



MEMORANDUM

DATE	June 12, 2015
TO	Board of Psychology Members
FROM	 Jonathan Burke Administrative Services Coordinator
SUBJECT	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 – Consideration of Committee Recommendation to Adopt with the Modified Text and Consider Comments Provided In the 15-Day Notice Period

Background:

Current regulations only allow for “traditional” Continuing Education (CE) courses. The proposed language provides a wide variety of options for licensees to obtain their CE, including conferences or convention attendance, practice outcome monitoring, peer consultation, academic instruction, etc. The proposed regulations also establish a requirement that licensees engage in learning activities pertinent to cultural diversity and social justice issues as they apply to the practice of psychology in California.

The Board voted at the August Board meeting to approve the language changes for the continuing educational requirements to be noticed for the rulemaking process. The hearing took place at the Board Meeting on November 21, 2014, at 9 a.m. The Board received three comments and opted to make some changes to the original proposal. A 15-Day Notice was issued and the Board delegated authority to the Executive Officer to adopt the language as modified when the comment period closed.

On February 26, 2015, the Board voted to raise the cap of “traditional” CE coursework in the proposed regulations from 18 hours to 27 hours per renewal cycle. A 15-Day Notice was issued and the comment period closed on Tuesday, March 24th at 5:00 p.m. The Board received 632 comments. A numerical breakdown of the comments is as follows;

- 580 (91.77%) Comments disagreed with the 27-hour cap and requested the continuation of 36 hours of traditional CE courses.
- 31 (4.90%) Comments were not relevant to the second modified change.
- 19 (3.02%) Comments were supportive of the proposal letters
- 2 (0.31%) Comment suggested a 30-hour cap

The Board's licensing Committee met on May 7, 2015 to consider the 393 comments received outside the noticed comment periods. The committee voted to bring these comments to the full Board. These comments were present at the full May meeting, but the Board requested a breakdown and synopsis from staff of all the comments received both inside and outside the noticed comment periods.

A numerical breakdown of the comments is as follows;

390 (99.23%) Comments oppose the regulations.

3 (0.76%) Comments were in support of the proposed regulations.

Action Requested:

Review the comments received during the second notice period, respond to arguments in opposition to the 27 unit CE cap, and approve the language for submission of the Rulemaking File to the Office of Administrative Law (OAL).

Attachment A: Second Modified Text of Proposal

Attachment B: History of Board's actions regarding the proposed regulations.

Attachment C: Staff synopsis of all comments with notes on content.

Attachment D: 632 Comments Received during the second notice period (Hand Carry)

Attachment E: 393 Comments Received Outside of noticed comments periods (Hand Carry)

CE/CPD – A Chronology (February 23, 2012 – Today)

- On 2/23/12, Board reviewed ASPPB recommendations for Continuing Professional Development (CPD). Matrix below

CPD Activities and Credit Values TABLE 1 CPD Activity	Maximum # of Credits Allowed each Renewal Period	Value of Credits by Activity
Professional		
1. Ongoing Peer Consultation (including but not limited to case consultation, journal clubs, research groups; mentoring)	20	1 hour = 1 credit
2. Practice Outcome Monitoring (assessing client/patient/patient outcomes via protocol)	20	1 client/patient = 1 credit
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)	10	1 year = 10 credits
4. Conferences/Conventions (attendance time as distinguished from CE credits)	4	1 conference day = 1 credit
Academic		
5. Academic Courses (taking graduate-level course for credit related to psychology from a regionally accredited institution)	20	1 course = 20 credits

6. Instruction (teaching a course in a regionally accredited institution, full day sponsor-approved or half-day sponsor-approved workshop presentation; only counts first time teaching or presenting)	20	1 course = 20 credits 1 full day workshop = 10 credits ½ day workshop = 5 credits
7. Publications (peer-reviewed articles, book chapters or editor or coeditor of peer reviewed journal)	10	1 publication = 10 credits
Continuing Education		
8. Approved Sponsor Continuing Education (any activity provided by approved sponsor organizations defined in CPD guidelines)	20	1 hour = 1 credit
9. Self-directed learning (readings, videos, electronically mediated presentations, unsponsored activities)	4	1 hour = 1 credit
Board Certification		
10. Board Certification (can count for 100% of required CPD in the year that certification is awarded)	40	Certification awarded = 40 credits

- 3/19/12 - WRITTEN RESPONSES TO CURRENT SUNSET REVIEW -ISSUES FOR THE BOARD OF PSYCHOLOGY Oversight Hearing Date: March 19, 2012.**

IDENTIFIED ISSUES, BACKGROUND, RECOMMENDATIONS, AND BOARD RESPONSES FOR THE BOARD OF PSYCHOLOGY

ISSUE # 5: What is the status of the Board's efforts to ensure the continued competency of its licensees?

