



August 16, 2011

Ms. Linda Kassis
Board of Psychology
2005 Evergreen Street, Suite 1400
Sacramento, CA 95815

**RE: Unprofessional Conduct Proposed Regulations
Article 8, Division 13.1, Proposed §§ 1380.4 and 1397.2**

Dear Ms. Kassis:

On behalf of the California Psychological Association, we regret to inform you of our OPPOSE position on the Board of Psychology (Board) Unprofessional Conduct proposed regulations. While we understand the need for oversight and support the timely administration of grievances, we are concerned about the details of the policy outlined in these regulations, as related to Sections 1380.4 and 1397.2.

Section 1380.4

CPA is concerned about the provision in the newly proposed Section 1380.4 which delegates duties related to investigative and administrative proceedings to the Board's Executive Officer, including the authority to order an examination pursuant to Sections 820 or 1381, and the ability to approve a settlement agreement for the revocation, surrender, or interim suspension of a license or registration.

This new policy is overreaching and represents a diminution in the duties and responsibilities of the appointed members of the Board. The policy further could serve to erode the due process rights of psychologists in any investigative or administrative proceeding. CPA is concerned about the Executive Officer's authority to negotiate and then approve settlement terms and conditions for a licensee, without Board oversight or approval. We oppose this broad delegation to the Executive Officer, and would like to continue to see Board review and approval, after the staff and Executive Officer have dispensed with the details of each case.

Section 1397.2

CPA is concerned about new provisions outlined in Section 1397.2 related to Unprofessional Conduct. The 15 day deadline imposed might not be realistic as psychologists serve clients in conjoint therapy and/or the therapy of a minor, where obtaining proper consent from all parties could take more than 15 days. CPA would request that these situations be specifically added to "illness and travel" as listed in the "good cause" exemptions section to alleviate problems in the future.

CPA is further concerned that the vague definition of "failure to cooperate and participate" is too subjective and could result in over application of the "unprofessional conduct" standard. CPA would join with our health professional colleagues in suggesting that the Board strike this definition and adopt existing language which applies to physicians and surgeons: B&P § 2234(h) which states: "...willful noncompliance" includes, but is not limited to, repeated failure, in the absence of good cause, to attend an interview scheduled by mutual agreement of the certificate holder and the Board.

Lastly, the regulation defines unprofessional conduct as the failure to report to the Board within 30 days “the bringing of an indictment or information charging a felony against the licensee or registrant,” and “the arrest of the licensee or registrant.” Mandating licensees or registrants to make such disclosures to the Board, especially in cases where no conviction has occurred, deprives licensees or registrants of their Constitutional rights against self-incrimination and other due process rights.

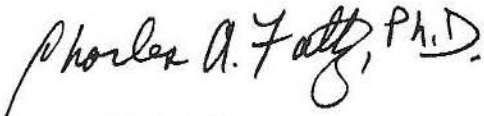
The California Psychological Association is a non-profit professional organization of over 5,000 members practicing in the state of California. California’s psychologists currently work in private practice, hospitals, prisons, government agencies, university and research settings, schools, community clinics, and businesses.

Thank you for your consideration of this important matter. Please do not hesitate to have your staff contact CPA at (916) 286-7979 with any questions.

Sincerely,



Jo Linder-Crow, Ph.D.
Executive Director



Chuck Faltz, Ph.D.
Director of Professional Affairs

CC: Robert Kahane, Executive Officer, California Board of Psychology
Sallie Hildebrandt, President, California Psychological Association