

NOTICE OF TELECONFERENCE BOARD MEETING

The Board of Psychology will hold a Board Meeting via WebEx

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-08-21, dated June 11, 2021, neither Board member locations nor a public meeting location are provided. Public participation may be through the WebEx link as provided below. If you have trouble getting on the call to listen or participate, please call 916-574-7720.

Agenda discussion and report items are subject to action being taken on them during the meeting by the Board at its discretion. Action may be taken on any item on the agenda.

Important Notice to the Public: The Board of Psychology will hold a public meeting via WebEx Events. To participate in the WebEx meeting, please log on to this website the day of the meeting:

Friday, August 27, 2021:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m7864505530882605353ce7993142e69e>

Instructions to connect to the meeting can be found at the end of this agenda. Members of the public may, but are not obligated, to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will need to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address like in the following sample format: XXXXX@mailinator.com.

Due to potential technical difficulties, please consider submitting written comments by August 25, 2021, to bopmail@dca.ca.gov for consideration.

Friday, August 27, 2021

Board Members

Seyron Foo, President
Lea Tate, PsyD, Vice President
Sheryll Casuga, PsyD
Marisela Cervantes EdD
Mary Harb Sheets, PhD
Julie Nystrom
Stephen Phillips, JD, PsyD
Ana Rescate
Shacunda Rodgers, PhD

Legal Counsel

Will Maguire
Heather Hoganson

Board Staff

Antonette Sorrick, Executive Officer
Jon Burke, Assistant Executive Officer
Stephanie Cheung, Licensing Manager
Jason Glasspiegel, Central Services Manager
Sandra Monterrubio, Enforcement Program
Manager
Liesel McCockran, CE/Renewals
Coordinator
Cristina Rivera, Legislative and Regulatory
Analyst
Sarah Proteau, Central Services Office
Technician

Friday, August 27, 2021

AGENDA

9:00 a.m. – 5:00 p.m. or until Completion of Business

Unless noticed for a specific time, items may be heard at any time during the period of the Board meeting.

The Board welcomes and encourages public participation at its meetings. The public may take appropriate opportunities to comment on any issue before the Board at the time the item is heard. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment.

1. Call to Order/Roll Call/Establishment of a Quorum
2. President's Welcome
3. Public Comment for Items Not on the Agenda. Note: The Board May Not Discuss or Take Action on Any Matter Raised During this Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code sections 11125 and 11125.7(a)].

4. Discussion and Possible Approval of the Board Meeting Minutes: May 21, 2021
5. Executive Officer's Report (A. Sorrick)
 - a) Personnel Update
 - b) COVID-19 Update
6. Department of Consumer Affairs (DCA) Update
7. Budget Report (J. Glasspiegel)
8. Presentation by Health Professions Education Foundation on Licensed Mental Health Services Provider Education Program (LMHSPEP) and Mental Health Loan Assumption Program (MHLAP); Discussion and Questions to Follow.
9. Enforcement Report (S. Monterrubio)
10. Licensure Committee Report and Consideration of and Possible Action on Committee Recommendations (Harb Sheets – Chairperson, Nystrom, Tate)
 - a) Update on Waivers
 - b) Licensing Report
 - c) Continuing Education and Renewals Report
 - d) Feedback Requested by ASPPB regarding Examination for Professional Practice in Psychology (EPPP) Part 2 – Skills Survey
 - e) Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to 16 CCR section 1391.1, subdivision (b)
 - f) Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 30-Consecutive Month Limitation to Accrue 1500 Hours of Post-Doctoral Supervised Professional Experience Pursuant to 16 CCR section 1387, subdivision (a)
11. Legislative and Regulatory Affairs Committee Report and Consideration of and Possible Action on Committee Recommendations (Cervantes – Chairperson, Casuga, Phillips)
 - a) Board Sponsored Legislation for the 2021 Legislative Session: Review and Possible Action (M. Cervantes)
 1. SB 401 (Pan) Healing arts: psychology - Amendments to sections 2960 and 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact
 2. Pathways to Licensure Statutory Revisions – Amendments to sections 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2942, 2944, 2946, and 2960 of the Business and Professions Code, and section 1010 of the Evidence Code
 3. Sunset Provisions – Amendments to section 2912 of the Business and Professions Code, and Addition of Sections Related to Reinstatement

to Active after Voluntary Surrender, Licensure Committee Delegated Authority, and Authority to Issue Waivers

b) Legislative Update, Review, and Consideration of Additional Changes (M. Cervantes)

1. Bills with Active Positions Taken by the Board

- A. AB 32 (Aguiar-Curry) Telehealth
- B. AB 107 (Salas) Department of Consumer Affairs: boards: temporary licenses: military spouses
- C. SB 731 (Durazo) Criminal records: relief
- D. SB 772 (Ochoa Bogh) Professions and vocations: citations: minor violations
- E. SB 801 (Roth) Healing arts: Board of Behavioral Sciences: Board of Psychology: licensees.

2. Watch Bills

- A. AB 29 (Cooper) State bodies: meetings
- B. AB 54 (Kiley) COVID-19 emergency order violation: license revocation
- C. AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses
- D. AB 339 (Lee) State and local government: open meetings
- E. AB 562 (Low) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services
- F. AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions
- G. AB 657 (Cooper) State civil service system: personal services contracts: professionals
- H. AB 810 (Flora) Healing arts: reports: claims against licensees
- I. AB 830 (Flora) Department of Consumer Affairs: director: powers and duties.
- J. AB 885 (Quirk) Bagley-Keene Open Meeting Act: teleconferencing
- K. AB 1026 (Smith) Business licenses: veterans.
- L. AB 1236 (Ting) Healing arts: licensees: data collection
- M. AB 1386 (Cunningham) License fees: military partners and spouses
- N. SB 102 (Melendez) COVID-19 emergency order violation: license revocation
- O. SB 221 (Wiener) Health care coverage: timely access to care
- P. SB 224 (Portantino) Pupil instruction: mental health education

3. Update, Consideration, and Possible action on Governor's Budget Trailer Bill proposal on Bagley-Keene Open Meeting Act: Remote Participation in Meetings.

c) Legislative Items for Future Meeting. The Board May Discuss Other Items of Legislation in Sufficient Detail to Determine Whether Such Items Should be

on a Future Board Meeting Agenda and/or Whether to Hold a Special Meeting of the Board to Discuss Such Items Pursuant to Government Code section 11125.4

12. Regulatory Update, Review, and Consideration of Additional Changes (M. Cervantes)
 - a) 16 California Code of Regulations (CCR) 1396.8 – Standards of Practice for Telehealth
 - b) 16 CCR sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants
 - c) 16 CCR sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees
 - d) 16 CCR sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development
 - e) 16 CCR sections 1391.13, and 1391.14 – Inactive Psychological Assistant Registration and Reactivating a Psychological Assistant Registration
 - f) 16 CCR 1392 – Psychologist Fees – California Psychology Law and Ethics Examination (CPLEE) and Initial License and Biennial Renewal Fee for a Psychologist
 - g) 16 CCR 1395.2 – Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees
13. Telepsychology Committee Report and Consideration of and Possible Action on Committee Recommendations (Phillips – Chairperson, Nystrom, Tate)
 - a) Presentation on the Psychology Interjurisdictional Compact (PSYPACT) by Representatives of the Association of State and Provincial Psychology Boards (ASPPB)
 - b) Historical Overview of the Psychology Interjurisdictional Compact (PSYPACT)
 - c) Timeline of the Board's prior consideration of PSYPACT
 - d) Correspondence between the Board of Psychology and the Association of State and Provincial Psychology Boards (ASPPB)
 - e) Identify Outstanding Issues
 - f) Review of and Possible Action on PSYPACT Model Legislation for a Report to the Full Board on November 18-19, 2021
14. Recommendations for Agenda Items for Future Board Meetings. Note: The Board May Not Discuss or Take Action on Any Matter Raised During This Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code Sections 11125 and 11125.7(a)].
15. Call for Nominations to Association of State and Provincial Psychology Board's (ASPPB) Board of Directors First Year Member-At-Large
16. Opportunity for Board Members to Express an Interest in Being President or Vice President of the Board in 2022

CLOSED SESSION

17. The Board Will Meet in Closed Session Pursuant to Government Code Section 11126, subdivision (c)(3) to Discuss Disciplinary Matters Including Proposed Decisions, Stipulations, Petitions for Reinstatement or Modification of Penalty, Petitions for Reconsideration, and Remands.

ADJOURNMENT

Due to technological limitations, adjournment will not be broadcast. Adjournment will immediately follow closed session, and there will be no other items of business discussed or transacted.

The meeting may be canceled without notice. For verification, please check the Board's Web site at www.psychology.ca.gov, or call (916) 574-7720. To accommodate speakers, or to maintain a quorum, items may be taken out of order, tabled or held over to a subsequent meeting, and items scheduled to be heard on Thursday may be held over to Friday, or if scheduled to be heard on Friday may be moved up to Thursday.

In the event a quorum of the Board is unable to attend the meeting, or the Board is unable to maintain a quorum once the meeting is called to order, the president may, at his discretion, continue to discuss items from the agenda and to vote to make recommendations to the full board at a future meeting [Government Code section 11125(c)].

Meetings of the Board of Psychology are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The public may take appropriate opportunities to comment on any issue before the Board at the time the item is heard, but the President may, at his discretion, apportion available time among those who wish to speak.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Antonette Sorrick, Executive Officer, at (916) 574-7720 or email bopmail@dca.ca.gov or send a written request addressed to 1625 N. Market Boulevard, Suite N-215, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The Board of Psychology protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession.

Participating in a DCA WebEx Event

The following contains instructions on how to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

1. Navigate to the WebEx event using the link provided by the DCA entity via an internet browser. An example of a link and screenshot of the webpage is provided below for reference.

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>

The screenshot shows a web browser window with the URL <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>. The page header includes the DCA logo and the text "California Department of Consumer Affairs". The main content area is titled "Event Information: 3/26". On the left, under "Event status:", it says "Started". Under "Date and time:", it says "Thursday, March 26, 2020 10:30 am Pacific Daylight Time (San Francisco, GMT-07:00)" with a link "Change time zone". Under "Duration:", it says "1 hour". Under "Description:", it is blank. On the right, there is a "Join Event Now" button. Below it, the text "To join this event, provide the following information." is followed by four input fields: "First name:", "Last name:", "Email address:", and "Event password:". Below these fields is a "Join Now" button. At the bottom, there is a link "Join by browser NEW!" and a note "If you are the host, start your event."

2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

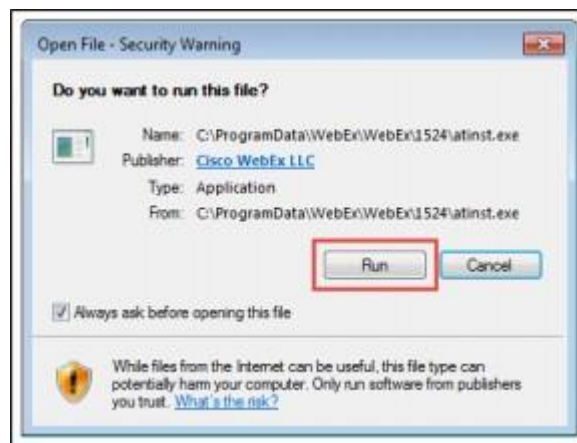
This screenshot is identical to the one above, showing the DCA WebEx event page. A red arrow points from the "Event Information" section on the left towards the "Join Event Now" section on the right, highlighting the registration form.

Participating in a DCA WebEx Event

3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you change the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx application installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



Depending on your computer's settings, you may be blocked from using the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

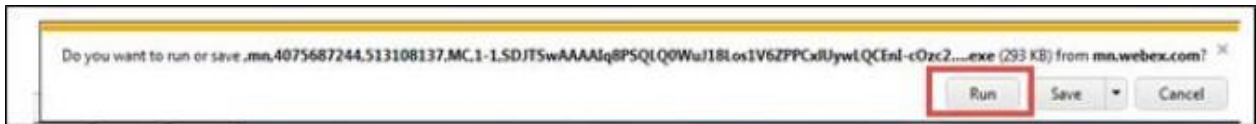
Starting Webex...



Still having trouble? [Run a temporary application](#) to join this meeting immediately.

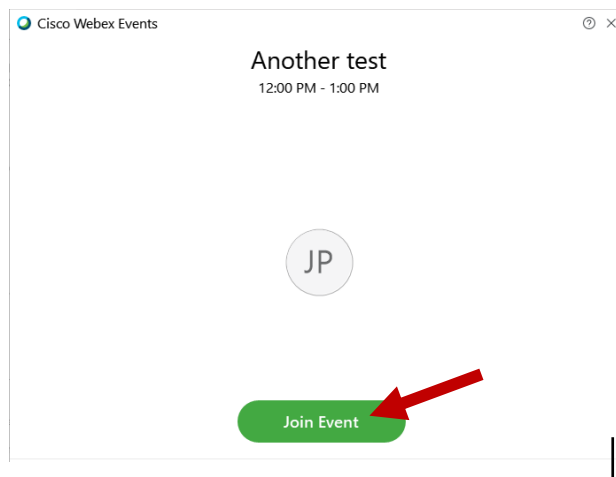
Participating in a DCA WebEx Event

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.

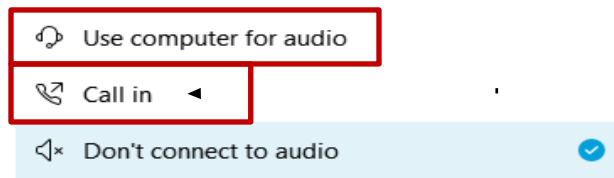


The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.



8. You can select to use either your computer speaker/microphone for audio or your phone. When the audio menu appears, click 'Call in'.

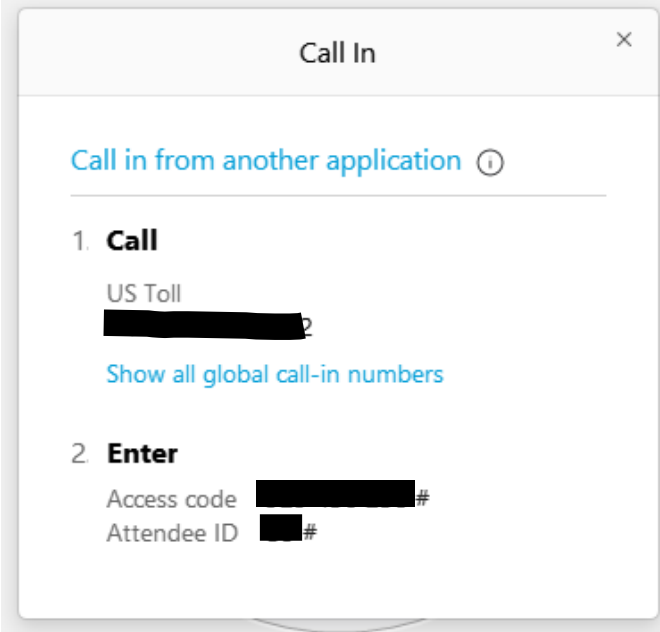


If you choose to use your phone for audio and select the "call in" option above, the audio conference call in information will be available after you join the Event.

Participating in a DCA WebEx Event

9. If you choose to log into the meeting using your phone instead of a computer/tablet, call in with the details provided.

Note: If calling internationally, please click on "Show all global call-in numbers".

A screenshot of a 'Call In' dialog box. The title bar says 'Call In' with a close button. Below the title bar, there is a link 'Call in from another application' with an information icon. The main content is divided into two sections. Section 1, titled '1. Call', shows 'US Toll' followed by a redacted number and a link 'Show all global call-in numbers'. Section 2, titled '2. Enter', shows 'Access code' followed by a redacted number and a hash symbol, and 'Attendee ID' followed by a redacted number and a hash symbol.

Call In

[Call in from another application](#) ⓘ

1. Call

US Toll [REDACTED]

[Show all global call-in numbers](#)

2. Enter

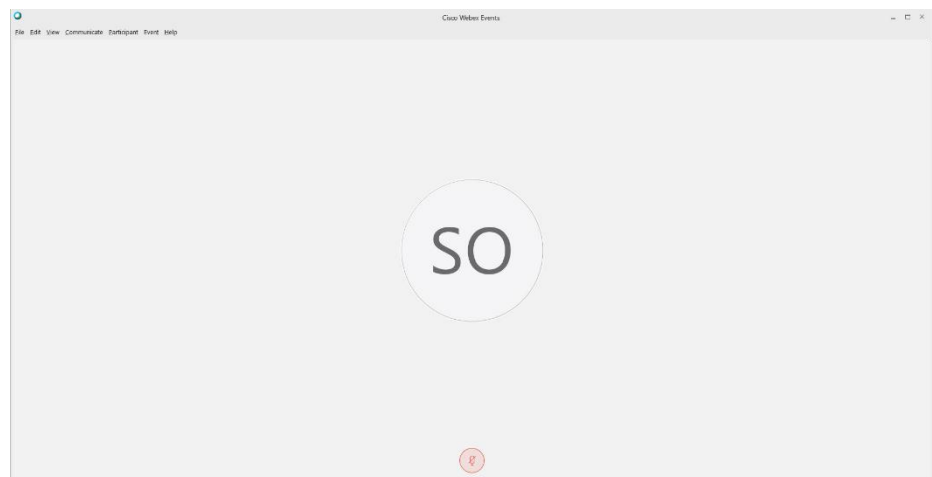
Access code [REDACTED] #

Attendee ID [REDACTED] #

NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

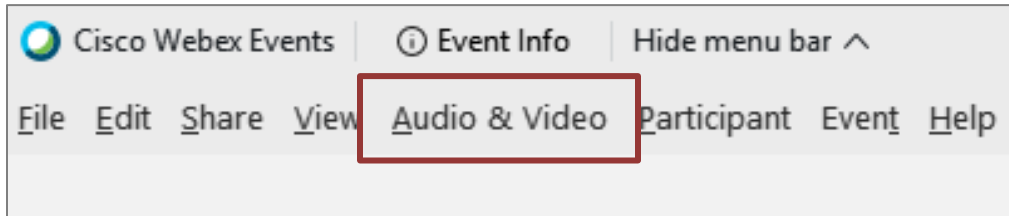
NOTE: Your audio line is muted and can only be unmuted by the event host.



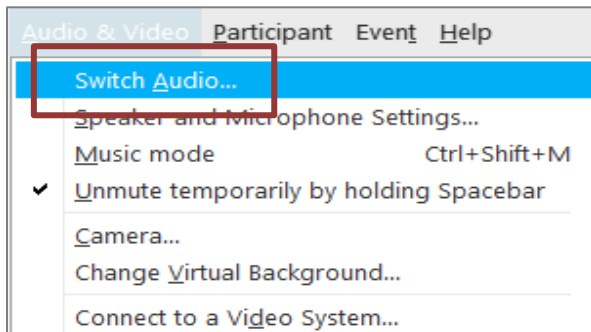
Participating in a DCA WebEx Event

If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

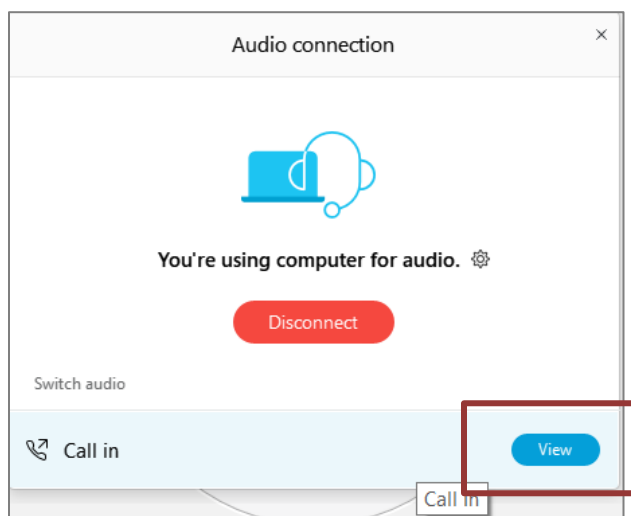
1. Select 'Audio & Video' from the menu bar at the top of your Webex screen.



2. Select 'Switch Audio' from the drop-down menu.



3. The 'Call In' information can be displayed by selecting 'View'



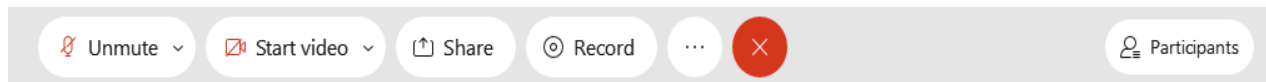
You will then be presented the dial in information for you to call in from any phone.

Participating in a DCA WebEx Event

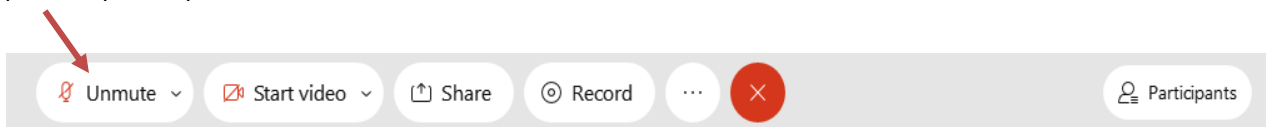
The following contains instructions on how to utilize Webex features.

Microphone

If you are logged in using the link, you should see the command row at the bottom middle of your Webex screen. Some devices may display this command row in other areas of your screen.



Click on the microphone icon to mute and unmute yourself. You can also mute and unmute yourself using microphone icon next to your name from the participant panel.



Note: If you connected your audio through your phone, your mute and unmute button should be controlled from your computer or tablet. If you are having trouble unmuting yourself, you may be muted through your phone.

The green microphone indicates your microphone is open and meeting participants can hear you. If your microphone is red, you are muted.



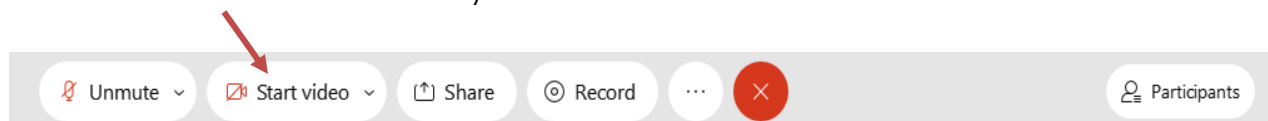
Green microphone
=
Unmuted
People can hear you speak



Red microphone
=
Muted
No one can hear you speak

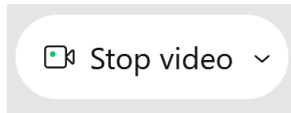
Video/Camera

Click on the video icon to turn your camera on and off.

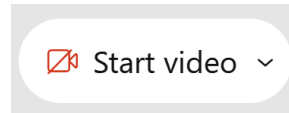


Participating in a DCA WebEx Event

The green camera button indicates your video is on and meeting participants can see you. If your camera button is red, it is off and you cannot be seen.



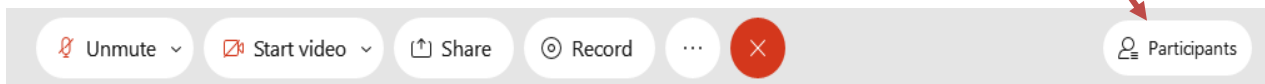
Green dot inside camera
=
Video is on
People can see you



Red outlined camera
=
Video is off
No one can see you

Meeting Participants

To see who is in the meeting, you can access the participant list by clicking on the participant icon on the command row.

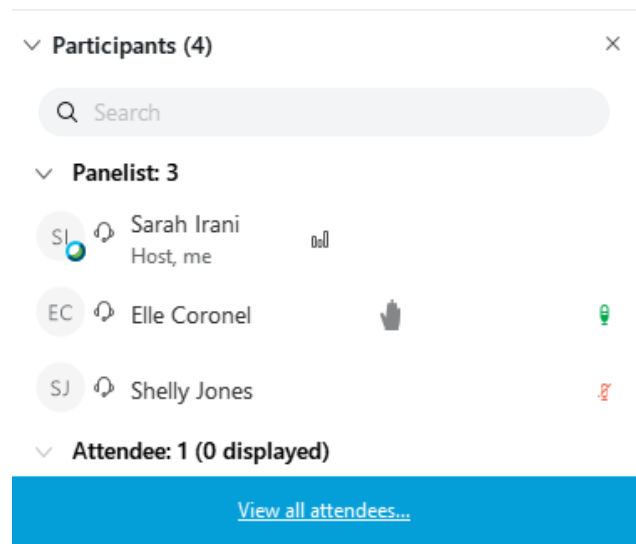


By clicking on this icon, it should display the participant list on the right side of your screen.

This is an example of a participant list that will display on the right side of your screen.

Icons will appear next to individual names to indicate if they are muted, speaking or background noise, or have their hand raised.

This is helpful to distinguish who is speaking or who is trying to contribute to the conversation. In addition, it is helpful if you state your name before speaking.



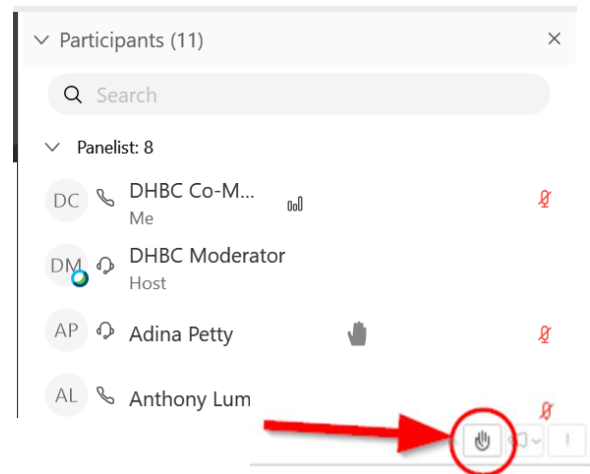
Hand-Raise

In order to use the hand-raise feature you need to have the participant panel open. At the bottom right corner of the participant panel there will be a small icon that looks like a hand outline. You can click on this icon to raise and lower your hand.

Participating in a DCA WebEx Event

When a hand is raised, you will see a hand icon next to the individuals name in the participant panel.

Note: Please be mindful to lower your hand after you've been called on



Webex Etiquette

Microphones

- Please mute your microphone when not speaking. Panelists will have the ability to un-mute themselves when they need to speak. We ask that you mute yourself again when you are not speaking to avoid background noises.
- It is helpful if you state your name before speaking as it can be helpful in identifying who is speaking.
- Allow for a bit of a lag time when unmuting your microphone then speaking, and when asking a question or making a comment and waiting for a response.

Web Cameras: Do ...

- Be well groomed (dress professionally, top and bottom)
- Be aware of your background (try using the virtual backgrounds)
- Engage with the camera (shows you are participating in the meeting)
- Stop your video before momentarily disengaging or walking away from your seat
- Be aware of your facial expressions (especially when there are discussions or comments you do not agree with)
- Ensure your camera is on a stable surface (if using tablets/phones, do not hold the device in hand while camera is on)
- Remember that when you are muted and not speaking, you, your demeanor, and your activities **can still be seen**

Participating in a DCA WebEx Event

Web Cameras: Don't ...

- Drive a vehicle, practice your profession, or do other activities that can communicate that you are disengaged (this includes texting, emailing, and engaging in extraneous conversations)
- Have artistic or decorative statements in your visual background that do not represent the department's view or neutrality stance (political views for example)
- Eat when your video camera is on (beverages are acceptable)
- Talk on your phone when camera is on even if your microphone is muted (consider stopping your video)
- Allow your pets to wander into the view of the camera (consider placing them in another room)

MEMORANDUM

DATE	August 9, 2021
TO	Psychology Board Members
FROM	Antonette Sorrick, Executive Officer
SUBJECT	Executive Officer's Report: Agenda Item 5

Personnel Update

Authorized Positions: 27.30

Temp Help: 2.7

Vacancies: 2.0

New Hires	
Classification	Program
Central Services Technician (OT)	Central Services
Enforcement Analyst (AGPA)	Enforcement

Promotions
None

Vacancies
1. Enforcement Technician (OT) Vacancy. Vacancy effective 11/19/19 2. Central Services Technician (OT) Vacancy. Vacancy effective 7/1/21 3. Legislative and Regulatory Analyst (AGPA) Vacancy. Vacancy effective 8/31/2021

Waivers and Guidance

- The full list of current waivers and guidance can be found on the [DCA website](#). DCA boards and bureaus who wish to have a waiver reviewed and considered by the director are requested to submit a Waiver Request form to the following email: WaiverRequest@dca.ca.gov. It is important to note that the only requests that can be considered for Division 3 boards and bureaus at this time are those related to continuing education. The Department has been working with the

boards to submit and review waiver requests. The information received by the boards will assist in determining whether to approve or deny the request.

- DCA Boards and Bureaus who wish to have a waiver reviewed and considered by the director are requested to submit a Waiver Request Form (attached) to the following email: WaiverRequest@dca.ca.gov. The Department has been working with the boards to submit and review waiver requests. The information received by the boards will assist in determining whether to approve or deny the request.
 - Other important information:
 - Individuals with a current/active out-of-state license who want to assist with COVID-19 in California should email Emergency Medical Services Authority (EMSA) at: Covid19@emsa.ca.gov
 - The Department of Health Care Services issued a bulletin, [Guidance Relating to Non-Discrimination in Medical Treatment for Novel Coronavirus 2019 \(COVID-19\)](#), for the attention of all licensed health care workers. DCA healing arts boards are requested to provide this information to all health care licensees.
 - Call to ACTION: On Monday, March 31, 2020, the Governor put out a call to action asking those licensed in California to join the fight in battling the COVID-19 pandemic. In addition, he launched the [California Health Corps](#) where individuals can go to sign up to be deployed to assist providing care to those in need. Please encourage those around you to sign up to help!
- All Californians 16+ Eligible for COVID-19 Vaccines**
- As of April 15, all Californians aged 16 and older are eligible for COVID-19 vaccinations. Individuals seeking an opportunity to get vaccinated may still need to wait for an appointment. Every Californian can schedule with My Turn by signing up at [MyTurn.ca.gov](https://myturn.ca.gov) ([available](#) in 12 languages) or call the COVID-19 hotline at (833) 422-4255 (assistance available in 250+ languages). Some local health authorities have additional vaccination appointments. The CDC's [VaccineFinder](#) may help Californians to locate nearby opportunities.

Attachment

Waiver Update

Action Requested:

This item is for informational purposes only.

Waiver Topic	Code Section(s) Waived	Summary	Submission Date	Approval Status	Submitted By	Waiver Status
CE Extra Six Months	All DCA Boards	Accordingly, for individuals whose active licenses expire between March 31, 2020, and June 30, 2020, the Director temporarily waives: 1. any statutory or regulatory requirement that individuals renewing a license pursuant to Division 2 of the Code take and pass an examination in order to renew a license; and, 2. any statutory or regulatory requirement that an individual renewing a license pursuant to Division 2 of the Code complete, or demonstrate compliance with, any continuing education requirements in order to renew a license. These temporary waivers do not apply to any continuing education, training, or examination required pursuant to a disciplinary order against a license. Licensees must satisfy any waived renewal requirements within six months of this order, unless further extended.	N/A	Newest waiver published by DCA on June 3, 2021 extends prior waiver by 60 days to licenses expiring between June 1, 2021, and July 31, 2021, giving them six extra months from the date of the order to take and pass an exam or complete continuing education in order to renew their licenses. It also provides six more months to those with licenses expiring between March 31, 2020 and May 31, 2021, so that all licenses expiring between March 31, 2020, and July 31, 2021, will have until November 2021, to take any requisite exam and complete their continuing education. Newest waiver published by DCA on July 26, 2021 extends prior waiver by 61 days to licensees expiring between August 1, 2021 and September 30, 2021, giving them six extra months from the date of the order to take and pass an exam and completing their continuing	DCA	Active
Withdraw Application	California Code of Regulations Section 1381.4	This waiver extends the eligibility period for candidates to take or re-take an examination from 12 to 18 months prior to their application is deemed withdrawn by the Board due to failing to appear for, take, or re-take the examination. This waiver applies to psychologist applicants whose applications are deemed to be withdrawn within a specific period per the waiver, but does not retroactively apply to withdrawn applications prior to September 30, 2020 where applicants have already reapplied.	Submitted to Director Kirchmeyer on 4/10/2020	Extends prior waiver by 60 days to applications expiring between June 2, 2021, and August 1, 2021, and extends their eligibility to take examinations by six extra months, as discussed in detail below. extends prior waiver by 60 days to applications expiring between August 2, 2021, and September 30, 2021, and extends their eligibility to take examinations by six extra months.	Board of Psychology	Active
Face to Face Supervision	California Code of Regulations Sections 1387(b)(4) and 1391.5(b)	This waiver would allow the Board to relax the requirement of face-to-face supervision to a psychological trainee by allowing the one hour face-to-face, direct, individual supervision to be conducted via HIPAA-compliant means from March 16, 2020, until June 30, 2020, or when the state declaration of emergency is lifted, whichever is sooner. The Board would still require that the trainee indicate the type of supervision on the required weekly log and the primary supervisor should verify this information. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Approved by DCA on 5/6/20. Waiver extended on 7/1/20 to 9/3/20. Waiver extended again on 8/27/20 to 11/3/30. Waiver extended on 10/22/20. Waiver extended again on November 25, 2020. This waiver now expires January 30, 2021. Waiver extended on December 15 and now expires on Friday 28. Waiver extended on 2/26/21 and now expires April 30. Waiver extended on 4/30/21 and now expires June 30. Waiver extended on 7/1/21 and now expires on 8/31/21. The Board has issued a six-month grace period for face-to-face supervision which will allow for HIPAA compliant technology to count towards this requirement. The six-month grace period expires on 1/1/22.	Board of Psychology	Active

Reinstatement of Inactive or Canceled License	All DCA Boards	<p>Accordingly, the Director temporarily waives any statutory or regulatory requirement that an individual seeking to reactivate or restore a license originally issued pursuant to Division 2 of the Code:</p> <ul style="list-style-type: none"> • Complete, or demonstrate compliance with, any continuing education requirements in order to reactivate or restore a retired, inactive, or canceled license; and • Pay any fees in order to reactivate or restore a retired, inactive, or canceled license (including renewal, delinquency, penalty, or late fees, or any other statutory or regulatory fees). <p>These waivers apply only to an individual's license that: (1) is in a retired, inactive, or canceled status, and (2) has been in such status no longer than five years. These waivers do not apply to any license that was surrendered or revoked pursuant to disciplinary proceedings or any individual who entered a retired, inactive, or canceled status following initiation of a disciplinary proceeding. A license reactivated or restored pursuant to these waivers is valid for a maximum of six months, or when the State of Emergency ceases to exist, whichever is sooner.</p>	N/A	This waiver was extended on 7/1/21 with an expiration date of 9/1/21.	DCA	Active
CPLEE for Restoration of License	Business and Professions Code Section 2986 California Code of Regulations Section 1397.67(b)	This waiver would allow the board to restore licenses of psychologists whose California licenses have cancelled without requiring the board's law and ethics examination (CPLEE). This waiver would become effective 3/4/20 until 6/30/20, or when the declaration of emergency is lifted. This would be consistent with the DCA Waiver DCA-20-02 Reinstatement of Licensure. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20	Board of Psychology	Active
SPE Time Limitation	California Code of Regulations Section 1387(a)	The regulation allows a psychological trainee to request that the Board extend the time limitations of 30/60 consecutive months to accrue their pre-doctoral and post-doctoral hours of supervised professional experience (respectively) required for licensure. The waiver requested would be to allow applicants who reach the 30/60 month limitations between 3/4/20 and 6/30/20 up to an additional 6 months, or when the declaration of emergency is lifted, whichever is sooner, to accrue their hours. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20	Board of Psychology	Active
Psych Asst 72 month Limit	California Code of Regulations Section 1391.1(b)	This waiver would allow a psychological assistant to continue their registration, beyond the 72 months limit upon request, and to provide services to clients for up to six months from the expiration date, or when the state of emergency ceases to exist, whichever is sooner. A psychological assistant who has reached the registration limit between 3/4/2020 and 6/30/2020 will qualify for the waiver and can request for such waiver during the state of emergency. This will help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20	Board of Psychology	Active
Waive Live CE Course Requirement	California Code of Regulations Section 1397.60(e)	This waiver would allow a psychologist to complete all of their required continuing education hours online and waive the in-person requirement. Currently the regulation requires 9 hours of the required 36 hours be taken in-person. Given the lack of availability of conferences where most licensees accrue their live hours, the Board would like to waive this requirement. This waiver is requested to run concurrently with DCA Waiver DCA-20-01 Continuing Education.	Submitted to Director Kirchmeyer on 4/9/2020	Denied on 4/16/20	Board of Psychology	N/A

Fingerprints and Exams for Applicants of BBS and Board of Psychology	Business and Professions Code section 144 & 2941		Unknown	Denied on 5/20/20	California Council of Community Behavioral Health Agencies	N/A
Temporary Practice	Business and Professions Code section 2912	BPC §2912 - This waiver request would extend this section of law from 30 days to a temporary 6 months. Additionally, this waiver request would extend this section to an out of state trainee and supervisor that is not in a training program or school to still be able to provide services to a CA resident.	5/12/2020	Denied on 6/11/20	DCA	N/A
SPE All Trainees	California Code of Regulations Section 1387(a)	For trainees who were accruing supervised professional experience hours at any point during the declared emergency, the Board grants six additional months to accrue their pre-doctoral and/or post-doctoral hours of supervised professional experience (respectively) required for licensure.	Submitted to Director Kirchmeyer on 4/22/20	Denied on 7/17/20	Board of Psychology	N/A
Psych Asst Extend Time for All	California Code of Regulations Section 1391.1(b)	For psychological assistants who were registered at any time during the declared emergency, the Board allows for the registration to be effective an additional six months.	Submitted to Director Kirchmeyer on 4/22/20	Denied on 7/17/20	Board of Psychology	N/A
Waive Discipline solely for practicing out of state	Cal. Bus. & Prof. Code §§ 2052, 2290.5, and 2305; and 16 CCR 1815.5	A waiver, or at least formal guidance, issued by DCA, providing clarity to providers employed by colleges and universities located in California that neither DCA nor any individual health professions board will initiate or pursue disciplinary action based solely on interstate practice during the pandemic related to the care of a currently enrolled student. Any guidance could be clear that California of course can make no promises regarding the actions of other state boards; and that disciplinary action may be imposed for conduct that is otherwise inconsistent with the applicable standard of care, individual board regulations, or professional standards of ethical conduct.	Submitted to Director Kirchmeyer on 6/16/20	Denied on 7/9/20	University of California	N/A
Fingerprint Inactive/Canceled	Business and Professions Code Section 144(b)(20) Business and Professions Code Section 2986 California Code of Regulations Section 1397.67(b)	This waiver would allow the board to restore licenses of psychologists whose California licenses have canceled without requiring submission of fingerprints for a period of six months, or until the declaration of emergency is lifted, whichever is sooner. This would be consistent with the DCA waiver DCA-20-02 Reinstatement of Licensure. This waiver would help with the workforce surge by increasing the licensed population.	Submitted to Director Kirchmeyer on 4/10/2020	Withdrawn due to duplicative nature with existing global waiver. On COVID-19 Info Page on Board Website.	Board of Psychology	N/A
180 Day Limitation for Out of State Applicants	Business and Professions Code section 2946	For individuals who have applied to the Board for a license and are unable to take the examination or complete the pre-licensure coursework during the emergency, the Board grants six additional months to perform activities and services of a psychological nature.	Submitted to Director Kirchmeyer on 4/22/20		Board of Psychology	N/A

Licensed Mental Health Services Provider Education Program

Board of Psychology Overview August 2021

Contents

- Licensed Mental Health Services Provider Education Program (LMH) Overview
- Qualifying Facilities
- Eligible Professions
- Board of Psychology Fund Balance
- LMH Budget Overview
- FY 2020-21 LMH Awards Summary
- Challenges
- How to Apply
- Contact Us

Licensed Mental Health Services Provider Education Program (LMH) Overview

Statute

- California Health and Safety Code 128454-128458

Award Structure

- Award amount up to \$15,000
- Two-year service obligation
- Can receive award up to two times

Eligible Disciplines

- Registered or Licensed Psychologist, Postdoctoral Psychological Assistant, Postdoctoral Psychological Trainee, Registered or Licensed Marriage and Family Therapist, Marriage and Family Therapist Intern, Registered or Licensed Clinical Social Worker, Licensed Professional Clinical Counselor, Associate Professional Clinical Counselor

Qualifying Facilities

Health Professional Shortage Area – Mental Health (HPSA-MH)

Designated by the U.S. Department of Health and Human Services Health Resources and Service Administration Bureau of Health Professions' Shortage Designation Branch.

Publicly Funded or Public Mental Health Facility

Licensed and/or certified hospital, clinic, or long-term care facility that is conducted, maintained, or operated by the state or by any of its political subdivisions or districts, or by any city, and that provides mental health services.

Non-Profit Private Mental Health Facility

Licensed and/or certified hospital, clinic, or long-term care facility operated by a non-profit entity that contracts with a county mental health entity or facility to provide mental health services.

Publicly Funded Facility

Health facility defined by Health and Safety Code Sections 1200, 1200.1, and 1250

Others

Any correctional, county, or veteran's facility

Board of Psychology Fund Balance

- As of May 2021, we have **\$237,960** in licensure fees that have been deposited from the Board of Psychology into the Mental Health Practitioner Education Fund.
- Funds deposited into the Mental Health Practitioner Education Fund are used to provide awards and to cover administrative costs. Not all funds received are used for awards.