Background: The Board requires each licensee to complete 36 hours of continuing education for each two-year license renewal. The Board reports that it averages a 92% compliance rate of licensee compliance with the continuing education requirements, and that most noncompliance issues deal deficiencies in submitting the proper documentation of the completed continuing education courses.

The Board additionally states that it has also discussed continued professional development/competency for licensed psychologists. The Board states that continued competency has been an issue on the agenda for the Board's Committee on Contemporary and Emerging Issues for the past several Board meetings. The Committee has been looking at how licensees can demonstrate competency beyond continuing education. In 2011, the Committee on Contemporary and Emerging Issues recommended referring this topic to the Board's Continuing Education Committee. The Board stated that the Committee would review models regarding continued professional development/competency created by the Association of State and Provincial Psychology Boards and the American Psychological Association at the November 2011 Board meeting. The Board states that it is also planning to partner with the California Psychological Association to address this developing issue.

Given that the Board has discussed the issue in the recent past, and more closely considered the issue of continuing competency through two of its committees, including reviewing models for demonstrating continuing competency, it would be appropriate for the Board to give its current assessment of the issue of continuing competency. Are there models for demonstrating continuing competency that appear to viable, in the Board's estimation? Has the Board engaged in discussions with the California Psychological Association about continuing competency?

Staff Recommendation (Senate Business, Professions, and Economic Development Committee Staff): *The Board should discuss with the Committee its efforts to date to address continuing competency, and what it expects to accomplish in near future regarding this issue.*

BOARD RESPONSE: Issue #5:

The Board of Psychology is working to replace the single requirement of traditional continuing education courses with a more robust continued competency model which we believe will further ensure the continued competency of California's psychologists.

Current research shows that traditional continuing education efforts have disappointing results and that one time continuing education classes do very little to ensure continued competency.

At the most recent Board of Psychology meeting in February, 2012, the Board members discussed the concept of Continued Professional Development or Continued Competency for our licensees and we reviewed some of the work done in this area by the Association of State and Provincial Psychology Boards. We will be working on further developing our own Continued Competency Model for California psychologists at our next Board of Psychology Meeting in June, 2012.

We envision developing a Model that requires a psychologist to set professional development goals and participate in a variety of professional activities such as ongoing peer consultation, academic courses, teaching, publishing articles, attending educational conferences, in addition to taking Continued Education courses.

Our current Board President, Dr. Richard Sherman, has also volunteered to participate in a proposed Department of Consumer Affairs (DCA) Work Group on this issue so we can look at standards across all California Healing Arts Boards.

- 6/21/12 – Board discussed ASPPB draft CPD guidelines
- 1/1/13, Board took back function of approving 36 hours of CE per renewal cycle. Board began auditing said hours on 1/1/13.
- 1/11/13 – Updated ASPPB CPD guidelines presented by Dr. Horn to the CE Committee
- 2/21/13 – Board presented with first draft of CE/CPD regulations
- CE Committee met six (6) times 1/11, 2/21, 5/6, 6/20, 7/11, 9/12 to revise regulations relative to CE
- 6/20/13 – Board discussed revised CE/CPD regulations
- 10/24/13 – draft language was presented to the Board for review. Whereas current regulations only allow for “traditional” CE courses, the resulting proposed language provides a wide variety of options for licensees to obtain their CE, including conferences or convention attendance, practice outcome monitoring, peer consultation, academic instruction, etc. The proposed regulations also establish a requirement that licensees engage in learning activities pertinent to cultural diversity and social justice issues as they apply to the practice of psychology.
- 2/20/14 – Board voted to approve and notice for hearing revised draft CE/CPD regulatory language
- 7/24/14 – Stakeholder meeting with ABPsi and CPA regarding amendments to the CE/CPD regulations
- 8/5/14 – Follow up teleconference regarding amendments
- 8/15/14 – Summer Newsletter published and sent to 15,000 licensees. Included is a status update on the CE/CPD regulatory package
- 8/21/14 – Amended language presented and ratified by the Board
- 9/23/14 – Proposed CE/CPD regulations submitted to Office of Administration Law
- 10/3/14 – Official Comment period began – notice posted on website, e-mailed and mailed to approximately 2,000 interested parties

