



MEMORANDUM

DATE	January 24, 2014
TO	Psychology Board Members
FROM	 Antonette Sorrick Executive Officer
SUBJECT	Legislation Committee (b): Senate Business Professions and Economic Development Committee Omnibus Bill Proposal

Background:

Attached is the Bill Proposal for approval.

Action Requested:

Motion Requested: Committee/Board vote to approve bill proposal as written. The proposal will be sent to Committee staff by February 24, 2014.

Senate Business, Professions and Economic Development Committee
COMMITTEE BILL: PROPOSED LEGISLATION

Note: Submit the completed form to the Committee electronically by email **and** as a hardcopy by mail. Attach additional information or documentation as necessary.

REQUESTOR & CONTACT INFORMATION:

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DATE SUBMITTED: 2/24/14

SUMMARY: The Board of Psychology (Board) would like to make changes to three sections of the Psychology Licensing Law (Business and Professions Code Sections 2900-2999). The three changes are as follows:

- 1) Repeal section 2930.5 – Fictitious Name Permits; Issuance; Revocation or Suspension ; Delegation of Authority
- 2) Amend section 2936 – Rules of Ethical Conduct; Posting of “Notice to Consumers”
- 3) Repeal section 2987.3 – Fictitious Name Permits; Initial, Renewal, and Delinquency Fees

IDENTIFICATION OF PROBLEM:

- 1) 2930.5/2987.3 – These sections require the Board to process applications and fees for fictitious name permits, for licensed psychologists. Since Sections 2930.5 and 2987.3 were added to the Business and Professions Code (AB 4016, Filante, 1988), the Board made two attempts to promulgate regulations to implement the legislation. With both attempts, the Board was faced with much public opposition focused on issues set forth in the statutes which are beyond the Board’s authority to change by regulation. The first attempt at regulation promulgation, following a September 16, 1989 regulation hearing, was sent to the Office of Administrative Law (OAL), despite public objection. This rulemaking file was promptly rejected by OAL. The Board drafted a new set of regulatory language in an attempt to address the public concerns and held a second regulation hearing on January 10, 1992. Once again, the Board received much opposition concerning issues that were set forth in statute and therefore unable to be remedied by regulation. The Board sent a request to the author’s office to amend the statute to remedy the public concern, however, the statute was never amended, and therefore, the Board was not able to promulgate regulations to implement the statutes.

- 2) 2936 – Licensees, consumers and stakeholders of the Board consumers cannot use the statute as a resource for identifying the contact information of the Board. Additionally, the Board would like to encourage stakeholders to reach us by e-mail.

PROPOSED SOLUTION:

- 1) Repeal sections 2930.5 and 2987.3.

2) Section 2936 lists the Board’s address as 2005 Evergreen, Suite 1400, Sacramento, CA 95815-3894. The Board’s current address is 1625 N. Market Blvd., Suite N -215, Sacramento, CA 95834. The Board would also like to add its e-mail address (bopmail@dca.ca.gov) as well as correct its internet URL from www.psychboard.ca.gov to www.psychology.ca.gov

PROGRAM BACKGROUND & LEGISLATIVE HISTORY: The California Board of Psychology (Board) regulates psychologists, registered psychologists, and psychological assistants. Only licensed psychologists can practice psychology independently in the private sector in California. Registered psychologists are registered to work and train under supervision in non-profit agencies that receive government funding and registered psychological assistants are employed and supervised by a qualified licensed psychologist in private settings. With the Certification Act of 1958, the psychology profession became regulated in California. While the Certification Act protected the title “psychologist”, it did not take into consideration the interests of the consumers of psychological services. Later, the regulation of the profession evolved when the California Legislature recognized the potential for consumer harm by those practicing psychology and shifted the focus of the regulation of the profession to protection of the public. This redirection resulted in legislation in 1967 that protected the “psychologist” title, defined the practice, and required licensure in order to legally practice. During these early licensing days, the Board was an “examining committee” under the jurisdiction of what was then the Division of Allied Health Professions of the Medical Board. During the 1970s, the Psychology Examining Committee gradually became more independent, and began taking responsibility for its own operations including the authority to adopt regulations and administrative disciplinary actions without the endorsement of the Medical Board. The Psychology Examining Committee officially became the Board of Psychology in 1990 (Assembly Bill 858, Margolin, 1989).