LMH Budget Overview

Program	Funding Source	Available Funding FY 2019-20	Available Funding FY 2020-21	Available Funding FY 2021-22
Licensed Mental Health Services Provider Education Program (LMHSPEP)	Mental Health Practitioner Education Fund: \$20 licensing fee through Board of Psychology and Board of Behavioral Science	\$525,000	\$693,000	\$693,000
	General Fund – Mental Health Workforce	\$ As needed	\$ As needed	\$ As needed
	General Fund – Foster Youth	\$1,000,000	\$870,789	\$870,789
	Kaiser South	\$150,000	\$150,000	\$0
	CVS	\$0	\$435,000	\$0

LMH Awards Summary FY 2020-21

Program	Number of Applications Received	Number of Awards	Available Funding	Amount Awarded
LMH	642	543*	\$11,691,000	\$7,855,136

*Some applicants declined their award

Board of Psychology Awards Summary

Fiscal Year	Number of Applications Received	Number of Applications Awarded	Available Funding	Amount Awarded
FY 2020-21	30*	10	\$152,770	\$150,000
FY 2019-20	77*	6	\$98,955	\$90,000
FY 2018-19	44*	6	\$90,000	\$90,000
Total	151	22	\$341,725	\$330,000

*Of the total applications received, not all applications are eligible or meet the minimum scoring criteria to receive an award.

Challenges

- Impacts of COVID-19 including, but not limited to the following:
 - Awardees relocating to other states because either they or their spouse found other employment
 - Accepted position at a non-qualifying facility
 - Not returning to work from leave of absence
 - Not meeting the 32 hours of direct client care requirement
- 22 awardees ended their contracts for above reasons

How to Apply

If you are a new applicant, create an account now – ***Do Not Wait.***

You can create an account and apply here: <https://funding.oshpd.ca.gov/>

NOTE: For the best user experience, please use Microsoft Internet Explorer browser.

The screenshot shows the OSHPD Funding Portal website. At the top, there is a navigation bar with links for Newsroom, Boards & Committees, About OSHPD, Subscribe, SIGN IN, and Create Account. Below this is a search bar and a red arrow pointing to it. The main header is dark blue with white text for Building Safety & Finance, Loan Repayments, Scholarships & Grants, Workforce Capacity, Data & Reports, and Facility Finder. The main content area has a red heading "Welcome to the OSHPD Funding Portal". Below this, there are two sections: "FOR INDIVIDUALS" and "FOR ORGANIZATIONS". The "FOR INDIVIDUALS" section has a list of programs to apply for: Loan Repayments, Scholarships, and a table of applications. The "FOR ORGANIZATIONS" section has a list of grants to apply for. At the bottom, there is a "Contact Us" button and a "Sign In To Apply" button. The footer contains a grid of links for Services, Data Submissions, CA Healthcare Infrastructure, Public Transparency, and About OSHPD.

OSHPD

Search ...

Building Safety & Finance Loan Repayments, Scholarships & Grants Workforce Capacity Data & Reports Facility Finder

Welcome to the OSHPD Funding Portal

FOR INDIVIDUALS

Apply for:

- Loan Repayments
- Scholarships

FOR ORGANIZATIONS

Apply for grants to:

- Fund health career conferences and workshops and health career exploration
- Provide healthcare in health professional shortage areas in California
- Become a certified eligible site for student loan repayment program

Contact Us

Sign In To Apply

APPLICATIONS – OPEN OR COMING SOON

Program ↑	Release Date	Due Date	Who Can Apply
Song-Brown Family Nurse Practitioner/Physician Assistants 2021	06/16/2021 3:00 PM	07/16/2021 3:00 PM	Organization

Services

- Submit Data
- Loan Repayment Programs
- Scholarships
- Grants
- Penalty Appeals

Data Submissions

- Patient-Level Administrative Data
- Health Facility Utilizations
- Hospital & LTC Financials
- Coronary Artery Bypass Graft Surgeries
- Healthcare Financial Assistance Policies
- Hospital Chargemasters

CA Healthcare Infrastructure

- All Facilities
- Healthcare Facility Detail
- Seismic Compliance and Safety
- Hospital Community Benefit Plans
- California Primary Care Office

Public Transparency

- Public Meetings
- Public Records
- Payment to Agency Reports

About OSHPD

- Newsroom
- Divisions
- Laws & Regulations
- Public Meetings
- Careers

Contact Us

For more information

Email: hpef-email@oshpd.ca.gov

Website: <https://oshpd.ca.gov/loans-scholarships-grants/>

MEMORANDUM

DATE	August 10, 2021
TO	Psychology Board Members
FROM	Sandra Monterrubio, Enforcement Program Manager Board of Psychology
SUBJECT	Enforcement Report, Item 9

Please find attached the Overview of Enforcement Activity conveying complaint, investigation, and discipline statistics to date for the current fiscal year. The current Performance Measures are also included.

The Enforcement Office Technician position has been vacant since 2019. The OT is responsible for opening complaints, corresponding with stakeholders regarding the complaint process and provides administrative support to the enforcement staff. The position has been posted numerous times due to candidates not meeting the minimum qualifications. However, the Board has made a conditional offer to a candidate whose application and hiring documents are under review by Human Resources.

Complaint Program

Since July 1, 2022, the Board has received 106 complaints. All complaints received are opened and assigned to an enforcement analyst.

At our last Board Meeting Ms. Nystrom asked if there were any possible trends related to enforcement and the pandemic. A search of our complaint records did not reveal any major trends in enforcement related to the pandemic. We have received complaints regarding licensees who let their license lapse and said it was because of the pandemic and stress. A few other types of complaints we have seen are licensees not complying with local health orders regarding masks and social distancing.

Citation Program

Since July 1, 2022, the Board has issued four (4) enforcement citations. Citation and fines are issued for minor violations.

Discipline Program

Since July 1, 2022, the Board has referred five (5) cases to the Office of the Attorney General for formal discipline.

Probation Program

Enforcement staff is currently monitoring 45 probationers. Of the 45 probationers, one is out of compliance. Being out of compliance can result in a citation and fine or further disciplinary action through the Office of the Attorney General.

Attachments:

Overview of Enforcement Activity
Performance Measures

Action Requested

This item is for informational purposes only.

BOARD OF PSYCHOLOGY

Overview of Enforcement Activity

License & Registration	17/18	18/19	19/20	20/21	21/22
Psychologist	20,977	21,329	18,763	22,058	22,179
Registered Psychologist	188	162	127	110	93
Psychological Assistant	1,350	1,475	1,392	1,369	1,351
Cases Opened	17/18	18/19	19/20	20/21	21/22
Complaints Received	1,097	1,093	1,092	949	106
Arrest Reports**	53	40	43	32	4
Investigations Opened	805	862	829	788	86
Cases referred to DA	0	0	0	1	0
Cases referred to AG	70	56	75	60	3
Filings	17/18	18/19	19/20	20/21	21/22
Accusations	15	31	47	32	6
Statement of Issues	6	4	10	1	0
Petition to Revoke Probation	6	3	2	2	0
Petitions to Compel Psych. Exam	0	0	2	0	0
Petitions for Penalty Relief	6	5	4	8	0
Petition for Reinstatement	1	5	3	3	0
Petitions for Reconsideration	2	0	0	0	0
Filing Withdrawals/Dismissals	17/18	18/19	19/20	20/21	21/22
Accusations Withdrawn	0	3	1	3	0
Accusations Dismissed	0	4	0	0	0
Statement of Issues Withdrawn	3	0	3	2	0
Citations	17/18	18/19	19/20	20/21	21/22
Citations Ordered	46	47	35	37	3
Disciplinary Decisions	17/18	18/19	19/20	20/21	21/22
Revocations	9	1	9	1	0
Revocation, Stayed, Probation	7	11	16	10	3
Revoked, Stayed, Probation, Susp.	0	0	0	4	0
Surrender	11	9	12	12	3
Reprovals	4	1	2	6	2
ISO/TRO/PC23 Ordered	2	1	2	0	0
Statement of Issues-License Denied	0	0	0	1	0
Total Disciplinary Decisions	33	23	41	34	8
Other Decisions	17/18	18/19	19/20	20/21	21/22
Statement of Issues-License Granted	0	3	0	1	0
Petitions for Penalty Relief Denied	4	7	3	2	0
Petitions for Penalty Relief Granted	2	3	2	0	0
Petition for Reinstatement Granted	0	1	0	0	0
Petition for Reinstatement Denied	1	1	1	0	0
Reconsiderations Denied	2	0	0	0	0
Reconsiderations Granted	0	0	0	0	0
Orders Compelling Psych. Evaluation	3	0	2	0	0
Total Other Decisions	12	15	8	0	0
Violation Types	17/18	18/19	19/20	20/21	21/22
Gross Negligence/Incompetence	20	20	28	29	3
Improper Supervision	1	0	0	0	0
Repeated Negligent Acts	21	13	15	25	0
Self-Abuse of Drugs or Alcohol	7	3	1	12	0
Dishonest/Corrupt/Fraudulent Act	9	6	10	6	0
Mental Illness	2	2	1	0	0
Aiding Unlicensed Practice	0	0	0	1	0
General Unprofessional Conduct	13	8	25	26	1
Probation Violation	29	12	6	7	0
Sexual Misconduct	2	3	4	7	1
Conviction of a Crime	1	8	7	10	0
Discipline by Another State Board	2	0	0	2	0
Misrepresentation of License Status	1	0	3	1	0

**Enforcement data pulled on August 10, 2021

Select a DCA Entity
Board of Psychology

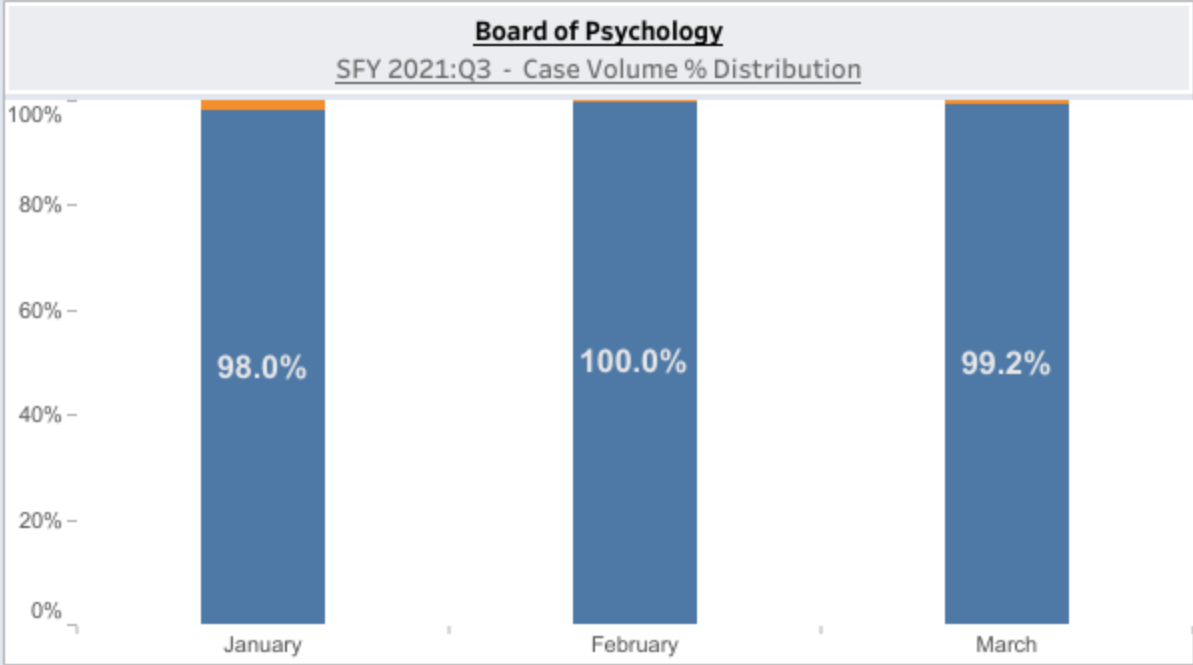
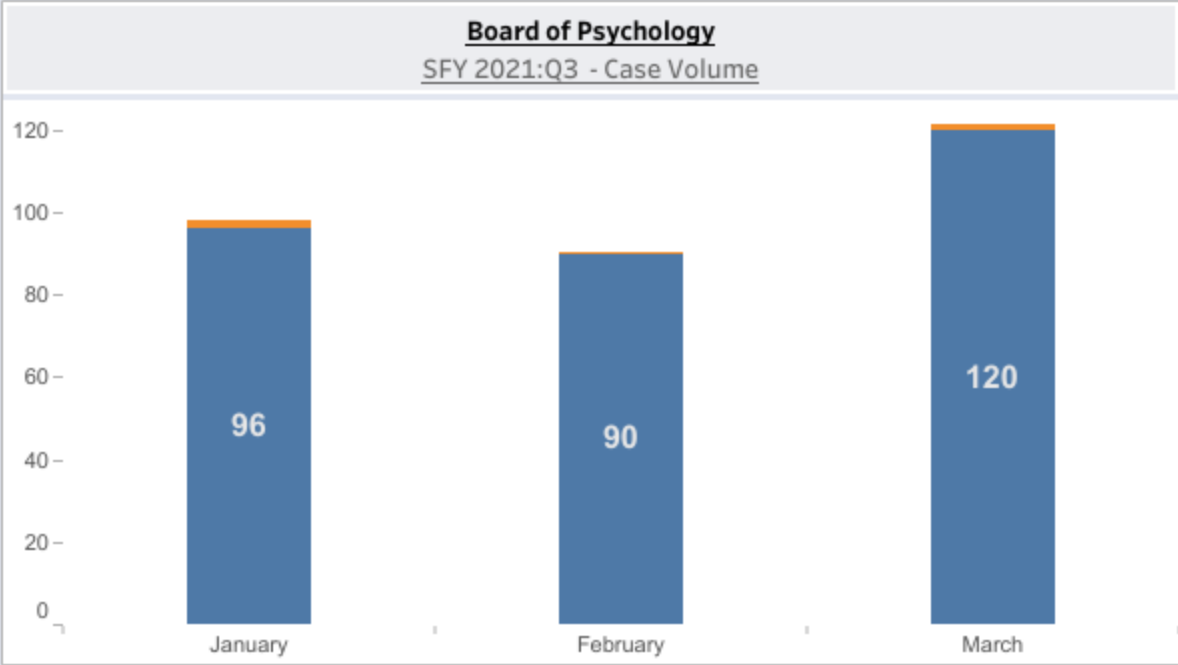
Select a Fiscal Year
SFY 2021

Select a Quarter
Q3

Case Type
Conviction/Arrest Volume
Complaints Volume

Performance Measure 1 (Complaint Volume) – Total number of complaints and conviction/arrest notices received within the specified period.

Board of Psychology New Cases Summary		
Data last refreshed on 6/16/2021		
Complaints Volume	Conviction/Arrest Volume	Total Volume
306	3	309



Data Source: [California Department of Consumer Affairs, OIS/Data Governance Unit](#). The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

Select a DCA Entity
Board of Psychology

Select a Fiscal Year
SFY 2021

Select a Quarter
Q3

Processing Time
Actual Target

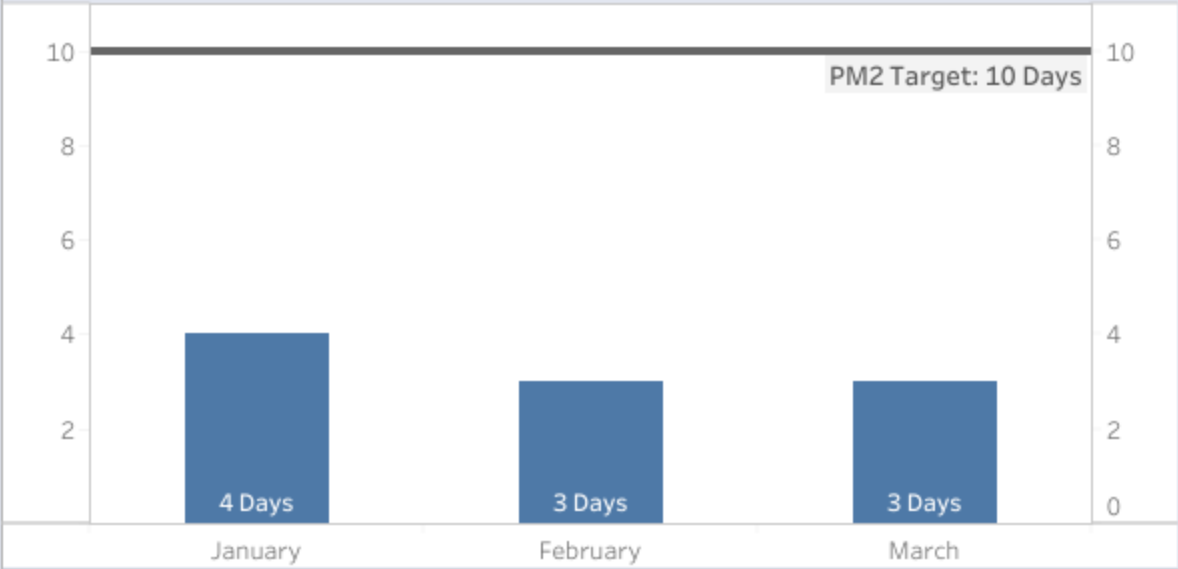
Case Volume by Month
January February March

Performance Measure 2 represents the total number of complaint cases received and assigned for investigation and the average number of days (cycle time) from receipt of a complaint to the date the complaint was assigned for investigation or closed.

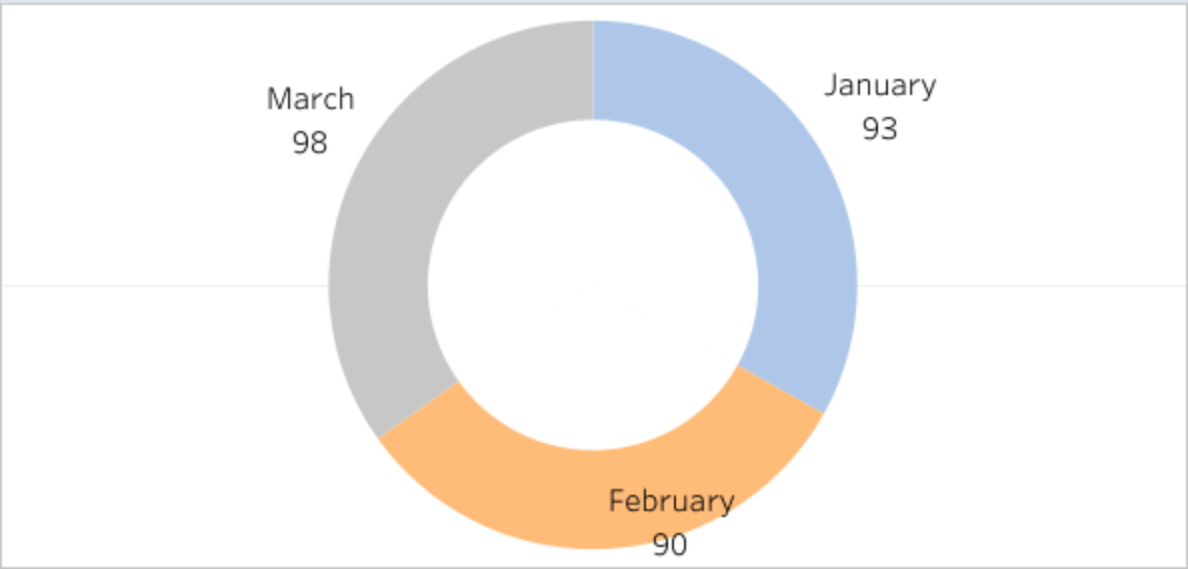
Board of Psychology PM2 Performance Summary
Data last refreshed on 6/16/2021

Case Volume	Target	Actual	Variance
281	10 Days	3 Days	▼ -7 Days

Board of Psychology
SFY 2021: Q3 | PM2 - Intake Cycle Time



Board of Psychology
SFY 2021: Q3 | PM2 - Volume



Data Source: [California Department of Consumer Affairs, OIS/Data Governance Unit](#). The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

Select a DCA Entity
Board of Psychology

Select a Fiscal Year
SFY 2021

Select a Quarter
Q3

Processing Time
Actual Target

Case Volume by Month
January February March

Performance Measure 3 (Investigation) – Total number of cases closed within the specified period that were not referred to the Attorney General for disciplinary action.

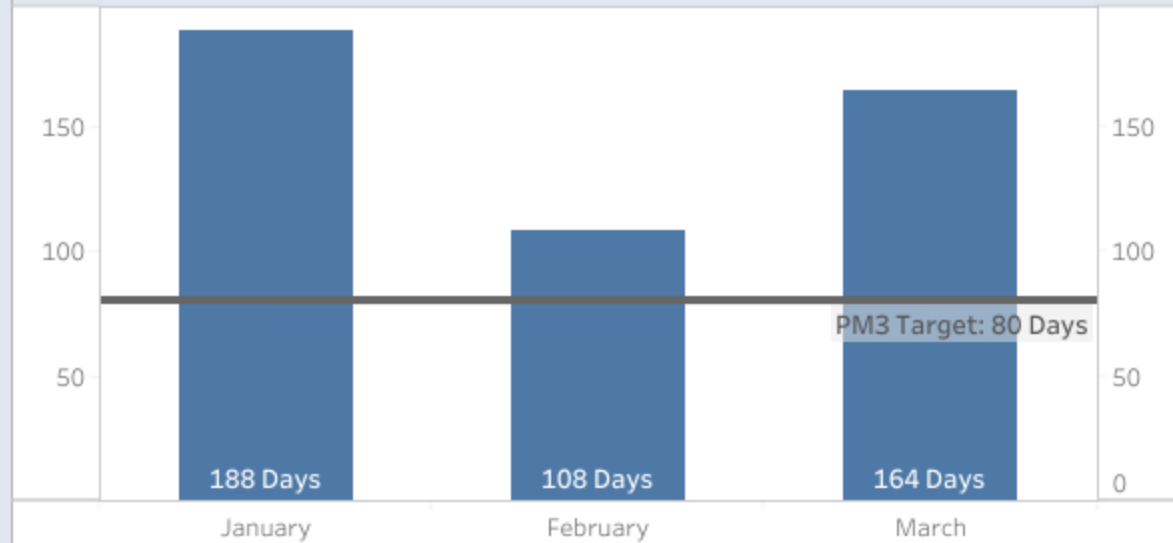
Board of Psychology PM3 Performance Summary

Data last refreshed on 6/16/2021

Case Volume	Target	Actual	Variance
159	80 Days	156 Days	▲ 76 Days

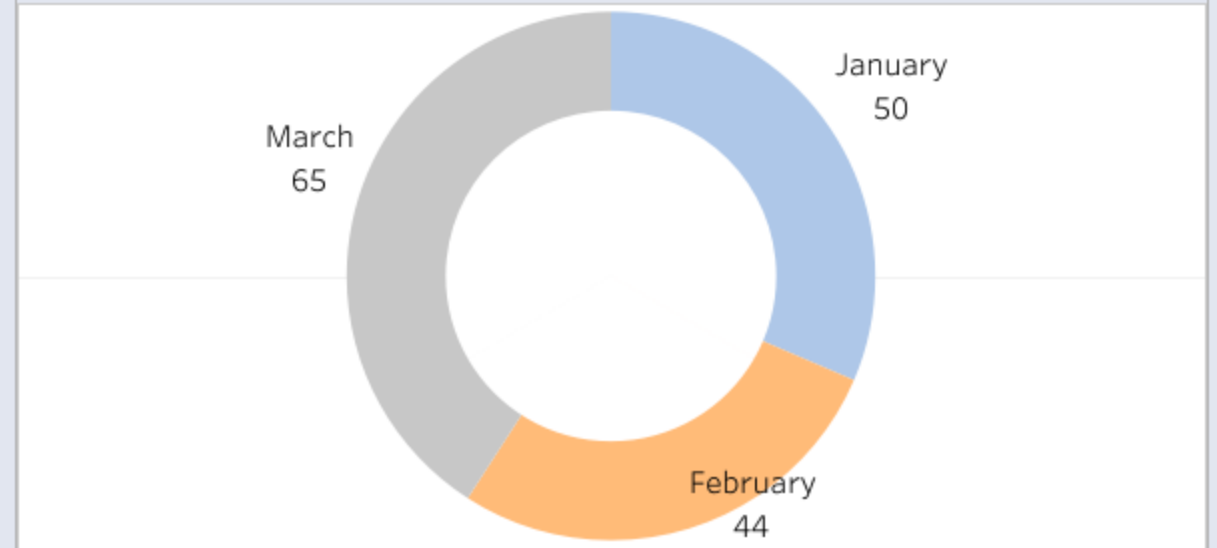
Board of Psychology

SFY 2021: Q3 | PM3 - Investigations Cycle Time



Board of Psychology

SFY 2021: Q3 | PM3 - Volume

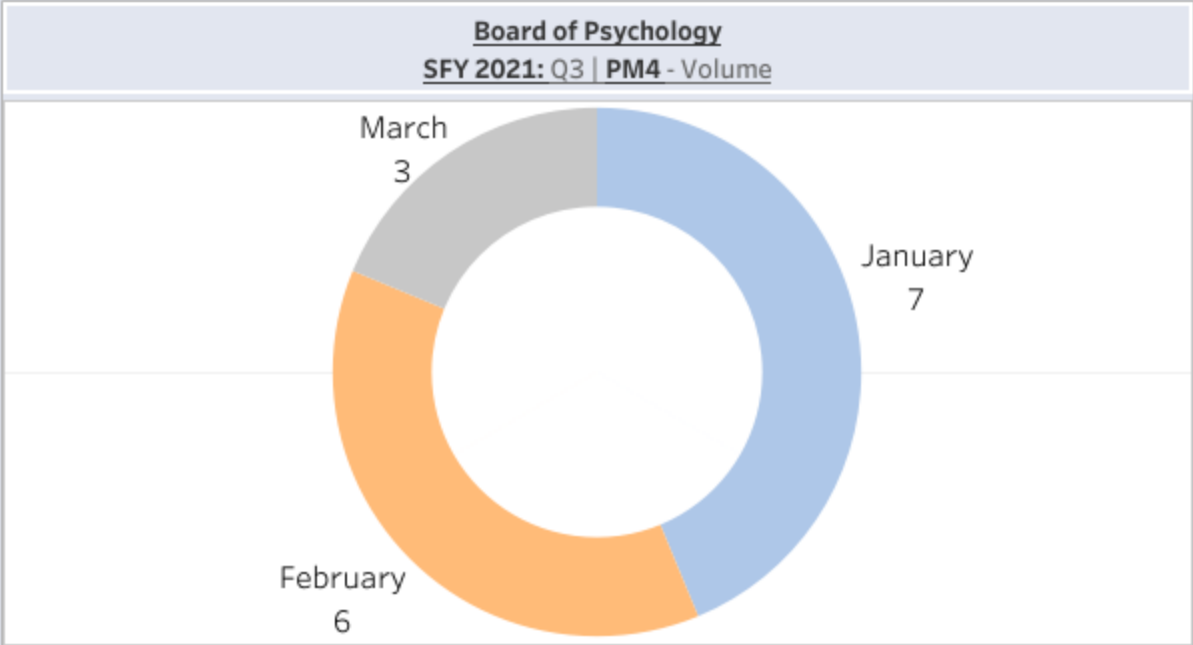
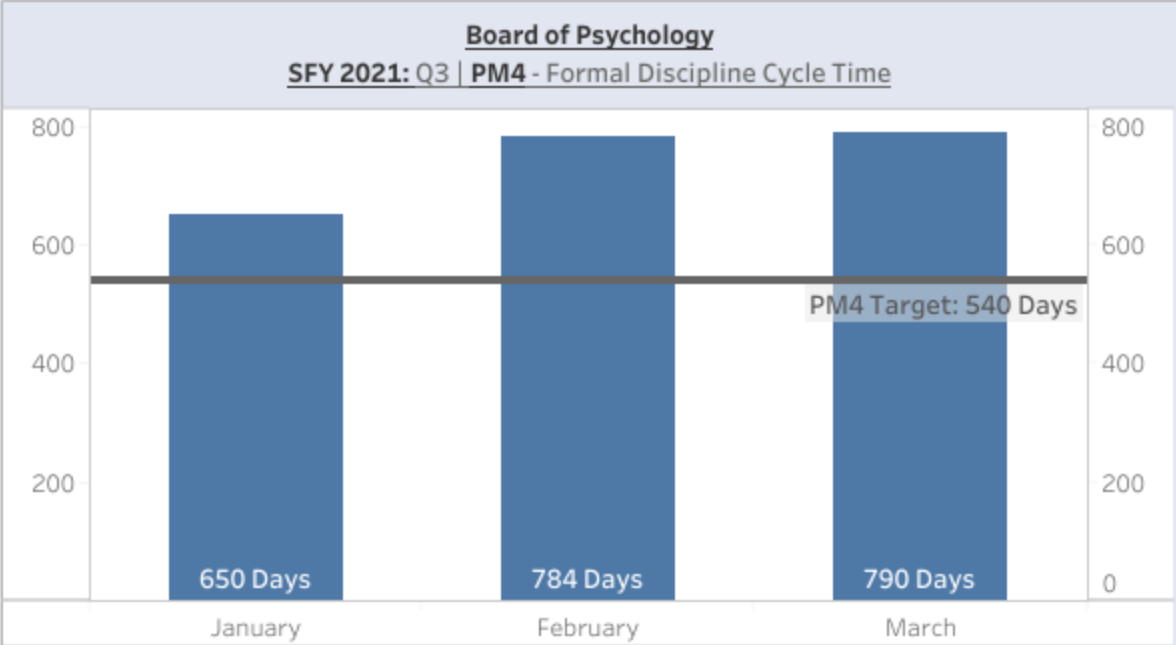


Data Source: [California Department of Consumer Affairs, OIS/Data Governance Unit](#). The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

Performance Measure 4 (Formal Discipline) – Total number of cases closed within the specified period that were referred to the Attorney General for disciplinary action. This includes formal discipline, and closures without formal discipline (e.g. withdrawals, dismissals, etc.).

Board of Psychology PM4 Performance Summary
Data last refreshed on 6/16/2021

Case Volume	Target	Actual	Variance
16	540 Days	727 Days	▲ 187 Days



Data Source: [California Department of Consumer Affairs, OIS/Data Governance Unit](#). The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

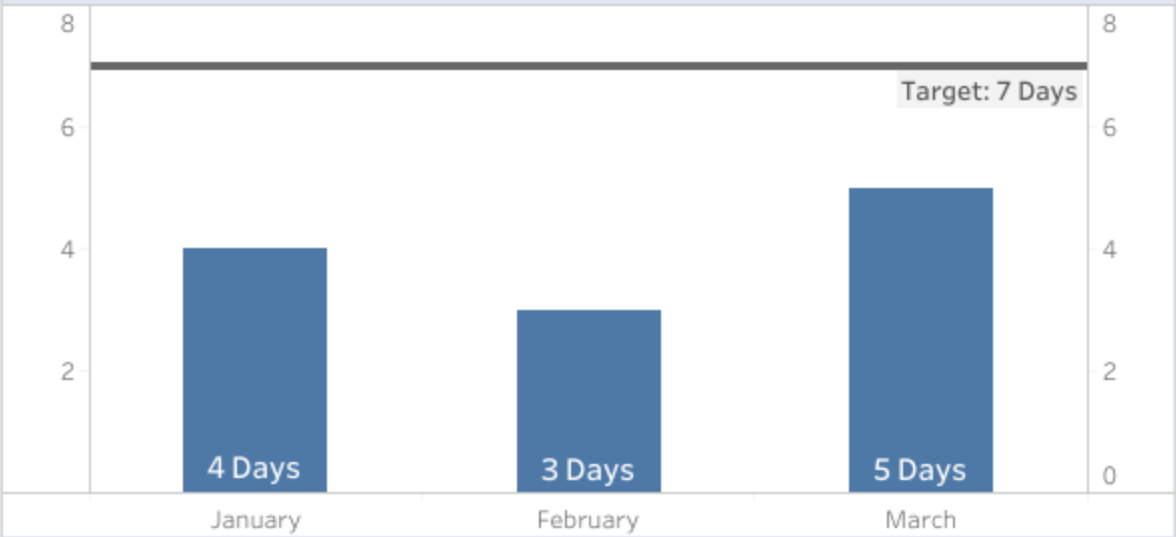
Performance Measure 7 (Probation Case Intake) – Total number of new probation cases and the average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Performance Measure 8 (Probation Violation Response) – Total number of probation violation cases and the average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

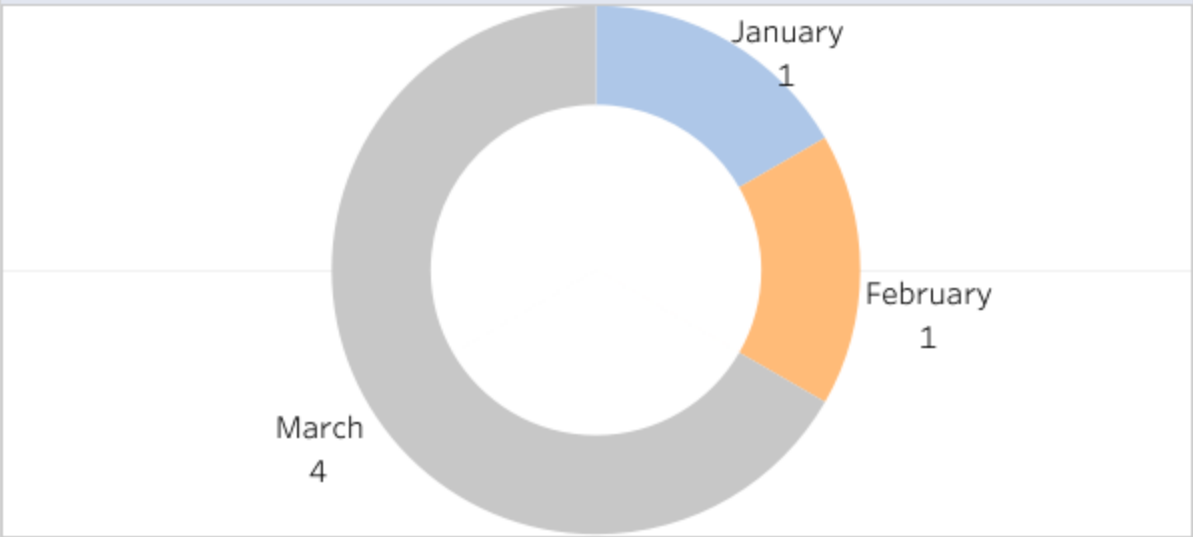
Board of Psychology PM7 Performance Summary
Data last refreshed on 6/16/2021

Case Volume	Target	Actual	Variance
6	7 Days	5 Days	▼ -3 Days

Board of Psychology
SFY 2021: Q3 - PM7: Probation Intake Cycle Time



Board of Psychology
SFY 2021: Q3 -PM7: Probation Cases



Data Source: [California Department of Consumer Affairs, OIS/Data Governance Unit](#). The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some inst..

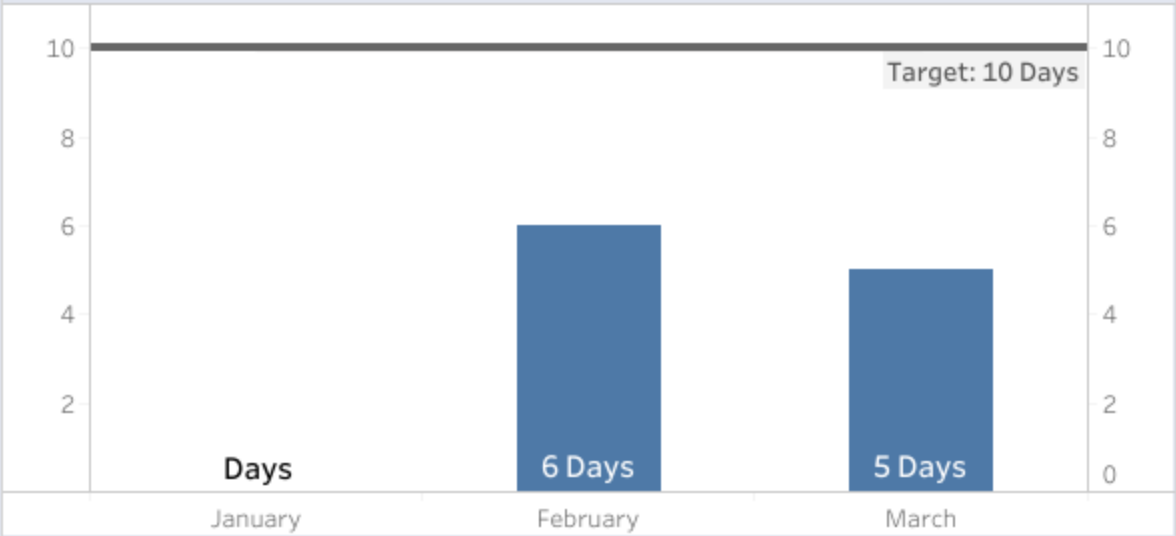
Performance Measure 7 (Probation Case Intake) – Total number of new probation cases and the average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Performance Measure 8 (Probation Violation Response) – Total number of probation violation cases and the average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

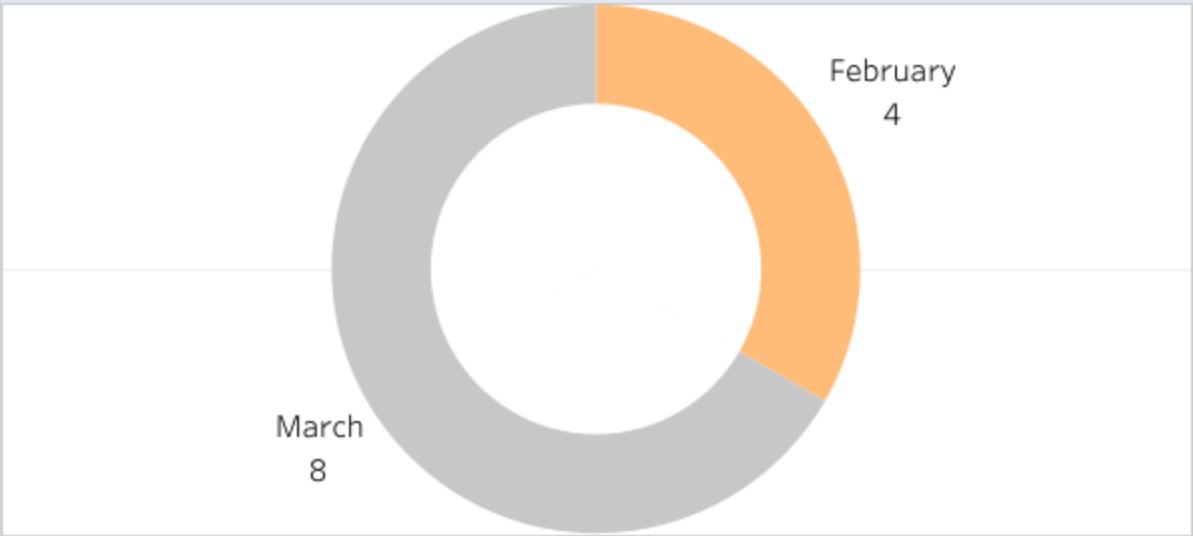
Board of Psychology PM8 Performance Summary
Data last refreshed on 6/16/2021

Case Volume	Target	Actual	Variance
12	10 Days	5 Days	▼ -5 Days

Board of Psychology
SFY 2021: Q3 - PM8: Probation Violation Response Cycle Time



Board of Psychology
SFY 2021: Q3 - PM8: Probation Violation Cases



Data Source: [California Department of Consumer Affairs, OIS/Data Governance Unit](#). The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some inst..

Performance Measures

PM1 Totals	21-Jun	21-Jul	Total
PM1 - Complaints Volume	49	80	129
PM1 - Conv/Arrest Reports Volume	3	2	5
Reference Period Total:	52	82	134
PM2 Totals	21-Jun	21-Jul	Total
PM2 Volume	66	83	149
Reference Period Total:	66	83	149
PM3 Totals	21-Jun	21-Jul	Total
PM3 Volume	27	52	79
Reference Period Total:	27	52	79
PM4 Totals	21-Jun	21-Jul	Total
PM4 Volume	1	5	6
Reference Period Total:	1	5	6

MEMORANDUM

DATE	August 10, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(a) Update on Waivers

Background:

Waivers issued and maintained by the Department of Consumer Affairs (DCA) can be found on its [website](#). More information can also be located on the Board's [COVID 19 Info](#) webpage that includes waivers issued by the Board and other related information.

Per the Committee's request at the May 2020 meeting, staff began to provide an update on current waivers at the January 2021 Licensure Committee meeting and the February 2021 Board meeting. The statuses of some waivers issued by the DCA have changed since the last report made at the July 2021 Licensure Committee meeting, please find below a list of current waivers as of August 10, 2021:

- **Extending Time to Satisfy Examination Requirements** ([DCA Waiver DCA-21-177](#))

For applications that are scheduled to expire between August 2, 2021, and September 30, 2021, this waiver provides a one-time 6-month extension for candidates to take or re-take an examination from the expiration date of their application after their eligibility for examination was approved by the Board.

- **In-person Face-to-Face Supervision** ([DCA Waiver DCA-21-170](#))

This waiver allows the one hour face-to-face, direct, individual supervision to be conducted via HIPAA-compliant video or other appropriate telehealth means from March 16, 2020, until August 31, 2021.

Additionally, due to the COVID-19 pandemic and the changing nature of local indoor guidelines, beginning on July 1, 2021, the Board is providing a 6-month grace period to allow the one hour face-to-face, direct, individual supervision to be conducted via HIPAA-compliant video until January 1, 2022. The trainee should indicate the face-to-face supervision was completed using HIPAA compliant technology during the COVID-19 pandemic in the weekly log.