- 11/21/14 – CE/CPD Hearing conducted in San Diego, CA. Board voted to amend the proposed language and post for 15-day notice.
- 12/2/14 – Fall Newsletter published and sent to 15,000 licensees. Included is an update on the CE/CPD regulation - article from Dr. Gallardo as well as the regulation update (status update of the package)
- 1/21/15 – 15-Day Comment period ends. All comments germane to amendments are included in the February, 2015 meeting packet. Board to address comments from the board packet at Board meeting. Responses from Board regarding said comments to be included in the final statement of reasons. No Board action required at Board meeting for this package.
- 2/26/15 – 2/27/15 – Board Meeting occurs with many public comments in opposition. Board listens to comments and decides to raise the cap on CE from 18 hours to 27 hours. The Board also asks the Licensing Committee to review the letters received outside of the noticed comment periods.
- 3/9/15 – 3/24/15 – Second 15 Day Comment Period. The Board receives 633 comments (over 90%) negative and arguing that the CE cap remain at 36 hours.
- 5/7/15 – Licensing Committee meets to consider a staff synopsis of the 393 comments received by the Board outside the comment periods. The Committee asked that the comments be printed out and available at the Board Meeting in Riverside. The Committee takes no further action.
- 5/14/15 – 5/15/15 – Board meets but determines that the comments were not provided by staff with sufficient time for adequate review. Request a staff synopsis of comments and that all comments be made available for consideration. The Board decides to place on the June Board Meeting agenda.

Continuing Education Regulatory Proposal

Synopsis of all comments received since January 21, 2015

The Board requested that all comments received since January 21, 2015 be presented for review by the full Board. Below is a thematic breakdown of the comments that the Board has received regarding the Continuing Education Regulatory Proposal.

The comments have been organized thematically with comments making similar arguments organized in groups.

Comments Received During the Second 15-Day Comment Period

Oppose Comments:

1.) General opposition to the 27-unit limit to earn traditional CE and request traditional CE be raised to 36 units (comments 1 – 154). The following are examples of the most prevalent comments in opposition:

Comment 1: Regulations were communicated sufficiently.

Comment 2: Recognizes that the Board's intentions are good.

Comment 4: CPD model lacks the ability to be regulated.

Comment 5: Urges personal choice.

2.) The proposed CPD model is burdensome for many reasons. Arguments include that licensees who are sick, disabled, elderly, taking care of elderly parents, taking care of young families, and nearing the end of their career will have difficulty meeting the proposed CPD requirements. Others assert that this proposed model will be costly and time-consuming (comments 155 – 335).

Comment 155: Near the end of his/her career.

Comment 156: Elderly; costing too much time and money.

Comment 157: Caring for elderly mother.

Comment 158: Illustrates the reasons why taking care of family member will interfere with the new model.

Comment 159: Elderly; bordering ageism.

Comment 160: Solely a volunteer.

Comment 161: Caring for young family.

Comment 162: Burdens will affect consumer.

Comment 163: Disabled.

Comment 164: Living in rural area.

Comment 165: General access hardship due to area of practice.

Comment 166: Sick.

Comment 167: Cap on traditional CE will result in a decrease of traditional CE options offered by employer.

3.) The proposed CPD model benefits specific groups and does not satisfy the educational needs of various professionals (comments 336 – 360).

Comment 336: Benefits specific groups of professionals.

Comment 337: New model does not satisfy educational needs.

4.) The proposed CPD model is less flexible and less relevant to the practice of psychology and the diminishing of a self-directed model. It is argued that licensees should be free to decide how to obtain CE and that psychologists know what is best for their client or patient. These comments also affirm that the proposed CPD model will cause licensees to feel disrespected and mistrusted. Also rejecting the diversity requirement and challenging the empirical basis of the Association of State and Provincial Psychology Boards (ASPPB) model (comments 361 – 497).

Comment 361: Sacrifices flexibility.

Comment 362: Licensees should have the freedom to choose which learning method he or she wants to use.

Comment 363: Psychologists know what is best for their client or patient.

Comment 364: Create feelings of disrespect and mistrust.

Subsection a: Rejecting the diversity requirement (comments 498 – 509)

Comment 498: Excessive.

Comment 499: There are underlying issues with the definition of diversity and how it relates to different areas of psychology.

Comment 500: The requirement makes it appear that there is a deficit in the area of diversity as it relates to the practice of psychology.

Comment 501: The mandate makes other areas of psychology seem less important.

Subsection b: Challenging Research Findings (comments 510 – 557)

Comment 510: Present research conducted on CE and CPD.

Comment 511: No research supporting the change.

Comment 512: No research showing the current models harms consumers.

Comment 513: Suggests conducting a trial period to collect data.

Comment 514: Board needs to provide data supporting the CPD model.

