


## MEMORANDUM

<b>DATE</b>	January 22, 2019
<b>TO</b>	Board of Psychology
<b>FROM</b>	 Cherise Burns Central Services Manager
<b>SUBJECT</b>	Agenda Item #23(b)(2): Update on Revisions to Sections 2940-2944 of the Business and Professions Code Regarding Examinations and Addition of New Section to the Business and Professions Code Regarding Voluntary Surrender

### Background:

The Board of Psychology (Board) has submitted its legislative proposals to revise Business and Professions Code (BPC) Sections 2940-2944 regarding Examinations and the addition of a new section of the BPC regarding Voluntary Surrender to the Senate Committee on Business, Professions and Economic Development (Committee) for inclusion in their 2019 Committee Bill. For the 2019 Committee Bill, the Committee will review legislative proposals from DCA boards and bureaus that make technical, non-substantive, and/or non-controversial changes to the BPC that clarify, update and/or strengthen current law related to health professions. These proposals were due to the Committee by January 18, 2019. Board staff submitted the Board's proposals prior to the deadline and Board staff will update the Board on the Committee's decision on inclusion of our Examination and Voluntary Surrender provisions in the Committee Bill at the April Board Meeting.

At its August 2018 Board Meeting, the Board approved statutory clean-up provisions related to examinations that were recommended by the EPPP2 Task Force. These provisions remove outdated requirements and make the remaining provisions consolidated, more concise, and more easily understood by consumers and applicants. Additionally, the substantive requirements relating to examinations are encompassed in regulations, making these proposed changes non-substantive.

At its November 2018 Board Meeting, the Board approved newly proposed language to add a section to the BPC relating to the voluntary surrender of a license for licensees who are suffering from a physical or neurological illness but who do not have any pending complaints involving client harm. These provisions clarify the implicit statutory authority provided in BPC Section 118(b) for the Board to accept a surrender of a license by a licensee. In clarifying this, the Board specifies the reinstatement rights a licensee would have if they were to use the voluntary surrender option since the reinstatement process specified in BPC Section 2962 applies only to formal discipline when the Board is accepting the surrender of a license in lieu of formal revocation proceedings. These provisions clarify and place in the Board's Practice Act the authority to accept a non-disciplinary surrender of

a license and clearly identify that a licensee who voluntarily surrenders their license outside of the formal discipline process has the option to petition the Board for reinstatement of that license after a period of not less than one (1) year after the effective date of the Board's acceptance of the voluntary surrender. This ensures that those licensees whose cognitive impairments can be treated through medical intervention have an effective mechanism for re-entry to the profession that is not unnecessarily burdensome. This non-disciplinary voluntary surrender option would not be allowed for licensees with current consumer complaints of patient harm or subsequent arrests for criminal convictions, so this non-disciplinary voluntary surrender is not a diversionary option for licensees and is truly clarifying in nature.

**Action Requested:**

This item is for informational purposes only. No action is required.

Attachment: Proposed Amendments to Business and Professions Code Sections 2940-2944 and Addition of New Section to the Business and Professions Code on Voluntary Surrender.

## **PROPOSED CHANGES TO THE BUSINESS AND PROFESSIONS CODE**

**Amend or Repeal the following Sections of the Business and Professions Code relating to Examinations:**

### **§ 2940. Application and fee**

~~Each person desiring to obtain a license from the board shall make application to the board. The application shall be made upon a form and shall be made in a manner as the board prescribes in regulations duly adopted under this chapter.~~

~~The application shall be accompanied by the application fee prescribed by Section 2949. This fee shall not be refunded by the board.~~

To obtain a license from the board, an applicant shall submit any applications and pay any applicable fees as required by the board.

*(Amended by Stats. 1997, Ch. 758, Sec. 38. Effective January 1, 1998.)*

### **§ 2941. Examination and fee**

~~Each applicant for a psychology license shall be examined by the board, and shall pay to the board, at least 30 days prior to the date of examination, the examination fee prescribed by Section 2987, which fee shall not be refunded by the board.~~

Each applicant for licensure as a psychologist shall take and pass any examination required by the board. An applicant may be examined for knowledge in any theoretical or applied fields of psychology, as well as professional skills and judgment in the utilization of psychological techniques and methods, and the ethical practice of psychology, as the board deems appropriate.

Each applicant shall pay any applicable examination fees.

*(Amended by Stats. 1997, Ch. 758, Sec. 39. Effective January 1, 1998.)*

### **§ 2942. Time for examinations; Passing grades**

The board may examine by written or computer-assisted examination or by both. All aspects of the examination shall be in compliance with Section 139. The examination shall be available for administration at least twice a year at the time and place and under supervision as the board may determine. The passing grades for the examinations shall be established by the board in regulations and shall be based on psychometrically sound principles of establishing minimum qualifications and levels of competency.

Examinations for a psychologist's license may be ~~conducted~~ utilized by the board under a uniform examination system, and for that purpose the board may make

arrangements with organizations [to supply and administer](#) furnishing examination materials ~~material~~ as may in its discretion be desirable.

*(Amended by Stats. 2005, Ch. 658, Sec. 9. Effective January 1, 2006.)*

#### **~~§ 2943. Examination subjects~~**

~~The board may examine for knowledge in whatever theoretical or applied fields in psychology as it deems appropriate. It may examine the candidate with regard to his or her professional skills and his or her judgment in the utilization of psychological techniques and methods.~~

*(Amended by Stats. 1989, Ch. 888, Sec. 24.)*

#### **~~§ 2944. Written examinations~~**

~~The board shall grade the written examination and keep the written examination papers for at least one year, unless a uniform examination is conducted pursuant to Section 2942.~~

*(Amended by Stats. 1989, Ch. 888, Sec. 25.)*

**Add the following section to the Business and Professions Code relating to Voluntary Surrender of a License, as authorized under Business and Professions Code Section 118.**

[The board may, in its discretion, accept the offer of a surrender of a license. The acceptance of the offer of a surrender shall be in writing.](#)

[\(a\) The license surrender shall be public information.](#)

[\(b\) The holder of the license that was surrendered pursuant to this section may petition the board for reinstatement after a period of not less than one year after the effective date of the acceptance.](#)

[The reinstatement proceeding shall be conducted pursuant to Section 2965.](#)