

MEMORANDUM

DATE	July 24, 2017
TO	Board of Psychology
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #5(c) – Update regarding the California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting – Penal Code Sections 261.5, 288, and 11165.1

Background:

In February of 2015, The Board of Psychology requested that Assembly Member Garcia request an opinion from the Attorney General (AG) regarding mandatory reporting requirements under CANRA, on behalf of the Board of Psychology. This request for an opinion was assigned opinion number 15-201 by the AG's office.

The questions laid out in the request to the AG were:

1. The Child Abuse and Neglect Reporting Act (CANRA), starting at Penal Code Section 11164 et seq.) requires “mandated reporters” to report instances of child sexual abuse, assault, and exploitation to specified law enforcement and/or child protection agencies. Does this requirement include the mandatory reporting of voluntary acts of sexual intercourse, oral copulation, or sodomy between minors of a like age?
2. Under CANRA is the activity of mobile device “sexting,” between minors of a like age, a form of reportable sexual exploitation?
3. Does CANRA require a mandated reporter to relay third-party reports of downloading, streaming, or otherwise accessing child pornography through electronic or digital media?

The reason for this request was due to an opinion the Board of Behavioral Sciences (BBS) received from their legal counsel. BBS advised that they first began to examine the issue because stakeholders brought it to the attention of their Board due to the various interpretations of the law by many of their licensees. Coincidentally, legislative staff members contacted BBS to advise that the interpretation by their stakeholders was incorrect, and that the amendments to CANRA could have implications on family

planning agencies. Due to the concern over a legal misinterpretation of CANRA, BBS requested a legal opinion from the Department of Consumer Affairs (DCA). Once this legal opinion was received, the Board placed the opinion in their Board materials.

Since the receipt of the BBS opinion, that Board has made no statements regarding the interpretation of CANRA, and has not advised their licensees that they will or will not take enforcement action against them due to a CANRA-related complaint.

On February 20, 2015, the issue became subject to litigation which placed the AG opinion on hold pending the disposition of the case.

On January 9, 2017, a decision was rendered by the Court of Appeal of the State of California, Second Appellate District. This decision affirmed the judgement of the Los Angeles County Superior Court trial.

On February 21, 2017, the plaintiffs in the Mathews v. Harris case filed a petition for review with the California Supreme Court.

On April 6, 2017, the Office of the Attorney General advised that their office will maintain the suspension of opinion number 15-201 until the litigation is concluded and they have a final disposition in the matter.

On May 10, 2017, the California Supreme Court granted the petition for review of the Mathews v. Harris case.

Action Requested:

This item is for informational purposes only. There is no action required.