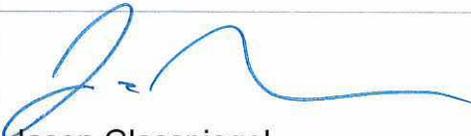


MEMORANDUM

DATE	April 9, 2017
TO	Board of Psychology
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #4(b)(1)(A)(3) – AB 1116 (Grayson) Peer Support and Crisis Referral Services Act.

Background:

This bill would create the Peer Support and Crisis Referral Services Act. The bill would define a "peer support team" as a local critical incident response team-comprised of individuals from emergency services professions, emergency medical services, hospital staff, clergy, educators, and mental health professionals who have completed a peer support training course developed by the Office of Emergency Services, the California Firefighter Joint Apprenticeship Committee, or the Commission on Correctional Peace Officer Standards and Training. The bill would provide that a communication made by emergency service personnel to a peer support team member while the emergency service personnel receives peer support services is confidential and shall not be disclosed in a civil or administrative proceeding, except as specified. The bill would also provide that, except for an action for medical malpractice, a peer support team or a peer support team member providing peer support services is not liable for damages relating to the team's or team member's act, error, or omission in performing peer support services, unless the act, error, or omission constitutes wanton, willful, or intentional misconduct. The bill would provide that a communication made by emergency service personnel to a crisis hotline or crisis referral service, as defined, is confidential and shall not be disclosed in a civil or administrative proceeding, except as specified.

Board staff has no concerns with the creation of the peer support teams and services for emergency personnel, but does have concerns with broadening the definition of psychotherapist to include a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel for confidentiality purposes.

Location: Assembly Committee on Judiciary

Status: 04/05/2017 Passed Assembly Committee on Health, re-referred to Assembly Committee on Judiciary

Votes: 04/04/2017 Assembly Committee on Health (14-0-1)

Action Requested:

Staff recommends the Board adopt a **NEUTRAL IF AMENDED** position on AB 1116 (Grayson). The Board's position would change to Neutral once the author amends the bill to remove the language changing the definition of psychotherapist.

Attachment A: Analysis for AB 1116 (Grayson)

Attachment B: AB 1116 (Grayson) Text

2017 Bill Analysis

Author: Grayson	Bill Number: AB 1116	Related Bills:
Sponsor: California Professional Firefighters Association and California Correctional Peace Officers Association	Version: March 29, 2017	
Subject: Peer Support and Crisis Referral Services Act.		

SUMMARY

This bill would create the Peer Support and Crisis Referral Services Act. This act would allow the California Firefighter Joint Apprenticeship Committee and the Commission on Correctional Peace Officer Standards and Training to contract with the Office of Emergency Services to develop and deliver peer support team member training and to create peer support services to combat critical incident stress.

RECOMMENDATION

Staff recommends the Board adopt a **NEUTRAL IF AMENDED** position on AB 1116 (Grayson). The Board's position would change to Neutral once the author amends the bill removing the language changing the definition of psychotherapist. Board staff has no concerns with the creation of peer support team training and services for emergency service professionals, but does have concerns with changing the definition of psychotherapist to include peer support team members for confidentiality purposes when there are other ways to ensure confidentiality of these communications.

Summary of Suggested Amendments

Staff believes the author should remove the proposed subsection (q) of Section 1010 of the Evidence Code, and the proposed subsection (c) of Section 669.5 of the Government Code.

REASON FOR THE BILL

According to the Author, emergency service personnel frequently respond to traumatic incidents and dangerous circumstances, which results in a high stress working

Other Boards/Departments that may be affected:	
<input type="checkbox"/> Change in Fee(s) <input type="checkbox"/> Affects Licensing Processes <input type="checkbox"/> Affects Enforcement Processes	
<input type="checkbox"/> Urgency Clause <input type="checkbox"/> Regulations Required <input type="checkbox"/> Legislative Reporting <input type="checkbox"/> New Appointment Required	
Policy & Advocacy Committee Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____	Full Board Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____

environment which can take an overwhelming mental, emotional and physical toll on personnel. Chronic exposure to traumatic events and critical incidents increase the risk for post-traumatic stress and other stress-induced symptoms. This bill will increase the availability and use of critical incident stress management services by allowing the communication between critical management stress team member and the emergency services personnel to remain confidential, unless certain conditions are met. This will help ensure that California's emergency service and public safety agencies are equipped with the tools necessary for assisting emergency service personnel in mitigating the occupational stress that they incur as a result of performing their job duties and protecting the public.