- **Supervised Professional Experience (SPE) Time Limitation** ([Board of Psychology Waiver PSY 20-01](#))

For SPE that is set to reach the 30/60-month limitations pursuant to 16 CCR section 1387(a) after March 4, 2020 and through the duration of the declared emergency, the Board extends the time limitations to accrue their pre-doctoral and post-doctoral hours of supervised professional experience (respectively) required for licensure for an additional 6 months from the end date of the unmodified time limitation period.

- **Psychological Assistant 72-month Registration Limitation** ([Board of Psychology Waiver PSY 20-02](#))

For registered psychological assistants who, after March 4, 2020, through the duration of the declared emergency, reach the 72-month limitations set in 16 CCR section 1391.1(b), the Board extends the time limitations to hold a registration for an additional 6 months from the end date of the unmodified time limitation period.

- **Extra Time to Complete Continuing Education (CE) Requirements for License Renewal** ([DCA Waiver DCA-21-175](#))

If a psychologist license expires between March 31, 2021 and September 30, 2021, the waiver allows licensees to complete all renewal-related continuing education requirements by January 26, 2022. Please refer to the Board's COVID-19 Info page for other questions relevant to the renewal-related CE requirements.

- **Reinstatement of (Inactive or Cancelled) Licensure** ([DCA Waiver DCA-21-165](#))

This waiver temporarily waived the continuing education and fee requirements for an individual to restore a cancelled psychologist license, if the person meets all other requirements as specified. A license reactivated or restored pursuant to these waivers is valid until September 1, 2021, or when the State of Emergency ceases to exist, whichever is sooner. This waiver only applies to psychologist licenses.

- **CPLÉE for Restoration of Licenses** ([Board of Psychology Waiver PSY 20-03](#))

The Board waives the CPLÉE requirement for psychologists whose California licenses have cancelled and who apply and qualify for an active status pursuant to and consistent with DCA Waiver DCA-20-91 Reinstatement of Licensure.

Action Requested:

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

MEMORANDUM

DATE	August 12, 2021
TO	Board Members
FROM	Mai Xiong Licensing and BreEZe Coordinator
SUBJECT	Agenda Item 10(b) Licensing Report

Licensing Report Update:

At the July 2021 Licensure Committee meeting, staff received feedback from the Licensure Committee on the necessary changes to the Licensing report. Below are the following updates to the Licensing report:

- Staff has made changes to Attachment A (Licensing Population Report) to include licensees in “Revoked” status with stayed.
- Staff is consulting and working with the DCA Data Team to incorporate demographic information for the exam candidates listed in Attachment D (Examination Statistics).
- The new Attachment E (Average Application Processing Timeframes) provides a 6-month overview of average application processing timeframes for the three types of license and registration.

License/Registration Data by Fiscal Year:

License & Registration	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21	21/22**
Psychologist*	22,688	***	20,575	20,227	20,024	20,580	21,116	22,005	22,218	22,179
Psychological Assistant	1,727	***	1,701	1,580	1,446	1,446	1,361	1,344	1,348	1,351
Registered Psychologist	349	***	280	272	278	250	129	113	95	93

*Current and Current Inactive

**As of August 12, 2021

***Statistics unavailable

Please refer to the Licensing Population Report (Attachment A) for statistics on the different license statuses across the three types of license and registration.

Application Workload Reports:

The attached reports provide statistics from February 2021 thru July 2021 on the application status by month for each of the license and registration types (see Attachment B). On each report, the type of transaction is indicated on the x-axis of the graphs. The different types of transactions and the meaning of the transaction status are explained below for the Board's reference.

Psychologist Application Workload Report

“Exam Eligible for EPPP” (Examination for Professional Practice in Psychology) is the first step towards licensure. In this step, an applicant has applied to take the EPPP. An application with an “open” status means it is deficient or pending initial review.

“Exam Eligible for CPLEE” (California Psychology Law and Ethics Exam) is the second step towards licensure. In this step, the applicant has successfully passed the EPPP and has applied to take the CPLEE. An application with an “open” status means it is deficient or pending review.

“CPLEE Retake Transaction” is a process for applicants who need to retake the CPLEE due to an unsuccessful attempt. This process is also created for licensees who are required to take the CPLEE due to probation. An application with an “open” status means it is deficient, pending review, or an applicant is waiting for approval to re-take the examination when the new form becomes available in the next quarter.

“Initial App for Psychology Licensure” is the last step of licensure. This transaction captures the number of licenses that are issued if the status is “approved” or pending additional information when it has an “open” status.

Psychological Assistant Application Workload Report

Psychological Assistant registration application is a single-step process. The “Initial Application” transaction provides information regarding the number of registrations issued as indicated by an “approved” status, and any pending application that is deficient or pending initial review is indicated by an “open” status.

Since all psychological assistants hold a single registration number, an additional mechanism, the “Change of Supervisor” transaction, is created to facilitate the process for psychological assistants who wishes to practice with more than one primary supervisor or to change primary supervisors. A change is processed when all information is received, thus there is no open status for this transaction type.

The initial application for psychological assistant shows a significant increase in July 2021. The Board speculates that a large majority of recently received psychological assistant applications is because of graduating season, and students are ready to begin accruing supervised professional experience hours as they graduate. The Board have observed a similar trend in the past year with an increase in psychological assistant applications in June, July, and August.

Registered Psychologist Application Workload Report

Registered Psychologist registration application is also a single-step process. The “Initial Application” transaction provides information regarding the number of registrations issued as indicated by an “approved” status, and any pending application that is deficient or pending initial review is indicated by an “open” status.

Applications and Notifications Received

The applications and notifications received (see Attachment C) shows a slight decrease in applications and notifications for all three types of license and registration from June 2021. Staff has identified that it was due to a technical error in recording and currently working to mitigate the issue. Applications and notifications received are still being in queue to be worked on.

Examination Statistics

The examination statistics (see Attachment D) provide a 12-month period data of the total candidates and first timers who have taken the EPPP or CPLEE and the passing rate. These examination statistics are posted on the Board's website and available to the public.

BreEZe and Paper Lite Updates

On June 16, 2021, the Board added an enhanced functionality in the BreEZe system which enables licensure applicants to view their application status and deficiencies, if any, through their profile in BreEZe. This enhancement aims to serve as an additional method to communicate with our licensure applicants. We anticipate this new feature will provide additional information to our licensure applicants and to check for their application status through BreEZe.

In addition, we continue to explore the possibility to increase the online and electronic capacity to make the CPLEE Request applications and the Request for Initial Licensure available for submission directly through BreEZe. We have discussed this enhancement with the BreEZe team and will include this in our future prioritization after the necessary configuration for the specific functionality is complete.

Projects on hold

As reported at the January and July 2021 Licensure Committee meeting, due to limited staffing resources, the following projects are currently on hold until further notice:

a) Informational Resources for Supervisors

At the September 2019 Licensure Committee meeting, the Committee facilitated a stakeholders' discussion and captured suggestions and feedback relating to the informational resources covering the following areas – regulations, frequently asked questions (FAQ). The Committee tasked staff to create content for the Committee's review and consideration

b) Co-host a Stakeholder Meeting on Informing Consumers Regarding the Respective Roles of a Licensed Psychologist, Licensed Educational Psychologist, and Individuals Holding a Credential with a Specialization in School Psychology

At the October 2019 Board meeting, the Board voted to accept the Licensure Committee's recommendation for the Board of Behavioral Sciences (BBS), the Commission on Teachers Credentialing, and the Board the co-host a stakeholder meeting in the near future to solicit input on how to best inform consumers regarding the respective roles of the three professions.

Attachments:

- A. Licensing Population Report as of August 10, 2021
- B. Application Workload Reports February 2021 – July 2021 as of August 11, 2021
- C. Applications and Notifications Received August 2020 – July 2021 as of August 10, 2021
- D. Examination Statistics August 2020 – July 2021 as of August 10, 2021
- E. Average Application Processing Timeframes March 2021 – August 2021 as of August 12, 2021

Action:

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



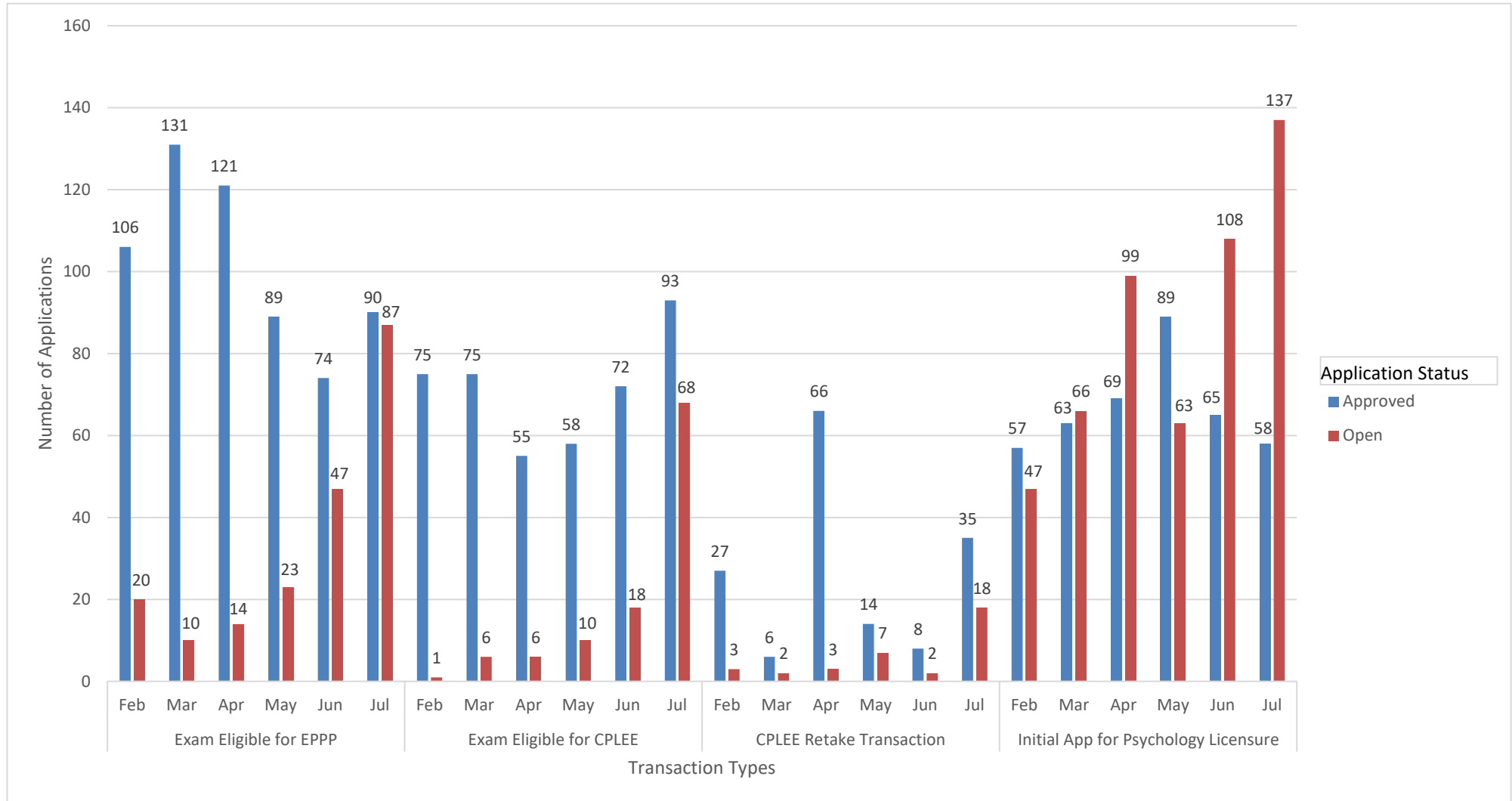
STATE DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM



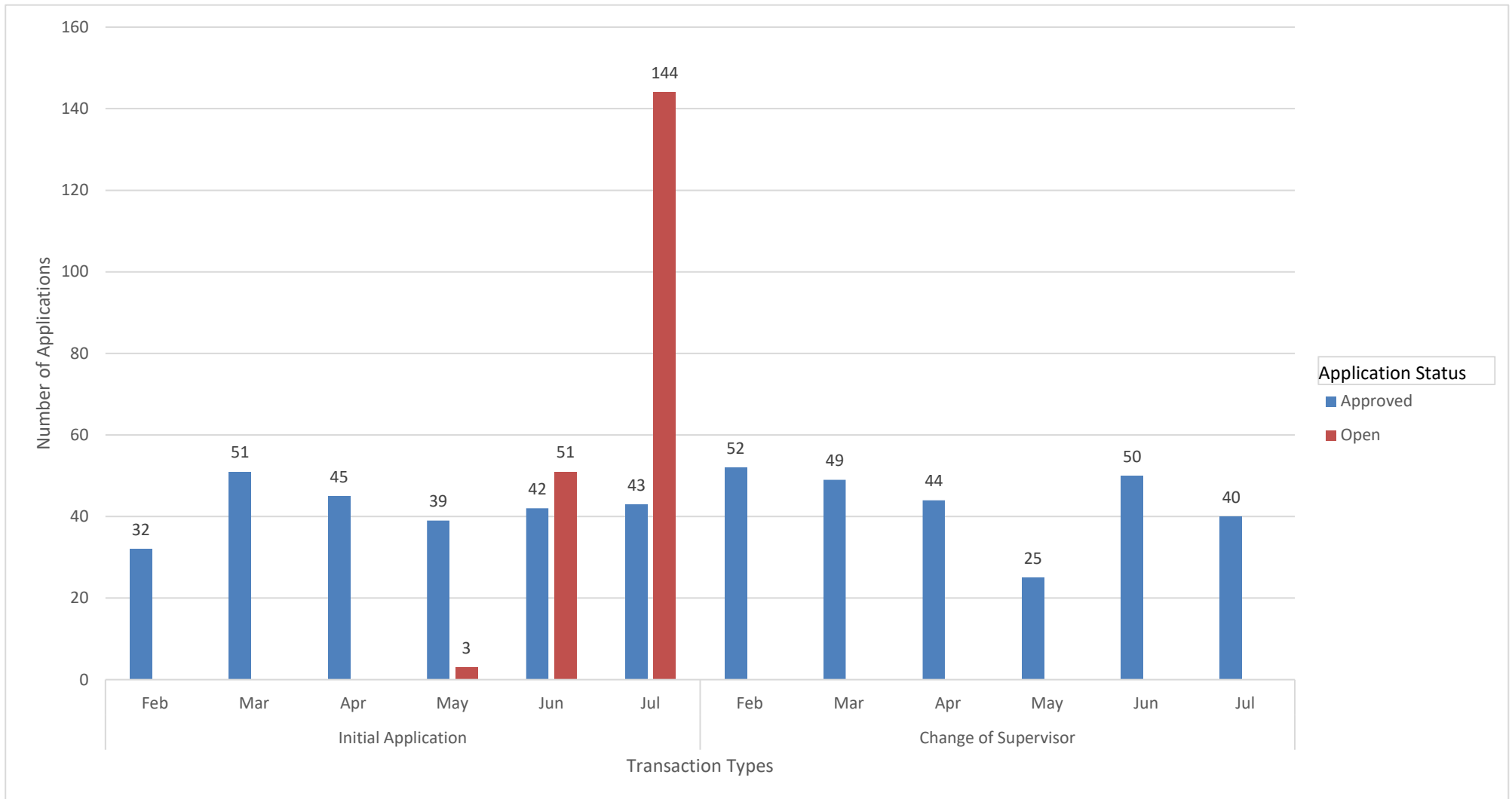
LICENSING POPULATION REPORT
BOARD OF PSYCHOLOGY
AS OF 8/10/2021

License Type	License Status								Total
	Licensing					Enforcement			
	Current	Inactive	Delinquent	Cancelled	Deceased	Surrendered	Revoked		
							No Stay	Stayed	
Psychologist	19,533	2,646	1,538	6,842	1,033	248	157	83	32,080
Psychological Assistant	1,351	0	83	22,509	8	11	8	7	23,977
Registered Psychologist	93	0	0	4,625	1	0	0	0	4,719
Total	20,977	2,646	1,621	33,976	1,042	259	165	90	60,776

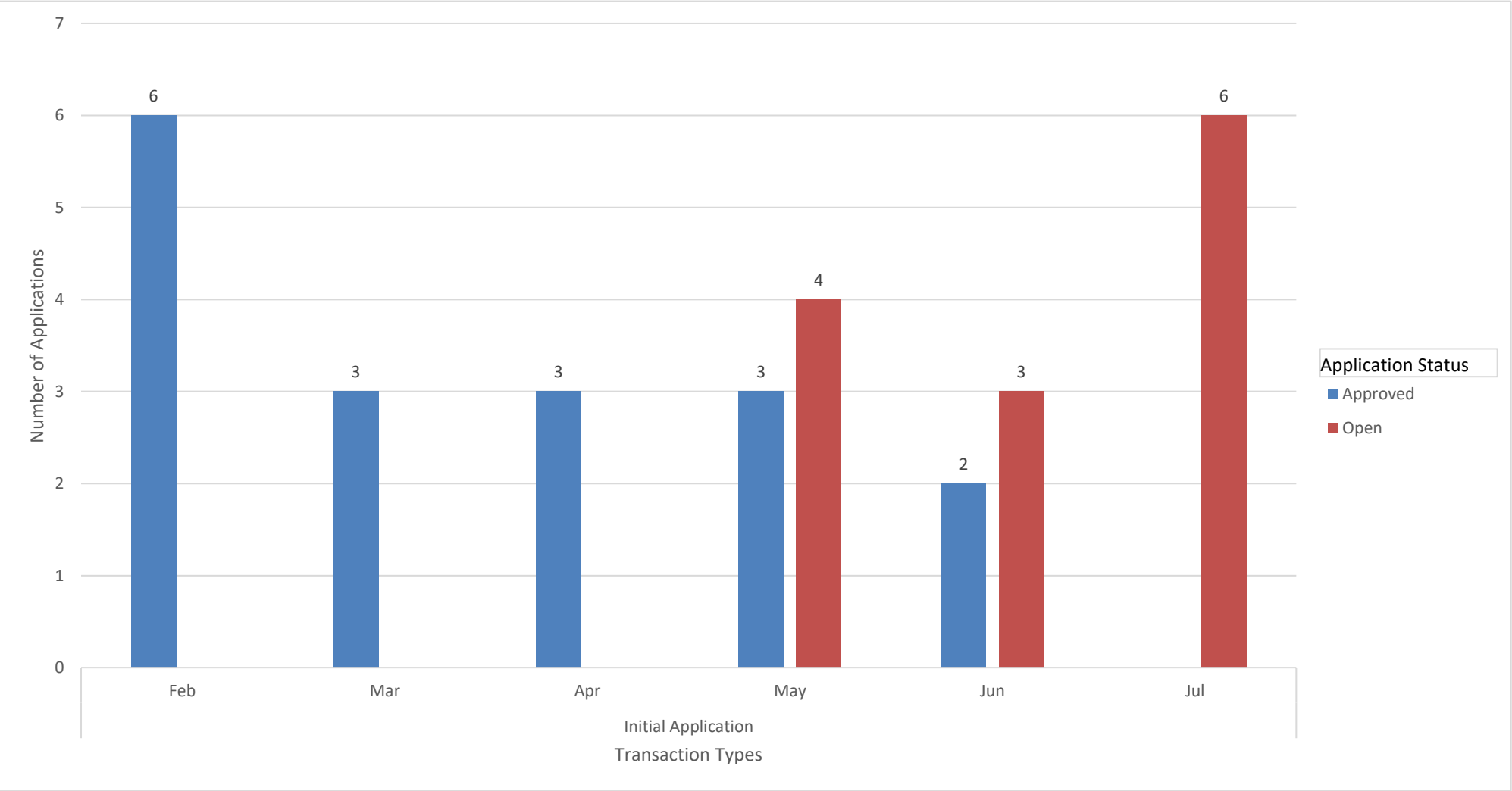
Psychologist Application Workload Report
February 2021 to July 2021
As of August 11, 2021



Psychological Assistant Application Workload Report
February 2021 to July 2021
As of August 11, 2021

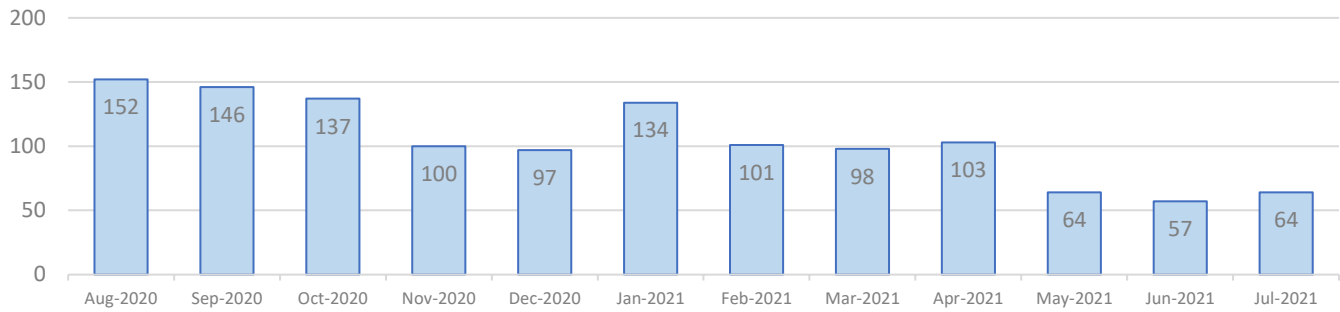


Registered Psychologist Application Workload Report
February 2021 to July 2021
As of August 11, 2021

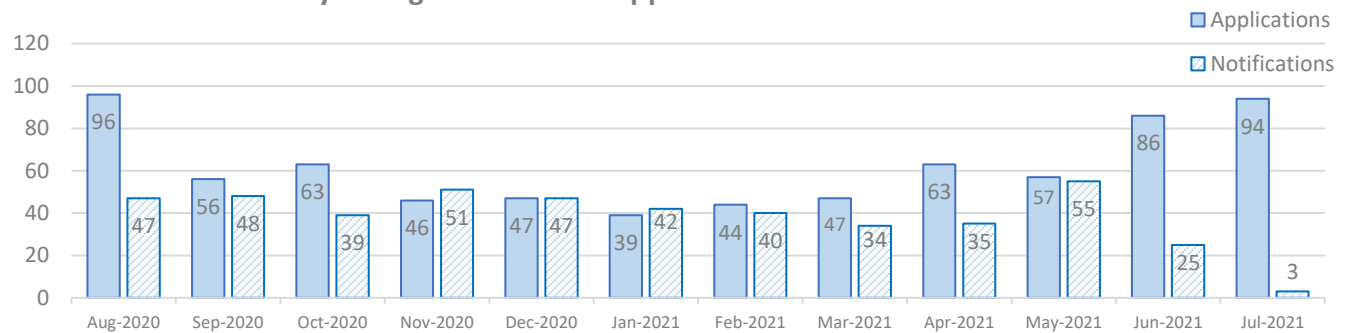


**Applications and Notifications Received from August 2020 to July 2021
As of August 10, 2021**

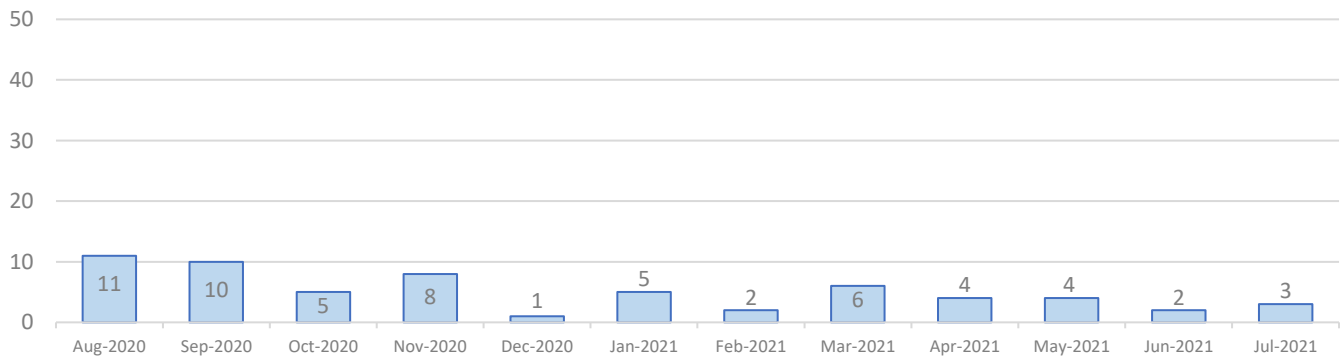
Total of 1253 Psychologist Applications Received



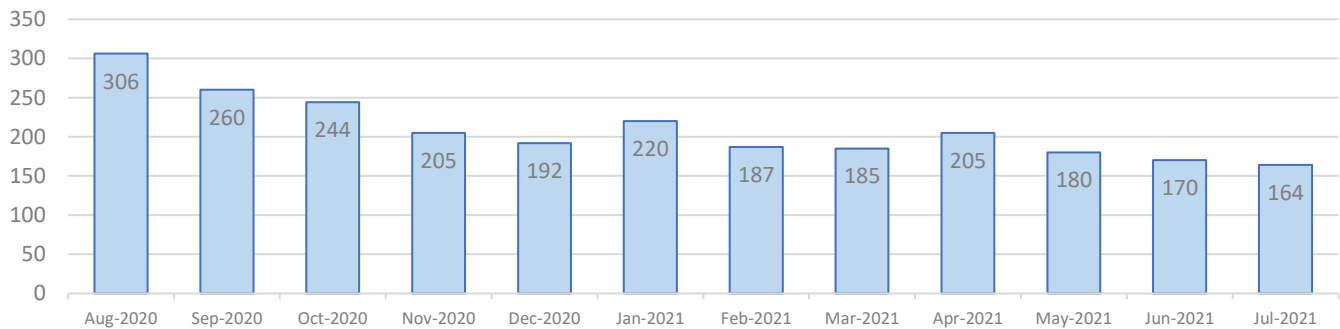
Total of 738 Psychological Assistant Applications and 466 Notifications Received



Total of 61 Registered Psychologist Applications Received



Total of 2518 Applications and Notifications Received



**Examination Statistics August 2020 – July 2021
As of August 10, 2021**

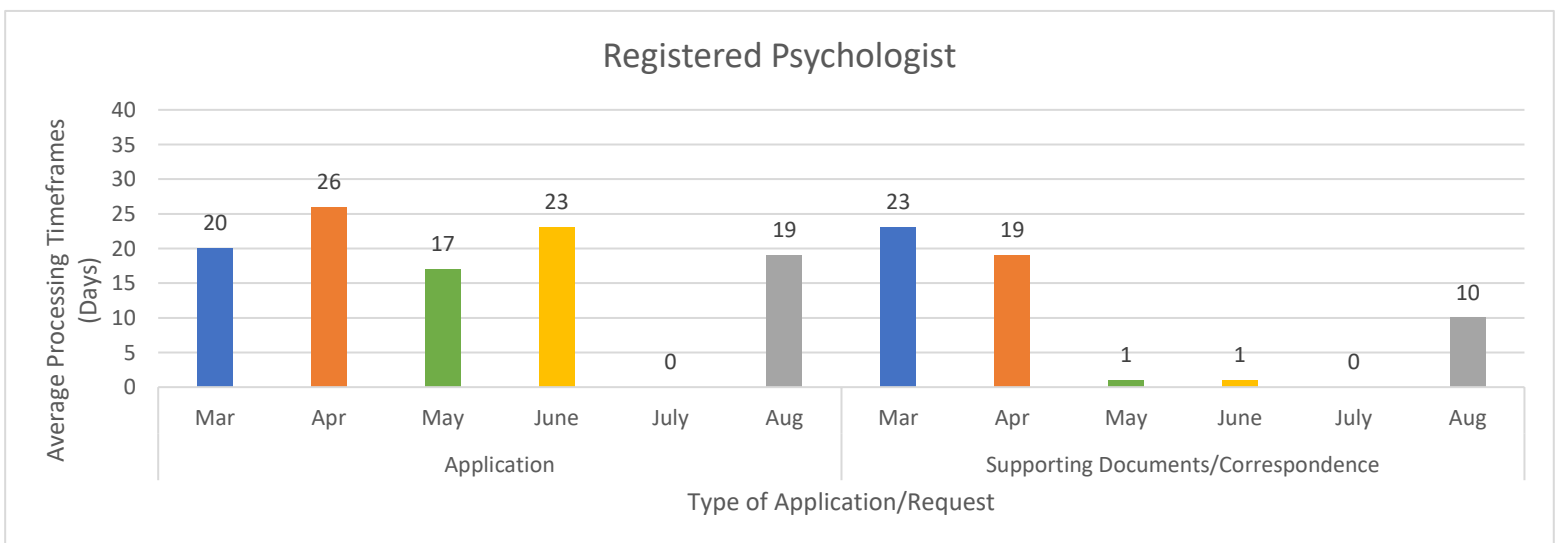
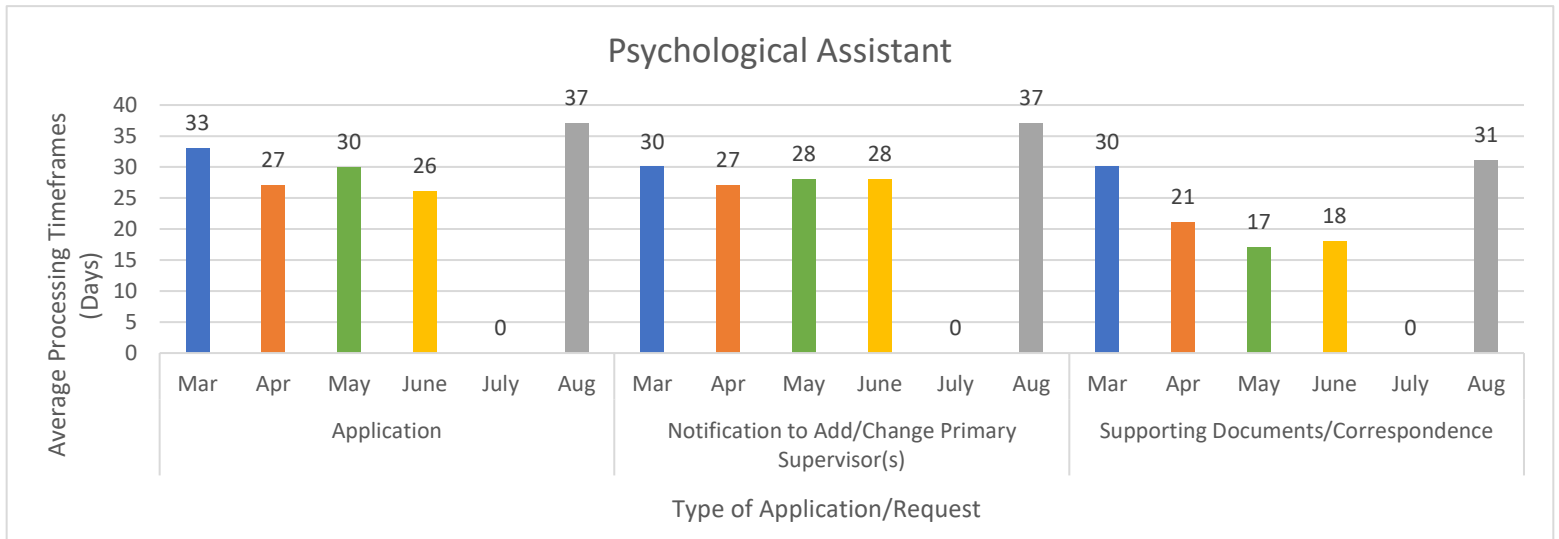
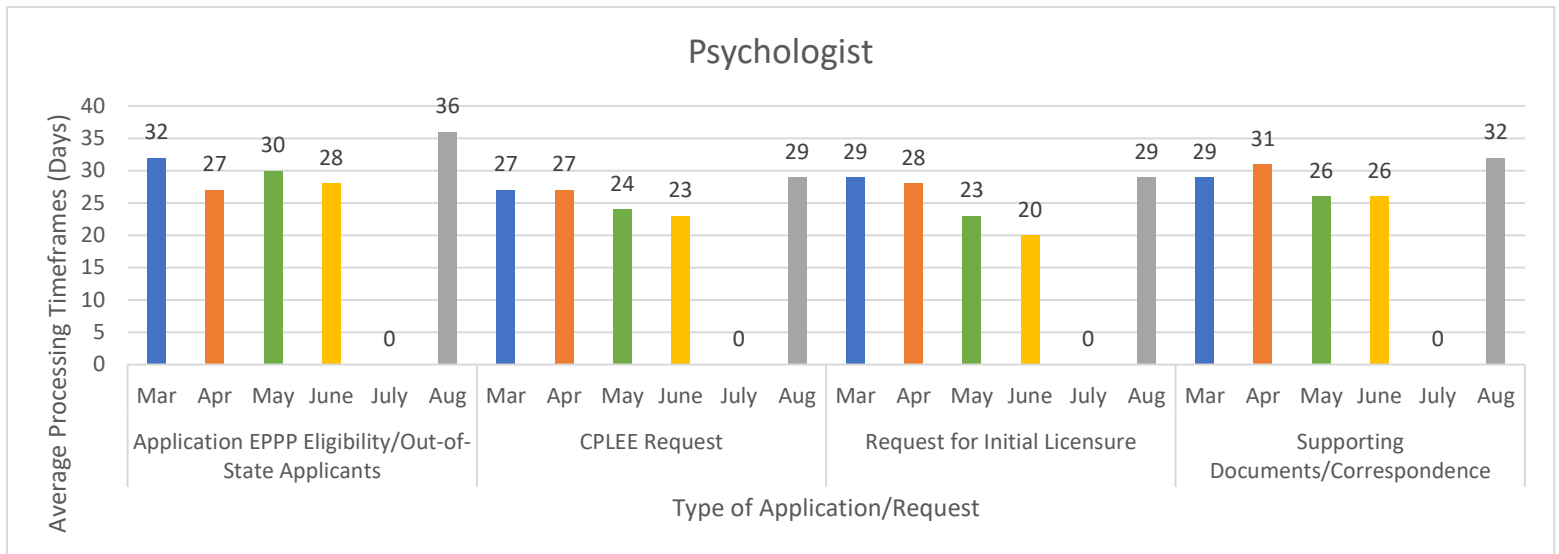
2020/2021 Monthly EPPP Examination Statistics

Month	# of Candidates	# Passed	% Passed	Total First Timers	First Time Passed	% First Time Passed
August	124	60	48.39	72	47	65.28
September	134	54	40.30	55	31	56.36
October	119	55	46.22	55	33	60.00
November	144	66	45.83	58	43	74.14
December	122	55	45.08	59	43	72.88
January	99	51	51.52	46	32	69.57
February	89	45	50.56	51	34	66.67
March	78	36	46.15	37	26	70.27
April	152	72	47.37	86	53	61.63
May	131	59	45.04	63	44	69.84
June	170	75	44.12	83	58	69.88
July	163	69	42.33	78	44	56.41
Total	1525	697	46.08	743	488	66.08

2020/2021 Monthly CPLEE Examination Statistics

Month	# of Candidates	# Passed	% Passed	Total First Timers	First Time Passed	% First Time Passed
June	110	92	83.64	91	78	85.71
July	126	98	77.78	107	84	78.50
August	75	54	72.00	55	41	74.55
September	84	59	70.24	71	50	70.42
October	87	59	67.82	65	43	66.15
November	58	41	70.69	39	27	69.23
December	83	53	63.86	63	38	60.32
January	109	83	76.15	85	66	77.65
February	87	68	78.16	64	51	79.69
March	79	60	75.95	47	37	78.72
April	105	88	83.81	81	71	87.65
May	82	58	70.73	60	43	71.67
Total	1085	813	74.23	828	629	75.02

**Average Application Processing Timeframes from March 2021 to August 2021
As of August 12, 2021**



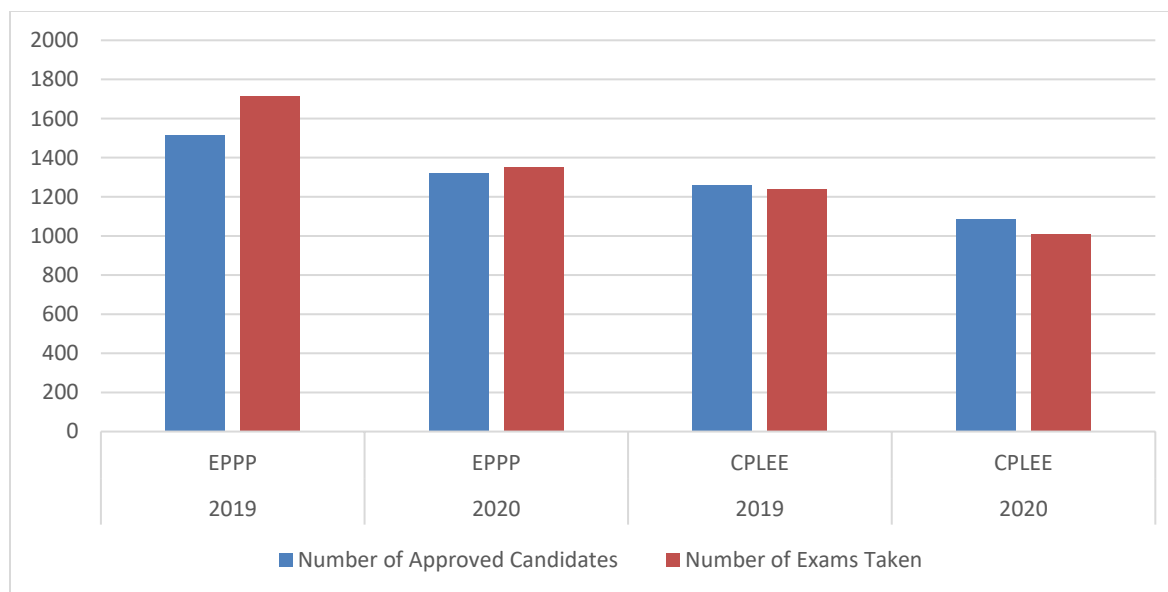
Note: No application processing timeframe was collected for July 2021.

MEMORANDUM

DATE	August 27, 2021
TO	Board of Psychology
FROM	Lavinia Snyder Examination Coordinator
SUBJECT	Agenda # 10(b) Examination Candidate Statistics 2019/2020

In February 2021, the Board requested additional data regarding the number of approved candidates versus the number of exam candidates for the years 2019 and 2020. The table and graph represent the total numbers for each year.

Year	EXAM	Number of Approved Candidates	*Number of Exams Taken
2019	EPPP	1513	1716
2020	EPPP	1320	1354
2019	CPLEE	1262	1240
2020	CPLEE	1086	1007



***Note: It is important to remember, that the number of exams taken will always reflect first time applicants and re-takes. These numbers will not always correlate with the number of application approvals. The disconnect between these two categories is due to exam scheduling. Applicants that receive exam approval today may schedule an exam one, six, or ten months later and board staff has no control over exam scheduling.**

Based on the graph, there was a slight decrease in the number of candidate approvals and exam candidates in 2020. The drop stems from the COVID-19 pandemic. As a result, the Board experienced exam vendor closures, some exam facilities reduced their capacity to 50% and some to 25% in some counties. We also experienced an increase in exam cancellations and rescheduling.

In addition, ASPPB shut down services to upgrade their system from September 30th – October 30th in 2020. The shutdown prevented candidates from scheduling exams during that time period.

Overall, Board staff continues to process applications and candidates continue to schedule their exam(s) despite the adjustments.

Action Requested:

No action required. This is for informational purposes only.

Attachments:

Attachment A – Complete 2019/2020 Monthly Candidate Examination Statistics

Attachment A**EPPP Exam Candidate Statistics for 2019/2020**

Month	2019 EPPP Statistics		2020 EPPP Statistics	
	Number of Approved Candidates	Number of Exams Taken	Number of Approved Candidates	Number of Exams Taken
January	164	56	128	107
February	131	110	125	103
March	138	157	124	89
April	141	174	114	23
May	124	173	91	127
June	112	148	113	117
July	137	172	121	175
August	95	158	84	124
September	112	115	82	134
October	156	137	92	119
November	112	130	146	114
December	91	186	100	122
TOTALS	1513	1716	1320	1354

CPLEE Exam Candidate Statistics for 2019/2020

Month	2019 CPLEE Statistics		2020 CPLEE Statistics	
	Number of Approved Candidates	Number of Exams Taken	Number of Approved Candidates	Number of Exams Taken
January	143	86	117	58
February	69	83	98	72
March	78	105	68	64
April	112	81	96	26
May	85	79	59	93
June	105	114	63	106
July	176	106	138	106
August	139	151	97	110
September	91	154	68	126
October	126	83	127	75
November	78	90	80	84
December	60	108	75	87
TOTALS	1262	1240	1086	1007

MEMORANDUM

DATE	August 9, 2021
TO	Board of Psychology
FROM	Liezel McCockran Continuing Education and Renewals Coordinator
SUBJECT	Agenda Item #10(c) – Continuing Education and Renewals Report

The Continuing Education (CE) audits for May, June, July, and August 2020, concluded June 27, 2021. CE audits for September 2020, October 2020, November 2020, December 2020, and January 2021 were sent out July 13, 2021. The current pass rate for January 2020 through January 2021 CE audits is 65 percent and 37 percent of audits are pending. Twelve percent of audits are found to be deficient. More, the current CE waiver states that licensees who expire between March 31, 2020 through September 30, 2021 are given until January 26, 2022 to fulfill the CE requirement. The pass rate from 2015-2019 has been consistently over 80 percent. The pass rate for 2nd audits has risen from 68 percent in 2016 to 94 percent in 2019.

