Neglect—Neglect means risking, causing or permitting the health of a child to be seriously endangered by intentionally failing to provide adequate food, clothing, shelter or medical care. The emphasis in this section is on the severity of the neglect, behaviors that could cause great bodily harm. The courts have defined "intentionally" to mean "know or should know of the severity of the risk." (People v Sargent, 2002, Section 11165.2.[a], 11165.3)

WHAT IS NOT A MANDATED REPORT OF PHYSICAL ABUSE?

An accidental injury.

When an ADULT victim reports abuse that occurred to them when they were a child. Corporal punishment that did not cause a physically Traumatic condition and was not excessive. Parents may use "instruments." Thus, for example, leaving a red mark by hitting a child with a belt does not, in itself, constitute abuse, under a conservative interpretation of the law.

A positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. (11165.13 [a])

A child receiving treatment by spiritual means as long as the health of the child is not seriously endangered. (11165.2.[b])

A mutual fight between minors.

PERMISSIBLE REPORTING

A psychologist is PERMITTED but not mandated to make a report only if he or she suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage in the future (Penal Code Section 11166.05). Examples of evidence of serious emotional damage would include severe anxiety, depression, withdrawal, or aggressive behavior. Psychologists should note the use of the word SEVERE symptoms, even for PERMISSIBLE reporting. Psychologists who make PERMISSIBLE reports have the same protections as when making MANDATED reports, but those who decide to maintain patient confidentiality by not reporting are also fully in compliance with the law.

¹ Planned Parenthood v. Van de Kamp

² In re Edward C. 1981, In re Jose M, 1988, People v Whitehurst 1992.

³ People v. Jaramillo (1979), Cline v. Superior Court (1982),

People v. Valdez (2002)



REPORTING IN AGENCY OR INSTITUTIONAL SETTINGS

A supervisor or employer may not prevent, or retaliate against, a subordinate from making a report. (PC Sec. 11166 [g]1)

A supervisor or employer may not require a subordinate to tell them if you made a report. (PC Sec. 11166 [g]2)

Only one member of a treatment team is required to make a report (PC Sec. 11166[f]), although all members may if they wish.

SPECIAL NOTE:

Psychologists must not provide the written child abuse reports to anyone other than the agencies previously described, even if the record has been subpoenaed. To do so is a misdemeanor. (PC 11167.5)

Disclaimers:

This document is educational in nature and is not intended to replace the advice of an attorney. In addition, although the information in this document was accurate at the time of publication, psychologists using this information should bear in mind that laws and regulations change over time and that the interpretation of laws and regulations by courts and the Board of Psychology may change from time to time.

The Board of Psychology (Board) is committed to including guest articles in the BOP Update. The Board of Psychology takes no responsibility for the accuracy or veracity of any comments or statements contained in a guest article, and the Board remains neutral on any position statements made in a guest article.

This table indicates specific acts that must be reported, even if the act is consensual. Identify the cell at the intersection of the ages of the parties involved. Forced or coerced behavior is not consensual. Any behavior deemed abusive by the therapist is a mandatory report.

Age	13	14	15	16	17
13	No mandated report for any consensual activity	Anal or Oral Sex Mandated*	Any Sexual Activity-Mandated Report	Any Sexual Activity-Mandated Report	Any Sexual Activity-Mandated Report
14	Anal or Oral Sex Mandated Report*	Anal or Oral Sex Mandated Report	Anal or Oral Sex Mandated Report	Anal or Oral Sex Mandated Report	Anal or Oral Sex Mandated Report
15	Any sexual behavior mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
16	Any sexual behavior mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
17	Any sexual behavior mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
18	Any sexual behavior mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
19	Any sexual behavior mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
20	Any sexual behavior mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
21	Any sexual behavior mandated report	Anal, oral and intercourse-mandated report	Anal, oral and intercourse-mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
22	Any sexual behavior mandated report	Anal, oral and intercourse-mandated report	Anal, oral and intercourse-mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
23	Any sexual behavior mandated report	Anal, oral and intercourse-mandated report	Anal, oral and intercourse-mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
24	Any sexual behavior mandated report	Any sexual activity-mandated report	Anal, oral and intercourse-mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report
25	Any sexual behavior mandated report	Any sexual activity-mandated report	Any sexual activity-mandated report	Anal or oral sex mandated report	Anal or oral sex mandated report

* Although there is some disagreement, our interpretation is that some consensual sexual activity between a 14 year old child and a child under 14 does not mandate a report.