ANALYSIS

Staff is concerned with the addition of subdivision (q) of Section 1010 of the Evidence Code, which broadens the definition of psychotherapist to include: a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel, as described in subdivision (c) of Section 8669.5 of the Government Code.

Subdivision (c) of Section 8669.5 of the Government Code states "a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel is a "psychotherapist," as described in subdivision (q) of Section 1010 of the Evidence Code."

Staff spoke to the author's office, who confirmed they had a conference call with multiple concerned associations, and have confirmed that they will be removing the language from the Evidence Code as well as the definition of psychotherapist from the bill. Their goal is to ensure confidentiality between the two parties, and they will work to find a new section to cross reference to achieve this.

LEGISLATIVE HISTORY

None

OTHER STATES' INFORMATION

None

PROGRAM BACKGROUND

The Board advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the practice. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

FISCAL IMPACT

None

ECONOMIC IMPACT

None

LEGAL IMPACT

None

APPOINTMENTS

None

SUPPORT/OPPOSITION**Support:**

California Professional Firefighters (cosponsor)
California Correctional Peace Officers Association (cosponsor)
American Red Cross

Opposition:

None on File

ARGUMENTS**Proponents:**

California Professional Firefighters notes that members of the fire service are four times more likely to experience a suicide than a "traditional" line-of-duty death in any given year. CPF states that the lack of post-traumatic incident discussion among firefighters is largely due to stigmas and the overall concern that opening up about acute job stress may result in an adverse job action, making it imperative that peer support and crisis referral services and any related communications be confidential.

The American Red Cross supports this bill noting that Red Cross mental health staff at the site of disasters are qualified to be members of a peer support team as they hold current licenses in California and many of them have already received training.

Opponents:

None at this time

AMENDMENTS**Section 2**

~~Section 1010 of the Evidence Code is amended to read:~~

~~(q) For purposes of a noncriminal proceeding only, a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel, as described in subdivision (c) of Section 8669.5 of the Government Code.~~

Section 3**8669.5.**

~~(c) A person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel is a "psychotherapist," as described in subdivision (q) of Section 1010 of the Evidence Code, for purposes of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, for purposes of a noncriminal proceeding.~~

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-1116 Peer Support and Crisis Referral Services Act.** (2017-2018)**SECTION 1.** *The Legislature finds and declares all of the following:*

(a) *Emergency service personnel frequently respond to traumatic incidents and dangerous circumstances, including, but not limited to, fires, stabbings, gun battles and shootings, domestic violence, terrorist acts, riots, automobile accidents, airplane crashes, and earthquakes. They are exposed to harmful substances, such as blood, urine, and vomit. They witness grave injuries, death, and grief. They are frequently placed in harm's way, with significant risk of bodily harm or physical assault while performing the duties of their jobs.*

(b) *The traumatic and unpredictable nature of emergency services results in a high-stress working environment that can take an overwhelming mental, emotional, and physical toll on personnel. Chronic exposure to traumatic events and critical incidents increases the risk for post-traumatic stress and other stress-induced symptoms.*

(c) *While most emergency service personnel survive the traumas of their jobs, sadly, many experience the impacts of occupational stressors when off duty. The psychological and emotional stress of their professions can have a detrimental impact long after their shift is over.*

(d) *Such trauma-related injuries can become overwhelming, manifesting in post-traumatic stress, substance abuse, and even, tragically, suicide. The fire service, as an example, is four times more likely to experience a suicide than a "traditional" death in the line of duty in any year.*

(e) *Similar to military personnel, California's emergency service personnel and first responders face unique and uniquely dangerous risks in their mission to keep the public safe. These professionals rely on each other for survival while placing their lives on the line every day to protect the communities they serve.*

(f) *The culture of emergency services has often inhibited its personnel from asking for assistance in battling their psychological stress for fear it will cause ridicule, shame, or adverse job action.*

(g) *California has a responsibility to ensure that its emergency service and public safety agencies are equipped with the tools necessary for assisting emergency service personnel in mitigating the occupational stress that they incur as a result of performing their job duties and protecting the public.*

(h) *It is, therefore, the intent of the Legislature in enacting this act to enable critically needed, confidential peer support and crisis referral services for California's emergency service personnel.*

SEC. 2. *Section 1010 of the Evidence Code is amended to read:*

1010. As used in this article, "psychotherapist" means a person who is, or is reasonably believed by the patient to be:

(a) A person authorized to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.