For renewals, between January 2021 through August 2021, 81 percent of Psychologists renewed as Active. Approximately 89 percent of Psychologists and Psychological Assistants renewed their license online using BreEZe per month.

Action Requested:

These items are for information purposes only. No action requested

Attachments:

Attachment A: CE Audits for 2020

Attachment B: Pass and Fail Rate for 2020 CE Audits

Attachment C: Reasons for Not Passing CE Audit

Attachment D: Pass and Fail Rate for 1st Audits 2015-2020

Attachment E: Pass and Fail Rates for 2nd Audits

Attachment F: Online vs. Mailed in Renewals Processed

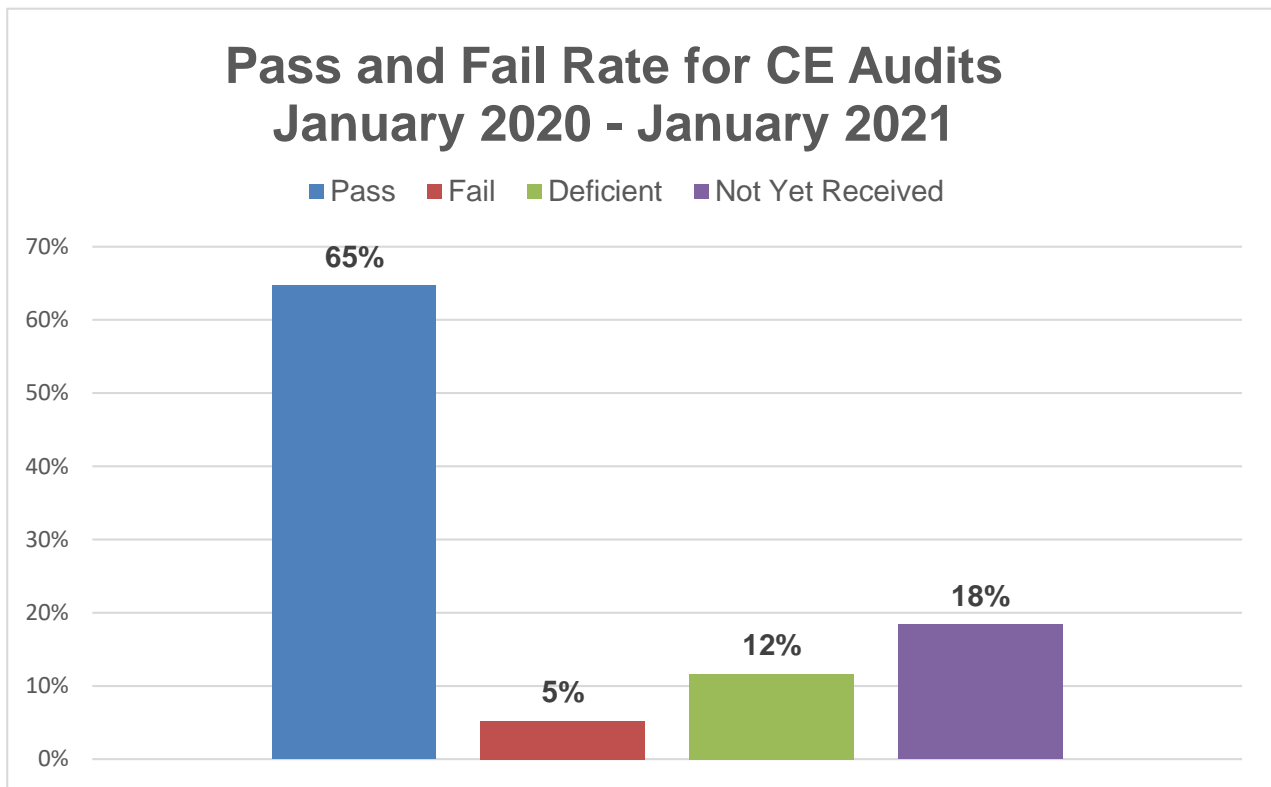
Attachment G: Psychologist and Psychological Assistant Renewal Applications Processed:
January 2021 – August 2021

Continuing Education Audits

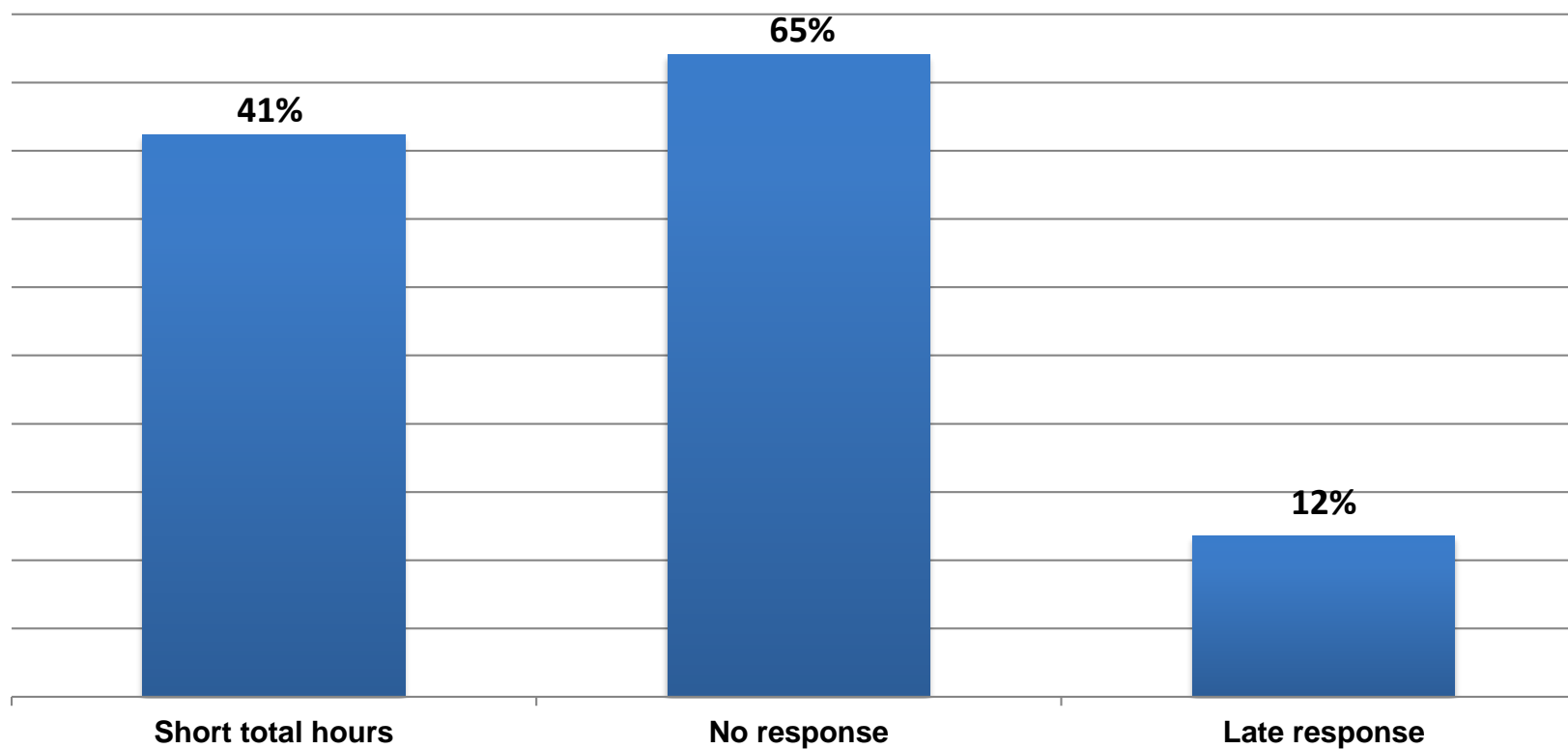
January 2020 - January 2021

Month	Total # of Licensees Selected for Audit:	% Passed:	% Deficient	% Not Yet Received:	% Failed:
January	25	80%	0%	0%	20%
February	26	85%	0%	0%	15%
March	27	93%	0%	0%	7%
April	23	74%	17%	0%	9%
May	25	76%	24%	0%	0%
June	31	71%	23%	0%	6%
July	26	85%	8%	0%	8%
August	29	72%	28%	0%	0%
September	27	56%	4%	41%	0%
October	18	44%	11%	44%	0%
November	22	41%	5%	55%	0%
December	25	32%	4%	64%	0%
January 2021	22	14%	27%	59%	0%
Totals:	326	65%	12%	18%	5%

Of the total of 326 audits sent out, the current pass rate is 65% with 12% of audits found to be deficient and 37% of audits still pending. The current waiver states that licensees who expire between March 31, 2020 to September 30, 2021 are given until January 26, 2022 to fulfill the CE requirement. Those who were found to be deficient were given until January 27, 2022 to submit required documentation.



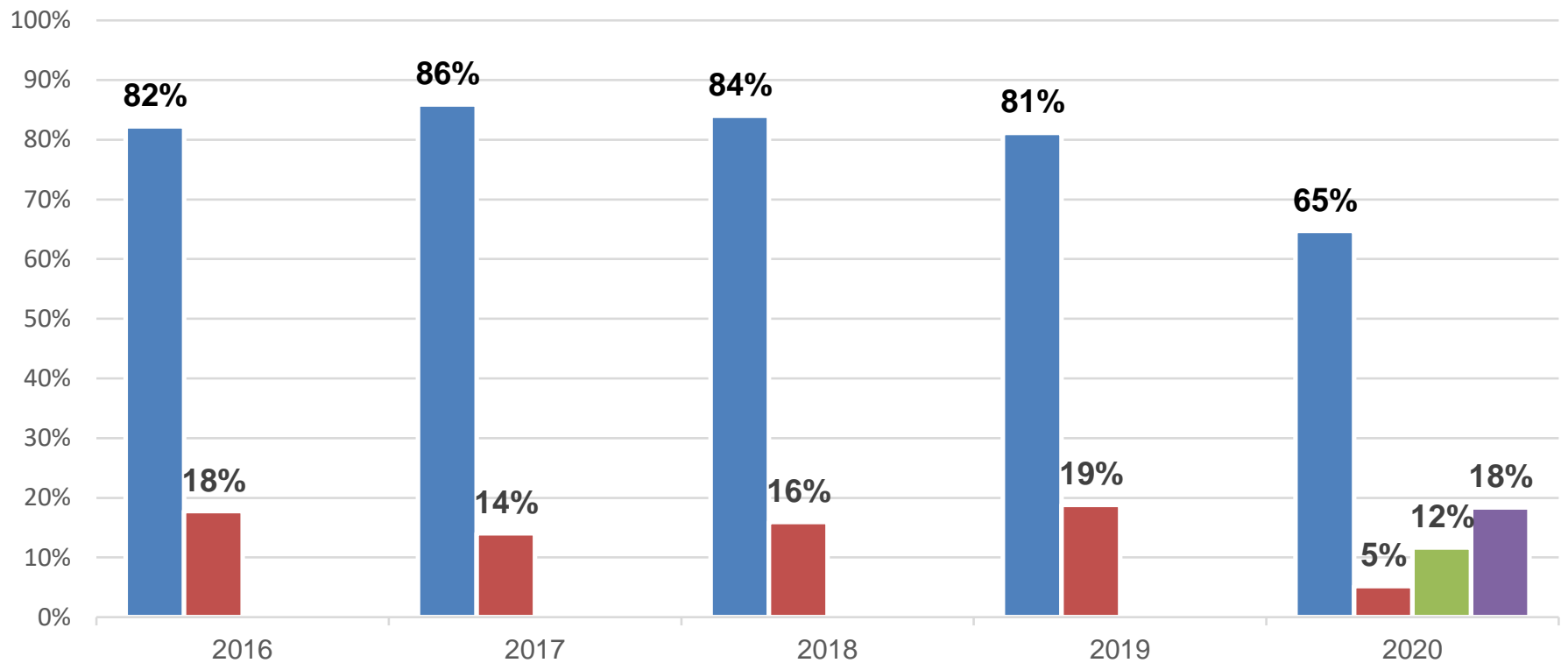
Reasons for Not Passing CE Audit January 2020 - January 2021

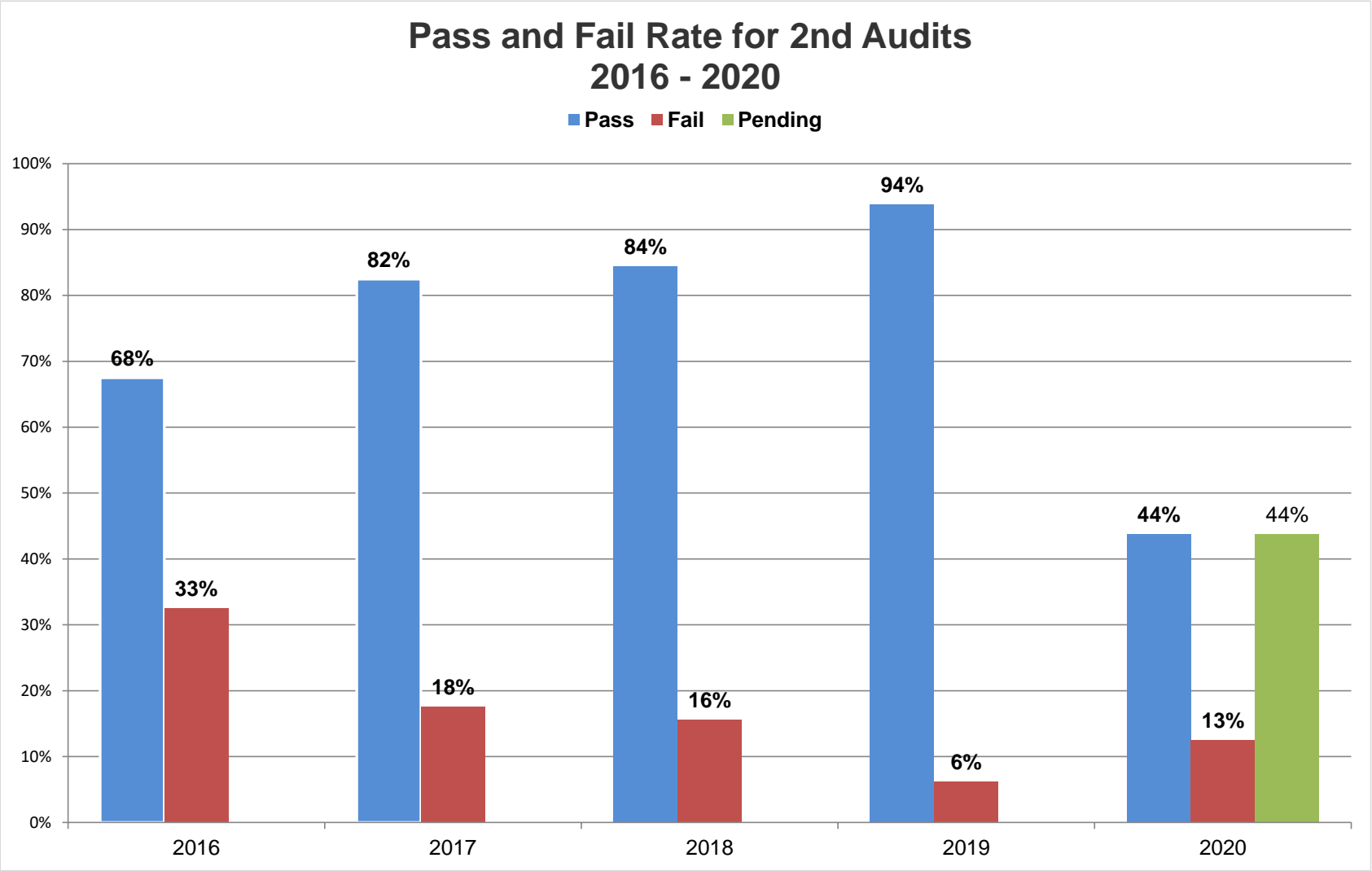


Of the 326 audits sent out, 17 failed the CE audit. This chart breaks down the reasons why the licensees failed the audit.

Pass and Fail Rate 1st Audits 2016 - 2020

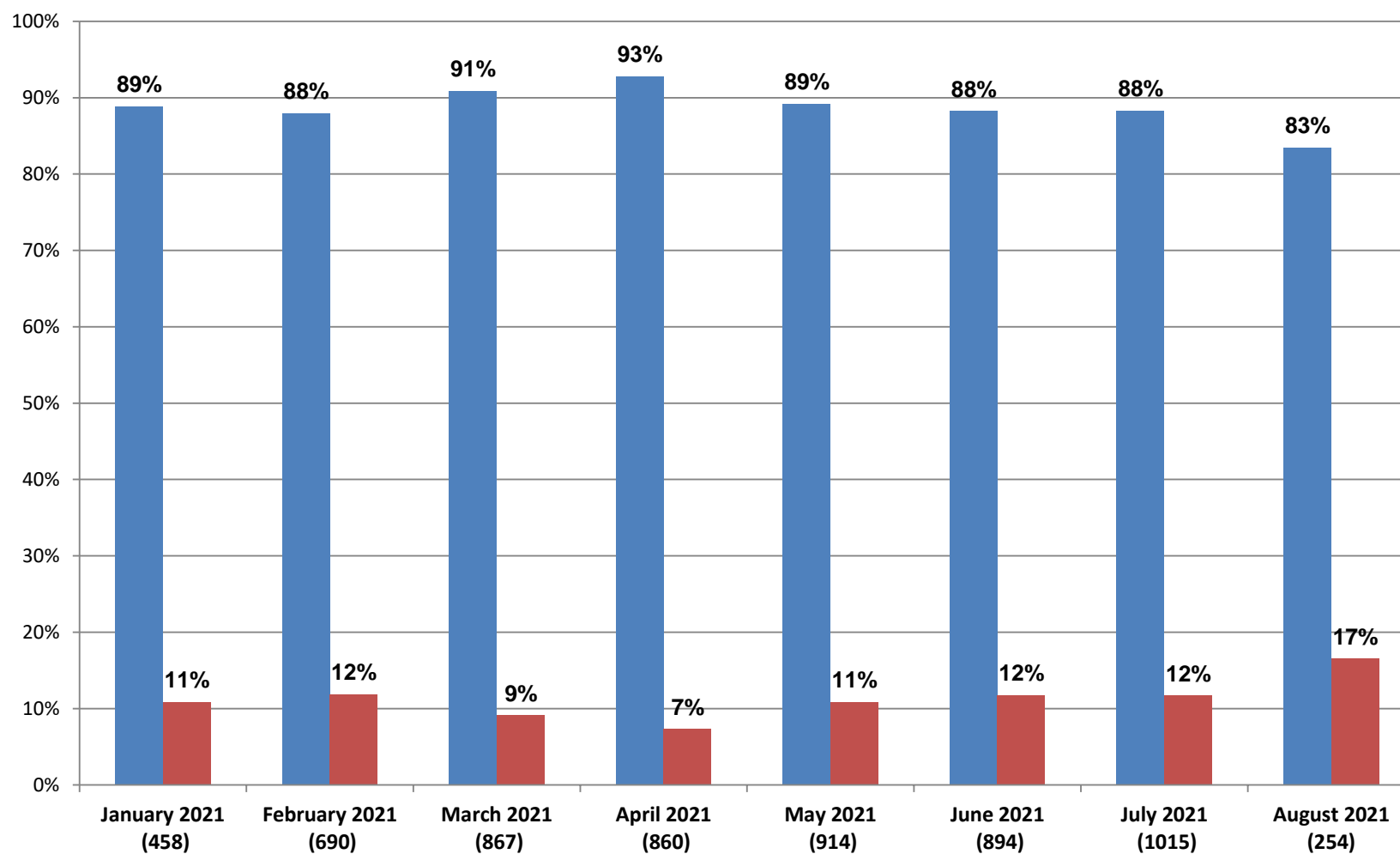
■ Pass ■ Fail ■ Deficient ■ Not Yet Received



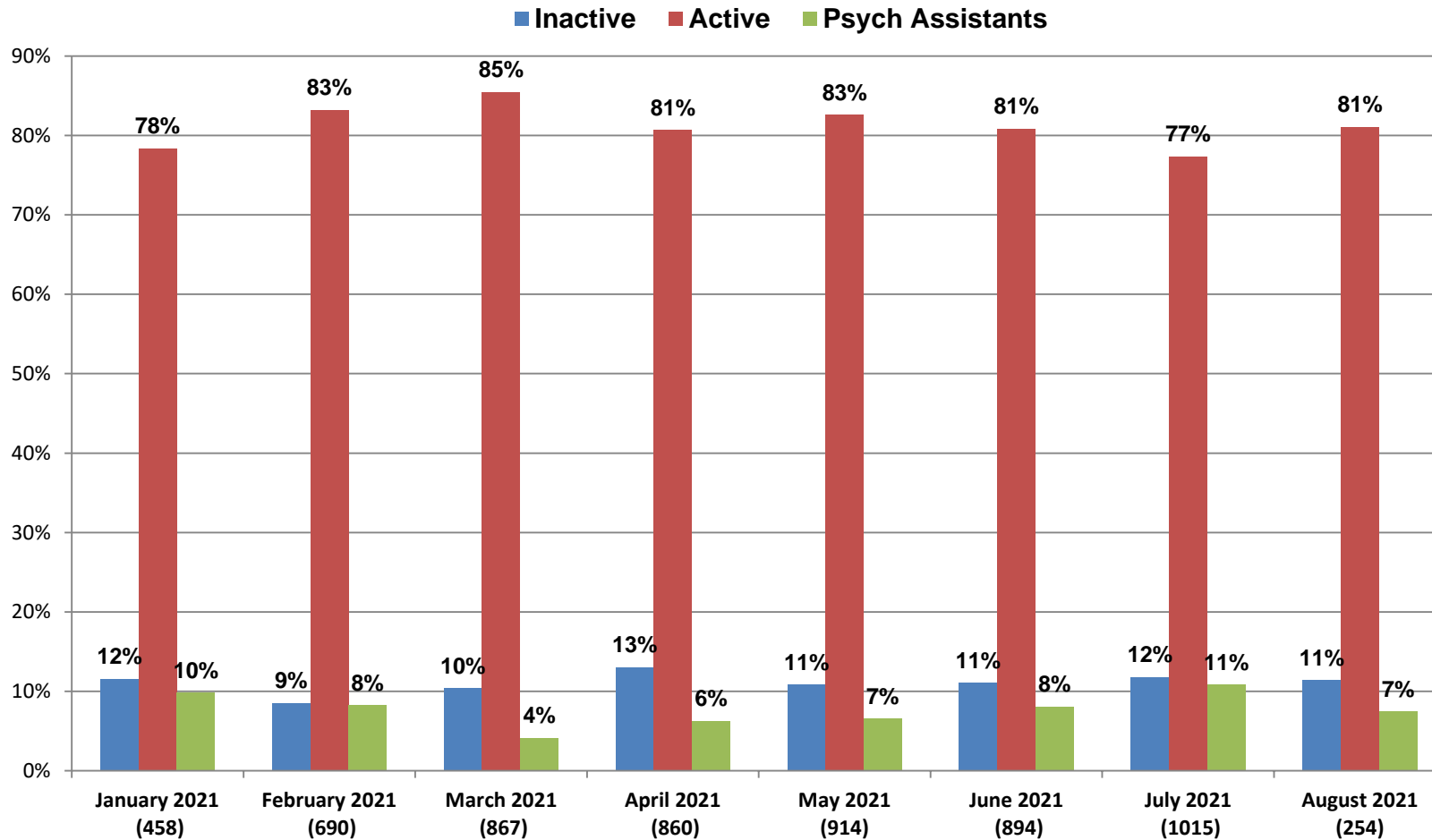


Online vs. Mailed In Renewals Processed January 2021 - August 2021

■ Online ■ Mailed In



Psychologist and Psychological Assistant Renewal January 2021 - August 2021



Every month an average of 81% of Psychologists renew as Active, and 11% of Psychologists renew as Inactive. Additionally, an average of 8% of renewal applications submitted every month are for Psychological Assistants.

MEMORANDUM

DATE	August 10, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(d) Feedback Requested by ASPPB regarding Examination for Professional Practice in Psychology (EPPP) Part 2 – Skills Survey

Background:

The Association of State and Provincial Psychology Boards (ASPPB) requested feedback on the impact of allowing jurisdictions that do not require the Examination for Professional Practice in Psychology (EPPP)(Part 2- Skills) to authorize candidates eligibility to take this portion of the examination optionally. See Attachment A for the request sent by ASPPB.

Survey Questions:

The Licensure Committee met and provided their recommended responses to the survey questions. See Attachment B for the survey questions and recommended responses.

Action Requested:

The Licensure Committee requests the Board approve the suggested responses to the survey questions in Attachment B.

Cheung, Stephanie@DCA

Subject: Feedback Requested RE: EPPP (Part 2- Skills)

From: ASPPB BARC <ASPPB-ADMINS@LISTSERV.ASPPB.ORG> **On Behalf Of** Leslie Browning

Sent: Thursday, May 13, 2021 11:59 AM

To: ASPPB-ADMINS@LISTSERV.ASPPB.ORG

Subject: Feedback Requested RE: EPPP (Part 2- Skills)

Importance: High

[EXTERNAL]: owner-asppb-admins*Antonette*-Sorricks**DCA*-CA*-GOV@LISTSERV.ASPPB.ORG

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

DO NOT: click links or open attachments unless you know the content is safe.

NEVER: provide credentials on websites via a clicked link in an Email.

Good afternoon,

The ASPPB Board Chairs Committee (BCC) has requested that ASPPB change the EPPP (Part 2- Skills). Specifically, they have requested a change that will allow jurisdictions that do not require the EPPP (Part 2-Skills), to authorize access to the EPPP (Part 2-Skill) by candidates that wish to take it optionally.

The following rationale was offered by the BCC to the ASPPB Board of Directors (BOD), as potential benefits for allowing optional writing of the EPPP (Part 2–Skills):

- Enable applicants to take the EPPP (Part 2-Skills) at the time in their professional careers when the examination is intended to be administered.
- Remove a potential future barrier to mobility for these psychologists.
- Create a larger pool of data with which to assess the reliability and validity of the EPPP (Part 2–Skills).
- Encourage jurisdictions to adopt the test, as they see the utility and interest in the test increase.
- Be consistent with ASPPB’s desire to promote mobility and consistent licensing standards across the United States and Canada.

The current policy allows jurisdictions to authorize access to the EPPP (Part 1 – Knowledge) if it is required for licensure in their jurisdictions. Similarly, the EPPP (Part 2-Skills) is available only if required by a jurisdiction.

The following points were considered in determining the current policy of only allowing access to the EPPP (Part 2- Skills) in jurisdictions that require it:

- Increased examination security, in that only candidates that are required to take the EPPP (Part 2-Skills) are able to do so. Most exam programs set eligibility criteria in this way to reduce the threat of a confederate stealing content to deliver to other test takers or test preparation companies.
- Varying timelines for jurisdictional adoption of the EPPP (Part 2-Skills) and that some jurisdictions indicated that a previous out of jurisdiction administration of the EPPP (Part 2-Skills) may not be accepted in their jurisdiction, potentially requiring the candidate to retake the exam.
- If a candidate does not pass the EPPP (Part 2 -Skills), the jurisdiction now has data of a lack of demonstration of competence. Even though passage of the EPPP (Part 2 -Skills) may not be required for licensure, there may be

some liability for a jurisdiction that licenses a candidate with a known skills deficit, especially if the candidate later has a complaint filed with the licensing board.

- Providing access to a non-required assessment was viewed as unnecessary.

Presently, the ASPPB BOD has the BCC request under review. However, in an effort to assist the ASPPB BOD to properly consider this request, they would like additional input from member jurisdictions.

Please take a few minutes to complete the following survey to help the BOD understand the impact to your jurisdiction should the policy be changed to allow you to authorize candidates that wish to have optional access to the EPPP (Part 2-Skills). The survey will close on June 4, 2021.

<https://www.surveymonkey.com/r/V2WYTQ8>

Thank you in advance for your time and attention to this request for information.

Leslie

Leslie Browning

Governance Manager

Address: P.O. Box 849, Tyrone, GA 30290

Office: 678-961-2449

Fax: 678-216-1176

Email: lbrowning@asppb.org

Web: www.asppb.org



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<http://listserv.asppb.org/scripts/wa.exe?TICKET=NzM3OTUzIEFudG9uZXR0ZS5Tb3JyaWNrQERDQS5DQS5HT1YgQVNQUEItQURNSU5TIH2sOx%2Fd4Jr3&c=SIGNOFF>

EPPP (Part 2 - Skills) Request for Information

Please take a few minutes to complete the following survey to help the ASPPB Board of Directors (BOD) understand the impact to your jurisdiction should the policy be changed to allow you to authorize candidates that wish to have optional access to the EPPP (Part 2-Skills).

Thank you in advance for your time and valuable feedback.

Survey Questions

1. What jurisdiction do you represent?

California

2. What is your role with the jurisdiction?

- ☐ Board Administrator/Staff
- ☐ Board Member
- ☒ Board Chairperson
- ☐ Board Legal Representative
- ☐ Other (please specify)

3. If not required for licensure in your jurisdiction, would your jurisdiction be interested in optionally authorizing candidates to take the EPPP (Part 2-Skills) at the candidate's request.

- ☒ Yes
- ☐ No

4. If you answered yes to question three, does your jurisdiction have the authority to authorize a candidate for licensure to take an examination which is not a requirement for licensure in your jurisdiction?

- ☐ Yes
- ☒ No

5. If it is not required for licensure in your jurisdiction, would your jurisdiction require a change in your Act or Regulations before you could authorize candidates to take the EPPP (Part 2 – Skills)?

- ☒ Yes
- ☐ No

6. If it is not a requirement for licensure in your jurisdiction, would you be able to include EPPP (Part-2 Skills) results in the candidate's file?

- ☐ Yes
☒ No

7. If the candidate met the requirements for licensure in your jurisdiction and was issued a license but failed the EPPP2 (Part-2 Skills), would that impact the candidate's licensure or future disciplinary action?

- ☐ Yes
☒ No

8. If you answered yes to question seven, please explain.

9. Would you be concerned if another jurisdiction optionally authorizes candidates to take the EPPP (Part 2 - Skills)?

- ☐ Yes
☒ No

10. Please provide a rationale as to why this is or is not a concern.

It's not a requirement for licensure in California; thus, there's no reason for it to be a concern.

11. Does your jurisdiction have any policies or rules about the EPPP that ASPPB should consider when making a decision about allowing candidates to optionally take the EPPP (Part 2 Skills)?

- ☒ Yes
☐ No

12. If you answered yes to question eleven, please explain.

It would be a matter of the final language on how ASPPB would refer to the EPPP (Part 2 Skills) and how the language would fit with our regulations.

13. Please feel free to share any additional comments on this issue.

No additional comments.

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #1 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #1 – Request for a 21-month Extension of the 72-Month Registration Period

PSB #1 was issued a total of three psychological assistant registrations with the first registration issued on March 18, 2015. PSB #1's most recent registration was issued on April 14, 2016 and expired on March 30, 2021 according to the 72-month limitation for a psychological assistant registration.

On March 30, 2021, PSB #1 was granted a 6-month extension to the psychological assistant registration under the PSY 20-02 Waiver. The expiration date for PSB #1's most recent registration has been revised to September 30, 2021.

PSB #1 reported a total of 5,760 hours of post-doctoral supervised professional experience (SPE) from April 14, 2016 and February 10, 2019. The Board has credited 4,920 hours of SPE toward licensure on March 22, 2019.

From the Board's record, PSB #1 has taken the Examination for Professional Practice in Psychology (EPPP) on June 29, 2019 and January 23, 2020 but failed to pass the examination.

PSB #1 is requesting for an extension due to several challenges that PSB #1 is facing which includes the impacts of the COVID-19 pandemic, studying for the EPPP, financial concerns, and caring for PSB #1's youngest child.

There is an outstanding 15-month extension from PSB #1's initial request of a 21-month extension.

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to grant a 6-month, instead of 15-month, extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.



Psychological Assistant, PSB [REDACTED]

[REDACTED]
[REDACTED]

DATE: March 23, 2021
TO: Board of Psychology
RE: License renewal request

Dear Sir or Madam:

I was recently informed that my status as an Intern with the BOP will expire. I would like to respectfully request that my license be extended until 2022.

I have not passed the Psychologist licensure test during the past year, and I would ask that you take into account the fact that with Covid-19, trying to study, work to support my family and care for our new child has been very complicated. The usual methods of finding child care and jobs has been difficult. I had been planning to have several more years to pass the exam, but this impression was corrected by your office.

I hope that this extension will be possible. It is very important for me, my family and the clients that I enjoy serving.

Sincerely,

[REDACTED]

[REDACTED]

Psychological Assistant, PSB [REDACTED]

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #2 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #2 – Request for an 18-month Extension of the 72-Month Registration Period

PSB #2 was issued a total of four psychological assistant registrations. Below is a list of the number of registrations with the registration's issuance and expiration dates:

PSB Registration	Issued Date	Expiration Date
Registration #1	September 9, 2008	October 11, 2008
Registration #2	December 20, 2012	January 28, 2013
Registration #3	September 22, 2014	September 14, 2016
Registration #4	September 15, 2016	August 20, 2020

PSB #2 has accrued more than 3,000 hours of post-doctoral Supervised Professional Experience (SPE) by May 31, 2007 and has met the SPE requirement towards licensure.

PSB #2 submitted a psychological assistant renewal application to the Board on August 21, 2020 with the impression that the renewal application has been successfully processed. PSB #2 has continued providing services following the expiration date of PSB #2's most recent registration.

On February 11, 2021, PSB #2 communicated to the Board regarding the pending renewal application status. Staff notified PSB #2 that PSB #2 has reached the 72-month limitation on August 20, 2020 and suggested for PSB #2 to submit an extension request. On February 17, 2021, PSB #2 was granted a 6-month extension for a psychological assistant registration under the PSY 20-02 Waiver and the registration revised expiration date is February 20, 2021.

PSB #2 is requesting an extension due to providing minimal services from previous part-time positions and for the time loss when PSB #2 became the primary caretaker for PSB #2's mom in 2006 while raising PSB #2's two daughters. PSB #2 stated that shortly after PSB #2's mother passed away in 2016, PSB #2's elder brother experienced his first psychotic break and was hospitalized several times. PSB #2 has become the caretaker for PSB #2's brother due to his ongoing health condition.

PSB #2 also provided additional documentations stating that PSB #2's spouse experienced several significant medical injuries as a result of previous employment. PSB #2's spouse has undergone shoulder surgery, eye surgeries, lumbar spine surgery, and was diagnosed with major respiratory issues. PSB #2 explained that PSB #2 has taken several leave of absences to care for PSB #2's spouse.

There is an outstanding 12-month extension from PSB #2's initial request of an 18-month extension

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to deny the additional 12-month extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.

Xiong, Mai@DCA

From: [REDACTED]
Sent: Thursday, February 11, 2021 4:39 PM
To: Xiong, Mai@DCA
Subject: 72 month Registration extension
Attachments: documentation for time extension.pdf; [REDACTED] Death Cert.pdf
Categories: Follow-up

[EXTERNAL]: [REDACTED]

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Dear Mai Xiong,

I would like to thank you for your time and attention to my case. I am writing to request an extension on my Psychological Assistant Registration for the maximum time allotment of 18 months. As I explained on the phone I have the following reasons that explain my need for the extension.

In 2008 I filed a registration for [REDACTED] as my intention was to provide part-time services there. As it turns out I only worked there, at best, a couple weeks and don't recall seeing any clients. Attached are my tax return from 2008 along with my [REDACTED] W2. As you can see, I did not earn any income in 2008, [REDACTED] did not send me a W2. My only income was a little unemployment from that year, which is also attached.

In 2012 I registered as a Psychological Assistant for [REDACTED]. I did have a caseload and was only there for a few weeks as I had to become a caretaker for my mom who was gravely ill. Attached is the 1099Misc for [REDACTED] which shows I earned a total of \$499.50 as I was there for such a short time.

By way of background, three weeks after graduating from [REDACTED] I gave birth to my second child, who to this day claims she too has her doctorate since she attended class and was hooded with me. I took time off to raise my two daughters and as I started preparing to take the test my mother became ill which led to a heart transplant in 2006. After caring for her before and after her transplant along with raising my two children I again focused and accrued my postdoc hours along the way.

As stated above in 2008 I registered for my first Psychological Assistant position. Over the next few years I continued to be the primary caretaker for my mother whose health continued to deteriorate and she was required to be in and out of the hospital/care facilities and home. During this time I was responsible for my own family, working, as well as responsible for making healthcare decisions, taking my mom to all of her medical appointments, including to and from chemotherapy, and all of her financial and other affairs. Ultimately she passed in July of 2016 and became executor of her will and responsible for all of her affairs.

Shortly after the passing of my mother, my older brother experienced his first psychotic break and had to be hospitalized several times which is something I still have to take care of to this day.

Again I appreciate your time and assistance. If you have any questions or need any additional documentation, please let me know.

Sincerely,
[REDACTED], Psy.D

--
Dr. [REDACTED], Psy.D.

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MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #3 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #3 – Request for a 12-month Extension of the 72-Month Registration Period

PSB #3 was issued a total of three psychological assistant (PSB) registrations and one registered psychologist (RPS) registration. Below is a list of the registrations with the registration's issuance and expiration dates:

Registration	Issued Date	Expiration Date
PSB Registration #1	January 21, 2011	September 11, 2014
PSB Registration #2	November 26, 2016	November 29, 2017
PSB Registration #3	May 30, 2019	May 30, 2021
RPS Registration	June 11, 2014	December 11, 2016

On April 14, 2021, the Board received a psychological assistant registration renewal application from PSB #3. Upon reviewed, staff notified PSB #3 that PSB #3 will reached the 72-month limitation for a psychological assistant registration once the registration expired on May 30, 2021.

On April 15, 2021, PSB #3 requested for a 12-month extension for adequate time to complete all sessions with PSB #3 clients.

PSB #3 was granted a 6-month extension under the PSY 20-02 Waiver on May 20, 2021 and the registration revised expiration date is November 30, 2021.

PSB #3 reported a total of 4,460 hours of post-doctoral Supervised Professional Experience (SPE) accrued from February 4, 2011 to May 12, 2014 and has met the SPE requirement towards licensure.

From the Board's records, PSB #3 has taken the Examination for Professional Practice in Psychology (EPPP) on March 12, 2016 but failed to pass.

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to deny the additional 6-month extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.

Xiong, Mai@DCA

From: [REDACTED]
Sent: Thursday, April 15, 2021 2:40 PM
To: Xiong, Mai@DCA
Subject: Re: Follow-up to Psychological Assistant Registration Renewal

[EXTERNAL]: [REDACTED]

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Thanks Yes I need more than six months at least one more year to complete all the sessions with my clients

Sent from my iPhone

On Apr 14, 2021, at 4:54 PM, Xiong, Mai@DCA <Mai.Xiong@dca.ca.gov> wrote:

Hi Dr. [REDACTED],

We recently received your renewal application and fee. From the Board's records, you registration (PSB# [REDACTED]) will reach the 72-month limitation on May 30, 2021 pursuant to Title 16 of the California Code of Regulations [Section 1391.1 \(b\)](#). Since your registration is no longer eligible for a renewal, we will return the renewal payment you have sent to the Board.

By the way, the Board has approved the [PSY 20-02 Waiver](#) as result of the COVID-19 pandemic. The waiver temporarily revised the 72-month limitation to 78-month for a psychological assistant registration. However, we cannot tentatively approved a registration under the waiver until at least 2 weeks prior the registration expiration date due to the parameter that the State of California must still be proclaimed by the Governor as a state of emergency.

Required Action: Please respond to this email and let me know if a 6-month extension to your registration would be sufficient? You may request for more time, however, please note that your extension request may be required to go to the Licensure Committee and the Board members for review to make a final determination. For additional information on extension request guidelines, please see the [Submission and Review Guidelines for Extension Requests](#) document posted on our website (<https://www.psychology.ca.gov/applicants/extenreqguide.pdf>).

Feel free to let me know if you have any questions.

Respectfully,

<image001.jpg>

<image002.png>

<image003.png>

Mai Xiong
Licensing/BreEZe Coordinator

1625 North Market Blvd., Suite N-215
Sacramento, CA 95834
(916) 574-7224 Direct
(916) 574-8672 Fax
mai.xiong@dca.ca.gov

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MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #4 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #4 – Request for a 12-month Extension of the 72-Month Registration Period

PSB #4 was issued a psychological assistant registration on July 7, 2015 and it is set to expire on July 6, 2021 according to the 72-month limitation for a psychological assistant registration. PSB #4 was approved for 6-month extension under the PSY 20-02 Waiver on June 22, 2021 and the registration revised expiration date is January 6, 2022.

PSB #4 is requesting for an extension due to medical related reasons which include the following health problems: migraine, respiratory infection, and asthma. PSB #4 has provided supporting documentations (Attachment A) for the medical conditions.

PSB #4 reported a total of 3,537 hours of post-doctoral Supervised Professional Experience (SPE) accrued from August 11, 2014 to June 25, 2016 and has met the SPE requirement towards licensure.