Sexual Activity: Sexual activity includes any behavior intended to arouse the adult or child or sexually exploit the child. This can include intercourse, oral and anal sex, and a wide range of behaviors such as kissing, touching, fondling, groping, or showing of pornography.

Sexual Intercourse: Genital intercourse between a male and a female.

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Child Abuse Reporting Guidelines for Sexual Activity Between and with Minors

Santa Clara County Child Abuse Council

This is a guide for mandated reporters and the information contained in this document is designed to assist those mandated by California Child Abuse Reporting Laws to determine their reporting responsibilities. It is not intended to be and should not be considered legal advice. In the event there are questions regarding reporting responsibilities in a specific case, the advice of legal counsel should be sought. This guide incorporates changes in the Child Abuse Reporting Law, effective January, 1998. For more detailed information refer to Penal Code Section 11164 & 11165.1 et al.

I. INVOLUNTARY SEXUAL ACTIVITY is always reportable.

II. INCEST, even if voluntary is always reportable. Incest is a marriage or act of intercourse between parents and children; ancestors and descendants of every degree; brothers and sisters of half and whole blood and uncles and nieces or aunts and nephews. (Family Code, § 2200.)

III. VOLUNTARY SEXUAL ACTIVITY may or may not be reportable. Even if the behavior is voluntary, there are circumstances where the behavior is abusive, either by Penal Code definition or because of an exploitive relationship and this behavior must be reported. Review **either** section A, B or C **and** section D. In addition, if there is reasonable suspicion of sexual abuse prior to the consensual activity, the abuse must be reported.

"Child" refers to the person that the mandated child abuse reporter is involved with.	Definitions and Comments	Mandatory Report	Not Mandatory Report
A. Child younger than 14 years old			
1. Partner is younger than 14 years old and of similar chronological or maturational age. Sexual behavior is voluntary &	See, <i>Planned Parenthood Affiliates of California v. John K. Van De Kamp</i> (1986) 181 Cal. App. 3d 245		X

consensual. There are no indications of intimidation, coercion, bribery or other indications of an exploitive relationship.	(1986) & <i>In re Jerry M.</i> 59 Cal. App. 4th 289		
2. Partner is younger than 14 years old, but there is disparity in chronological or maturational age or indications of intimidation, coercion or bribery or other indications of an exploitive relationship.		X	
3. Partner is 14 years or older.		X	
4. Lewd & Lascivious acts committed by a partner of any age.	The perpetrator has the intent of "Arousing, appealing to or gratifying the lust, passions, or sexual desires of the perpetrator or the child".?	X	
5. Partner is alleged spouse and over 14 years of age.	The appropriate authority will determine the legality of the marriage.	X	
B. Child 14 or 15 years old			
1. Partner is less than 14		X	
2. Unlawful Sexual Intercourse with a partner older than 14 and less than 21 years of age & there is no indication of abuse or evidence of an exploitive relationship.			X
3. Unlawful Sexual Intercourse with a partner older than 21 years of age.		X	
4. Lewd & Lascivious acts	The perpetrator has the	X	

committed by a partner more than 10 years older than the child.	intent of "Arousing, appealing to or gratifying the lust, passions, or gratifying the lust, passions, or sexual desires of the perpetrator or the child".		
5. Partner is alleged spouse and over 21 years of age.	The appropriate authority will determine the legality of the marriage.	X	
C. Child 16 or 17 years old			
1. Partner is less than 14		X	
2. Unlawful Sexual Intercourse with a partner older than 14 & there is no indication of an exploitive relationship.			X
3. Unlawful Sexual Intercourse with a partner older than 14 & there is evidence of an exploitive relationship.		X	
4. Partner is alleged spouse and there is evidence of an exploitive relationship.	The appropriate authority will determine the legality of the marriage.	X	
D. Child under the age of 18			
1. Sodomy, oral copulation, penetration of a genital or anal opening by a foreign object, even if consensual, with a partner of any age.		X	

Mandated reports of sexual activity must be reported to either The Department of Family & Children's Services (DFCS) or to the appropriate police jurisdiction. This information will then be cross-reported to the other agency. Reporting does not necessarily mean that a civil or criminal proceeding will be initiated against the suspected abuser.

Failure to report known or reasonable suspicion of child abuse, including sexual abuse, is a misdemeanor. Mandated reporters are provided immunity from civil or criminal liability as a result of making a mandated report of child abuse.

Child Abuse Council, Interagency Collaboration Committee (3/12/98). Reviewed February
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Adapted from Orange County Reporting Guidelines

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