

## MEMORANDUM

<b>DATE</b>	July 24, 2017
<b>TO</b>	Board of Psychology
<b>FROM</b>	 Jason Glasspiegel Central Services Coordinator
<b>SUBJECT</b>	Agenda Item #12(b)(2)(XX) – SB 755 (Beall) Civil Discovery: Mental Examination

**Background:**

Existing law provides that any party may obtain discovery by means of a physical or mental examination of (1) a party to the action, (2) an agent of any party, or (3) a natural person in the custody or under the legal control of a party in any action in which the mental or physical condition of that party or other person is in controversy in the action. This bill would limit the mental examination of a child that is less than 15 years of age and has credible evidence of being sexually abused to psychological testing of no more than three (3) hours, including breaks, unless the court grants an extension for good cause. This bill would also require the examination to be conducted by a licensed clinical psychologist or licensed physician.

At the June Board meeting, the Board identified three areas of concern, (1) use of the term clinical psychologist, (2) limiting a psychologists' ability to practice within their scope of competence, (3) a lack of awareness of the Board's complaint process. The Board directed staff to compose a letter to the Author and Sponsor of SB 755 that would relay the Board's concerns. To complete this task, staff first emailed the Author and Sponsor the Board's three concerns, and requested a conference call to communicate these concerns verbally. After the conference call occurred, staff composed a letter summarizing the Board's concerns and the actions staff took to communicate these concerns with the Sponsor and Author of SB 755.

**Location:** Governor

**Status:** 7/13/2017 Enrolled and presented to the Governor at 10 a.m.

**Votes:** 7/10/2017 Senate Floor (concurrence) (39-0-1)  
7/06/2017 Assembly Floor (75-0-5)  
6/13/2017 Assembly Committee on Judiciary (11-0-0)  
5/22/2017 Senate Floor (37-0-3)  
5/2/2017 Senate Committee on Judiciary (6-0-1)

**Action Requested:**

This item is for informational purposes only; no action is required at this time.

Attachment A: Letter of Concern for SB 755 (Beall)

July 10, 2017

The Honorable Jim Beall  
California State Senate  
State Capitol, Room 2082  
Sacramento, CA 95814

Dear Senator Beall,

At the Board of Psychology's (Board's) June 2017 meeting, the Board discussed concerns with SB 755 (Beall) and directed staff to communicate these areas of concern with the sponsor and author of the bill. To complete this task, Board staff sent an email outlining the concerns, to your office and the Consumer Attorneys of California (CAOC).

Additionally, the Board staff held a conference call with your office and the CAOC to discuss the Board's concerns with the bill as listed below:

1. Use of the term *clinical* psychologist.

The Board of Psychology issues a general license for all psychologists and therefore does not issue specific licenses for clinical psychologists. Although this is existing statutory language, it is inaccurate and this provision should be cleaned-up to include language such as "a psychologist licensed by the Board of Psychology".

2. Limiting a psychologist's ability to practice within their scope of competence.

All psychologists licensed by the Board of Psychology are required to practice within their scope of competence. Limiting a psychologist's ability to provide psychological testing to a minor under the age of 15 to three hours inclusive of breaks, may cause undue stress to the minor as the psychologist may need to return at a later date to complete additional testing, and would therefore subject the child to repetitive visits with the psychologist. Lastly, any psychologist whose scope of competence includes sexual abuse of minors, should be well aware of the appropriate time to spend on testing versus breaks to cause the least amount of harm on the child.

3. Use of the Board's complaint process for instances of unethical behavior or practice outside of the standard of care.

The Board encourages anyone who witnesses psychological testing by a licensed psychologist that appears to be excessive or causes undo harm to a patient or client, to report the licensee to the Board of Psychology. The Board has an Enforcement Unit which is trained in investigating claims of unprofessional conduct, and can issue a Citation and Fine, or pursue formal discipline against the licensee if there has been a departure from the standard of care.

During the call, Board staff committed to sending an email that outlines the methods which can be utilized to file a complaint with the Board of Psychology, and offered the assistance of the Board's Enforcement Program Manager, who is able to meet with the CAOC and educate its members on the importance of filing a complaint when a departure from the standard of care is witnessed. This email was delivered on July 3, 2017.

The Board of Psychology looks forward to working with the CAOC on clean up language to address our technical concerns with SB 755 during the 2018 legislative session. The Board also thanks Senator Beall, his staff, and the CAOC for their goal of protecting the welfare of children receiving psychological evaluations, as the Board shares this goal and hopes that we can work together to improve protections for these children in the future through greater outreach regarding the Board's complaint process.

If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (916) 574-7113. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SCPH', is written over a light blue horizontal line.

STEPHEN C. PHILLIPS, JD, PsyD  
President, Board of Psychology

cc: Nancy Peverini, Esq, Legislative Director, Consumer Attorneys of California