PSB #4 was approved for exam accommodations on June 12, 2017 to receive extended time. The exam accommodation has expired on May 20, 2019. Below are the dates PSB #4's attempted to pass the EPPP:

1. May 18, 2016
2. September 3, 2016
3. February 7, 2017
4. May 8, 2017
5. September 9, 2017
6. October 28, 2017
7. April 23, 2018
8. May 24, 2018
9. December 15, 2018
10. April 9, 2019
11. February 13, 2020
12. July 11, 2020
13. October 29, 2020
14. January 11, 2021
15. March 15, 2021

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to approve the additional 6-month extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.

Xiong, Mai@DCA

From: [REDACTED]
Sent: Thursday, February 18, 2021 4:28 PM
To: Xiong, Mai@DCA
Subject: Re: "Order Extending Time Limitation as a Registered Psychological Assistant"
Attachments: IMG_5657.jpeg

[EXTERNAL]: [REDACTED]

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Hi Mai,

Re: 72-month registration limitation period of a psychological assistant registration

Thanks for your email! I hope you and your Gmail has are doing well. I would like to request for additional 6-month extension due to medical related reasons. Please find the doctor notes attached to this email.

Thank you very much for your time and help in this matter!

Best regards,
[REDACTED]

After Visit Summary 1/29/2021



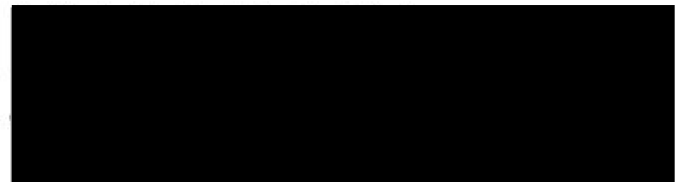
Visit and Patient Information

Visit Information

Date &
Time

1/29/2021
1:30 PM

Provider



MD, M.D.

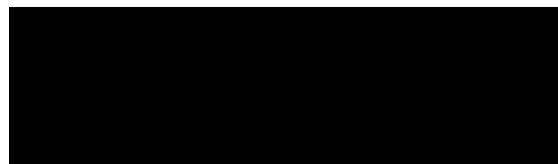
Visit Summary

Health Problems Reviewed

MIGRAINE

Patient Instructions

After Visit Summary 4/20/2020



Visit and Patient Information

Visit Information

Date &

Time

4/20/2020

3:20 PM

Provider



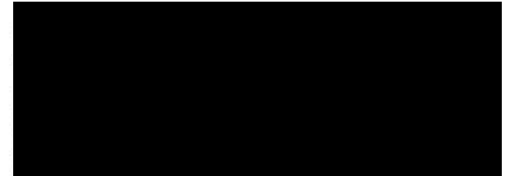
D.O.

Visit Summary

Health Problems Reviewed

LEFT OTALGIA
UPPER RESPIR
INFECTION (U

After Visit Summary 7/23/2020



Visit and Patient Information

Visit Information

Date &

Time

7/23/2020

8:20 AM

Provider



MD, M.D.

Visit Summary

Health Problems Reviewed

GENERALIZED
- Primary
ASTHMA, INTE

Patient Instructions

On Wed, Feb 17, 2021 at 3:03 PM Xiong, Mai@DCA <Mai.Xiong@dca.ca.gov> wrote:

Dear [REDACTED]

From a preliminary review, it seems like you qualify for a 6-month extension to your PSB registration under the PSY 20-02 Waiver. However, in order to be consider for the waiver, you must submit an official extension request following the [Submission and Review Guidelines for Extension Requests](#) document. Primarily, you will need to state the length of extension and the reason for the extension request. Instead of submitting your extension request to boplicensing@dca.ca.gov, you can send your extension request directly to me to streamline the process.

Respectfully,



Mai Xiong

Licensing/BreEZe Coordinator

[1625 North Market Blvd., Suite N-215](#)

Sacramento, CA 95834

(916) 574-7224 Direct

(916) 574-8672 Fax

mai.xiong@dca.ca.gov

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From: [REDACTED]

Sent: Friday, February 12, 2021 12:51 PM

To: DCA, BOPlicensing@DCA <BopLicensing@dca.ca.gov>

Subject: re: "Order Extending Time Limitation as a Registered Psychological Assistant"

[EXTERNAL]: [REDACTED]

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Hi To it May Concern,

re: PSB [REDACTED]

CCR Section 1391.1(b) (b) Registration as a psychological assistant shall be limited to a cumulative total of six years and six months (78 months). Each registration shall be subject to annual renewal pursuant to section 1391.12. For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years and six months (78 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first. This temporary waiver does not apply to any registrant who reached the cumulative time limitation for registration as a psychological assistant prior to March 4, 2020, or after the end of the declared emergency.

I would like to know if this applies to me (my registration will expire on **7/1/2021**). Please kindly be advised.

Thanks in advance.

Respectfully,

[REDACTED]

Cell: [REDACTED]

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #5 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #5 – Request for a 12-month Extension of the 72-Month Registration Period

PSB #5 was issued a psychological assistant registration on September 25, 2014 and it was set to expire on December 13, 2020 according to the 72-month limitation for a psychological assistant registration.

On January 19, 2021, PSB #5 was granted a 6-month extension to the psychological assistant registration under the PSY 20-02 Waiver. The expiration date for PSB #5's most recent registration has been revised to June 13, 2021.

PSB #5 initially requested for a 6-month extension to the psychological assistant registration but later decided to revise the length of extension to 12-month due to needing additional time to pass the Examination for Professional Practice in Psychology (EPPP) and consideration of the lengthened application processing timeframes as a result of the COVID-19 pandemic.

PSB #5 further explained PSB #5 experienced multiple life changing events and setbacks that contributed to the challenge of passing the EPPP. Some of these life changing events and setbacks include getting married in 2015, a leg and ankle surgery in 2016 and having a baby in 2018. PSB #5 has provided documentations to support the claims of life changing events and surgery.

PSB #5 reported 1,902 hours of pre-doctoral supervised professional experience (SPE) from September 4, 2013 and August 28, 2014 and 1,740 hours of post-doctoral SPE from October 15, 2014 and December 31, 2015. The Board has credited a total of 3,150 hours of SPE towards licensure on March 18, 2016.

PSB #5 passed the EPPP on July 15, 2021 and has applied to take the California Psychology Law and Ethics Exam (CPLÉE) on July 21, 2021.

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to approve the additional 6-month extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.

Xiong, Mai@DCA

From: [REDACTED]
Sent: Monday, April 12, 2021 2:37 PM
To: Xiong, Mai@DCA
Subject: Psych Assistant 72 month Extension Request
Attachments: PXL_20210412_213105249.jpg; PXL_20210412_213217267.jpg

[EXTERNAL]: [REDACTED]

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Hello Mai,

I have not yet been able to schedule and pass the EPPP. Hoping to do so in May. As such, I will likely need an extension on my Psych Assistant license to give adequate time for processing and paperwork, etc. I have attached the information form for my extension and included reasons below.

All of my hours and requirements for an application for licensure have been met. I have just not been able to pass the EPPP. I have had a few set-backs over the years making it difficult for me to complete the EPPP requirement. From a marriage in 2015, major leg and ankle surgery in 2016, having a baby in 2018 and then of course the challenges with this global pandemic in 2020/2021, I have struggled to successfully conquer the daunting task of the EPPP. I aim to retest in the next month or two. As such, I am requesting a 6 month extension to allow time for processing and scheduling of the Cple as well. I appreciate your consideration of my request for an extension and humbly ask for grace as I continue to diligently study and finish the requirements needed for licensure.

I've attached my marriage certificate and proof of my daughter's birth (We are still waiting for her replacement birth certificate to be mailed). Let me know if you need proof of my surgery as well.

Thank you!

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #6 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #6 – Request for a 12-month Extension of the 72-Month Registration Period

PSB #6 was issued a psychological assistant registration on July 17, 2014 and it was set to expire on January 29, 2021 according to the 72-month limitation for a psychological assistant registration. PSB #6 was approved for a 6-month extension under the PSY 20-02 Waiver on March 16, 2021 and the registration revised expiration date is July 29, 2021.

PSB #6 has accrued more than 3,000 hours of Supervised Professional Experience (SPE) by September 28, 2009 and has met the SPE requirement towards licensure.

PSB #6 is requesting for an extension to continue providing psychological services to PSB #6 clients, additional time to pass the examinations and continue earning an income to care for PSB #6's family.

PSB #6 stated that in the past six years, PSB #6 has been studying for the Examination for Professional Practice in Psychology (EPPP) but failed to pass it on May 4, 2018. In addition, PSB #6 has been the caretaker for PSB #6's four elderly parents and experienced the loss of them within a short timeframe.

PSB #6 further explained PSB #6's goal to pass the EPPP by September 2021 and stated that PSB #6 has made study changes and feel more confident in passing the EPPP.

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to approve the additional 6-month extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.

Xiong, Mai@DCA

From: [REDACTED]
Sent: Monday, March 15, 2021 7:12 PM
To: Xiong, Mai@DCA
Subject: Extension to the 72-month Registration Limit / PA Reg.

Categories: Follow-up

[EXTERNAL]: [REDACTED]

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

DO NOT: click links or open attachments unless you know the content is safe.

NEVER: provide credentials on websites via a clicked link in an Email.

Dear Ms. Xiong,

I am writing to humbly request a 1-year extension to the 72 month limitation as a Psychological Assistant to 1) meet the clinical needs of my caseload of 30 clients, and 2) allow me additional time to pass the EPPP, for which I am concurrently studying for while I earn an income to care for my family during the pandemic.

In the past 6 years, I have studied for and taken the EPPP exam, which I was unfortunately unsuccessful in passing, while caring for and experiencing the loss of 4 elder parents within that short time, the last of which occurred this past August 2020. I have since made study prep changes that I feel more confident about this time around, and it's my goal to realistically take the EPPP by September 2021 as this timeline will allow me to maintain supervised care for my clients, and continue to financially support my family while preparing for the exam.

I hope a sufficient agreement can be reached in this matter. Please let me know if additional documentation or information is required to consider my request. Thank you very much for your attention.

Gratefully,

[REDACTED], PsyD

PSB [REDACTED]

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #7 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #7 – Request for a 12-month Extension of the 72-Month Registration Period

PSB #7 was issued a total of three psychological assistant registrations. Below is a list of the number of registrations with the registration's issuance and expiration dates:

PSB Registration	Issued Date	Expiration Date
Registration #1	November 13, 2014	November 13, 2015
Registration #2	August 17, 2015	August 17, 2020
Registration #3	January 26, 2021	April 23, 2021

On April 9, 2021, staff notified PSB #7 that under the Board's Waiver PSY 20-02, PSB #7 has been granted a 6-month extension approval for the psychological assistant registration. The expiration date for PSB #7's most recent registration has been revised to October 23, 2021.

PSB #7 reported a total of 7,282 hours of post-doctoral Supervised Professional Experience (SPE) accrued from April 1, 2015 to January 28, 2020 and has met the SPE requirement towards licensure.

From the Board's records, PSB #7 has taken and passed the Examination for Professional Practice in Psychology (EPPP) on April 12, 2021. PSB #7 was approved to take the California Psychology Law and Ethics Examination (CPLEE) on June 22, 2021.

PSB #7 is requesting for an extension because PSB #7 stated that PSB #7 has a full case load of clients and feel that it is ethically critical to continue providing services.

In addition, PSB #7 raised concerns of an overall effect from the COVID-19 pandemic in becoming licensed. PSB #7 stated that though testing facilities continue to reopen it is only functioning at limited capacity which delays exam scheduling and in turn obtaining licensure.

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to grant a 3-month, instead of 6-month, extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.

To Whom It May Concern:

I am requesting an extension for my time as a psychological assistant due to COVID having shut down the EPPP state-licensing testing facilities. It is my understanding that they are only just now beginning to open up test sites at limited capacity and that there is a lengthy waiting list. I am submitting the paperwork to schedule the test as we speak but it sounds; like it may take months before I am granted a test date. If possible, I'd like to request a 1 year extension, or at least the amount of months that COVID affected the test site shut down - since last March.

I have a full case load of clients, including several crisis clients, and ethically feel I can not leave them in the lurch. Please advise!

Thank you so much.

Kindest Regards,

[REDACTED]
[REDACTED]

Voicemail: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #8 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #8 – Request for a 12-18 months Extension of the 72-Month Registration Period

PSB #8 was issued a total of two psychological assistant (PSB) registrations and one registered psychologist (RPS) registration. Below is a list of the number of registrations with the registration's issuance and expiration dates:

Registration	Issued Date	Expiration Date
PSB Registration #1	August 21, 2014	November 30, 2016
PSB Registration #2	January 3, 2017	November 18, 2020
RPS Registration	May 2, 2019	November 2, 2021

On July 10, 2020, PSB #8 submitted a 6-month extension request due to the impacts of the COVID-19 pandemic which resulted in the delay of exam scheduling. On November 5, 2020, PSB #8 was granted a 6-month extension to the psychological assistant

registration under the PSY 20-02 Waiver. The expiration date for PSB #8's most recent registration has been revised to May 18, 2021.

On October 6, 2020, PSB #8 was approved for exam accommodations which entail no use of mask during examination, extended time and a half, and exam must be scheduled in the early morning to allow any chemicals to dissipate due to hypersensitivity to cleaning chemicals and fragrances. The approved exam accommodations will require PSB #8 to complete the examination at an alternative testing site which has caused further delay in exam scheduling.

Following the exam accommodations approval, PSB #8 requested to further extend the registration to an additional 6-12 months beyond the 78-month limitation provided by the PSY-20-02 waiver. In addition, PSB #8 stated that further extension to the registration will allow PSB #8 to continue working with patients and complete the required examinations to become licensed.

PSB #8 has completed over 1,500 hours of pre-doctoral supervised professional experience (SPE) from May 30, 2016 and November 30, 2018. The Board has credited PSB #8 a total of 626 hours of post-doctoral SPE from October 23, 2019 and July 7, 2019. The most recent verification of experience form which states 800 hours of post-doctoral SPE accrued from July 24, 2019 and December 23, 2020 is still pending for approval due to missing the supervision agreement form.

There is an outstanding 6-12 months extension from PSB #8's initial request of a 12-18 months extension.

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to approve the additional 6-month extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.

June 15, 2021

Dear California Board of Psychology,

This letter is to request an extension to my Psychological Assistant registration that ended May 18th, 2021. I am requesting an extension to be able to continue to see patients and work as a psychological assistant, due to COVID delays with being able to take the EPPP test. Per conversation with ASPPB, I have been waiting to get a test date, an outside Pearson proctor with alternative testing site to allow my medical accommodations. I have been in communication with the CA BOP staff since October 2020 and ASPPB since January 2021. Due to the nature of the situation with the Pandemic, I am unable to determine an ideal extension time frame, however, I ask 6 months to a year extension to allow me to continue to work in hopes that I will be able to take the test and complete my application for licensure.

Also, all medical documentation has already been submitted to the Board of Psychology and ASPPB through email. Please review my file for any of these details.

Thank you,

Dr. [REDACTED]

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #9 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #9 – Request for a 12-month Extension of the 72-Month Registration Period

PSB #9 was issued a psychological assistant registration on March 4, 2015 and it was set to expire on March 3, 2021 according to the 72-month limitation for a psychological assistant registration. PSB #9 was granted a 6-month extension under the PSY 20-02 Waiver on March 19, 2021 and the registration revised expiration date is September 3, 2021.

PSB #9 is requesting for an extension due to the impacts of the COVID-19 pandemic which has delayed exam scheduling and prolonged the process to becoming licensed. PSB #9 also expressed concerns that PSB #9's clients may be left without services due to the limited resources in a private practice setting.

PSB #9 reported 1,922 hours of pre-doctoral supervised professional experience (SPE) from June 5, 2014 and May 22, 2015 and 1,634 hours of post-doctoral SPE from June

1, 2015 and August 31, 2016. The Board has credited a total of 3,134 hours of SPE toward licensure on February 16, 2017.

PSB #9 has attempted to take the Examination for Professional Practice in Psychology (EPPP) four times. Below is a list of the exam attempt dates:

1. July 28, 2017
2. December 5, 2017
3. October 9, 2020
4. July 16, 2021

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to approve the additional 6-month extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.

[REDACTED]

REGISTERED PSYCHOLOGICAL ASSISTANT

PSB# PSB [REDACTED]

[REDACTED]

[REDACTED] PsyD. (PSY [REDACTED])

Clinical Supervisor

June 11, 2021

California Board of Psychology: Licensure Committee
1625 N Market Blvd, Suite N-215
Sacramento, CA. 95834
(916)574-3221

RE: Extension Request for 72-month registration Limit of PA

Dear California Board of Psychology: Licensure Committee

I am writing you today to request an extension to my 72 months as a Psychological Assistant. As you know, 2020 and 2021 have been trying times for all. Being a part of a mental health team, like many in our profession, I have been on the front lines of providing supervised mental health services under difficult times in the past year and half.

I had made a goal of completing my licensing requirements in 2020. I need to complete my exams (most challenging aspect), and Substance Abuse course. As the 2020 year progressed and stricter guidelines were put in place due to COVID-19, it became near impossible to find testing sites available. The testing sites were more and more limited with offered times to sit the exams due to social distancing and other COVID related restrictions. I did test at the end of 2020, but unfortunately did not pass the EPPP.

I was finally able to secure another date this July within a reasonable distance ([REDACTED] of the [REDACTED] Area. As we begin to open back up, there is a back log of individuals who

[REDACTED]

are seeking exams with Pearson Vue (beyond testing of the EPPP), for various state licensing. We are also still under COVID-19 state guidelines impacting testing availability.

I feel confident about my exams. I am actively pursuing the last steps towards licensure. I did submit an extension in March 2021 and was granted a 6-month extension. I am concerned with the backlog of people who need exam dates, that I will not be able to secure the second test date (CLPEE) as well as the Board review of documents and be licensed by Sept. 3rd, 2021 (my current extension expiration date).

I work in a private practice setting under direct supervision of Dr. [REDACTED] We have limited resources to refer patients to other providers if I was unable to work as a PA until I am fully licensed as a Clinical Psychologist. I am concerned this could leave people without services.

For the above reasons I am requesting an additional 6-month extension of Psychological Assistant License beyond the September 3rd, 2021 date. Thank you for your consideration.

Respectfully,

[REDACTED]
Dr. [REDACTED]
REGISTERED PSYCHOLOGICAL ASSISTANT
PSB# PSB [REDACTED]

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(e) – Psychological Assistant (PSB) #10 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

PSB #10 – Request for a 12-month Extension of the 72-Month Registration Period

PSB #10 was issued a total of three psychological assistant registrations and one registered psychologist registration. Below is a list of the registrations with the registration's issuance and expiration dates:

Registration	Issued Date	Expiration Date
PSB Registration #1	December 16, 2003	November 15, 2013
PSB Registration #2	November 17, 2015	November 17, 2017
PSB Registration #3	July 24, 2019	July 10, 2021
RPS Registration	December 27, 2005	December 27, 2007

On July 29, 2021, PSB #10 was tentatively approved for 6-month extension to the psychological assistant registration under the PSY 20-02 Waiver. The expiration date for PSB #10's most recent registration has been revised to January 10, 2022.

PSB #10 reported 2,000 hours of pre-doctoral supervised professional experience (SPE) from July 8, 2003 and June 30, 2004 and 1,533 hours of post-doctoral SPE from November 2, 2009 and September 2, 2010. The Board has credited a total of 3,033 hours of SPE toward licensure on October 3, 2013.

From the Board's record, PSB #10 has taken the Examination for Professional Practice in Psychology (EPPP) on June 28, 2010 but failed to pass the examination.

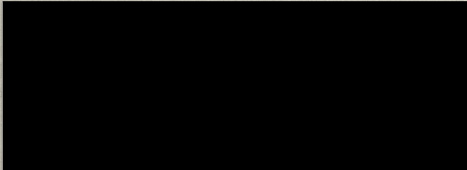
PSB #10 is requesting for an extension to prepare and pass the required examinations to become licensed. PSB #10 stated that in addition to needing more time to pass the examinations, it is crucial for PSB #10 to continue working to financially support PSB #10's family.

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to deny the additional 6-month extension request beyond the 78-month limitation provided by the PSY-20-02 waiver.



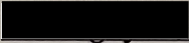

Board of Psychology
1625 North Market Blvd., Suite N-215
Sacramento, CA 95834

June 15, 2021

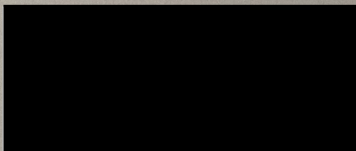
Re: Submission and Review Guidelines for Extension Requests pursuant to the California Code of Regulations Sections 1391.1(b) and 1387(a):

- 72-month limitation for psychological assistant registration

To Whom It May Concern:

I,  Psy.D., am requesting an extension of my 72-month limitation for psychological assistant registration (PBS# ) for one additional year for the purpose of time needing to obtain my licensure. The additional time will be required to prepare and then sit for licensure. Additional reason for requesting an extension is financial, as I am in need of supporting my family.

Sincerely,



6/15/2021
Date

MEMORANDUM

DATE	August 9, 2021
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 10(f) – Psychologist Licensure Applicant (PSY) #1 Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 30-Consecutive Month Limitation to Accrue 1500 Hours of Post-Doctoral Supervised Professional Experience Pursuant to Section 1387(a) of Title 16 of the California Code of Regulations

Background:

California Code of Regulations, Title 16, section 1387 provides in part:

(a) Pursuant to section 2914(c) of the code, two years of qualifying SPE shall be completed and documented prior to licensure. One year of SPE shall be defined as 1500 hours. At least one year of SPE shall be completed postdoctorally. Each year of SPE shall be completed within a thirty (30) consecutive month period. If both years of SPE (3000 hours) are completed postdoctorally, they shall be completed within a sixty (60) month period. Upon showing of good cause as determined by the board, these specified time limitations may be reasonably modified.

PSY #1 – Request for a 2-Year and 4-Month Extension to the 30-Consecutive Month Limitation to Accrue Post-Doctoral Supervised Professional Experience (SPE)

PSY #1 reported a total of 2,167 hours of pre-doctoral SPE and 2,220.5 hours of post-doctoral SPE. PSY #1 was credited 1,560 hours of pre-doctoral SPE and 1,188 hours of post-doctoral SPE toward licensure. The breakdown of the total hours of SPE credited toward licensure for PSY #1 is as follows:

Pre-doctoral SPE: 1,560	
Number of Hours	Start and End Date of SPE
1,560	July 28, 2014 – July 24, 2015

Post-doctoral SPE: 1,500	
Number of Hours	Start and End Date of SPE
484	July 27, 2016 – December 23, 2016
704	January 23, 2017 – September 1, 2017
312	February 16, 2021 – May 7, 2021

Pursuant to the time limitation in accruing SPE set forth by section 1387(a) of the California Code of Regulations, PSY #1 is required to complete all post-doctoral SPE between July 27, 2016 and January 27, 2019.

PSY #1 has been licensed out-of-state since June 2018 and relocated to California in May 2020. PSY #1 is requesting for an extension due to being short of 312 hours of post-doctoral SPE from the required 1,500 hours and had to accrue the remainder SPE hours following the relocation to California.

PSY #1 explained PSY #1's goal is to become licensed in California and provide part-time clinical work.

The Board's records show that PSY #1 has passed the Examination for Professional Practice in Psychology (EPPP) on June 13, 2018 from out-of-state.

Attachment:

A: Letter of Request

Action Requested:

Review and consider the Licensure Committee's recommendation to grant the 2-year and 4-month extension request to the 30-consecutive month limitation to accrue post-doctoral SPE.

Xiong, Mai@DCA

From: [REDACTED]
Sent: Monday, November 16, 2020 11:48 AM
To: DCA, BOPLicensing@DCA
Subject: Postdoc hours extension request
Attachments: PA psych license.pdf

[EXTERNAL] [REDACTED]

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!
DO NOT: click links or open attachments unless you know the content is safe.
NEVER: provide credentials on websites via a clicked link in an Email.

Hello,

I am in the process of applying for a psychologist license in California (having recently moved to this state in May 2020), and have been working with licensing analyst, Troy Polk. I have been a licensed psychologist in the state of Pennsylvania since June 2018 and continue to hold a valid licence there. After submitting supporting documents for licensing in CA, a total of **1,500 predoctoral hours** have been accepted and a total of **1,188 postdoctoral hours** have been accepted. I am in need of an additional **312 hours** of SPE to meet the CA requirement, which I am ready and able to complete; however, I am beyond the 30 month timeframe (postdoctoral start date was 7/26/16).

I am reaching out to request an extension so that I can complete these required 312 hours and continue the process of licensure here. My timeline would be completion of those 312 hours within a 6 month period. I do hold a full-time faculty appointment here in CA, but will be able to devote the time to this task as licensure is a priority. My hope is that having a current license in another state (and having just relocated to CA this past May), will allow me the option of this extension. Achieving licensure in CA in the near future will support my goal of part-time clinical work during this much needed time.

Please find attached a copy of my PA license [REDACTED] for your reference. If there is anything else that you require, I would be happy to provide any supplemental documentation to assist with this request.

Thank you for the consideration and I appreciate the time.

Take care,

[REDACTED]

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (a)(1) – SB 401 (Pan) Psychology: unprofessional conduct: disciplinary action: sexual acts

Background:

In early 2019, Senator Pan carried SB 275 to amend Sections 2960 and 2960.1. Given the COVID-19 pandemic and the request from leadership to minimize the bill load, SB 275 was amended and became a bill about Personal Protective Equipment.

Consequently, in December 2020, Board staff contacted Senator Pan's office to ask whether he would consider carrying legislation pertaining to this issue. In February of this year, Senator Pan agreed to carry the bill, and introduced SB 401 - Psychology: unprofessional conduct: disciplinary action: sexual acts.

Under current law, when an investigation finds that a psychologist had sexual contact with a client (patient or client) or former client within two years of termination of therapy, the proposed decision (discipline) that the Administrative Law Judge (ALJ) recommends to the Board of Psychology (Board) for adoption must include a recommendation for an order of revocation. The Board maintains ultimate adjudicatory discretion over the adoption of the final discipline against a licensee, but current law ensures that in instances sexual contact (including sexual intercourse), revocation must be the discipline recommended by an ALJ.

Note: Current law defines sexual contact as meaning "the touching of an intimate part of another person." (Business and Professions Code section 728.) Additionally, current law defines an intimate part as "the sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

The Board proposes adding "sexual behavior" to Section 2960 of the Business and Professions Code (BPC) due to the Board's experiences adjudicating cases involving inappropriate sexual conduct that did not meet the current definition of "sexual contact," which left the Board hamstrung in achieving appropriate discipline for sexual behavior antithetical to the psychotherapist-client relationship. It made it exceedingly difficult to achieve disciplinary terms that matched the egregiousness of the acts.

The Board believes that sexual behavior in the psychotherapist-client relationship by the licensed professional is one of the most flagrant ethical violations possible, as it violates the duty of care inherent in a therapeutic relationship, abuses the trust of the client, and can create harmful, long-lasting emotional and psychological effects.

The Board wants to ensure that egregious sexual behavior with a client, sexual misconduct, and sexual abuse is unprofessional conduct that merits the highest level of discipline. Therefore, this proposal would add sexual behavior (inappropriate actions and communication of a sexual nature for the purpose of sexual arousal, gratification, exploitation, or abuse) with a client or former client to the list of what is considered unprofessional conduct that would give the ALJ the statutory authority in a proposed decision, to include an order of revocation. The proposal also adds clear definitions to the following sexual acts: sexual abuse, sexual behavior, sexual contact, and sexual misconduct. Note: this would not change or diminish the Board's adjudicatory discretion as to the final discipline.

Under this proposal, sexual behavior would be defined as "inappropriate contact or communication of a sexual nature for the purpose of sexual arousal, gratification, exploitation, or abuse. 'Sexual behavior' does not include the provision of appropriate therapeutic interventions relating to sexual issues."

Examples of sexual behaviors include, but are not limited to:

- kissing a client,
- touching or exposing oneself inappropriately,
- sending sexually suggestive or sexually explicit texts (sexting), messages or emails to a client, and
- sending clients photos that include nudity, genitals, or sexually suggestive poses

On 3/19/2021 the Legislative and Regulatory Affairs Committee voted to recommend the Board **Support** SB 401. The Board voted to approve the Legislative and Regulatory Affairs Committee's recommendation to support SB 401 on 4/2/2021.

On 3/22/2021, SB 401 passed out of the Senate Business, Professions, and Economic Development Committee with a vote of 14-0.

On 4/22/2021, SB 401 passed on the Senate Floor on the Consent Calendar (Ayes: 38; Noes: 0) and was ordered to the Assembly.

On 5/25/2021, Board staff was notified that given the bill reduction directive this year, SB 401 will be a 2-year bill.

Location: Assembly Rules

Status: 6/17/2021 In the Assembly. Re-referred to Com. on RLS. pursuant to Assembly Rule 96.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: Board Letter of Support

Attachment B: Senate Floor Analysis

Attachment C: SB 401 (Pan) Bill text

April 12, 2021

The Honorable Anthony Portantino
Chair, Senate Committee on Appropriations
State Capitol, Room 2206
Sacramento, CA 95814

RE: **SB 401 (Pan) – Psychologist: unprofessional conduct: disciplinary action: sexual acts – SPONSOR**

Dear Senator Portantino:

The Board of Psychology (Board) is pleased to **SPONSOR** SB 401 (Pan). This bill would add sexual behavior (inappropriate actions and communication of a sexual nature for the purpose of sexual arousal, gratification, exploitation, or abuse) with a client or former client to the list of what is considered unprofessional conduct that would give the Administrative Law Judge (ALJ) the statutory authority in a proposed decision, to include an order of revocation. The proposal also adds clear definitions to the following sexual acts: sexual abuse, sexual behavior, sexual contact, and sexual misconduct. This amendment would not change or diminish the Board's adjudicatory discretion as to the final discipline.

The Board estimates that minor and absorbable costs might be incurred due to SB 401. The bill would change the terms of the proposed decision by an ALJ but would not change the Board's investigation of the allegations nor the adjudicatory process once an accusation is filed against a licensee. Additionally, the Board has no basis upon which to estimate whether a licensee would be more or less likely to appeal the decision or surrender their license in lieu of revocation.

Pursuant to Business and Professions Code (BPC) Section 2960.1, when an investigation finds that a psychologist had sexual contact with a client (patient or client) or former client within two years of termination of therapy, the proposed decision (discipline) that the ALJ recommends to the Board of Psychology (Board) for adoption must include a recommendation for an order of revocation. The Board maintains ultimate adjudicatory discretion over the adoption of the final discipline against a licensee, but current law ensures that in instances sexual contact (including sexual intercourse), revocation must be the discipline recommended by an ALJ. Current law defines sexual contact as meaning "the touching of an intimate part of another person." (Business and Professions Code section 728.) Additionally, current law defines an intimate part as "the sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

The Board believes that sexual behavior in the psychotherapist-client relationship by the licensed professional is one of the most flagrant ethical violations possible, as it violates the duty of care inherent in a therapeutic relationship, abuses the trust of the client, and can create harmful, long-lasting emotional and psychological effects.

The Board wants to ensure that egregious sexual behavior with a client, sexual misconduct, and sexual abuse is unprofessional conduct that merits the highest level of discipline. Therefore, this proposal would add sexual behavior (inappropriate actions and communication of a sexual nature for the purpose of sexual arousal, gratification, exploitation, or abuse) with a client or former client to the list of what is considered unprofessional conduct that would give the ALJ the statutory authority in a proposed decision, to include an order of revocation. The proposal also adds clear definitions to the following sexual acts: sexual abuse, sexual behavior, sexual contact, and sexual misconduct.

The Board sponsored SB 401 due to the Board's experiences adjudicating cases involving inappropriate sexual conduct that did not meet the current definition of sexual contact and therefore did not require the ALJ to recommend revoking the license. Under this proposal, sexual behavior would be defined as "inappropriate contact or communication of a sexual nature for the purpose of sexual arousal, gratification, exploitation, or abuse. "Sexual behavior" does not include the provision of appropriate therapeutic interventions relating to sexual issues."

Examples of sexual behaviors include, but are not limited to:

- kissing a client,
- touching or exposing oneself inappropriately,
- sending sexually suggestive or sexually explicit texts (sexting), messages or emails to a client, and
- sending clients photos that include nudity, genitals, or sexually suggestive poses

The Board is cognizant that during psychotherapy, and especially during therapeutic interventions related to sexual issues, there will be in-depth discussions and communications of a sexual nature with the client. When these discussions are a part of appropriate and documented therapeutic interventions, these communications would not be considered sexual behavior under SB 401.

The Board believes that inappropriate sexual behavior with a client is sexual misconduct and should be prosecuted and adjudicated as such. SB 401 (Pan) would close a loophole in current law and treat sexual behavior between a psychologist and client as the sexual misconduct it is.

For these reasons, the Board asks for your support of SB 401 (Pan) when it is heard in the Senate Committee on Appropriations. If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (925) 325-0157. Thank you.

Sincerely,



Seyron Foo
President, Board of Psychology

cc: Senator Patricia Bates (Vice Chair)
Members of the Senate Committee on Appropriations
Senator Richard Pan, MD
Samantha Lui, Consultant, Senate Committee on Appropriations
Amanda Richie, Consultant, Senate Republican Caucus

CONSENT

Bill No: SB 401
Author: Pan (D)
Amended: 3/4/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 3/22/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado,
Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Psychology: unprofessional conduct: disciplinary action: sexual
acts

SOURCE: Board of Psychology

DIGEST: This bill revises and recasts the circumstances under which specified
sexual acts constitute unprofessional conduct

ANALYSIS:

Existing law:

- 1) Requires that protection of the public to be the Board of Psychology's (Board) highest priority in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 2920.1)
- 2) Requires any psychotherapist or employer of a psychotherapist who becomes aware through a client that the client had alleged sexual intercourse, sexual behavior, or sexual contact with a previous psychotherapist during the course of a prior treatment to provide a brochure to the client that delineates the rights of, and remedies for, clients who have been involved sexually with their

psychotherapists. Requires the psychotherapist or employer to discuss the brochure with the client. (BPC § 728 (a))

- 3) Defines, for purposes of the brochure, “sexual contact” as the touching of an intimate part of another person, and “sexual behavior” as inappropriate contact or communication of a sexual nature. “Sexual behavior” does not include the provision of appropriate therapeutic interventions relating to sexual issues. (BPC § 728 (c)(2))
- 4) Authorizes the Board to suspend or revoke the registration or license of any registrant or licensee found guilty of unprofessional conduct, which includes any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions, or duties of a psychologist, psychological assistant, or registered psychologist. (BPC § 2960 (o))
- 5) Requires any proposed decision or decision issued under the Psychology Licensing Law that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact with a patient, or with a former patient within two years following termination of therapy, contain an order of revocation. The revocation shall not be stayed by the administrative law judge (ALJ). (BPC § 2960.1)

This bill:

1) Defines for purposes of this bill:

- a) “Sexual abuse” to mean “the touching of an intimate part of a person by force or coercion;
- b) “Sexual behavior” to mean inappropriate physical contact or communication of a sexual nature with a client or a former client for the purposes of sexual arousal, gratification, exploitation, or abuse,” but does not include the provision of appropriate therapeutic intervention relating to sexual issues;
- c) “Sexual contact” to mean the touching of an intimate part of a client or a former client; and,
- d) “Sexual misconduct” to mean inappropriate conduct or communication of a sexual nature that is substantially related to the qualifications, functions, or

duties of a psychologist, psychological assistant, or registered psychologist.

- 2) Clarifies that any act of sexual contact, as defined, including with a patient or with a former patient within two years following termination of therapy, is unprofessional conduct, as specified.
- 3) States that a proposed or issued decision that contains a finding that the licensee or registrant engaged in an act of sexual abuse, sexual behavior, or sexual misconduct, as defined, may contain an order of revocation.
- 4) Makes other technical and clarifying changes.

Background

Board of Psychology. The Board regulates licensed psychologists, registered psychological assistants, and registered psychologists. Under current law, when an investigation finds that a psychologist had sexual contact with a client (patient or client) or former client within two years of termination of therapy, the proposed decision to impose discipline that the Administrative Law Judge (ALJ) recommends to the Board must include a recommendation for an order of revocation. The Board maintains ultimate adjudicatory discretion over the adoption of the final discipline against a licensee, but current law ensures that in instances of sexual intercourse and sexual contact, revocation must be the discipline recommended by an ALJ.

Current law defines sexual contact as “sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse”. Additionally, current law defines an intimate part as “the sexual organ, anus, groin, or buttocks of any person, and the breast of a female”.

Under current law, when an investigation finds that there were egregious sexual behaviors between a psychologist and a client during or within two years of termination of therapy, these cases do not count as sexual misconduct and the requirement for the ALJ’s proposed decision to include a recommendation of revocation does not apply. Since the law is not clear on how sexual behaviors should be prosecuted and adjudicated, the Board has historically had to prosecute and adjudicate these cases as boundary violations with a resulting discipline of placing the licensee on probation with different terms and conditions including such terms as continuing education or coursework related to the ethical breach involved in the acts.

In 2019, the Board pursued similar legislation that would have also defined “sexual behavior” as inappropriate contact or communication of a sexual nature – and would have also required an ALJ’s proposed decision to include an order of licensure revocation when there is a finding that a licensee of the Board of Psychology has engaged in sexual behavior short of sexual contact with a client during therapy, or within two years of termination of therapy.

Brochure. The DCA produces a consumer brochure entitled *Professional Therapy Never Includes Sex*, which the law requires a psychotherapist to provide to, and discuss with a client if the psychotherapist learns of inappropriate contact between the client and a previous psychotherapist. This brochure was updated in 2018 (AB 2968, Levine, Chapter 778, Statutes of 2018), to define and include “sexual behavior” between a client and a previous psychotherapist. This bill adds to the definition of “sexual behavior,” to include that “sexual behavior” be made by the psychotherapist “for the purpose of sexual arousal, gratification, exploitation, or abuse.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 4/20/21)

Board of Psychology (source)

OPPOSITION: (Verified 4/20/21)

None received

ARGUMENTS IN SUPPORT: The Board of Psychology writes that it “believes that sexual behavior in the psychotherapist-client relationship by the licensed professional is one of the most flagrant ethical violations possible, as it violates the duty of care inherent in a therapeutic relationship, abuses the trust of the client, and can create harmful, long-lasting emotional and psychological effects...The Board wants to ensure that egregious sexual behavior with a client, sexual misconduct, and sexual abuse is unprofessional conduct that merits the highest level of discipline...The Board is cognizant that during psychotherapy, and especially during therapeutic interventions related to sexual issues, there will be in-depth discussions and communications of a sexual nature with the client. When these discussions are a part of appropriate and documented therapeutic interventions,

these communications would not be considered sexual behavior under SB 401...The Board believes that inappropriate sexual behavior with a client is sexual misconduct and should be prosecuted and adjudicated as such.”

Prepared by: Sarah Mason / B., P. & E.D. /
4/21/21 15:12:15

****** END ******

SB-401 Psychology: unprofessional conduct: disciplinary action: sexual acts.
As Amends the Law Today – August 10, 2021

SECTION 1.

Section 2960 of the Business and Professions Code is amended to read:

2960.

The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

- (a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.
- (b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to ~~himself or herself,~~ *oneself*, any other person, or the public, or to an extent that this use impairs ~~his or her~~ *their* ability to perform the work of a psychologist with safety to the public.
- (c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.
- (d) Impersonating another person holding a psychology license or allowing another person to use ~~his or her~~ *their* license or registration.
- (e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.
- (f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.
- (g) Violating Section 17500.
- (h) Willful, unauthorized communication of information received in professional confidence.
- (i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.
- (j) Being grossly negligent in the practice of ~~his or her~~ *their* profession.
- (k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.
- (l) The aiding or abetting of any person to engage in the unlawful practice of psychology.
- (m) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to practice psychology or as a psychological assistant issued by that state or country to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.
- (n) The commission of any dishonest, corrupt, or fraudulent act.

(o) (1) Any act of sexual abuse or sexual misconduct.

(2) Any act of sexual behavior or sexual contact with a client or former client within two years following termination of therapy.

(3) For purposes of this section, the following definitions apply:

(A) "Sexual abuse" means the touching of an intimate part of a person by force or coercion.

(B) "Sexual behavior" means inappropriate physical contact or communication of a sexual nature with a client or a former client for the purpose of sexual arousal, gratification, exploitation, or abuse. "Sexual behavior" does not include the provision of appropriate therapeutic interventions relating to sexual issues.

(C) "Sexual contact" means the touching of an intimate part of a client or a former client.

~~(e) (D) Any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct~~ "Sexual misconduct" means inappropriate conduct or communication of a sexual nature that is substantially related to the qualifications, functions, or duties of a psychologist or psychologist, psychological assistant, or registered psychologist.

(p) Functioning outside of ~~his or her~~ their particular field or fields of competence as established by ~~his or her~~ their education, training, and experience.

(q) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the board.

(r) Repeated acts of negligence.

SEC. 2.

Section 2960.1 of the Business and Professions Code is amended to read:

2960.1.

Notwithstanding Section 2960, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 2960, ~~when that act is with a patient, or with a former patient within two years following termination of therapy, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.~~ 2960, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge. A proposed or issued decision that contains a finding that the licensee or registrant engaged in an act of sexual abuse, sexual behavior, or sexual misconduct, as those terms are defined in Section 2960, may contain an order of revocation.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (a)(2) - Pathways to Licensure Statutory Revisions – Amendments to sections 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2942, 2944, 2946, and 2960 of the Business and Professions Code, and section 1010 of the Evidence Code

Background:

Requested legislative amendments to sections 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2942, 2944, 2946, and 2960 of the Business and Professions Code, and section 1010 of the Evidence Code were provided to the Senate and Assembly Business and Professions committees along with the Board's Sunset Report and COVID supplemental as a follow up to the Committee's request for section changes last year.