5.) The new model limits face-to-face interaction and state that the current CE model works well (comments 558 – 576).

Comment 558: No clear method of documenting the various activities outlined in the CPD model.

Comment 559: Current model is best.

Comment 560: Current model is rewarding.

Comment 561: The current model promotes safe practice and the proposed CPD model will compromise the confidentiality of licensee's consultation group.

Comment 562: Limits face-to-face interaction.

6.) Requests an exemption option from the CPD model for those reactivating (comment 577).

Comment 557: Exemption for those reactivating.

7.) Propose new language for the CPD model (comments 578 – 580).

Comment 578: Proposes language.

Comment 579: Requests the inclusion of undergraduate courses.

Comment 580: Requests the inclusion of research methods and data analysis.

Support Comments:

8.) In support of the proposed CPD model (comments 581 – 599).

Comment 581: Requests further clarification.

Comment 582: The proposed model is innovative.

Comment 583: Cost and time effective.

Comments 584: Promotes interaction.

Comment 585: Suspects misunderstandings with the proposed model.

Propose 30 unit CE cap:

9.) Requests to increase the cap to 30 units (comments 600 – 601).

Comment 600: Increase to 30-unit cap.

Comments do not address 27-unit cap:

10.) Comments received during the 15-day comment period that does not relate to the 27-unit cap (comments 602 – 632).

Comment 602: Requests that the Board recognize American Board of Professional Psychology (ABPP).

Comment 603: The proposed model is unnecessary.

Comment 604: Proposes a deletion of specific language if the cap for traditional CE is raised to 36.

Comment 605: Too restrictive.

Comment 606: Excludes specific groups.

Comments Received Outside of the Various Comment Periods

Oppose Comments:

1.) General opposition to the proposed regulations (comments 633 - 705).

Comment 633: Notes other states' CE requirements.

Comment 634: Requests that the Board conducts further analysis.

2.) The proposed CPD model is burdensome for many reasons. Arguments include that licensees who are sick, disabled, elderly, taking care of elderly parents, taking care of young families, and nearing the end of their career will have difficulty meeting the new CPD requirements. Others assert that this new model will be costly and time-consuming (comments 706 – 911).

Comment 706: Age, taking care of elderly parents, and costs to put children through school.

Comment 707: Stage of career.

Comment 708: In the military.

Comment 709: Loss of income and time with family.

3.) The proposed CPD model benefits specific groups (comments 912 – 934).

Comment 912: Geared towards those in the early stages of their career.

Comment 913: Discriminates against those in non-traditional employment.

4.) The proposed CPD model is less flexible and less relevant to the practice of psychology and diminishing of a self-directed model. Licensees should be free to decide how they want to obtain CE and that psychologists know what is best for their client or patient. The proposed CPD model will cause licensees to feel disrespected and mistrusted (comments 935 – 982). Also rejecting the diversity requirement (comments 983 – 992) and challenging the empirical basis of the Association of State and Provincial Psychology Boards (ASPPB) model (comments 993 – 1,000).

Comment 935: Less flexibility.

Comment 936: Restrictive.

Comment 937: Less relevant.

Subsection a: Rejecting the Diversity Requirement (comments 983 – 992)

Comment 983: Excessive.

Comment 984: Wonders how this area is more relevant than others.

Subsection b: Challenging Research Findings (comments 993 – 1,000)

Comment 993: Lack of evidence.

5.) The proposed CPD model leads away from self-directed learning and states that the current CE model works well (comments 1,001 – 1,008).

Comment 1,001: Current model works.

Comment 1,002: Proposed model leads away from self-directed learning.

Comment 1,003: Illustrates the value of the current CE model.

6.) References the multiple problem areas already voiced by other psychologists (comments 1,009 – 1,013).

Comment 1,009: Discusses various problems with the proposed model.

7.) Propose new language for the CPD model (comments 1,014 – 1,016).

Comment 1,015: Proposes language; include data analysis among new CPD areas.

Comment 1,016: Makes recommendations to make the verification log and fulfillment of the model easier.

8.) There is no position taken, but requests further clarification (comments 1,017 – 1,020).

Comment 1,017: Too vague.

Support Comments:

9.) Support of the proposed CPD model (comments 1,021 – 1,023).

Comment 1,021: Reduces isolation.

Comment 1,022: Supports the proposal and professes that many other licensees were hesitant to voice their support on the LACPA listserv for fear of receiving backlash.

Challenge Board's legal authority to make the regulatory change:

10.) The Board is in violation of the Federal anti-trust law and that the licensee will take the Board to the Federal Trade Commission if it decides to move forward with the proposed CPD model (comment 1,024 – 1,025).