

BOARD OF PSYCHOLOGY
Proposed Language

Proposed changes are shown by underlining for new text and strikethrough for deleted text.

1. Section 1380.4 is amended to read as follows:

§ 1380.4. Delegation of Functions.

Except for those powers reserved exclusively to the “agency itself” under the Administrative Procedure Act (section 11500 et seq. of the Government Code), the board delegates and confers upon the executive officer for the board, or in his or her absence, the assistant executive officer or in his or her absence the chairperson president of the board, or in his or her absence, the vice chairperson president of the board, all functions necessary to the dispatch of business of the board in connection with investigative and administrative proceedings under the jurisdiction of the board, including the authority to order an examination pursuant to section 820 of the Code or section 1381, or to approve a settlement agreement for the revocation, surrender, or interim suspension of a license.

NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 2928 and 2965, Business and Professions Code; and Sections 11415.60 and 11500, Government Code.

2. The title of Article 7 of Division 13.1 is amended to read as follows:

Article 7. ~~Restoration of Suspended or Revoked~~ Standards Related to Denial, Discipline, and Reinstatement of Licenses

3. Section 1395.3 is added to Article 7 of Division 13.1 to read as follows:

§ 1395.3. Required Actions Against Registered Sex Offenders.

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:

(1) Deny an application by the individual for licensure.

(2) Revoke the license of the individual, and shall not stay the revocation nor place the license on probation.

(3) Deny reinstatement or reissuance the individual’s license.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the board

from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(3) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation shall not be subject to the provisions of this section. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license shall govern.

NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 2960, 2960.6, 2961, 2962, 2963, 2964, 2964.3, 2965, and 2966, Business and Professions Code.

4. Section 1397.2 is added to Article 8 of Division 13.1 to read as follows:

§ 1397.2. Other Actions Constituting Unprofessional Conduct.

In addition to the conduct described in Section 2960 of the Code, "unprofessional conduct" also includes but is not limited to the following:

(a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice to which the licensee is or expects to be named as a party, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating with, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the board.

(b) Failure to provide to the board, as directed, lawfully requested certified copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the certified documents with this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(c) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privilege. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(d) Failure to report to the board within 30 days any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The arrest of the licensee.

(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(e) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

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