On 7/7/2021, amendments were made to SB 801 to incorporate the Board of Psychology. These amendments include extension of the Board's sunset date to January 1, 2026. The only requested amendments that were not incorporated into the bill text were the waiver authority and the temporary practice clarification.

SB 801 is currently in the Assembly Appropriations Committee. As of the date of this memo, a hearing date has not been set. The Board has submitted a letter of support to the Assembly Appropriations Committee.

Action Requested:

This is for informational purposes only. No action is required at this time.

ISSUE MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (a)(3) - Sunset Provisions – Amendments to section 2912, and Addition of Sections Related to Reinstatement to Active after Voluntary Surrender, Licensure Committee Delegated Authority, and Authority to Issue Waivers

Background:

Requested legislative changes regarding Business and Professions Code Section 2912, and Addition of Sections Related to Reinstatement to Active after Voluntary Surrender, Licensure Committee Delegated Authority, and Authority to Issue Waivers were provided to the Senate and Assembly Business and Professions committees along with the Board's Sunset Report and COVID supplemental.

On 7/7/2021, amendments were made to SB 801 to incorporate the Board of Psychology. These amendments include extension of the Board's sunset date to January 1, 2026. The only requested amendments that were not incorporated into the bill text were the waiver authority and the temporary practice clarification.

SB 801 is currently in the Assembly Appropriations Committee. As of the date of this memo, a hearing date has not been set. The Board has submitted a letter of support to the Assembly Appropriations Committee.

Action Requested:

This is for informational purposes only. No action is required at this time.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(1)(A) – AB 32 (Aguiar-Curry) Telehealth

Background:

This bill would require the State Department of Health Care Services to indefinitely continue the telehealth flexibilities put in place during the COVID-19 pandemic state of emergency. The bill would require the department, by January 2022, to convene an advisory group with specified membership to provide input to the department on the development of a revised Medi-Cal telehealth policy that promotes specified principles. The bill would require the department, by December 2024, to complete an evaluation to assess the benefits of telehealth in Medi-Cal, including an analysis of improved access for patients, changes in health quality outcomes and utilization, and best practices for the right mix of in-person visits and telehealth. The bill would require the department to report its findings and recommendations from the evaluation to the appropriate policy and fiscal committees of the Legislature no later than July 1, 2025.

On 3/19/2021, the Legislative and Regulatory Affairs Committee voted to recommend the Board take a **Support** position on AB 32 (Aguiar-Curry).

On 4/2/2021, the Board adopted the Legislative and Regulatory Affairs Committee's recommendation to **Support** AB 32 (Aguiar-Curry).

Location: Senate Health

Status: 7/8/2021. Set for hearing in Senate Health on 7/14/2021. Hearing canceled at the request of the author.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: Board Letter of Support
Attachment B: Senate Health Committee Analysis
Attachment C: AB 32 (Aguiar-Curry) Bill Text

July 1, 2021

The Honorable Richard Pan
Chair, Senate Committee on Health
State Capitol, Room 2191
Sacramento, CA 95814

RE: AB 32 (Aguiar-Curry) – Telehealth - SUPPORT

Dear Senator Pan:

The Board of Psychology protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession.

At its April 2, 2021 meeting, the Board of Psychology (Board) adopted a **SUPPORT** position on AB 32 (Aguiar-Curry). This bill would require the State Department of Health Care Services to indefinitely continue the telehealth flexibilities in place during the COVID-19 pandemic state of emergency. The telehealth flexibilities implemented during the COVID-19 pandemic have increased access to care and we applaud these efforts.

The Board asks for your support of AB 32 (Aguiar-Curry) when it is heard in the Senate Committee on Health. If you have any questions or concerns, please feel free to contact the Board's Central Services Manager, Jason Glasspiegel, at (916) 574-7137 or Jason.glasspiegel@dca.ca.gov. Thank you.

Sincerely,



Seyron Foo
President, Board of Psychology

cc: Senator Melissa Melendez (Vice Chair)
Members of the Senate Committee on Health
Melanie Moreno, Staff Director, Senate Committee on Health
Senate Republican Caucus

SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

BILL NO: AB 32
AUTHOR: Aguiar-Curry
VERSION: May 24, 2021
HEARING DATE: July 14, 2021
CONSULTANT: Teri Boughton

SUBJECT: Telehealth

SUMMARY: Expands the definition of telehealth to include telephone and other virtual communication. Requires medical groups delegated by health plans to comply with telehealth payment parity. Extends telehealth payment parity to Medi-Cal managed care and allows remote eligibility determinations, enrollment, and recertification for Medi-Cal and specified Medi-Cal programs. Requires the Department of Health Care Services to convene a telehealth policy advisory committee and conduct an evaluation of the benefits of telehealth. Makes other policy changes related to telehealth reimbursement for federally qualified health centers, rural health centers and other Medi-Cal enrolled clinics.

Existing law:

- 1) Requires before the delivery of health care via telehealth, the health care provider initiating the use of telehealth to inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health, and requires the consent to be documented. [BPC §2290.5]
- 2) Defines “telehealth” as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. [BPC §2290.5]
- 3) Defines “Synchronous interaction” as a real-time interaction between a patient and a health care provider located at a distant site. [BPC §2290.5]
- 4) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act); California Department of Insurance (CDI) to regulate health and other insurance; and, the Department of Health Care Services (DHCS) to administer the Medi-Cal program. [HSC §1340, et seq., INS §106, et seq., and WIC §14000, et seq.]
- 5) Requires a contract between a health plan/health insurer and a health care provider to specify that the health plan/health insurer reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care plan/insurer is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment (referred to as telehealth payment parity requirements). [HSC §1374.14 and INS §10123.855]

- 6) Establishes the Health Care Providers' Bill of Rights, which specifies specified contract terms between health plans/insurers and health care providers, including that a plan/dental insurer does not have the authority to change a material term of the contract, unless the change has first been negotiated and agreed to by the provider and the plan/dental insurer, as specified. [HSC §1375.7 and INS §10133.65]
- 7) Exempts counties contracting with DHCS for the Medi-Cal managed care expansion to rural counties from the Knox-Keene Act. [WIC §14087.95]
- 8) Requires a FQHC or RHC "visit" to mean a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse, and other providers, as specified. [WIC §14132.100]
- 9) Prohibits face-to-face contact or a patient's physical presence on the premises to be required for services provided by an enrolled community clinic to a Medi-Cal beneficiary during or immediately following a state of emergency, as described in existing law.[WIC §14132.723]
- 10) Requires the following services to be reimbursable when provided by an enrolled community clinic, an enrolled FFS Medi-Cal program provider, clinic, or facility approved by DHCS during or immediately following a state of emergency for any dates of service on or after the date that the department obtains federal approvals and federal matching funds to implement these provisions:
 - a) Telehealth services, including services provided by the enrolled community clinic or approved enrolled provider, clinic, or facility at a distant site location, whether on or off the premises, to a Medi-Cal beneficiary located at an originating site, which includes the beneficiary's home, temporary shelter, or any other location, if the services are provided somewhere located within the boundaries of the proclamation declaring the state of emergency.
 - b) Telephonic services.
 - c) Covered benefit services that are otherwise reimbursable to an FQHC or RHC, but that are provided somewhere off the premises, including, but not limited to, at a temporary shelter, a Medi-Cal beneficiary's home, or any location other than the premises, but within the boundaries of the proclamation declaring the state of emergency. [WIC §14132.723]
- 11) Requires DHCS to ensure its reimbursement policies reflect the intent of the Legislature to authorize reimbursement for telehealth services appropriately provided by an enrolled community clinic, or, if approved by DHCS, by an enrolled FFS Medi-Cal provider, clinic, or facility, respectively, during or immediately following a state of emergency. This does not limit reimbursement for, or coverage of, or reduce access to, services provided through telehealth on or before the enactment of this section. [WIC §14132.723]

This bill:

- 1) Revises the definition of "synchronous interaction" to include, but not be limited to, audio-video, audio only, such as telephone, and other virtual communication.
- 2) Requires if a health plan/health insurer delegates responsibility to a contracted entity, including a medical group or independent practice association, then the delegated entity must

comply with telehealth payment parity requirements pursuant to existing law.

- 3) Requires the obligation of a health plan/health insurer to comply with telehealth payment parity requirements pursuant to existing law not to be waived if the plan/insurer delegates services or activities that the plan/insurer is required to perform to its provider or another contracting entity. Requires a plan's/insurer's implementation to be consistent with the requirements of the Health Care Providers' Bill of Rights, and a material change in the obligations of a plan's/insurer's contracting network providers to be considered a material change to the provider contract, as specified.
- 4) Requires a county contracting with DHCS for the Medi-Cal managed care expansion to rural counties, and a subcontractor of a county contracting to provide Medi-Cal services, to comply with telehealth payment parity requirements.
- 5) Permits for the Family Planning, Access, Care, and Treatment, Presumptive Eligibility for Pregnant Women, and Every Woman Counts programs, a provider to enroll or recertify an individual remotely through telehealth and other virtual communication modalities, including telephone, based on the current Medi-Cal program eligibility form or forms applicable to the specific program.
- 6) Permits for the Medi-Cal Minor Consent program, a county eligibility worker to determine eligibility for, or recertify eligibility for, an individual remotely through virtual communication modalities, including telephone.
- 7) Permits DHCS to develop program policies and systems to support implementation of remote eligibility determination, enrollment, and recertification.
- 8) Permits DHCS to implement, interpret, or make specific this bill by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.
- 9) Defines "enrolled clinic" as a licensed clinic, intermittent clinic exempt from licensure, a hospital or nonhospital-based clinic operated by the state or any of its political subdivisions, including the University of California, or a city, county, city and county, or hospital authority, and a tribal clinic exempt from licensure, or an outpatient setting conducted, maintained, or operated by a federally recognized Indian tribe, tribal organization, or urban Indian organization, as defined in federal law.
- 10) Requires health care services furnished by a Medi-Cal enrolled clinic through telehealth to be reimbursed by Medi-Cal on the same basis, to the same extent, and at the same payment rate as those services are reimbursed if furnished in person.
- 11) Prohibits DHCS from restricting the ability of an enrolled clinic to provide and be reimbursed for services furnished through telehealth and having policies that require all of the clinical elements of a service to be met as a condition of reimbursement. Includes as prohibited restrictions all of the following:
 - a) Requirements for face-to-face contact between an enrolled clinic provider and a patient.
 - b) Requirements for a patient's or provider's physical presence at the enrolled clinic or any other location.

- c) Requirements for prior in-person contacts between the enrolled clinic and a patient.
 - d) Requirements for documentation of a barrier to an in-person visit or a special need for a telehealth visit.
 - e) Policies, including reimbursement policies, that impose more stringent requirements on telehealth services than equivalent services furnished in person.
 - f) Limitations on the means or technologies through which telehealth services are furnished. This paragraph does not prohibit policies that require compliance with applicable federal and state health information privacy and security laws.
- 12) Includes in the definition of “visit” for purposes of Medi-Cal reimbursement of FQHCs and RHCs a telehealth encounter to the same extent as an in-person encounter.
- 13) Requires Medi-Cal managed care plans to comply with telehealth payment parity requirements. Prohibits Medi-Cal managed care plans from being required to pay FQHCs and RHCs the same amount for audio-only telehealth visits as equivalent in-person visits on or after January 1, 2025. Applies this to the extent consistent with federal Medicaid requirements that a managed care plan provide payment for services furnished by a FQHC and RHC that is not less than the level and amount of payment the managed care plan would make for the services if the services were furnished by a provider that is not a FQHC or RHC.
- 14) Requires DHCS to seek any necessary federal approvals and obtain federal financial participation (FFP) in implementing this bill, and this bill to be implemented only to the extent that any necessary federal approvals are obtained and FFP is available and not otherwise jeopardized.
- 15) Requires DHCS to reimburse each FQHC and RHC for health care services furnished through audio-only telehealth, including telephone, at the applicable prospective payment system per-visit rate, consistent with this bill, until the earlier of January 1, 2025, or the date that the FQHC or RHC elects to participate in an alternative payment methodology (APM) described 23) below.
- 16) Requires mental health services that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver, furnished through audio-only telehealth, to continue to be reimbursed at the applicable prospective payment system per-visit rate indefinitely, except if the FQHC or RHC elects an APM that covers those services.
- 17) Requires by January 2022, DHCS to convene an advisory group to provide input to DHCS on the development of a revised Medi-Cal telehealth policy that promotes all of the following principles:
- a) Telehealth shall be used as a means to promote timely and patient-centered access to health care.
 - b) Patients, in conjunction with their providers, shall be offered their choice of service delivery mode. Patients shall retain the right to receive health care in person.
 - c) Confidentiality and security of patient information shall be protected.

- d) Usual standard of care requirements shall apply to services provided via telehealth, including quality, safety, and clinical effectiveness.
- 18) Requires the advisory group to include representatives from community health centers, designated public hospitals, Medi-Cal managed care plans, consumer groups, labor organizations, behavioral health providers, counties, health care districts, and other Medi-Cal providers. Requires DHCS to utilize any potential federal funding or other nonstate general funding that may be available to support this effort.
- 19) Requires DHCS to consider disparities in the utilization of, and access to, telehealth, and to support patients and providers in increasing access to the technologies needed to use telehealth.
- 20) Requires when the care provided during a telehealth visit is commensurate with what would have been provided in person, payment to also be commensurate.
- 21) Requires by July 2024, DHCS to complete an evaluation to assess the benefits of telehealth in Medi-Cal. Requires the evaluation to analyze improved access for patients, changes in health quality outcomes and utilization, and best practices for the right mix of in-person visits and telehealth, and DHCS to utilize any potential federal funding or other nonstate general funding that may be available to support the implementation of this effort.
- 22) Requires DHCS to provide data and information to the evaluator, as appropriate, and report its findings and recommendations on the evaluation to the appropriate policy and fiscal committees of the Legislature no later than October 31, 2024.
- 23) Requires DHCS, in consultation with affected stakeholders, including, but not limited to, the California Association of Public Hospitals and Health Systems and the California Primary Care Association, to develop one or more federally permissible APM, consistent with federal law, that FQHCs and RHCs may elect to participate in.
- 24) Requires the APMs to be designed to enable the continued provision of high-quality health care, while furthering the goals of the Medi-Cal program to improve access and equity, and incentivize and support clinic infrastructure improvements.
- 25) Requires to the extent that an APM includes a separate per-visit payment rate for audio-only telehealth visits, that payment rate to be less than the rate the FQHC and RHC receives for an in-person visit. Exempts mental health services furnished through audio-only telehealth that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver.
- 26) Requires DHCS to submit and seek federal approval of the state plan amendment necessary for the implementation to be effective no later than January 1, 2025, and this to be implemented only to the extent that any necessary federal approvals are obtained and FFP is available and not otherwise jeopardized.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

- 1) The California Health Benefits Review Program (CHBRP) states that some telehealth services replace existing in-person visits, while others are new supplemental visits that would

not have taken place in the absence of telehealth coverage. As the supplemental visits increase overall utilization of health care services, this bill increases health care costs as follows:

- a) Total state costs as follows:
 - i) \$136.5 million total funds (\$49 million General Fund (GF)) to Medi-Cal managed care. \$24.5 million of this total funds cost (\$9 million GF) is attributable to the increase in coverage and payment parity requirements for telehealth services provided by FQHCs and RHCs. The General Fund calculation assumes a FFP, or federal matching percentage of 64%, the same as that calculated for the Remote Patient Monitoring proposal in the Medi-Cal November 2020 Local Assistance Estimate.
 - ii) \$42.6 million (\$15 million GF) for services delivered to beneficiaries enrolled in Medi-Cal County Organized Health Systems and Medi-Cal fee-for-service (FFS).
 - iii) \$1.1 million to The California Public Employees' Retirement System (CalPERS) for premium increases, \$624,000 of which would be borne by the General Fund, federal funds and various special funds, with the remainder borne by local funds.
 - b) Total non-state costs as follows:
 - i) \$39.6 million in commercial health care premium increases paid by non-CalPERS employers.
 - ii) \$21.9 million in premium increases, and \$41.7 million in increased cost-sharing, paid by individuals and employees.
 - c) CHBRP does not identify cost offsets or savings as a result of this bill because it requires payment parity with in-person services and results in increased utilization. CHBRP notes it is unlikely the actual cost of staff, technology and resources used to deliver services via telehealth are less expensive than in-person care.
- 2) There is a significant amount of uncertainty related to cost estimates. Costs may be higher or lower than estimated by CHBRP. In particular, DHCS estimates potential costs due to the payment parity requirement are indeterminate but could be as high as \$300 million total funds annually (about \$100 million GF annually), higher than CHBRP estimates.
 - 3) Administrative costs to DHCS to develop an alternative payment methodology for clinics, likely in the hundreds of thousands of dollars (GF and federal funds). To implement SB 147 (Hernandez), Chapter 760, Statutes of 2015, a prior bill that authorized a pilot project to deploy an alternative payment methodology for FQHCs, DHCS requested three-year limited-term positions and spending authority of \$240,000 per year for three years and a \$300,000 contract for evaluation
 - 4) One-time staff or contract costs to DHCS of \$50,000 (GF and federal funds) to support facilitation of an advisory board to provide input to telehealth policies. Costs would be higher if the facilitator was asked to draft recommendations or policies.

- 5) Unknown potential Medi-Cal costs for increased number of beneficiaries associated with the option for remote eligibility determinations and recertifications, which should reduce the frictional costs of gaining and retaining Medi-Cal eligibility (GF and federal funds)

PRIOR VOTES:

Assembly Floor:	78 - 0
Assembly Appropriations Committee:	16 - 0
Assembly Health Committee:	13 - 0

COMMENTS:

- 1) *Author's statement.* According to the author, the COVID-19 pandemic has made abundantly clear what we have known for decades – our most vulnerable and marginalized communities continue to struggle for affordable and reliable access to healthcare. This bill will extend the telehealth flexibilities that were put in place during the COVID-19 pandemic, which have been vital to ensuring that health centers can continue providing services. More specifically this bill will ensure that telehealth, including telephonic and video care, are available to patients regardless of who they are, their insurance, what language they speak, or the barriers they may face, such as geographic, transportation, childcare, or the ability to take time off from work.
- 2) *COVID-19 emergency.* On March 11, 2020 the novel Coronavirus (COVID-19) was declared a global pandemic which set in motion declared public health emergencies across the United States. The COVID-19 outbreak was declared a national emergency on March 13, 2020, and was previously declared a nationwide public health emergency on January 31, 2020 (retroactive to January 27, 2020). On March 16, 2020 Governor Gavin Newsom announced that the state asked federal officials to make it easier for California to quickly and effectively provide care to about 13 million Medi-Cal beneficiaries as California works to protect the public from COVID-19. Specifically, the letter requested to ease certain federal rules governing doctors and other health care providers who treat people covered through Medi-Cal, and loosen rules regarding the use of telehealth and where care can be provided, making it simpler to protect seniors and other populations at high risk for harm if exposed to the virus. The DHCS letter to the federal Centers for Medicare & Medicaid Services (CMS) asked that the rules be waived under Section 1135 of the Social Security Act. The March 13th declared national emergency over COVID-19 allowed DHCS to seek the waiver. Under this authority and also through a California Medicaid State Plan amendment (SPA # 20-0024) was approved by CMS in May of 2020.
- 3) *DHCS Telehealth Policy.* According to DHCS, temporary policy changes during the COVID-19 public health emergency include:
 - a) Expanding the ability for providers to render all applicable Medi-Cal services that can be appropriately provided via telehealth modalities, including those historically not identified or regularly provided via telehealth such as home and community-based services, Local Education Agency and Targeted Case Management services;
 - b) Allowing most telehealth modalities to be provided for new and established patients
 - c) Allowing many covered services to be provided via telephone/audio-only for the first time;
 - d) Allowing payment parity between services provided in-person face-to-face, by synchronous telehealth, and by telephonic/audio only when the services met the

requirements of the billing code by various provider types, including FQHCs and RHCs in both FFS and managed care;

- e) Waiving site limitations for both providers and patients for FQHC and RHCs, which allows providers and/or beneficiaries to be in locations outside of the clinic to render and/or receive care, respectively; and,
- f) Allowing for expanded access to telehealth through non-public technology platforms. This “good faith” exemption was granted by the federal Office for Civil Rights, which would otherwise not be allowed under federal Health Insurance Portability and Accountability Act requirements.

Both physical and behavioral health providers responded rapidly to the COVID-19 public health emergency and widely pivoted to provide services via synchronous telehealth and telephonic/audio-only modalities. While telehealth has been available for decades as a promising solution to reduce barriers to care, utilization and adoption of these modalities has been historically slow. The COVID-19 public health emergency has led to the adoption of the use of telehealth modalities at an accelerated pace that had been unthinkable prior to the public health emergency. Providers quickly learned how to deliver a variety of services through new technology platforms, and Medi-Cal managed care plans learned how to reimburse those services

- 4) *California Health Benefits Review Program (CHBRP) analysis.* AB 1996 (Thomson, Chapter 795, Statutes of 2002) requests the University of California to assess legislation proposing a mandated benefit or service and prepare a written analysis with relevant data on the medical, economic, and public health impacts of proposed health plan and health insurance benefit mandate legislation. CHBRP was created in response to AB 1996, and reviewed this bill. Key findings include:

- a) *Coverage impacts and enrollees covered.* At baseline, 100% of enrollees with commercial or CalPERS health insurance that would be subject to this bill have coverage for live video telehealth services, whereas 80.4% of enrollees have coverage for telephone services. Approximately 7% of enrollees in CalPERS HMOs do not have benefit coverage for telehealth delivered via telephone. This bill would require commercial and CalPERS health plans and policies to provide new benefit coverage for telephone telehealth services for 19.6% of enrollees. At baseline, 100% of Medi-Cal managed care beneficiaries have existing benefit coverage for live video services. However, 73.5% of beneficiaries in DMHC-regulated Medi-Cal managed care plans have coverage for synchronous telephone services. This bill would require Medi-Cal managed care plans, County Organized Health Systems (COHS), and the FFS program to provide new benefit coverage for synchronous telephone services for 26.5% of beneficiaries.
- b) *Medical effectiveness.* Most studies pertinent to this analysis examine the use of telehealth modalities as a substitute for in-person care. In these cases, the relevant studies evaluated whether care provided via these technologies resulted in equal or better outcomes and processes of care than care delivered in person, and whether use of these technologies improved access to care. Some studies assessed the effects of telehealth as a supplement to in-person care; these studies evaluated whether adding these technologies improves processes of care and health outcomes relative to receiving in-person care alone. To examine whether services delivered via telehealth are of the same quality as in-person services, CHBRP examined three sets of outcomes: 1) health outcomes, including both physiological measures and patient-reported outcomes; 2) process of care outcomes,

including treatment adherence and accuracy of diagnoses and treatment plans; and 3) access to care and utilization outcomes, such as wait time for specialty care, or number of outpatient visits, emergency department visits, and hospitalizations. CHBRP found that evidence regarding whether telehealth modalities and services result in equal or better outcomes than care delivered in person is mixed, depending on the disease and condition, telehealth modality, and type of outcome studied: health outcomes, process of care, or use of other services. Because telehealth studies have only focused on a limited number of diseases and conditions, the findings may not be generalizable outside of the specific diseases and conditions studied.

- i) **For Live Video:** There is preponderance of evidence that care delivered by live video is at least as effective as in-person care for health outcomes for several conditions and health care settings, including infectious disease, obesity, diabetes, and abortion. There is clear and convincing evidence that mental health services for attention deficit/hyperactivity disorder (ADHD) depression, and posttraumatic stress disorder (PTSD) delivered by live video are at least as effective as in-person care for processes of care and health outcomes. There is clear and convincing evidence that dermatology diagnoses made via live video are as accurate as diagnoses made during in-person visits. There is a preponderance of evidence that scores on neurocognitive tests administered via live video are similar to scores obtained when tests are administered in person. Studies have also found diagnostic concordance between live video and in-person examination for shoulder disorders, otolaryngology, and fetal alcohol syndrome. There is a limited evidence that care delivered by live video is at least as effective as in-person care for access to care and utilization.
 - ii) **For Telephone:** For the diseases and conditions studied, the preponderance of evidence from studies of the effect of telephone consultations suggests that telephone consultations were at least as effective as in-person consultations on health outcomes. For the diseases and conditions studied, findings from studies of the effect of telephone consultations on processes of care and access to care and utilization are inconsistent; therefore, the evidence that medical care provided by telephone compared to medical care provided in person is inconclusive.
 - iii) **Comparing Live Video to Telephone:** There is a preponderance of evidence that behavioral health services delivered by live video are comparable to services delivered by telephone consultation on health outcomes. CHBRP found no studies that compared live video to telephone consultation on outcomes for processes of care and access to care and utilization of health services.
- c) *Utilization.* Of the new telehealth visits provided postmandate, CHBRP estimates that supplemental services will represent 50% of additional telehealth services and 50% will replace in-person care due to the ongoing effects of the pandemic and reticence by patients to seek in-person care.
- d) *Medi-Cal.* In addition to the estimated \$136,534,000 increase in premiums for the 8.05 million Medi-Cal beneficiaries enrolled in DMHC-regulated Medi-Cal managed care plans, a proportional increase of \$42.62 million is estimated to occur for the beneficiaries enrolled in COHS managed care and the FFS program. CHBRP assumes the two populations to be relatively similar and to have relatively similar benefit coverage. Of the \$136,534,000 increase in Medi-Cal managed care expenditures, \$134,005,000 would be due to parity requirements and \$2,529,000 would be due to new coverage of telehealth services. Additionally, of the \$136,534,000 increase in expenditures, \$24,450,000

(0.10%) would be due to the increase in coverage and parity requirements for telehealth services provided by FQHCs/RHCs.

- e) *Impact on expenditures.* This bill would increase total net annual expenditures by \$240,827,000, or 0.18%, for enrollees with DMHC-regulated plans, CDI-regulated policies, and DMHC-regulated Medi-Cal managed care plans. This is due to an increase in total health insurance premiums paid by DMHC-regulated large-group plans (\$0.29 per member per month [PMPM]), small-group plans (\$0.77 PMPM), individual market plans (\$0.20 PMPM), CalPERS HMOs (\$0.13 PMPM), Medi-Cal managed care plans for age under 65 years (\$1.42 PMPM), Medi-Cal managed care for ages 65 and over (\$1.41 PMPM), CDI-regulated large-group (\$1.32 PMPM), and CDI-regulated individual market (\$0.95 PMPM) policies. The largest increases in expenditures were in Medi-Cal managed care for age under 65 (0.63%), Medi-Cal managed care for age 65+ (0.30%), and CDI-regulated large group (0.26%). CHBRP does not project any cost offsets or savings in expenditures that would result because of the enactment of provisions in this bill.
 - f) *Public health.* This bill would increase access to health care by reducing transportation barriers to in-person care by covering telephone (audio only) visits. This bill would also increase health care options and reduce travel costs and travel time for those enrollees who use the newly covered telephonic visits or reimbursable live video visits with FQHC/RHC providers. These enrollees and Medi-Cal beneficiaries may have equivalent or better outcomes (compared with in-person care) because they would no longer delay or avoid in-person visits because of travel difficulties. For those rural (and some urban) enrollees and Medi-Cal beneficiaries who have no broadband connectivity (due to lack of infrastructure in remote areas or cost of service or devices), a landline telephone would remain a viable telehealth modality, resulting in equivalent or better outcomes (compared with in-person care).
- 5) *FQHC and RHC APM Pilot.* SB 147 (Hernandez, Chapter 760, Statutes of 2015) authorized a three-year APM pilot program for county and community-based FQHCs willing to participate in the pilot program. The purpose of SB 147 to incentivize delivery system and practice transformation at FQHCs through flexibilities available under a capitated model which would move the clinics away from the traditional volume-based, PPS, to a payment methodology that better aligns the evolving financing and delivery of health services. The proposed APM structure provides participating FQHCs the flexibility to deliver care in the most effective manner, without having to worry about the more restrictive traditional billing structure that is in place today. With the flexibility of payment reform, FQHCs will begin to provide and/or expand upon the innovative forms of care which are not reimbursed under traditional volume-based PPS. This pilot has not been implemented.
- 6) *Budget Act of 2021-22.* As part of the budget, DHCS requested trailer bill language to extend permanent flexibilities for the delivery of certain Medi-Cal benefits through telehealth, telephonic/audio-only, remote patient monitoring, and other virtual communication modalities, to establish a rate for audio-only telehealth services at 65% of the FFS rate, and a comparable alternative to the prospective payment system rates for clinics to maintain an incentive for in-person care. This issue was rejected by the Senate Budget Health and Human Services Subcommittee #3 and instead the subcommittee adopted modified placeholder trailer bill language to align with the provisions of this bill.

- 7) *Related legislation.* AB 133 (Assembly Committee on Budget), *pending in the Senate Committee on Budget and Fiscal Review*, and SB 133 (Senate Committee on Budget and Fiscal Review), *pending in the Assembly Committee on Budget*, are omnibus health trailer bills, that include a requirement that DHCS seek federal approvals to extend the Public Health Emergency-approved flexibilities related to the delivery and reimbursement of services via telehealth modalities until December 31, 2022, and convene an advisory group to provide recommendations to inform DHCS on establishing and adopting billing and utilization management protocols for telehealth modalities. AB 133/SB 133 also authorize DHCS to enter into contracts or amend existing contracts, for purposes of implementing these provisions and exempts those contracts from specified provisions of law.
- 8) *Prior legislation.* AB 2164 (Robert Rivas of 2020) would have required a "visit" for purposes of reimbursement by Medi-Cal to include a visit by an FQHC/RHC patient and a health care provider using telehealth through synchronous interaction (face to face over video) or asynchronous store and forward (the sending of images such as x-rays to a health care provider), and would have authorized a FQHCs and RHCs to establish a patient, located within the federal designated service area of the FQHC and RHC, through synchronous interaction or asynchronous store and forward as of the date of service. Would have permitted DHCS to implement, interpret, and make specific the Medi-Cal telehealth provisions of this bill by means of all-county letters, provider bulletins, and similar instructions, and required the adoption of regulations by July 1, 2022. AB 2164 would have sunset 180 days after the state of emergency for the COVID-19 pandemic has been terminated by proclamation of the Governor or by concurrent resolution of the Legislature. AB 2164 was vetoed by the Governor. In his veto message, the Governor writes:

While I am supportive of utilizing telehealth to increase access to primary and specialty care services, DHCS is currently in the process of evaluating its global telehealth policy to determine what temporary flexibilities should be extended beyond the COVID-19 pandemic. Changes to FQHC and RHC telehealth is better considered within the context of a global assessment around telehealth in the state of California. Further, the cost of these changes is also more appropriately considered alongside other policy changes in the budget process next year.

AB 744 (Aguiar-Curry, Chapter 867, Statutes of 2019) requires health care contracts after January 1, 2021, to specify that the health plan or insurer is required to cover and reimburse diagnosis, consultation, or treatment delivered through telehealth on the same basis and to the same extent that the plan or insurer is responsible for coverage and reimbursement for the same service provided through in-person diagnosis, consultation, or treatment. Revises Medi-Cal telehealth requirements so that the law prohibits face-to-face contact between a health care provider and a Medi-Cal patient for health care services that are appropriately provided by store and forward, to the extent that FFP is available, subject to billing and reimbursement policies developed by DHCS.

AB 1494 (Aguiar-Curry, Chapter 829, Statutes of 2019) prohibits face-to-face contact or a patient's physical presence on the premises of an enrolled community clinic, as specified, to be required for services provided to a Medi-Cal beneficiary during or immediately following a state of emergency. Requires DHCS on or before July 1, 2020, to issue and publish on its Website guidance to facilitate reimbursement for services provided by enrolled community clinics to a Medi-Cal beneficiary during or immediately following a state of emergency.

AB 1174 (Bocanegra, Chapter 662, Statutes of 2014) expands the scope of practice for a registered dental assistant in extended functions, registered dental hygienist, and registered dental hygienist in alternative practice to better enable the practice of teledentistry in accordance with the findings of a Health Workforce Pilot Program, and authorizes Medi-Cal payments for teledentistry services provided to individuals participating in the Medi-Cal program.

AB 415 (Logue, Chapter 547, Statutes of 2011) establishes the Telehealth Advancement Act of 2011 to revise and update existing law to facilitate the advancement of telehealth as a service delivery mode in managed care and the Medi-Cal Program.

- 6) *Support if amended.* Health Access California writes that while they support ongoing expansion of telehealth modalities, they have emphasized the need to proceed in a manner that centers consumer interests with a data-driven approach. Health Access California suggests additional amendments as follow to ensure consumer choice is not sacrificed as a result of telehealth expansions, and to ensure strong data evaluation requirements:
- a) Add language to Health and Safety Code and Insurance Code to specify that consumers may always opt for in-person care, even if previously that elected to receive services via telehealth.
 - b) Apply evaluation requirements for telehealth services delivered to consumers in the commercial market as well as those in Medi-Cal managed care plans, and strengthen requirements to include full evaluation of the impact telehealth has had on delivery, access, and quality of healthcare, including health outcomes, and how telehealth has impact diverse communities.

The Center for Autism and Related Disorders (CARD) writes existing law allows for telehealth to be provided by qualified autism providers and qualified autism service professionals. However, during the Public Health Emergency, flexibilities have been granted to allow services by qualified autism service paraprofessionals who often provide direct one-on-one treatment, and we respectfully urge an amendment to continue the flexibility that permits qualified autism service paraprofessionals to deliver services via telehealth.

The Los Angeles Unified School District Los Angeles Unified seeks an amendment that would clarify that school districts can also take advantage of the policy this bill seeks to accomplish.

- 7) *Support.* Essential Access Health, a cosponsor of this bill writes, telehealth has become a crucial pathway for patients to access care during the pandemic and will remain so beyond the public health emergency period. Access to telehealth decreases barriers, increases access to care for patients, and reduces no-show rates significantly. Telephonic care in particular has become a reliable modality of care. Recent surveys conducted by the California HealthCare Foundation found that most patients would like the option of a telephone or video visit and would likely choose a phone or video visit over an in-person visit whenever possible. Essential Access Health conducted a survey of Title X provider network last fall and respondents reported that on average, nearly 60% of their remote sexual and reproductive health visits were conducted by telephone. A majority said that more than half of their patients are expected to choose telehealth visits over in-person appointments by April 2021. Over 40% of California teen respondents reported that they would prefer telehealth visits by phone. Nearly 60% of California teen respondents indicated they would be much more or somewhat more likely to get health care using telehealth than if they had to go to a clinic.

The California Medical Association, another cosponsor, writes the provisions of this bill guarantee that Medi-Cal patients will have the same access to telehealth services as commercially-insured patients. This is a key change, as Medi-Cal patients are most likely to have transportation challenges, child care issues, or other challenges that make it difficult to get to an in-person visit. California Health+ Advocates, another cosponsor, writes community health centers are leveraging telehealth technology to improve access to care and meet increased patient demands. Telehealth has been an important way for patients to access care during the pandemic and it will be critical to providing post-pandemic care, and telephonic (audio only) care has become a reliable modality of care. Another sponsor, Planned Parenthood, writes centers now provide about 25% of their visits through telehealth – which includes both video and audio-only visits. The majority of Planned Parenthood’s telehealth visits are for birth control, sexually transmitted infections screening and treatment, pregnancy counselling, gender affirming care, PrEP and PEP follow-ups, and UTI screenings. All visits, regardless of modality, meet the time, medical decision-making, and documentation requirements of billing codes to be reimbursed. The California Public Hospitals and Health Systems, another cosponsor, writes Telehealth has opened up new options for patients who struggle with traditional visits, thereby expanding access to ensure their needs are met and helping to prevent the devastating consequences of delayed and avoided care. Increasing take-up of primary, preventive and chronic disease care via telehealth will likely result in better health outcomes and lower total costs to Medi-Cal over the long term. Telehealth is not a substitute for all types of in person care and all situations, but when it is appropriate, we must ensure the option is available. California’s public health care systems are successfully using telehealth to provide a broad array of care, including primary and specialty care, chronic disease management, bedside consults for patients in the hospital, behavioral health care, and the support of care coordinators and social workers.

- 9) *Concerns.* The Service Employees International Union, California (SEIU) writes that the COVID-19 pandemic has disrupted our healthcare delivery system, and telehealth is an important modality for the delivery of healthcare during the emergency and moving forward. As this effort moves forward, it is vital that California understands the impact of this modality on the workforce, just like the introduction of other invocations like x-rays, election health records or cardiac catheterization. SEIU requests that the evaluation process described in this bill are expanded to include the impact on the healthcare workforce. Below is sample of language that expands the evaluation section of this bill, to help understand the impact of telehealth on the workforce.

The impact of telehealth on the healthcare workforce, including types of positions or roles, expansion or reduction in types of workers, and skills or certifications that are needed to prepare workers and providers to effectively provide care through telehealth. Best telehealth workforce practices or models for delivering high-quality care as they relate to outcomes in the bill.

The current language of this bill creates a stakeholder process that calls out employers to develop APMs for payment of telehealth services. The types of services and level of reimbursement have a significant impact on SEIU members, and that process would be incomplete without their perspective. If this provision moves forward, SEIU requests to be included in that stakeholder process.

- 10) *Opposition.* The California Association of Health Plans, the Association of California Life and Health Insurance Companies, and America’s Health Insurance Plans write to oppose this bill because it is one of the fourteen health insurance mandate will increase costs, reduce choice and competition, and further incent some employers and individuals to avoid state

regulation by seeking alternative coverage options. Large employers, unions, small businesses and hard-working families value their ability to shop for the right health plan, at the right price, that best fits their needs. Benefit mandates impose a one-size-fits-all approach to medical care and benefit design driven by the Legislature, rather than consumer choice. The California Chamber of Commerce (Chamber) believes this bill's current definition of telehealth will increase the cost of care delivery since it places no parameters on the telephone-only parity provision. The Chamber indicates a clear definition is needed for exactly which virtual/remote services will be placed at parity with in-person presentations and to what extent they will be at parity, and states without this guardrail, the bill could potentially place even the simplest and shortest patient-provider telephone interactions at parity with in-person presentations.

11) *Policy comment.* Policy comment.

12) *Amendments.*

- a) The amendments to the Insurance Code are unnecessary as health insurers do not delegate services to medical groups and other entities.
- b) Does the committee wish to adopt amendments requested by SEIU, Health Access California, CARD or Los Angeles Unified?

SUPPORT AND OPPOSITION:

Support: California Association of Public Hospitals and Health Systems (cosponsor)
 California Medical Association (cosponsor)
 CommunityHealth+ Advocates (cosponsor)
 Essential Access Health (cosponsor)
 Planned Parenthood Affiliates of California (cosponsor)
 AARP California
 AIDS Healthcare Foundation
 Alameda Health Consortium
 Alameda Health System
 All Inclusive Community Health Center
 Alliance Medical Center
 AltaMed Health Services
 American College of Obstetricians and Gynecologists District IX
 Ampla Health
 APLA Health
 Arnold & Associates
 Arroyo Vista Family Health Center
 Asian Health Services
 Asian Pacific Health Care Venture, Inc.
 Association for Clinical Oncology
 Association of California Healthcare Districts
 Bartz-Altadonna Community Health Centers
 Behavioral Health Services, Inc.
 Borrego Health
 Business & Professional Women of Nevada County
 California Academy of Family Physicians
 California Association of Health Facilities
 California Association of Social Rehabilitation Agencies
 California Behavioral Health Planning Council

California Board of Psychology
California Chapter of the American College of Emergency Physicians
California Chronic Care Coalition
California Commission on Aging
California Commission on the Status of Women and Girls
California Consortium for Urban Indian Health
California Dialysis Council
California Hospital Association
California Primary Care Association
California Podiatric Medical Association
California Psychological Association
California School-based Health Alliance
California Solar & Storage Association
California State Association of Psychiatrists
California Telehealth Network
California Telehealth Policy Coalition
Center for Family Health & Education
Central California Partnership for Health
Central Valley Health Network
ChapCare Medical and Dental Health Center
CHE Behavioral Services
Children Now
Children's Specialty Care Coalition
Chinatown Service Center
Citizens for Choice
City of San Francisco
Coalition of Orange County Community Health Centers
CommuniCare Health Centers
Community Clinic Association of Los Angeles County
Community Health Councils
Community Health Partnership
Community Medical Wellness Centers
County Health Executives Association of California
County of Contra Costa
County of San Diego
County of San Francisco
County of Santa Barbara
County of Santa Clara
County Welfare Directors Association of California
Desert Aids Project
District Hospital Leadership Forum
Eisner Health
El Proyecto Del Barrio, Inc.
Family Health Care Centers of Greater Los Angeles, Inc.
Father Joe's Villages
First 5 Association of California
Golden Valley Health Centers
Governmental Advocates, Inc.
Health Access California
Health Alliance of Northern California

Health Care LA
Health Center Partners of Southern California
Health Improvement Partnership of Santa Cruz
Kheir Clinic
Kheir Health Services
LA Clinica De LA Raza, INC.
Lifelong Medical Care
Los Angeles Homeless Services Authority
Los Angeles LGBT Center
Mission City Community Network
Morongo Basin Healthcare District
MPact Global Action for Gay Men's Health and Human Rights
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
National Multiple Sclerosis Society
Natividad Medical Center - County of Monterey
Neighborhood Healthcare
North Coast Clinics Network
North East Medical Services
Northeast Valley Health Corporation
Occupational Therapy Association of California
OCHIN
Ole Health
ParkTree Community Health Centers
Petaluma Health Center
Queens Care Health Centers
Redwood Community Health Coalition
Rural County Representatives of California
Saban Community Clinic
Salud Para La Gente
San Fernando Community Health Center
San Francisco Department of Public Health
San Mateo County Board of Supervisors
San Ysidro Health
Santa Barbara Women's Political Committee
Santa Barbara; County of
Santa Cruz Community Health Centers
Santa Rosa Community Health
Shasta Community Health Center
Solano County Board of Supervisors
South Bay Family Health Center
South Central Family Health Center
St. John's Well Child and Family Center
Steinberg Institute
Sutter Health
TCC Family Health
Tenet Healthcare Corporation
The Achievable Foundation
The California Association of Local Behavioral Health Boards and Commissions
The Los Angeles Trust for Children's Health

Triple P America Inc.
TrueCare
UMMA Community Clinic
Unicare Community Health Center
Universal Community Health Center
Urban Counties of California
Venice Family Clinic
WellSpace Health
Western Center on Law & Poverty
Westside Family Health Center
Women's Health Specialists

Oppose: America's Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans
California Chamber of Commerce (unless amended)

-- END --

SECTION 1.