(b) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(c) A person licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code, when he or she is engaged in applied psychotherapy of a nonmedical nature.

(d) A person who is serving as a school psychologist and holds a credential authorizing that service issued by the state.

(e) A person licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(f) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code, or a person registered as a marriage and family therapist intern who is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code.

(g) A person registered as an associate clinical social worker who is under supervision as specified in Section 4996.23 of the Business and Professions Code.

(h) A person registered with the Board of Psychology as a registered psychologist who is under the supervision of a licensed psychologist or board certified psychiatrist.

(i) A psychological intern as defined in Section 2911 of the Business and Professions Code who is under the supervision of a licensed psychologist or board certified psychiatrist.

(j) A trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 of, or subdivision (c) of Section 4980.37 of, the Business and Professions Code and is supervised by a licensed psychologist, a board certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.

(k) A person licensed as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, who possesses a master's degree in psychiatric-mental health nursing and is listed as a psychiatric-mental health nurse by the Board of Registered Nursing.

(l) An advanced practice registered nurse who is certified as a clinical nurse specialist pursuant to Article 9 (commencing with Section 2838) of Chapter 6 of Division 2 of the Business and Professions Code and who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.

(m) A person rendering mental health treatment or counseling services as authorized pursuant to Section 6924 of the Family Code.

(n) A person licensed as a professional clinical counselor under Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(o) A person registered as a clinical counselor intern who is under the supervision of a licensed professional clinical counselor, a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in Sections 4999.42 to 4999.46, inclusive, of the Business and Professions Code.

(p) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by paragraph (3) of subdivision (c) of Section 4999.32 of, or paragraph (3) of subdivision (c) of Section 4999.33 of, the Business and Professions Code, and is supervised by a licensed psychologist, a board-certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.

(q) For purposes of a noncriminal proceeding only, a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel, as described in subdivision (c) of Section 8669.5 of the Government Code.

SEC. 3. *Article 21 (commencing with Section 8669) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:*

Article 21. Peer Support and Crisis Referral Services Act

8669. *This article shall be known, and may be cited, as the Peer Support and Crisis Referral Services Act.*

8669.1. *For purposes of this article, the following terms have the following meanings:*

(a) "Crisis referral services" include all public or private organizations that advise employees and volunteers of agencies employing emergency service personnel about consultation and treatment sources for personal problems, including mental health issues, chemical dependency, domestic violence, gambling, financial problems, and other personal crises.

(b) "Critical incident" means an actual or perceived event or situation that involves crisis, disaster, trauma, or emergency.

(c) "Critical incident stress" means the acute or cumulative psychological stress or trauma that emergency service personnel may experience in providing emergency services in response to a critical incident. The stress or trauma is an unusually strong emotional, cognitive, behavioral, or physical reaction that may interfere with normal functioning, including, but not limited to, one or more of the following:

- (1) Physical and emotional illness.
- (2) Failure of usual coping mechanisms.
- (3) Loss of interest in the job or normal life activities.
- (4) Personality changes.
- (5) Loss of ability to function.
- (6) Psychological disruption of personal life, including his or her relationship with a spouse, child, or friend.

(d) "Emergency service personnel" means an individual who provides emergency response services, including a law enforcement officer, correctional officer, firefighter, paramedic, emergency medical technician, dispatcher, emergency response communication employee, or rescue service personnel.

(e) "Peer support services" include services provided by a peer support team or a peer support team member to emergency service personnel affected by a critical incident or the accumulation of witnessing multiple incidents. Peer support services assist emergency service personnel affected by a critical incident in coping with critical incident stress or mitigating reactions to critical incident stress. Peer support services include one or more of the following:

- (1) Precrisis education.
- (2) Critical incident stress defusings.
- (3) Critical incident stress debriefings.
- (4) On-scene support services.
- (5) One-on-one support services.
- (6) Consultation.
- (7) Referral services.
- (8) Confidentiality obligations.
- (9) The impact of toxic stress on health and well-being.
- (10) Grief support.
- (11) Substance abuse identification and approaches.
- (12) Active listening skills.