JUSTIFICATION:

- 1) 2930.5/2987.3 – These sections require the Board to process applications and fees for fictitious name permits, for licensed psychologists. Since Sections 2930.5 and 2987.3 were added to the Business and Professions Code (AB 4016, Filante, 1988), the Board made two attempts to promulgate regulations to implement the legislation. With both attempts, the Board was faced with much public opposition focused on issues set forth in the statutes which are beyond the Board’s authority to change by regulation. The first attempt at regulation promulgation, following a September 16, 1989 regulation hearing, was sent to the Office of Administrative Law (OAL), despite public objection. This rulemaking file was promptly rejected by OAL. The Board drafted a new set of regulatory

language in an attempt to address the public concerns and held a second regulation hearing on January 10, 1992. Once again, the Board received much opposition concerning issues that were set forth in statute and therefore unable to be remedied by regulation. The Board sent a request to the author's office to amend the statute to remedy the public concern, however, the statute was never amended, and therefore, the Board was not able to promulgate regulations to implement the statutes.

This proposal does not remove any consumer protection from the Psychology Licensing Law since it is individual licensees and registrants that provide psychological services, not business entities. The Board has provisions in place to prohibit misrepresentation and the provision of activities of a psychological nature without an active, valid license or registration. Business entities must register at the county and/or state level, depending on local requirements.

- 2) 2936 – Licensees, consumers and stakeholders of the Board consumers cannot use the statute as a resource for identifying the contact information of the Board. Additionally, the Board would like to encourage stakeholders to reach us by e-mail.

ARGUMENTS PRO & CON:

2930.5/2987.3 Pro: These sections create new fees for licensees and additional workload for Board staff. Additionally, the Board was never able to implement the statutes due to all regulatory efforts being denied by Office of Administrative Law. To date, there has been no consumer harm because of failure to implement a regulatory mechanism for implementation.

2936 Pro: Update Board contact information and add e-mail address as an additional means of communication with the Board.

2930.5/2987.3 Con: None anticipated.

2936 Con: None anticipated.

PROBABLE SUPPORT & OPPOSITION:

Support: Licensees and professional associations

Opposition: None anticipated.

FISCAL IMPACT: None

ECONOMIC IMPACT: None

FINDINGS FROM OTHER STATES: N/A

PROPOSED TEXT (use underline & strikeout):

~~Fictitious Name Permits; Issuance; Revocation or Suspension;
Delegation of Authority~~

~~§ 2930.5. (a) Any psychologist, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of subdivision (r) of Section 2960 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious name permit issued by the committee under this section.~~

~~(b) The committee shall issue a fictitious name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the committee finds to its satisfaction that:~~

~~(1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses and no charges of unprofessional conduct are pending against any such licensed person.~~

~~(2) The place, or portion thereof, in which the applicant's or applicants' practice, is owned or leased by the applicant or applicants.~~

~~(3) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.~~

~~(4) The name under which the applicant or applicants propose to practice contains one of the following designations: "psychology group" or "psychology clinic."~~

~~(c) Fictitious name permits issued by the committee shall be subject to Article 7 (commencing with Section 2980) pertaining to renewal of licenses.~~

~~(d) The committee may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious name permit shall be conducted in accordance with Section 2965.~~

~~(e) The committee may also proceed to revoke the fictitious name permit of a licensee whose license has been revoked, but no proceeding may be commenced unless and until the charges of unprofessional conduct against the licensee have resulted in revocation of the license.~~

~~(f) The committee may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious name permits and to issue those permits.~~

~~Amended by Stats. 1992, ch. 1099, § 1 (AB 3034).~~

§ 2936. The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology. The board shall establish as its standards of ethical conduct relating to the practice of psychology, the "Ethical Principles and Code of Conduct" published by the American Psychological Association (APA). Those standards shall be applied by the board as the accepted standard of care in all licensing examination development and in all board enforcement policies and disciplinary case evaluations.

To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location in their principal psychological business office, a notice which reads as follows:

"NOTICE TO CONSUMERS: The Department of Consumer Affairs's Board of Psychology receives and responds to questions and complaints regarding the practice of psychology. If you have questions or complaints, you may contact the board by e-mail at bopmail@dca.ca.gov, on the Internet at www.psychology.ca.gov www.psychboard.ca.gov, by calling 1-866-503-3221, or by writing to the following address:

Board of Psychology
~~2005 Evergreen Street, Suite 1400~~1625 North Market Boulevard, Suite N-215
Sacramento, California 95815-389434"

(Amended by Stats. 2011, Ch. 350, Sec. 21. Effective January 1, 2012.)

~~Fictitious Name Permits; Initial, Renewal, and Delinquency Fees~~

~~§ 2987.3. The following fees apply to fictitious-name permits issued under Section 2930.5.~~

~~(a) The initial permit fee is an amount equal to the renewal fee in effect at the beginning of the current renewal cycle. If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the fee in effect at the beginning of the current renewal cycle.~~

~~(b) The biennial renewal fee shall be fixed by the committee at an amount not to exceed fifty dollars (\$50). The amount of this fee shall not exceed the actual cost of issuing a fictitious name permit.~~

~~(c) The delinquency fee is twenty dollars (\$20).~~

~~Added by Stats. 1988, ch. 800, § 3.~~