(a) The Legislature finds and declares all of the following:

(1) The Legislature has recognized the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the provider, and enacted protections in Section 14132.72 of the Welfare and Institutions Code to prevent the State Department of Health Care Services from restricting or limiting telehealth services.

(2) The use of telehealth was expanded during the COVID-19 pandemic public health emergency and has proven to be an important modality for patients to stay connected to their health care providers. Telehealth has been especially critical for California's Medi-Cal patients.

(3) Patients have reported high satisfaction with telehealth, noting how easy it is to connect with their care teams without having to take time off work, find childcare, or find transportation to an in-person appointment.

(4) In addition to video access, audio-only care is essential because many patients have reported challenges accessing video technology due to limitations with data plans and internet access.

(5) Primary care and specialty care providers have found telehealth to be a critical access point to address a variety of health care needs, including helping patients manage chronic disease, adjust pain medications, and for followup visits after a procedure, among others.

(6) Behavioral health providers have found that offering telehealth has engaged patients in necessary care they would never have received if required to walk into a clinic.

(7) Health care providers have reported significant decreases in the number of missed appointments since telehealth became available, helping to ensure that patients receive high-quality care in a timely manner.

(8) Telehealth is widely available to individuals with health insurance in the commercial market, and existing law in Section 1374.14 of the Health and Safety Code and Section 10123.855 of the Insurance Code requires commercial health care service plans and health insurers to pay for services delivered through telehealth services on the same basis as equivalent services furnished in person. Medi-Cal must evolve with the rest of the health care industry to achieve health equity for low-income Californians.

(9) The expanded telehealth options that patients and providers have relied on during the COVID-19 pandemic should continue to be available to Medi-Cal recipients after the public health emergency is over.

(b) It is the intent of the Legislature to continue the provision of telehealth in Medi-Cal, including video and audio-only technology, for the purposes of expanding access and enhancing delivery of health care services for beneficiaries.

SEC. 2.

Section 2290.5 of the Business and Professions Code is amended to read:

2290.5.

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means any of the following:

(A) A person who is licensed under this division.

(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3.

(C) A qualified autism service provider or qualified autism service professional certified by a national entity pursuant to Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time ~~interaction~~ *interaction, including, but not limited to, audiovideo, audio only, such as telephone, and other virtual communication*, between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Before the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) This section does not preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of a health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to the patient's medical information shall apply to telehealth interactions.

(g) All laws and regulations governing professional responsibility, unprofessional conduct, and standards of practice that apply to a health care provider under the health care provider's license shall apply to that health care provider while providing telehealth services.

(h) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(i) (1) Notwithstanding any other law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 3.

Section 1374.14 of the Health and Safety Code is amended to read:

1374.14.

(a) (1) A contract ~~issued, amended, or renewed on or after January 1, 2021,~~ between a health care service plan and a health care provider for the provision of health care services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

(2) This section does not limit the ability of a health care service plan and a health care provider to negotiate the rate of reimbursement for a health care service provided pursuant to a contract subject to this section. Services that are the same, as determined by the provider's description of the service on the claim, shall be reimbursed at the same rate whether provided in person or through telehealth. When negotiating a rate of reimbursement for telehealth services for which no in-person equivalent exists, a health care service plan and the provider shall ensure the rate is consistent with subdivision (h) of Section 1367.

(3) This section does not require telehealth reimbursement to be unbundled from other capitated or bundled, risk-based payments.

(4) If a health care service plan delegates responsibility for the performance of the duties described in this section to a contracted entity, including a medical group or independent practice association, then the delegated entity shall comply with this section.

(5) The obligation of a health care service plan to comply with this section shall not be waived if the plan delegates services or activities that the plan is required to perform to its provider or another contracting entity. A plan's implementation of this section shall be consistent with the requirements of the Health Care Providers' Bill of Rights, and a material change in the obligations of a plan's contracting network providers shall be considered a material change to the provider contract, within the meaning of subdivision (b) Section 1375.7.

(b) (1) A health care service plan contract ~~issued, amended, or renewed on or after January 1, 2021,~~ shall specify that the health care service plan shall provide coverage for health care

services appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

(2) This section does not alter the obligation of a health care service plan to ensure that enrollees have access to all covered services through an adequate network of contracted providers, as required under Sections 1367, 1367.03, and 1367.035, and the regulations promulgated thereunder.

(3) This section does not require a health care service plan to cover telehealth services provided by an out-of-network provider, unless coverage is required under other provisions of law.

(c) A health care service plan may offer a contract containing a copayment or coinsurance requirement for a health care service delivered through telehealth services, provided that the copayment or coinsurance does not exceed the copayment or coinsurance applicable if the same services were delivered through in-person diagnosis, consultation, or treatment. This subdivision does not require cost sharing for services provided through telehealth.

(d) Services provided through telehealth and covered pursuant to this chapter shall be subject to the same deductible and annual or lifetime dollar maximum as equivalent services that are not provided through telehealth.

(e) The definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply to this section.

~~(f) This section shall not apply to Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) of, Chapter 8 (commencing with Section 14200) of, or Chapter 8.75 (commencing with Section 14591) of, Part 3 of Division 9 of the Welfare and Institutions Code.~~

SEC. 4.

Section 10123.855 of the Insurance Code is amended to read:

10123.855.

(a) (1) A contract ~~issued, amended, or renewed on or after January 1, 2021,~~ between a health insurer and a health care provider for an alternative rate of payment pursuant to Section 10133 shall specify that the health insurer shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an insured or policyholder appropriately delivered through telehealth services on the same basis and to the same extent that the health insurer is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

(2) This section does not limit the ability of a health insurer and a health care provider to negotiate the rate of reimbursement for a health care service provided pursuant to a contract subject to this section. Services that are the same, as determined by the provider's description of the service on the claim, shall be reimbursed at the same rate whether provided in person or through telehealth. When negotiating a rate of reimbursement for telehealth services for which no in-person equivalent exists, a health insurer and the provider shall ensure the rate is consistent with subdivision (a) of Section 10123.137.

(3) If a health insurer delegates responsibility for the performance of the duties described in this section to a contracted entity, including a medical group or independent practice association, then the delegated entity shall comply with this section.

(4) The obligation of a health insurer to comply with this section shall not be waived if the insurer delegates services or activities that the insurer is required to perform to its provider or another contracting entity. An insurer's implementation of this section shall be consistent with the requirements of the Health Care Providers' Bill of Rights, and a material change in the obligations of an insurer's contracting network providers shall be considered a material change to the provider contract, within the meaning of subdivision (b) Section 10133.65.

~~(b) (1) A policy of health insurance issued, amended, or renewed on or after January 1, 2021,~~ that provides benefits through contracts with providers at alternative rates of payment shall specify that the health insurer shall provide coverage for health care services appropriately delivered through telehealth services on the same basis and to the same extent that the health insurer is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

(2) This section does not alter the existing statutory or regulatory obligations of a health insurer to ensure that insureds have access to all covered services through an adequate network of contracted providers, as required by Sections 10133 and 10133.5 and the regulations promulgated thereunder.

(3) This section does not require a health insurer to deliver health care services through telehealth services.

(4) This section does not require a health insurer to cover telehealth services provided by an out-of-network provider, unless coverage is required under other ~~provisions of~~ law.

(c) A health insurer may offer a policy containing a copayment or coinsurance requirement for a health care service delivered through telehealth services, provided that the copayment or coinsurance does not exceed the copayment or coinsurance applicable if the same services were delivered through in-person diagnosis, consultation, or treatment. This subdivision does not require cost sharing for services provided through telehealth.

(d) Services provided through telehealth and covered pursuant to this chapter shall be subject to the same deductible and annual or lifetime dollar maximum as equivalent services that are not provided through telehealth.

(e) The definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply to this section.

SEC. 5.

Section 14087.95 of the Welfare and Institutions Code is amended to read:

14087.95.

~~Counties~~ (a) A county contracting with the department pursuant to this article shall be exempt from ~~the provisions of~~ Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code for purposes of carrying out the contracts.

(b) (1) Notwithstanding subdivision (a), a county contracting with the department pursuant to this article shall comply with Section 1374.14 of the Health and Safety Code.

(2) If a county subcontracts for the provision of services pursuant to this article, as authorized under Section 14087.6, the subcontractor shall comply with Section 1374.14 of the Health and Safety Code.

SEC. 6.

Section 14092.4 is added to the Welfare and Institutions Code, immediately following Section 14092.35, to read:

14092.4.

(a) To enroll individuals in Medi-Cal programs that permit onsite enrollment and recertification of individuals by a provider or county eligibility worker as applicable, the following shall apply:

(1) For the Family Planning, Access, Care, and Treatment (Family PACT), Presumptive Eligibility for Pregnant Women, and Every Woman Counts programs, a provider may enroll or recertify an individual remotely through telehealth and other virtual communication modalities, including telephone, based on the current Medi-Cal program eligibility form or forms applicable to the specific program.

(2) For the Medi-Cal Minor Consent program, a county eligibility worker may determine eligibility for, or recertify eligibility for, an individual remotely through virtual communication modalities, including telephone.

(b) The department may develop program policies and systems to support implementation of remote eligibility determination, enrollment, and recertification, consistent with this section.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

SEC. 7.

Section 14132.721 is added to the Welfare and Institutions Code, immediately following Section 14132.72, to read:

14132.721.

(a) Notwithstanding any other law, and subject to paragraph (2) of subdivision (c), health care services furnished by an enrolled clinic through telehealth shall be reimbursed by Medi-Cal on the same basis, to the same extent, and at the same payment rate as those services are reimbursed if furnished in person, consistent with this section.

(b) Consistent with the protections for health care providers set forth in the Telehealth Advancement Act of 2011, including Section 14132.72, the department shall not restrict the ability of an enrolled clinic to provide and be reimbursed for services furnished through telehealth and this subdivision shall not prohibit policies that require all of the clinical elements of a service to be met as a condition of reimbursement. Prohibited restrictions include all of the following:

(1) Requirements for face-to-face contact between an enrolled clinic provider and a patient.

(2) Requirements for a patient's or provider's physical presence at the enrolled clinic or any other location.

(3) Requirements for prior in-person contacts between the enrolled clinic and a patient.

(4) Requirements for documentation of a barrier to an in-person visit or a special need for a telehealth visit.

(5) Policies, including reimbursement policies, that impose more stringent requirements on telehealth services than equivalent services furnished in person.

(6) Limitations on the means or technologies through which telehealth services are furnished. This paragraph does not prohibit policies that require compliance with applicable federal and state health information privacy and security laws.

(c) (1) Notwithstanding the in-person requirements of Section 14132.100, if an enrolled clinic is also a federally qualified health center or a rural health center, the definition of "visit" set forth in subdivision (g) of Section 14132.100 includes a telehealth encounter to the same extent it includes an in-person encounter.

(2) Health care services furnished through audio-only telehealth, including by telephone, by a federally qualified health center or a rural health clinic, other than mental health services that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver, shall be reimbursed pursuant to Section 14132.722.

(d) This section does not eliminate the obligation of a health care provider to obtain verbal or written consent from the patient before delivery of health care via telehealth or the rights of the patient, pursuant to subdivisions (b) and (c) of Section 2290.5 of the Business and Professions Code.

(e) (1) The department shall require Medi-Cal managed care plans, through contract or otherwise, to adhere to the requirements of subdivision (b) of this section.

(2) Medi-Cal managed care plans shall comply with the requirements for health care service plan contracts set forth in Section 1374.14 of the Health and Safety Code and the requirements for health insurance policies set forth in Section 10123.855 of the Insurance Code. Medi-Cal managed care plans shall not be required to pay federally qualified health centers and rural health clinics the same amount for audio-only telehealth visits as equivalent in-person visits on or after January 1, 2025. This paragraph shall be applied to the extent consistent with federal Medicaid requirements that a managed care plan provide payment for services furnished by a federally qualified health center or rural health clinic that is not less than the level and amount of payment the managed care plan would make for the services if the services were furnished by a provider that is not a federally qualified health center or rural health clinic.

(f) This section does not limit reimbursement for or coverage of, or reduce access to, services provided through telehealth before the enactment of this section.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

(h) The department shall seek any necessary federal approvals and obtain federal financial participation in implementing this section. This section shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available and not otherwise jeopardized.

(i) For purposes of this section:

(1) "Enrolled clinic" means any of the following:

(A) A clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code.

(B) An intermittent clinic exempt from licensure under subdivision (h) of Section 1206 of the Health and Safety Code.

(C) A hospital or nonhospital-based clinic operated by the state or any of its political subdivisions, including the University of California, or a city, county, city and county, or hospital authority.

(D) A tribal clinic exempt from licensure under subdivision (c) of Section 1206 of the Health and Safety Code, or an outpatient setting conducted, maintained, or operated by a federally recognized Indian tribe, tribal organization, or urban Indian organization, as defined in Section 1603 of Title 25 of the United States Code.

(2) "Telehealth" has the same meaning as in subdivision (a) of Section 2290.5 of the Business and Professions Code, which includes audio-only telephone communication technologies.

SEC. 8.

Section 14132.722 is added to the Welfare and Institutions Code, immediately following Section 14132.721, to read:

14132.722.

(a) (1) Except as described in paragraph (2), the department shall indefinitely continue the telehealth flexibilities in place during the COVID-19 pandemic, including those implemented pursuant to Section 14132.723.

(2) (A) The department shall reimburse each federally qualified health center and rural health clinic for health care services furnished through audio-only telehealth, including telephone, at the applicable prospective payment system per-visit rate, consistent with Section 14132.721, until the earlier of January 1, 2025, or the date that the federally qualified health center or rural health clinic elects to participate in an alternative payment methodology described in subdivision (d).

(B) Notwithstanding subparagraph (A), mental health services that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver, furnished through audio-only telehealth, shall continue to be reimbursed at the applicable prospective payment system per-visit rate indefinitely, except if the federally qualified health center or rural health clinic elects an alternative payment methodology that covers those services.

(b) (1) By January 2022, the department shall convene an advisory group that includes representatives from community health centers, designated public hospitals, Medi-Cal managed care plans, consumer groups, labor organizations, behavioral health providers, counties, health care districts formed pursuant to Chapter 1 (commencing with Section 32000) of Division 23 of the Health and Safety Code, and other Medi-Cal providers. The department shall utilize any potential federal funding or other nonstate general funding that may be available to support the implementation of this subdivision.

(2) The advisory group shall provide input to the department on the development of a revised Medi-Cal telehealth policy that promotes all of the following principles:

(A) Telehealth shall be used as a means to promote timely and patient-centered access to health care.

(B) Patients, in conjunction with their providers, shall be offered their choice of service delivery mode. Patients shall retain the right to receive health care in person.

(C) Confidentiality and security of patient information shall be protected.

(D) Usual standard of care requirements shall apply to services provided via telehealth, including quality, safety, and clinical effectiveness.

(E) The department shall consider disparities in the utilization of, and access to, telehealth, and shall support patients and providers in increasing access to the technologies needed to use telehealth.

(F) When the care provided during a telehealth visit is commensurate with what would have been provided in person, payment shall also be commensurate.

(c) (1) By July 2024, the department shall complete an evaluation to assess the benefits of telehealth in Medi-Cal. The evaluation shall analyze improved access for patients, changes in health quality outcomes and utilization, and best practices for the right mix of in-person visits and telehealth. The department shall utilize any potential federal funding or other nonstate general funding that may be available to support the implementation of this subdivision.

(2) The department shall provide data and information to the evaluator, as appropriate, and report its findings and recommendations on the evaluation to the appropriate policy and fiscal committees of the Legislature no later than October 31, 2024.

(d) (1) The department, in consultation with affected stakeholders, including, but not limited to, the California Association of Public Hospitals and Health Systems and the California Primary Care Association, shall develop one or more federally permissible alternative payment models, consistent with Section 1396a(bb)(6) of Title 42 of the United States Code, that federally qualified health centers and rural health clinics may elect to participate in.

(2) (A) The alternative payment models shall be designed to enable the continued provision of high-quality health care, while furthering the goals of the Medi-Cal program to improve access and equity, and incentivize and support clinic infrastructure improvements.

(B) To the extent that an alternative payment model includes a separate per-visit payment rate for audio-only telehealth visits, that payment rate shall be less than the rate the federally qualified health center or rural health clinic receives for an in-person visit. This subparagraph shall not apply with respect to mental health services furnished through audio-only telehealth that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver.

(3) The department shall submit and seek federal approval of the state plan amendment necessary for the implementation of this subdivision, to be effective no later than January 1, 2025. This section shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available and not otherwise jeopardized.

MEMORANDUM

DATE	August 6, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(1)(C) – AB 107 (Salas) Licensure: veterans and military spouses

Background:

This bill would expand the requirement in Business and Professions Code (BPC) section 115.6, which relates to issuing temporary licenses for individuals married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders, to include among others, the Board of Psychology. The bill would require a board to issue a temporary license within 30 days of receiving the required documentation. The bill would require a board to submit to the department for approval draft regulations necessary to administer these provisions by June 15, 2022.

The bill would exempt from these provisions a board that has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year.

Under BPC 2946, the Board of Psychology allows a psychologist certified or licensed in another state or province and who has submitted an application to the board for a license in this state to perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting his or her application or from the commencement of residency in this state, whichever occurs first.

Staff spoke with the author's office and sponsor, who advised they are willing to assist the Board in making the necessary modifications to BPC 2946 to include the Board under the exemption above. The authors office advised they would be pursuing our amendment when the bill is in the Senate Business, Professions, and Economic Development Committee. Amendments to BPC 2946 can be found at the end of the analysis.

On 3/19/2021, the Legislative and Regulatory Affairs Committee voted to recommend the Board take a **Support if Amended** position on AB 107 (Salas). On 4/2/2021, the Board voted to approve the Legislative and Regulatory Affairs Committee's recommendation of **Support if Amended** on AB 107 (Salas).

On 3/23/2021, the Assembly Committee on Business and Professions voted 17 - 0 to refer the bill to the Committee on Military and Veterans Affairs.

On 5/20/2021, the Assembly Committee on Appropriations voted 16 – 0 to pass the bill out of committee and onto the Assembly Floor.

On 6/21/2021, requested amendments were made to AB 107 to exempt the Board under the provisions that allow for a board that has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year. As a result, the Board submitted a letter of **Support** once the amendments were made.

On 7/15/2021, this bill was amended to add the following provisions: require a board to request that the Department of Justice conduct a criminal background check and to provide the results to the board; require the Department of Consumer Affairs and the boards within it, to post specified information on their websites that describes the process for expediting applications for military spouses, the availability and requirements for temporary licensure and the length of time a license is active as well as the requirements for full, permanent licensure by endorsement or credential for out-of-state applicants.

Location: Senate Appropriations.

Status: 7/15/2021 Read second time and amended. Re-referred to Com. on APPR. Set for hearing on 8/16/21.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: Support Letter

Attachment B: Senate Committee on Military and Veterans Affairs Analysis

Attachment C: AB 107 (Salas) Bill Text

July 2, 2021

Honorable Bob Archuleta
Chair, Military and Veterans Affairs
1020 N. Street, Room 251
Sacramento, CA 95814

RE: **AB 107 (Salas), as amended 06/21/21 – Licensure: veterans and military spouses – SUPPORT**

Dear Senator Roth:

The Board of Psychology (Board) protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession.

On June 21, 2021, the amendments requested by the Board were made to AB 107 (Salas). Consequently, our position has changed from **Support if Amended to Support**. We appreciate and thank the author and the sponsor for incorporating the suggested amendments.

This bill would expand the requirement in Business and Professions Code (BPC) section 115.6, relating to the issuance of temporary licenses for individuals married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders, to include among others, the Board of Psychology.

The bill would exempt from these provisions a board that has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year.

Under BPC 2946, the Board of Psychology allows a psychologist certified or licensed in another state or province and who has submitted an application to the board for a license in this state to perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting his or her application or from the commencement of residency in this state, whichever occurs first. The amendments adopted on June 21, 2021 make necessary modifications to BPC 2946 to include the Board under the exemption above.

July 2, 2021

For these reasons, we ask for your **Support** of AB 107 (Salas) when it is heard in the Military and Veterans Affairs Committee. If you have any questions or concerns, please feel free to contact the Board's Central Services Manager, Jason Glasspiegel, at (916) 574-7137 or jason.glasspiegel@dca.ca.gov. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Seyron Foo', with a long horizontal flourish extending to the right.

Seyron Foo
President, Board of Psychology

cc: Senator Shannon Grove (Vice Chair)
Assemblymember Salas
Members of the Senate Committee on Military and Veterans Affairs
Veronica Badillo, Staff Director, Senate Military and Veterans Affairs
Senate Republican Caucus

SENATE COMMITTEE ON MILITARY AND VETERANS AFFAIRS

Senator Bob Archuleta, Chair

2021 - 2022 Regular

Bill No:	AB 107	Hearing Date:	7/14/21
Author:	Salas		
Version:	6/21/21 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	V. Badillo		

Subject: Licensure: veterans and military spouses

DESCRIPTION

Summary: Expands an existing requirement for certain programs within the Department of Consumer Affairs (DCA) to issue temporary licenses to qualified military spouses to instead, require all DCA boards to issue temporary licenses within 30 days of receiving documentation that the applicant has met specified requirements, except for those boards that already have an equivalent process. Exempts the Board of Psychology from creating a new temporary license program by authorizing a psychologist certified or licensed in another state or Canadian province who is a military spouse and has applied for licensure to practice without a valid license for a period not to exceed 12 months or from the commencement of residency in this state, whichever occurs first. Requires the DCA, Commission on Teacher Credentialing, Department of Real Estate, and the State Department of Public Health to submit an annual report to the Legislature with specified information relating to the professional licensure of veterans, service members, and their spouses.

Existing law:

- 1) Provides for the regulation and licensure of various professions and vocations by boards, bureaus, and other entities within the DCA. (Business and Professions Code (BPC) §§ 100-144.5)
- 2) Defines “board,” as the board in which the administration of the provision is vested, and unless otherwise expressly provided, includes “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.” (BPC § 22)
- 3) States that any licensee or registrant of any board, commission, or bureau within the DCA whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate their license or registration without examination or penalty. (BPC § 114)
- 4) Requires every board within the DCA to waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard. (BPC § 114.3)

- 5) Requires a DCA board to inquire in every license application if the individual applying for licensure is serving in, or has previously served in, the military and, if the board's governing law authorizes veterans to apply military experience and training towards licensure requirements, to post information on the board's website about the ability of veteran applicants to apply military experience and training towards licensure requirements. (BPC § 114.5)
- 6) Requires a DCA board to expedite the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged. (BPC § 115.4)
- 7) Requires a DCA board to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and who holds a current license in another state, district, or territory of the United States in the profession or vocation for which they are seeking a license from the board. (BPC § 115.5)
- 8) Requires seven DCA boards to, after appropriate investigation, issue temporary licenses to an applicant, if the applicant meets specified requirements, including, among other things, that 1) the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders; 2) the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license; and the applicant submits a signed affidavit attesting to meeting the requirements of the temporary license. (BPC § 115.6)
- 9) Includes the following licenses under the temporary license requirement:
 - a) Registered nurse licenses under the Board of Registered Nursing.
 - b) Vocational nurse and psychiatric technician licenses under the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
 - c) Speech-language pathologist and audiologist licenses under the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board but not hearing aid dispenser licenses.
 - d) Veterinarian licenses under the Veterinary Medical Board but not registered veterinary technicians.
 - e) All licenses under the Board for Professional Engineers, Land Surveyors, and Geologists.
 - f) All licenses under the Medical Board of California.
 - g) All licenses under the Podiatric Medical Board of California.

- 10) Establishes separate temporary licensing authorization for all applicants applying for a permanent license with the Board of Registered Nursing. Temporary licenses issued under that authorization expire after six months and may be renewed twice. (BPC § 2733)

This bill:

- 1) Expands an existing requirement for certain boards within DCA to issue temporary licenses to qualified military spouses to instead, require all boards under the DCA to issue temporary licenses.
- 2) Requires applicants to pass a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.
- 3) Requires a board to issue a temporary license pursuant to this section within 30 days of receiving documentation that the applicant has met specified requirements and if the results of the criminal background check do not show grounds for denial.
- 4) Requires board to submit to the DCA for approval, if necessary to implement this section, draft regulations necessary to administer this section by June 15, 2022.
- 5) Exempts boards from the temporary license requirements if the board has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year or is able to receive an expedited license by endorsement with no additional requirements.
- 6) Requires the DCA, Commission on Teacher Credentialing, Department of Real Estate, and the State Department of Public Health to compile information on military, veteran, and spouse licensure into an annual report for the Legislature. The report shall include all of the following:
 - a) The number of applications for a temporary license submitted by active duty service members, veterans, or military spouses per calendar year.
 - b) The number of applications for expedited licenses submitted by veterans and active duty spouses.
 - c) The number of licenses issued and denied per calendar year.
 - d) The number of licenses issued that were suspended or revoked per calendar year.
 - e) The number of applications for waived renewal fees received and granted per calendar year.

- f) The average length of time between application and issuance of licenses per board and occupation.
- 7) Authorizes a psychologist certified or licensed in another state or Canadian province who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States and who has made application to the Board of Psychology for a license in this state to perform activities and services of a psychological nature without a valid license for a period not to exceed twelve months from the time of submitting their application or from the commencement of residency in this state, whichever occurs first.
- 8) Specifies that all revenues from fees for temporary licenses issued by the California Board of Accountancy be credited to the Accountancy Fund.

BACKGROUND

As of 2020, the DCA administers more than 3.4 million licenses in more than 280 license types, providing oversight and regulation over a variety of professions in California. These licenses are necessary to legally practice within that profession, however, licenses from other states are not portable to California. Therefore, when active duty members of the military receive orders to relocate to California, military spouses who travel with their partner may be required to apply for a new license, despite being licensed in a different state. This process can be long, expensive, and onerous, and military spouses may have to undergo this process multiple times, despite have no choice in how often they move. To ease the cost of licensing on military families, the 2018 National Defense Authorization Act allows each service branch to reimburse spouses up to \$1,000 for re-licensure and certification costs resulting from relocations or PCS moves that cross U.S. state lines – to include OCONUS to stateside moves.

In 2018 the National Conference of State Legislatures published a series of white papers on the status of licensure across the US. In the paper focused on military and veterans, NCSL notes that 35% of military spouses are employed in fields that require licensure and 22% of military spouses report the lack of licensure portability to be the greatest barrier to employment. Additionally, writing in support of the bill, the US Department of Defense says California is host to over 62,000 active duty military spouses which is over 11% of military spouses DoD-wide.

Aimed at easing burdens, existing law provides for several accommodations of both military family and veteran license applicants. DCA boards are required to ask about the military status of each of their applicants so that military experience may potentially be applied toward licensure training requirements. DCA boards are also required to expedite licensure for military veterans as well as the spouses and partners of active duty military to reduce license processing wait times.

Currently, 26 states provide enhanced portability policies and 10 states (including California) have current legislation pending.

Occupational Licensing. Recent studies and reports have focused on the impacts of licensing requirements for employment and on individuals seeking to become

employed. According to a July 2015 report on occupational licensing released by the White House, strict licensing creates barriers to mobility for licensed workers, citing several groups of people particularly vulnerable to occupational licensing laws, including former offenders, military spouses, veterans and immigrants.

In October 2016, the Little Hoover Commission released a report entitled *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers*. The report noted that one out of every five Californians must receive permission from the government to work, and for millions of Californians that means contending with the hurdles of becoming licensed. The report noted that many of the goals to professionalize occupations, standardize services, guarantee quality and limit competition among practitioners, while well intended, have had a larger impact of preventing Californians from working, particularly harder-to-employ groups such as former offenders and those trained or educated outside of California, including veterans, military spouses and foreign-trained workers. The study found that occupational licensing hurts those at the bottom of the economic ladder twice: first by imposing significant costs on them should they try to enter a licensed occupation and second by pricing the services provided by licensed professionals out of reach.

The report found that California compares poorly to the rest of the nation in the amount of licensing it requires for occupations traditionally entered into by people of modest means. According to the report, researchers from the Institute for Justice selected 102 lower-income occupations, defined by the Bureau of Labor Statistics as making less than the national average income, ranging from manicurist to pest control applicator. Of the 102 occupations selected, California required licensure for 62, or 61 percent of them. According to the report, California ranked third most restrictive among 50 states and the District of Columbia, following only Louisiana and Arizona. California ranked seventh of 51 when measuring the burden imposed on entrants into these lower- and moderate-income occupations: on average, California applicants must pay \$300 in licensing fees, spend 549 days in education and/or training and pass one exam.

Temporary Licenses. If licensed in another state, and depending on the license, military spouses and other applicants may be able to issue to utilize provisions that recognize out-of-state licenses, also known as reciprocity or licensure by endorsement. However, depending on the specific license requirements and the potential differences in requirements between states, applicants may still experience long wait times as their qualifications are reviewed.

To address this issue, some DCA boards may issue temporary licenses. In general, temporary licenses allow an applicant to practice for a limited period, allowing them to practice while the remainder of the qualifications is obtained or verified. Since license requirements are intended to protect the public, applicants usually must be able to immediately demonstrate meeting some of the qualifications required for licensure and pass a background check.

Seven DCA boards are also required to issue temporary licenses to military spouses after an appropriate investigation. However, each board specified under the current law administers the temporary licenses differently. The prior analysis of this bill by the Senate Committee on Business, Professions, and Economic Development thoroughly discussed the temporary licensing requirements by the seven DCA boards.

COMMENT

Author's Statement. According to the Author, "We must do more for military spouses, who are six times more likely to be unemployed, find a job so that they can put food on the table. Transferring professional licenses that spouses have already earned should be a seamless process that allows spouses to quickly find well-paying jobs in their field. This program has already worked for 6 years, and by expanding it to include more common occupations of military spouses we can ensure our military families will thrive in California."

Committee Comment. Proposed amendments reflect some of the requests/concerns made in previous Committee hearings:

1. Addresses technical language on fingerprinting requested by the Attorney General's office.
2. Removes the State Department of Public Health from the requirements.
3. Adds required information related to licensing options for military spouses on the homepage of DCA websites, committed to in Assembly Committee on Military & Veterans Affairs.
4. Adds co-authors.

Related/Previous Legislation. AB 225 (Gray, 2021) would authorize veterans to receive a temporary license and specifies that an eligible veteran is one who is within 60 months of separation from active duty under other than dishonorable conditions or within 120 months of separation from active duty under other than dishonorable conditions and a resident of California prior to entering into military service. The bill also authorizes an active duty member of the Armed Forces of the United States with official orders for separation within 90 days under other than dishonorable conditions to be eligible. *Pending in the Senate Committee on Business, Professions, & Economic Development.*

AB 410 (Fong, 2021) would establish the statutory language needed to enter California into the Nurse Licensure Compact, an interstate compact that allows reciprocity (without the need for endorsement) for registered nurses that carry a multi-state license issued under the compact. *Pending in the Assembly Committee on Business and Professions.*

AB 2185 (Patterson, 2020) would have required each DCA licensing board that does not have an out-of-state license endorsement process to issue a license to an applicant if the applicant is the spouse of an active duty member of the Armed Forces of the United States, holds a license in good standing and practiced for three of the last five years, passes a California jurisprudence examination, passes a background check, and pays applicable fees. *Failed passage in the Assembly Committee on Business and Professions.*

AB 2549 (Salas, 2020) would have made the changes to the temporary licensing provisions proposed under this bill. *The bill was not heard in a policy committee of the Senate due to the impacts of COVID-19 on the 2019-20 legislative session.*

AB 3045 (Gray, 2020) would have added similar permanent licensing provisions proposed under this bill. *The bill was not heard in a policy committee of the Senate due to the impacts of COVID-19 on the 2019-20 legislative session.*

SB 1324 (Allen, 2020) would have added the website requirements proposed under this bill. *The bill was not heard in a policy committee of the Senate due to the impacts of COVID-19 on the 2019-20 legislative session.*

AB 186 (Maienschein), Chapter 640, Statutes of 2014 first established the temporary license provisions that this bill is amending.

SB 1226 (Correa), Chapter 657, Statutes of 2014 established the requirement that DCA boards expedite applications from honorable discharged veterans and established equivalency in-lieu course requirements for private security officers.

AB 1904 (Block), Chapter 399, Statutes of 2012 established the requirement that DCA boards expedite the licensing process for spouses of active duty Armed Forces members.

POSITIONS

Sponsor: Author.

Support: American Legion, Department of California
AMVETS, Department of California
Beale Military Liaison Council, INC.
California Association of County Veterans Service Officers
California Board of Psychology
California State Commanders Veterans Council
California Defense Community Alliance
City of Monterey
City of Yuba City
Military Services in California
Monterey Bay Defense Alliance
San Diego Military Advisory Council (SDMAC)
Travis Community Consortium
U.S. Department of Defense
Vietnam Veterans of America, California State Council
Yuba County Board of Supervisors

Oppose: None

-- END --

AB 107 (Salas) - Licensure: veterans and military spouses.

As Amends the Law Today

SECTION 1.

Section 115.6 of the Business and Professions Code is amended to read:

115.6.

(a) ~~A (1) Except as provided in subdivision (i), a~~ board within the department shall, after appropriate investigation, issue ~~the following eligible temporary licenses to an applicant if the applicant a temporary license to practice a profession or vocation to an applicant who~~ meets the requirements set forth in ~~subdivision (e); subdivisions (c) and (d).~~

~~(1) Registered nurse license by the Board of Registered Nursing.~~

~~(2) Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.~~

~~(3) Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.~~

~~(4) Speech language pathologist license issued by the Speech Language Pathology and Audiology and Hearing Aid Dispensers Board.~~

~~(5) Audiologist license issued by the Speech Language Pathology and Audiology and Hearing Aid Dispensers Board.~~

~~(6) Veterinarian license issued by the Veterinary Medical Board.~~

~~(7) All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.~~

~~(8) (2) All Revenues from fees for temporary licenses issued by the Medical Board of California. California Board of Accountancy shall be credited to the Accountancy Fund in accordance with Section 5132.~~

~~(9) All licenses issued by the Podiatric Medical Board of California.~~

(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

(c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

(1) The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) The applicant shall hold a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board.

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

(4) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

(5) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(6) (A) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

(B) The board shall request a fingerprint-based criminal history information check from the Department of Justice in accordance with subdivision (u) of Section 11105 of the Penal Code and the Department of Justice shall furnish state or federal criminal history information in accordance with subdivision (p) of Section 11105 of the Penal Code.

(d) The applicant shall pass a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.

~~(d)~~ (e) A board ~~may adopt regulations necessary to administer this section.~~ shall issue a temporary license pursuant to this section within 30 days of receiving documentation that the applicant has met the requirements specified in subdivisions (c) and (d) if the results of the criminal background check do not show grounds for denial.

~~(e)~~ (f) A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or (d) or provided substantively inaccurate information that would affect the person's eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue a notice of termination that shall require the temporary licenseholder to immediately cease the practice of the licensed profession upon receipt.

~~(f)~~ (g) An applicant seeking a temporary license as a civil engineer, geotechnical engineer, structural engineer, land surveyor, professional geologist, professional geophysicist, certified engineering geologist, or certified hydrogeologist pursuant to this section shall successfully pass the appropriate California-specific examination or examinations required for licensure in those respective professions by the Board for Professional Engineers, Land Surveyors, and Geologists.

~~(g)~~ (h) A temporary license issued pursuant to this section shall expire 12 months after issuance, upon issuance of an expedited license pursuant to Section 115.5, or upon denial of the application for expedited licensure by the board, a standard license, upon issuance of a license by endorsement, or upon issuance of an expedited license pursuant to Section 115.5, whichever occurs first.

(i) A board shall submit to the department for approval, if necessary to implement this section, draft regulations necessary to administer this section by June 15, 2022. These regulations shall

be adopted pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(j) (A) This section shall not apply to a board that has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year or is able to receive an expedited license by endorsement with no additional requirements superseding those described in subdivisions (c) and (d).

(B) This section shall apply only to the extent that it does not amend an initiative or violate constitutional requirements.

SEC. 2.

Section 115.8 is added to the Business and Professions Code, to read:

115.8.

The Department of Consumer Affairs, the Commission on Teacher Credentialing, and the Department of Real Estate shall compile information on military, veteran, and spouse licensure into an annual report for the Legislature, which shall be submitted in conformance with Section 9795 of the Government Code. The report shall include all of the following:

(a) The number of applications for a temporary license submitted by active duty servicemembers, veterans, or military spouses per calendar year, pursuant to Section 115.6.

(b) The number of applications for expedited licenses submitted by veterans and active duty spouses pursuant to Sections 115.4 and 115.5.

(c) The number of licenses issued and denied per calendar year pursuant to Sections 115.4, 115.5, and 115.6.

(d) The number of licenses issued pursuant to Section 115.6 that were suspended or revoked per calendar year.

(e) The number of applications for waived renewal fees received and granted pursuant to Section 114.3 per calendar year.

(f) The average length of time between application and issuance of licenses pursuant to Sections 115.4, 115.5, and 115.6 per board and occupation.

SEC. 3.

Section 115.9 is added to the Business and Professions Code, to read:

115.9.

The department and each board within the department shall publish information pertinent to all licensing options available to military spouses on the home page of the internet website of the department or board, as applicable, including, but not limited to, the following:

(a) The process for expediting applications for military spouses.

(b) The availability of temporary licensure, the requirements for obtaining a temporary license, and length of time a temporary license is active.

(c) The requirements for full, permanent licensure by endorsement or credential for out-of-state applicants.

SEC. 3. SEC. 4.

Section 2946 of the Business and Professions Code is amended to read:

2946.

(a) The board shall grant a license to any person who passes the board's supplemental licensing examination and, at the time of application, has been licensed for at least five years by a psychology licensing authority in another state or Canadian province if the requirements for obtaining a certificate or license in that state or province were substantially equivalent to the requirements of this chapter.

(b) A psychologist certified or licensed in another state or province and who has made application to the board for a license in this state may perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting ~~his or her~~ *their* application or from the commencement of residency in this state, whichever first occurs.

(c) A psychologist certified or licensed in another state or province who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States and who has made application to the board for a license in this state may perform activities and services of a psychological nature without a valid license for a period not to exceed twelve months from the time of submitting their application or from the commencement of residency in this state, whichever first occurs.

(d) The board at its discretion may waive the ~~examinations~~, *examinations* when in the judgment of the board the applicant has already demonstrated competence in areas covered by the examinations. The board at its discretion may waive the examinations for diplomates of the American Board of Professional Psychology.

SEC. 4. SEC. 5.

Section 5132 of the Business and Professions Code is amended to read:

5132.

(a) All moneys received by the board under this chapter from any source and for any purpose *and from a temporary license issued under Section 115.6* shall be accounted for and reported monthly by the board to the Controller and at the same time the moneys shall be remitted to the State Treasury to the credit of the Accountancy Fund.

(b) The secretary-treasurer of the board shall, from time to time, but not less than once each fiscal year, prepare or have prepared on ~~his or her~~ *their* behalf, a financial report of the Accountancy Fund that contains information that the board determines is necessary for the purposes for which the board was established.

(c) The report of the Accountancy Fund, which shall be published pursuant to Section 5008, shall include the revenues and the related costs from examination, initial licensing, license renewal, citation and fine authority, and cost recovery from enforcement actions and case settlements.

SEC. 6.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the

Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(1)(C) – SB 731 (Durazo) Criminal records: relief

Background:

Among other things, this bill amends section 11105 of the Penal Code which would prohibit the Board from receiving conviction information for applicants to the Board if their conviction was granted relief pursuant to sections 1203.4, 1203.4(a), 1203.41, 1203.42, or 1203.49 of the Penal Code, so long as a period of two years has elapsed since the date the relief was granted and the applicant was not convicted of a new criminal offense.

This bill would have a large impact on the Board of Psychology's licensing and enforcement programs, and it would hinder the Board's ability to carry out its legislative mandate of consumer protection. Currently, the Board completes an enforcement review for every applicant with a criminal history, determines whether the crimes committed are substantially related to the duties of licensure. This bill would significantly diminish the Board's ability to make these determinations without access to the necessary conviction information.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to **Oppose** SB 731 (Durazo).

On 4/2/2021, the Board approved the Legislative and Regulatory Affairs Committee recommendation to **Oppose** SB 731 (Durazo).

On 5/20/2021, amendments were accepted in the Appropriations Committee. These amendments exclude serious, violent, and sex felonies from automatic relief; delay automatic relief for four years where there is a supervision violation or a new felony conviction; strike the restriction on the access to cleared records; and limit retroactivity to January 1, 2005.