(f) "Peer support team" means a local critical incident response team comprised of individuals from emergency services professions, emergency medical services, hospital staff, clergy, educators, and mental health professionals who have completed a peer support training course developed by the Office of Emergency Services, the California Firefighter Joint Apprenticeship Committee, or the Commission on Correctional Peace Officer Standards and Training, as described in Section 8669.4.

(g) "Peer support team member" means an individual who is specially trained to provide peer support services as a member of a peer support team.

8669.2. (a) Except as otherwise provided in this section, a communication made by emergency service personnel to a peer support team member while the emergency service personnel receives peer support services is confidential and shall not be disclosed in a civil or administrative proceeding. A record kept by a peer support team member relating to the provision of peer support services to emergency service personnel by the peer support team or a peer support team member is confidential and is not subject to subpoena, discovery, or introduction into evidence in a civil or administrative proceeding.

(b) A communication or record described in subdivision (a) is not confidential if any of the following circumstances exist:

(1) The peer support team member reasonably must make an appropriate referral of the emergency service personnel to, or consult about the emergency service personnel with, another member of the peer support team or an appropriate professional associated with the peer support team.

(2) Revealing the communication by the emergency service personnel may prevent reasonably certain death, substantial bodily harm, or commission of a crime.

(3) The emergency service personnel or the legal representative of the emergency service personnel expressly agrees in writing that the emergency service personnel communication is not confidential.

(c) If the confidentiality of a communication is removed under paragraph (1) or (2) of subdivision (b), the peer support team member shall notify the emergency service personnel of the removal in writing.

8669.3. (a) Except as otherwise provided in subdivision (b), a peer support team or a peer support team member providing peer support services is not liable for damages, including personal injury, wrongful death, property damage, or other loss related to the peer support team's or peer support team member's act, error, or omission in performing peer support services, unless the act, error, or omission constitutes wanton, willful, or intentional misconduct.

(b) Subdivision (a) does not apply to an action for medical malpractice.

8669.4. (a) The Office of Emergency Services shall develop a peer support training course that each peer support team member must complete to be eligible for the protections of this article.

(b) (1) Notwithstanding subdivision (a), the Office of Emergency Services shall contract with the California Firefighter Joint Apprenticeship Committee to develop and deliver a fire service-specific peer support training course for a peer support team member who will provide peer support services for firefighters and other fire service emergency response personnel.

(2) This fire service-specific peer support training course shall be developed by the California Firefighter Joint Apprenticeship Committee in consultation with individuals knowledgeable about fire service first responder peer support services. The course shall include topics on peer support and stress management, including, but not limited to, all of the following:

(A) Precrisis education.

(B) Critical incident stress defusings.

(C) Critical incident stress debriefings.

(D) On-scene support services.

(E) One-on-one support services.

(F) Consultation.

(G) Referral services.

(H) Confidentiality obligations.

(I) The impact of toxic stress on health and well-being.

(J) Grief support.

(K) Substance abuse identification and approaches.

(L) Active listening skills.

(3) The contract shall provide for the delivery of training by the California Firefighter Joint Apprenticeship Committee through contracts with state, local, and regional public fire agencies.

(c) (1) Notwithstanding subdivision (a), the Commission on Correctional Peace Officer Standards and Trainings shall develop and deliver a peer support training course for a peer support team member who will be operating in correctional facilities such as the state prison or a county jail.

(2) This peer support training course shall include topics on peer support and stress management, including, but not limited to, all of the following:

(A) Precrisis education.

(B) Critical incident stress defusings.

(C) Critical incident stress debriefings.

(D) On-scene support services.

(E) One-on-one support services.

(F) Consultation.

(G) Referral services.

(H) Confidentiality obligations.

(I) The impact of toxic stress on health and well-being.

(J) Grief support.

(K) Substance abuse identification and approaches.

(L) Active listening skills.

8669.5. *(a) Except as otherwise provided in this section, a communication made by emergency service personnel to a crisis hotline or crisis referral service is confidential and shall not be disclosed in a civil or administrative proceeding.*

(b) A crisis hotline or crisis referral service may reveal information communicated by emergency service personnel to prevent reasonably certain death, substantial bodily harm, or commission of a crime.

(c) A person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel is a "psychotherapist," as described in subdivision (q) of Section 1010 of the Evidence Code, for purposes of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, for purposes of a noncriminal proceeding.