On 6/23/2021, amendments were accepted in the Public Safety Committee. These amendments state that relief granted pursuant to Section 1203.41 do not release a defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court. Protective orders shall remain in effect until expiration or until the court modifies or terminated the order.

Location: Assembly Appropriations.

Status: 6/30/2021 From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 2.) (June 29). Re-referred to Com. on APPR. Set for hearing on 8/19/21.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: Board Letter of Opposition

Attachment B: Assembly Public Safety Committee Analysis

Attachment C: SB 731 (Durazo) Bill Text

April 10, 2021

The Honorable Anthony Portantino
Chair, Senate Committee on Appropriations
State Capitol, Room 2206
Sacramento, CA 95814

RE: SB 731 (Durazo) – Criminal Records: Relief

Dear Senator Portantino:

At its April 2, 2021 meeting, the Board of Psychology (Board) adopted an **OPPOSE** position on SB 731 (Durazo). This bill would significantly impair the Board's ability to access critical arrest and conviction information regarding its licensees, petitioners, and applicants, and would significantly undermine the Board's ability to carry out its mission of consumer protection.

Specifically, SB 731 (Durazo) would implement a system to prospectively and retroactively seal criminal and arrest records and would require the Department of Justice, beginning on January 1, 2022, to archive all criminal records. These archived criminal records would not be included in any state or federal summary criminal history provided by the department, except if compliance with applicable federal law requires the inclusion.

The Board's primary concern with the provisions of SB 731 (Durazo) is that it would diminish the Board's ability to adequately protect the health and safety of California consumers of psychological services by removing the Board's ability to review and evaluate a current licensee's arrest and conviction information for the purposes of approving an application for licensure. Specifically, we are concerned that the inability to receive arrest records would prevent the Board from completing a thorough review as arrest records can sometimes allude to a larger issue than what the initial arrest was made for, such as with a domestic violence arrest. While these types of arrest warrants are usually dropped, some arrest reports include information regarding substance abuse or cognitive issues. We have seen arrests for possession of child pornography, indecent exposure, stalking, possession of drugs and violating a restraining order. These types of reports have the potential to reveal an issue outside of the initial offense which may be of great concern to the Board and thus access to these records is crucial to our vetting process.

Due to the bill's weakening of the consumer protections integral to the Board's enforcement processes and the bill's undermining of the Board's legislative mandate of consumer protection, the Board asks for a **"No"** vote on SB 731 (Durazo).

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

Sincerely,

SEYRON FOO
President, Board of Psychology

cc: Senator Patricia Bates (Vice Chair)
Assemblymember Durazo
Members of the Appropriations Committee

April 10, 2021
SB 731 (Durazo): Request for No Vote
Page 2

Mark McKenzie, Staff Director, Senate Committee on Appropriations

Date of Hearing: June 29, 2021
Counsel: David Billingsley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 731 (Durazo) – As Amended June 23, 2021

SUMMARY: Expands automatic arrest record relief to include arrests for felonies punishable by state prison, as specified. Expands automatic conviction relief to include felonies where the defendant was not granted probation and did not complete probation without revocation, but excludes serious and violent felonies, and felonies requiring sex registration. Expands discretionary expungement relief to include felonies where the defendant was sentenced to state prison, rather than just realigned felonies, as specified. Specifically, **this bill:**

- 1) Specifies that when the Department of Justice (DOJ), reviews the records in the statewide criminal justice databases, to identify persons with records of arrest that are eligible for arrest record relief, that the criteria for relief will include felony arrests punishable by less than eight years that occur after January 1, 2021, where:
 - a) there is no indication that criminal proceedings have been initiated;
 - b) at least three calendar years have elapsed since the date of the arrest; and,
 - c) no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.
- 2) States that arrests that occur after January 1, 2021, for a felony offense punishable by eight or more years, are eligible for the relief described above when:
 - a) there is no indication that criminal proceedings have been initiated;
 - b) at least six years have elapsed since the date of the arrest, and
 - c) no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.
- 3) Allows all defendants sentenced for a felony, not just those serving a sentence under realignment, to petition the court, in its discretion and in the interests of justice, to dismiss the charge and grant relief from penalties associated with the conviction, except as specified.
- 4) Provides a defendant sentenced to the state prison on a felony, can petition for expungement relief after two years following the defendant's completion of the sentence.
- 5) Specifies that discretionary expungement relief for felonies, as described in the provisions of this bill, applies to convictions that occur before, on, or after January 1, 2021.

- 6) States that discretionary conviction relief and automatic conviction relief does not release the defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court, as specified. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.
- 7) Requires the parole officer to notify the prosecuting attorney when a petition for post-conviction relief is filed and the defendant was on parole.
- 8) Expands automatic conviction relief to include felony convictions occurring on or after January 1, 2005, where based upon the disposition date and the sentence specified in the DOJ's records, appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease supervision, and parole, and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction and during which the defendant was not convicted of a new felony offense.
- 9) Excludes serious and violent felonies, as specified, and felonies requiring sex registration from automatic conviction record relief.
- 10) Includes the California Department of Corrections and Rehabilitation (CDCR), as an entity that can file a petition to prohibit DOJ from granting automatic conviction record relief, and allows CDCR to present evidence, through the prosecutor, to present evidence
- 11) Places the initial burden of proof on CDCR to show that granting conviction relief would pose a substantial threat to the public safety.
- 12) States that a person denied relief automatic conviction relief may continue to be eligible for relief pursuant to other specified laws allowing a defendant to petition for record relief, including the record relief described in the provisions of this bill.
- 13) Makes technical and conforming changes.

EXISTING LAW:

- 1) Requires the DOJ, on a monthly basis, to review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, and identify persons with records of arrest that meet the criteria to be eligible for arrest record relief. (Pen. Code § 851.93, subd. (a)(1).)
- 2) States that a person is eligible for arrest record relief if the arrest occurred on or after January 1, 2021, and meets any of the following conditions:
 - a) The arrest was for a misdemeanor offense and the charge was dismissed;
 - b) The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges that arose, from that arrest;

- c) The arrest is for a realigned felony offense where there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising from that arrest;
- d) The person successfully completed any of the following, relating to that arrest:
 - i) A prefiling diversion program, as defined, administered by a prosecuting attorney in lieu of filing an accusatory pleading.
 - ii) A drug diversion program administered by a superior court or a deferred entry of judgment program; and,
 - iii) A pretrial diversion or other diversion program, as specified. (Pen. Code § 851.93, subd. (a)(2).)
- 3) Requires the DOJ to grant relief to a person identified as eligible for arrest record relief, without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records. (Pen. Code § 851.93, subd. (b).)
- 4) Requires the DOJ, on a monthly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted. (Pen. Code § 851.93, subd. (c).)
- 5) Requires a court to grant expungement relief, with specified exceptions, for a misdemeanor or felony conviction for which the sentence included a period of probation and the petitioner successfully completed probation or terminated early, is not serving a sentence for, on probation for, or charged with the commission of any offense. The court has discretion to do so in the interests of justice in other probation cases. (Pen. Code, § 1203.4, subds. (a) & (b).)
- 6) Specifies that a court may grant expungement relief, in its discretion and the interest of justice, for offenses where the defendant was sentenced on a realigned felony (not placed on probation), as specified. (Pen. Code, § 1203.41, subd. (a).)
- 7) States that expungement on a realigned felony, as specified, may be granted only after the lapse of one year or two years following the defendant's completion of the sentence, as specified. (Pen. Code, § 1203.41, subd. (a)(2).)
- 8) Provides that expungement on a realigned felony may be granted only if the defendant is not under mandatory supervision, and is not serving a sentence for, on probation for, or charged with the commission of any offense. (Pen. Code, § 1203.41, subd. (a)(3).)
- 9) Provides the same discretionary expungement relief if a defendant was sentenced prior to the implementation of the 2011 Realignment Legislation for a crime for which he or she would otherwise have been eligible for sentencing pursuant to realignment. (Pen. Code, § 1203.42.)
- 10) Specifies that expungement relief is subject to the following conditions:

- a) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed;
 - b) Does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission;
 - c) Does not permit a person to own, possess, or have in his or her custody or control any firearm, if conviction for such offense would otherwise prohibit such possession; and,
 - d) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office. (Pen. Code, §§ 1203.4, 1203.41 and 1203.42.)
- 11) Requires DOJ, as of January 1, 2021, on a monthly basis, to review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, identify persons with convictions that meet specified criteria and are eligible for automatic conviction record relief. (Pen. Code § 1203.425, subd. (a)(1).)
- 12) States that a person is eligible for automatic conviction relief if they meet all of the following conditions:
- a) The person is not required to register pursuant to the Sex Offender Registration Act;
 - b) The person does not have an active record for local, state, or federal supervision in the Supervised Release File;
 - c) Based upon the information available in the department's record, including disposition dates and sentencing terms, it does not appear that the person is currently serving a sentence for any offense and there is no indication of any pending criminal charges;
 - d) Except as otherwise provided, there is no indication that the conviction resulted in a sentence of incarceration in the state prison; and,
 - e) The conviction occurred on or after January 1, 2021, and meets either of the following criteria:
 - i) The defendant was sentenced to probation and, based upon the disposition date and the term of probation specified in the department's records, appears to have completed their term of probation without revocation; or
 - ii) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment. (Pen. Code §

1203.425, subd. (a)(2).)

- 13) Requires the DOJ to grant relief, including dismissal of a conviction, to a person who is eligible, without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records. (Pen. Code § 1203.425, subd. (b).)
- 14) Requires the DOJ, on a monthly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted. (Pen. Code § 1203.425, subd. (c).)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Author's Statement:** According to the author, "Nationally, an estimated 70 million people (nearly one in three adults, and 8 million people in California alone) have a past arrest or conviction on their record. The vast majority of people with convictions have long finished their sentence in prison, jail, parole or probation and exited the 'deepest end' of the justice system.

"Despite the data on recidivism, California still maintains these records until the person reaches 100 years of age. Due to the widespread usage of background checks in today's society, the availability of these records activate thousands of barriers for one quarter of the state's population resulting in chronic housing insecurities, long-term unemployment, and widespread lack of civic participation. These collateral consequences disproportionately affect Black and Latino communities and have become one of the leading drivers of multi-generational poverty.

"For families seeking to live outside of impoverished areas, mothers that want to pursue new careers through education, fathers who want to coach, homeowners that want to join their HOA board, couples who may want to adopt, or grandchildren that want to care for their elderly grandparent, old criminal records go beyond economics and into denial of human decency, family responsibility and basic citizenship. All told, California has created a permanent underclass that it funnels thousands of people into every year through over incarceration."

- 2) **Employment Barriers for People with Criminal History Records:** Getting a job with a criminal record can be very difficult. According to the U.S. Equal Employment Opportunity Commission (EEOC), as many as 92 percent of employers subject their applicants to criminal background checks. Some employers ask applicants whether they have been convicted of any crimes up front on the application and turn away anyone who checks the box. Others run background checks and reject anyone who turns up with a criminal history without further review.

The refusal to consider job applicants with a criminal history perpetuates a vicious cycle: folks who have been involved in criminal activity seek to come clean and refocus their lives on productive, non-criminal endeavors, but find it nearly impossible to land employment.

Unable to earn a steady income and excluded from the dignity and social inclusion that a job confers, people with criminal histories sometimes drift back toward criminal endeavors, resulting in increased recidivism.

The criminal justice system is known to disproportionately affect people of color, therefore the barriers to employment caused by criminal history also impact people of color disproportionately. The EEOC reports that one in every 17 white men will be incarcerated at some point in their lifetimes. That figure for Latino men is one in six; for African-American men it is one in three.

- 3) **Expungement Relief Generally:** Defendants who have successfully completed probation (including early discharge from probation) can petition the court to set aside a guilty verdict or permit withdrawal of the guilty or nolo contendere plea and dismiss the complaint, accusation, or information. (Pen. Code, § 1203.4.) Penal Code Section 1203.4 also provides that the court can, in the furtherance of justice, grant this relief if the defendant did not successfully complete probation. (Penal Code Section 1203.4; see *People v. McLernon* (2009) 174 Cal.App.4th 569, 577.)

When relief is granted under Penal Code section 1203.4, the conviction is set aside and the charging document is dismissed. However, this neither erases nor seals the record of conviction. Despite the dismissal order, the conviction record remains a public document. (*People v. Field* (1995) 31 Cal.App.4th 1778, 1787.)

Expungement relief pursuant to Penal Code Section 1203.4 does not relieve the petitioner of the obligation to disclose the conviction in response to any direct question in any questionnaire or application for public office or for licensure by any state or local agency. (See e.g., Bus. & Prof. Code, §§ 475, 480, 490; Ed. Code, § 44009; *People v. Vasquez* (2001) 25 Cal.4th 1225, 1230.) If the employer is an entity statutorily authorized to request criminal background checks on prospective employees, the background check would reveal the expunged conviction with an extra entry noting the dismissal on the record. On the other hand, except as specified, employers cannot consider a conviction dismissed under Penal Code section 1203.4 in hiring decisions. (Lab. Code, § 432.7.)

Expungement also does not prevent the conviction from being pleaded and proved just like any other prior conviction in any subsequent prosecution. (See *People v. Diaz* (1996) 41 Cal.App.4th 1424.) Expungement does not permit a person to possess a firearm if the conviction would otherwise prohibit such possession.

Expungement relief is not available for convictions of certain offenses. These include most felony child molestation offenses, other specific sex offenses, and a few traffic offenses. (Pen. Code, §§ 1203.4 and 1203.4a.)

Expungement was originally available only when a defendant was placed on probation. However, expungement relief has been extended to other categories of cases. First the relief was extended to misdemeanants who were not granted probation. (Pen. Code, § 1203.4a.) After the enactment of Realignment, expungement was extended to persons sentenced on a realigned felony where probation was not granted. (Pen. Code, § 1203.41.) Expungement relief was granted to those persons who were convicted of the same crimes eligible for expungement under Penal Code section 1203.41, but who served their sentence in state

prison instead of county jail because they were sentenced before the enactment of Realignment. (Pen. Code, § 1203.42.)

This bill would expand a court's discretionary power to provide expungement relief to all felonies, not just realigned felonies where probation was not granted. Under existing law a felony sentenced to state prison does not have an option to pursue expungement relief. This bill would allow a court to grant expungement relief on those felonies, in the court's discretion and in the interests of justice. This is the same standard a court currently applies when considering relief for a realigned felony where a defendant was not granted probation. A person would not be eligible on a felony where the person received a state prison sentence until two years after the completion of the sentence. Such a person would not be eligible for discretionary expungement relief if the person is on probation, parole, or mandatory supervision or the person is charged with a new offense.

- 4) **Automatic Conviction and Arrest Record Relief:** In 2019, the Legislature passed AB 1076 (Ting), Chapter 578, Statutes of 2019. AB 1076 established a procedure in which persons who had been arrested or convicted under certain conditions could have certain convictions dismissed, arrest records sealed, and have such information be withheld from disclosure, all without having to file a petition with the court. The purpose of AB 1076 was to remove barriers to housing and employment for recently convicted and arrested individuals in order to foster their successful reintegration into the community.

As originally envisioned, AB 1076 would have applied to any arrest or conviction regardless of when that arrest or conviction occurred. A subsequent version of the bill made it applicable only to those arrests and convictions that occurred on or after January 1, 1973. In its chaptered version, AB 1076 applied only to those arrests and convictions which occur on or after January 1, 2021.

Existing law (separate from AB 1076) provides a number of procedures by which a person who has been arrested for, or convicted of, a criminal offense, can petition a court to have his or her arrest/conviction information sealed or dismissed. Typically, the procedure for sealing an arrest record, or dismissing a conviction is a court process. It requires the defendant to submit an application, or "petition" with the court, and the court makes a determination about whether the person is eligible for the relief he or she is seeking.

AB 1076 streamlined the process for defendants that have suffered arrests or convictions after January 1, 2021, that would otherwise be eligible through petitioning the court. AB 1076 removed the requirement that a defendant file a petition with the court, and instead requires DOJ to proactively seek out defendants who are eligible for relief by searching its criminal information databases. Once DOJ makes a determination that a person is eligible for either arrest record or conviction record relief, it must grant relief in the form of either 1) sealing an arrest record, or 2) in the case of a guilty plea, withdrawing the plea of guilty, entering a plea of not guilty, and dismissing the charges, or 3) in the case of a conviction after a plea of not guilty, vacating the conviction and dismissing the charges against the person. DOJ would be required to search for eligible defendants on a monthly basis and inform the superior court with jurisdiction over the case when relief is granted.

AB 1076 left in place certain prohibitions resulting from arrests or convictions after relief has been granted, such as the prohibition on owning a firearm after a conviction for domestic

violence or a felony, and would not restore someone's driving privilege if that privilege was lost as a result of the conviction for which he or she is obtaining relief. AB 1076 also does not allow DOJ to grant conviction records relief to a person who is required to register as a sex offender, or a person who is under court supervision or facing criminal charges.

A person is eligible for automatic conviction relief if they meet all of the following conditions:

- a) The person is not required to register as a sex offender;
- b) The person does not have an active record for local, state, or federal supervision in the Supervised Release File;
- c) The person is not currently serving a sentence for any offense and does not have any pending criminal charges;
- d) There is no indication that the conviction resulted in a sentence of incarceration in the state prison; and,
- e) The conviction occurred on or after January 1, 2021 and meets one of the following criteria:
 - i) The defendant was sentenced to probation and has completed the term of probation without revocation; or
 - ii) The defendant was convicted of an infraction or misdemeanor and was not granted probation, has completed their sentence and based upon the disposition date in DOJ's record, at least one calendar year has elapsed since the date of judgment.

This bill would expand automatic conviction relief to include felonies other than one for which the defendant completed probation without revocation of probation, where the conviction occurred on or after January 1, 2005. The conditions to be eligible for automatic relief include a finding that, based upon the disposition date and the sentence specified in DOJ's records, the defendant appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease supervision, and parole, and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction and during which the defendant was not convicted of a new felony offense. This bill would exclude serious and violent felonies, as specified and felony offenses requiring sex registration.

This bill seeks to expand automatic arrest record relief to include most felony offenses where there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest and no conviction occurred, or the arrestee was acquitted of any charges arising from that arrest. This bill would specify that if the arrest is for an offense punishable by imprisonment in the state prison for eight years or more or by imprisonment pursuant to a realigned felony for eight years or more, at least six years must have elapsed since the date of the arrest.

- 5) **Argument in Support:** According to the *California Labor Federation*, “Nationally, an estimated 70 million people – nearly one in three adults, and 8 million people in California alone – have a past arrest or conviction on their record. California maintains an individual’s conviction records until that person reaches 100 years of age. Because of the widespread usage of background checks in today’s society, the permanence of these records present thousands of barriers resulting in widespread constraints on community reintegration.

“Examples of these barriers are felt by families seeking to live outside of impoverished areas, individuals that want careers in education or health care, others who want to coach, homeowners that want to join their HOA board, couples that want to adopt, or grandchildren that want to care for their elderly grandparent. Old conviction records go beyond economics and into denial of human decency, family responsibility, and basic citizenship.

“Lack of access to employment and housing are primary factors driving recidivism, and conviction records are serious barriers to successful reentry and come at a cost of \$20 billion annually to California’s economy. Nationally, it has been estimated that the U.S loses roughly \$372.3 billion per year because of employment losses among people living with convictions.”

- 6) **Argument in Opposition:** According to *Peace Officers Research Association of California*, “Current law authorizes a defendant who was sentenced to a county jail for the commission of a felony and who has met specified criteria to petition to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence. Current law requires the court to dismiss the accusations or information against the defendant and release them from all penalties and disabilities resulting from the offense, except as specified. This bill would make this relief available to a defendant who has been convicted of any felony.

“PORAC believes that by expanding the relief of penalties for all felonies, we are placing our communities at risk. Oftentimes, felony crimes are violent and leave behind innocent victims whose lives will never be the same. By allowing violent criminals back on the street, with their record dismissed, they will have less deterrent to commit another crime. Thus, leaving more victims in their wake. If the author is willing to amend the bill to exclude violent criminals, we would be inclined to remove our opposition.”

7) **Related Legislation:**

- a) AB 1308 (Ting), would require the DOJ, on a monthly basis, to review the records in the statewide criminal justice databases and to identify persons who are eligible for arrest record relief or automatic conviction record relief by having their arrest records, or their criminal conviction records, withheld from disclosure or modified, as specified, for all convictions that occurred on or after January 1, 1973 rather than just those that occurred on or after January 1, 2021. AB 1308 is awaiting hearing in the Senate Public Safety Committee.
- b) AB 1540 (Ting), requires the court to provide counsel for the defendant when there is recommendation from the CDCR, BPH, or the district attorney, to recall an inmate’s sentence and resentence that inmate to a lesser sentence. AB 1540 is awaiting hearing in

the Senate Public Safety Committee.

- c) AB 1245 (Cooley), would authorize a petition for resentencing by a defendant who has served at least 15 years of their sentence and has at least 24 months of their sentence remaining. AB 1245 is a two year bill in the Assembly Appropriations Committee.

8) Prior Legislation:

- a) AB 2978 (Ting), of the 2019-2020 Legislative Session, contained the same provisions as this bill. AB 2978 was never heard in the Assembly Public Safety Committee.
- b) AB 1076 (Ting), Chapter 578, Statutes of 2019, requires starting on January 1, 2021, and subject to an appropriation in the annual Budget Act, that the DOJ, on a monthly basis, review the records in the statewide criminal justice databases grant relief to persons who identify persons who are eligible for relief by having their arrest records, or their criminal conviction records, withheld from disclosure, as specified.
- c) AB 972 (Bonta), of the 2019-2020 Legislative Session, would have established a process for courts to automatically redesignate as misdemeanors, felony convictions which are eligible to be reduced to misdemeanors because of the passage of Proposition 47 (2014). AB 972 was held in the Assembly Appropriations Committee.
- d) AB 2438 (Ting), of the 2017-2018 Legislative Session, would have required automatic expungements of certain convictions, as specified. AB 2438 was held of the Assembly Appropriations Suspense File.
- e) AB 1793 (Bonta), Chapter 993, Statutes of 2018, requires the court to automatically resentence, redesignate, or dismiss cannabis-related convictions.
- f) AB 641 (Bradford), Chapter 787, Statutes of 2013, authorized a court, in its discretion and in the interests of justice, to grant expungement relief for a conviction of a petitioner sentenced to county jail pursuant to criminal justice realignment if specified conditions are satisfied.

REGISTERED SUPPORT / OPPOSITION:

Support

Anti-recidivism Coalition (Co-Sponsor)
California for Safety and Justice (Co-Sponsor)
Legal Services for Prisoners With Children (Co-Sponsor)
Los Angeles Regional Reentry Partnership (LARRP) (Co-Sponsor)
A New Way of Life Re-entry Project
ACLU California Action
All of Us or None Los Angeles
All of Us or None Riverside
Alliance of Californians for Community Empowerment (ACCE) Action
American Civil Liberties Union/northern California/southern California/san Diego and Imperial Counties

Arts for Healing and Justice Network
Asian Americans Advancing Justice - California
Asian Solidarity Collective
Bend the Arc: Jewish Action
Black Los Angeles Young Democrats
Blameless and Forever Free Ministries
Building Opportunities for Self-sufficiency
California Attorneys for Criminal Justice
California Calls
California Catholic Conference
California Immigrant Policy Center
California Labor Federation, Afl-cio
California Public Defenders Association (CPDA)
California Religious Action Center of Reform Judaism
California State Council of Laborers
Californians Coalition for Women Prisoners
Californians United for A Responsible Budget
Cat Clark Consulting Services LLC
Center of Hope LA
Change Begins With Me Indivisible Group
Chrysalis Center, the
Code for America
Communities United for Restorative Youth Justice (CURYJ)
Community Advocates for Just and Moral Governance
Community Legal Services in East Palo Alto
Community Works
County of Los Angeles Board of Supervisors
Courage California
Cure California
Defy Ventures
Del Cerro for Black Lives Matter
Democratic Club of Vista
Dignity and Power Now
Drug Policy Alliance
Ella Baker Center for Human Right
Faith in Action East Bay
Family Reunification Equity & Empowerment (F.R.E.E.)
Felony Murder Elimination Project
Forward Impact Db a Represent Justice
Fresno Barrios Unidos
Friends Committee on Legislation of California
Hillcrest Indivisible
Homeboy Industries
Initiate Justice
Inland Empire Fair Chance Coalition
Inland Equity Partnership
Kehilla Community Synagogue
LA Voice
Last Prisoner Project

Law Enforcement Action Partnership
Legal Aid At Work
Livefree California
Michelson Center for Public Policy
Mission Impact Philanthropy
Multi-faith Action Coalition
National Association of Social Workers, California Chapter
Partnership for The Advancement of New Americans
People Objective LLC
Phenomenal Angels of The Community
Pico California
Pillars of The Community
Project Rebound Consortium
Prosecutors Alliance California
Racial Justice Coalition of San Diego
Re:store Justice
Riseup
Riverside Community College District
Root & Rebound
Rubicon Programs
San Bernardino Free Them All
San Diego Progressive Democratic Club
San Francisco Public Defender
Santa Cruz Barrios Unidos INC.
Sd-qtpoc Colectivo
Seiu California
Shields for Families
Showing Up for Racial Justice (SURJ) Bay Area
Showing Up for Racial Justice (SURJ) San Diego
Showing Up for Racial Justice North County San Diego
Smart Justice California
Social & Environmental Justice Committee of The Universalist Unitarian Church of Riverside
Social Justice Research Partnership
Social Workers for Equity & Leadership
Southern California Coalition
Starting Over, INC.
Team Justice
The Dream Corps
The Experience Christian Ministries
The Reverence Project (TRP)
Think Dignity
Time for Change Foundation
Timelist Group
Transitions Clinic Network
Uncommon Law
Underground Grit
Underground Scholars Initiative At UC Riverside
Underground Scholars Initiative Berkeley
Underground Scholars Initiative, University of California Davis

Unite-la, INC.
Uprise Theatre
We the People - San Diego
Young Women's Freedom Center

125 private individuals

Oppose

California Association of Licensed Investigators
California Board of Psychology
California District Attorneys Association
Peace Officers Research Association of California (PORAC)
Alliance for Constitutional Sex Offense Laws
Physician Assistant Board

Analysis Prepared by: David Billingsley / PUB. S. / (916) 319-3744

SB 731 (Durazo) - Criminal records: relief.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 851.93 of the Penal Code is amended to read:

851.93.

(a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, shall identify persons with records of arrest that meet the criteria set forth in paragraph (2) and are eligible for arrest record relief.

(2) A person is eligible for relief pursuant to this section, if the arrest occurred on or after January 1, ~~1973~~, 2021, and meets any of the following conditions:

(A) The arrest was for a misdemeanor offense and the charge was dismissed.

(B) The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges that arose, from that arrest.

(C) (i) The arrest was for a felony offense not described in clause (ii), there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

~~(C) (ii) The~~ If the arrest was for an offense that is punishable by imprisonment pursuant to paragraph (1) or (2) of ~~in the state prison for eight years or more or by imprisonment pursuant to subdivision (h) of Section 1170, 1170 for eight years or more~~, there is no indication that criminal proceedings have been initiated, at least ~~three calendar~~ six years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

(D) The person successfully completed any of the following, relating to that arrest:

(i) A prefiling diversion program, as defined in *subdivision (d) of* Section 851.87, administered by a prosecuting attorney in lieu of filing an accusatory pleading.

(ii) A drug diversion program administered by a superior court pursuant to Section 1000.5, or a deferred entry of judgment program pursuant to Section 1000 or 1000.8.

(iii) A pretrial diversion program, pursuant to Section 1000.4.

(iv) A diversion program, pursuant to Section 1001.9.

(v) A diversion program described in Chapter 2.8 (commencing with Section 1001.20), Chapter 2.8A (commencing with Section 1001.35), Chapter 2.81 (commencing with Section 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A (commencing with Section 1001.60), Chapter 2.9B (commencing with Section 1001.70), Chapter 2.9C (commencing with Section 1001.80), Chapter 2.9D (commencing with Section 1001.81), or Chapter 2.92 (commencing with Section 1001.85), of Title 6.

(b) (1) The department shall grant relief to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's arrest record, a note stating "arrest relief granted," listing the date that the department granted relief, and this section. This note shall be included in all statewide criminal databases with a record of the arrest.

(3) Except as otherwise provided in subdivision (d), an arrest for which arrest relief has been granted is deemed not to have occurred, and a person who has been granted arrest relief is released from any penalties and disabilities resulting from the arrest, and may answer any question relating to that arrest accordingly.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on August 1, 2022, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning an arrest that is granted relief pursuant to this section to any person or entity, in any format, except to the person whose arrest was granted relief or a criminal justice agency, as defined in Section 851.92.

(d) Relief granted pursuant to this section is subject to *all of* the following conditions:

(1) Arrest relief does not relieve a person of the obligation to disclose an arrest in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(3) This section does not limit the ability of a district attorney to prosecute, within the applicable statute of limitations, an offense for which arrest relief has been granted pursuant to this section.

(4) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control a firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the arrest would otherwise affect this authorization or susceptibility.

(5) Relief granted pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

(6) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(e) This section does not limit petitions, motions, or orders for arrest record relief, as required or authorized by any other law, including, but not limited to, Sections 851.87, 851.90, 851.91, 1000.4, and 1001.9.

(f) The department shall annually publish *on the OpenJustice Web portal, as described under Section 13010*, statistics for each county regarding the total number of arrests granted relief pursuant to this section and the percentage of arrests for which the state summary criminal history information does not include a ~~disposition, on the OpenJustice Web portal, as defined in Section 13010.~~ *disposition*.

(g) This section shall be operative commencing July 1, 2022, subject to an appropriation in the annual Budget Act.

SEC. 2.

Section 1203.41 of the Penal Code is amended to read:

1203.41.

(a) If a defendant is ~~sentenced pursuant to paragraph (5) of subdivision (h) of Section 1170,~~ *convicted of a felony*, the court, in its discretion and in the interests of justice, may order the following relief, subject to the conditions of subdivision (b):

(1) The court may permit the defendant to withdraw ~~his or her~~ *their* plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if ~~he or she~~ *the defendant* has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall ~~thereupon~~ dismiss the accusations or information against the defendant and ~~he or she~~ *the defendant* shall thereafter be released from all penalties and disabilities resulting from the offense of which ~~he or she has~~ *they have* been convicted, except as provided in Section 13555 of the Vehicle Code.

(2) The relief available under this section may be granted only after the lapse of one year following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, or after the lapse of two years following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section ~~1170.~~ *1170 or if the defendant was sentenced to the state prison.*

(3) The relief available under this section may be granted only if the defendant is not *on parole or* under supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, and is not serving a sentence for, on probation for, or charged with the commission of any offense.

(4) The defendant shall be informed, either orally or in writing, of the provisions of this section and of ~~his or her~~ *their* right, if any, to petition for a certificate of rehabilitation and pardon at the time ~~he or she is~~ *they are* sentenced.

(5) The defendant may make the application and change of plea in person or by attorney, or by a probation officer authorized in writing.

(b) Relief granted pursuant to subdivision (a) is subject to *all of* the following conditions:

(1) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed.

(2) The order shall state, and the defendant shall be informed, that the order does not relieve ~~him or her~~ *them* of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

(3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in ~~his or her~~ *their* custody or control any firearm or prevent ~~his or her~~ *their* conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(4) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(c) This section applies to any conviction specified in subdivision (a) that occurred before, on, or after January 1, 2014- 2021.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this ~~section~~ *section, if the defendant was on mandatory supervision. The parole officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section, if the defendant was on parole.*

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney ~~may~~ *shall* not move to set aside or otherwise appeal the grant of that petition.

(g) Relief granted pursuant to this section does not release the defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

SEC. 3.

Section 1203.425 of the Penal Code is amended to read:

1203.425.

(a) (1) (A) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository

and the Supervised Release File, shall identify persons with convictions that meet the criteria set forth in subparagraph (B) and are eligible for automatic conviction record relief.

(B) A person is eligible for automatic conviction relief pursuant to this section if they meet all of the following conditions:

(i) The person is not required to register pursuant to the Sex Offender Registration Act.

(ii) The person does not have an active record for local, state, or federal supervision in the Supervised Release File.

(iii) Based upon the information available in the department's record, including disposition dates and sentencing terms, it does not appear that the person is currently serving a sentence for an offense and there is no indication of pending criminal charges.

~~(iv) Except as otherwise provided in subclause (III) of clause (v), there is no indication that the conviction resulted in a sentence of incarceration in the state prison. The conviction meets either of the following criteria:~~

~~(v) (I) The conviction occurred on or after January 1, 1973, 2021, and meets either of the following criteria:~~

~~(I) (ia) The defendant was sentenced to probation, and, based upon the disposition date and the term of probation specified in the department's records, appears to have completed their term of probation without revocation.~~

~~(I) (ib) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment.~~

~~(II) The conviction occurred on or after January 1, 2005, the defendant was convicted of a felony other than one for which the defendant completed probation without revocation, and based upon the disposition date and the sentence specified in the department's records, appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease supervision, and parole, and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction and during which the defendant was not convicted of a new felony offense. This subclause does not apply to a conviction of a serious felony defined in subdivision (c) of Section 1192.7, a violent felony as defined in Section 667.5, or a felony offense requiring registration pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.~~

(2) (A) Except as specified in subdivision (b), the department shall grant relief, including dismissal of a conviction, to a person identified pursuant to paragraph (1) without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(B) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's criminal record, a note stating "relief granted," listing the date that the department granted relief and this section. This note shall be included in all statewide criminal databases with a record of the conviction.

(C) Except as otherwise provided in paragraph (4) and in Section 13555 of the Vehicle Code, a person granted conviction relief pursuant to this section shall be released from all penalties and disabilities resulting from the offense of which the person has been convicted.

(3) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on August 1, 2022, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in paragraph (4), the court shall not disclose information concerning a conviction granted relief pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

(4) Relief granted pursuant to this section is subject to the following conditions:

(A) Relief granted pursuant to this section does not relieve a person of the obligation to disclose a criminal conviction in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(B) Relief granted pursuant to this section does not relieve a person of the obligation to disclose the conviction in response to a direct question contained in a questionnaire or application for public office, or for contracting with the California State Lottery Commission.

(C) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(D) Relief granted pursuant to this section does not limit the jurisdiction of the court over a subsequently filed motion to amend the record, petition or motion for postconviction relief, or collateral attack on a conviction for which relief has been granted pursuant to this section.

(E) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control a firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the criminal conviction would otherwise affect this authorization or susceptibility.

(F) Relief granted pursuant to this section does not affect a prohibition from holding public office that would otherwise apply under law as a result of the criminal conviction.

(G) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(H) Relief granted pursuant to this section does not make eligible a person who is otherwise ineligible to provide, or receive payment for providing, in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or pursuant to Section 14132.95, 14132.952, or 14132.956 of the Welfare and Institutions Code.

(I) In a subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the relief had not been granted.

(J) Relief granted pursuant to this section does not release the defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5,

subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

(5) This section shall not limit petitions, motions, or orders for relief in a criminal case, as required or authorized by any other law, including, but not limited to, Sections ~~1203.4 and 1204.4a~~, 1016.5, 1203.4, 1203.4a, and 1473.7.

(6) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, the department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic relief pursuant to subdivision (b), on the OpenJustice Web portal, as defined in Section 13010.

(b) (1) ~~The prosecuting attorney or probation department~~ *attorney, probation department, or the Department of Corrections and Rehabilitation* may, no later than 90 calendar days before the date of a person's eligibility for relief pursuant to this section, file a petition to prohibit the department from granting automatic relief pursuant to this section, based on a showing that granting that relief would pose a substantial threat to the public safety.

(2) The court shall give notice to the defendant and conduct a hearing on the petition within 45 days after the petition is filed.

(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the *Department of Corrections and Rehabilitation*, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

(4) ~~The prosecutor or probation department~~ *prosecutor, probation department, or Department of Corrections and Rehabilitation* has the initial burden of proof to show that granting conviction relief would pose a substantial threat to the public safety. In determining whether granting relief would pose a substantial threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) Declarations or evidence regarding the offense for which a grant of relief is being contested.

(B) The defendant's record of arrests and convictions.

(5) If the court finds that the ~~prosecutor or probation department~~ *prosecutor, probation department, or the Department of Corrections and Rehabilitation*, has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing relief. In determining whether the defendant's hardship outweighs the threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) The hardship to the defendant that has been caused by the conviction and that would be caused if relief is not granted.

(B) Declarations or evidence regarding the defendant's good character.

(6) If the court grants a petition pursuant to this subdivision, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief pursuant to this section was denied, and the department shall not grant relief pursuant to this section.

(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to Section ~~1203.4~~ 1203.4, 1203.4a, or ~~1203.4a~~ 1203.41. If the court subsequently grants relief pursuant to one of those sections, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief was granted pursuant to the applicable section, and the department shall grant relief pursuant to that section.

(c) At the time of sentencing, the court shall advise a defendant, either orally or in writing, of the provisions of this section and of the defendant's right, if any, to petition for a certificate of rehabilitation and pardon.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(1)(D) – SB 772 (Ochoa Bogh): Professions and vocations: citations: minor violations.

Background:

This bill would prohibit the assessment of an administrative fine for a minor violation and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

On 3/19/2021, the Legislative and Regulatory Affairs Committee voted to recommend the Board take an **Oppose Unless Amended** position on SB 772 (Ochoa Bogh).

On 4/2/2021, the Board voted to adopt the **Oppose Unless Amended** recommendation made by the Legislative and Regulatory Affairs Committee.

Staff has learned that SB 772 will be a two-year bill.

Location: Business, Professions and Economic Development Committee.

Status: Set for hearing on April 19, 2021. Cancelled at the Author's request.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: Board Letter of Oppose unless Amended

Attachment B: Senate Business, Professions & Economic Development Committee Analysis

Attachment C: SB 772 (Ochoa Bogh) Bill Text

April 12, 2021

The Honorable Richard Roth
Chair, Assembly Committee on Business, Professions and Economic Development
State Capitol, Room 2053
Sacramento, CA 95814

**RE: SB 772 (Ochoa Bogh) – Professions and vocations: citations: minor violations
– OPPOSE UNLESS AMENDED**

Dear Senator Roth:

At its April 2, 2021 meeting, the Board of Psychology (Board) adopted an **OPPOSE UNLESS AMENDED** position on SB 772 (Ochoa Bogh).

The Board of Psychology protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession.

The Board is requesting the removal of the Board of Psychology, as this bill would prohibit the assessment of an administrative fine for a minor violation. While violations may be deemed minor, violations speak to the character of the licensee and thus all violations should be addressed as part of a larger context.

If you have any questions or concerns, please feel free to contact the Board's Central Services Manager, Jason Glasspiegel, at (916) 574-7137 or Jason.glasspiegel@dca.ca.gov. Thank you.

Sincerely,



Seyron Foo
President, Board of Psychology

cc: Senator Melendez (Vice Chair)
Members of the Senate Committee on Business, Professions & Economic Development
Sarah Mason, Consultant, Senate Committee on Business, Professions & Economic Development
Senate Republican Caucus

**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Richard Roth, Chair
2021 - 2022 Regular

Bill No:	SB 772	Hearing Date:	April 19, 2021
Author:	Ochoa Bogh		
Version:	February 19, 2021		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Mason		

Subject: Professions and vocations: citations: minor violations

SUMMARY: Prohibits a licensee from being assessed an administrative fine for a violation of their applicable licensing act, or any regulation adopted pursuant to the act, if the violation is a minor violation.

Existing law:

- 1) Authorizes a program within the Department of Consumer Affairs (DCA) to implement regulations to issue a citation or an order to pay an administrative fine if the licensee is in violation of the applicable licensing act or any regulation adopted pursuant to that act. Specifies requirements for citations, including but not limited to capping the administrative fine amount at \$5,000 for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. Establishes a process for contesting the finding of a violation and appealing. Clarified that a citation may be issued without the assessment of an administrative fine. (Business and Professions Code (BPC) § 125.9)
- 2) Specifies that, in assessing a fine, a program must give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations. (BPC § 125.9.)
- 3) Requires, by the Administrative Procedure Act, that a state agency make available to the public facts, evidence, documents, testimony, or other evidence on which the state agency relied to support the agency's determination that a proposed action will not have a significant adverse impact on business. (Government Code (GOV) §§ 11346–11348)
- 4) Requires, under the federal Small Business Regulatory Enforcement Fairness Act, that federal agencies must have a penalty reduction policy for small businesses, involve small businesses in the development of some proposed rules through Small Business Advocacy Review Panels, produce Small Entity Compliance Guides for some rules, and be responsive to small business inquiries about compliance with the agency's regulations. (Title 5 U.S.C. Ch. 6 §§ 601-612)

This bill prohibits a licensee from being assessed an administrative fine for a violation of their applicable licensing act, or any regulation adopted pursuant to the act, if the violation is a minor violation. Defines minor violation as:

- a) One that did not pose a serious health or safety threat.
- b) There is no evidence that the violation was willful.
- c) The licensee was not on probation at the time of the violation.
- d) The licensee does not have a history of committing the violation.
- e) The licensee corrects the violation within 30 days from the date notice of the violation is sent to the licensee.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** The Author is the Sponsor of this bill. According to the Author, “Existing Business and Professions law is extremely nuanced and difficult for a small business owner, who does not have a full legal team at their disposal, to interpret and implement. Additionally, because the boards and bureaus that fall under the Department of Consumer Affairs disseminate the information as well as enforce the law through fines, business owners are not incentivized to engage with the DCA to ensure their implementation of the law is accurate, out of fear they will be penalized. This bill allows the boards and bureaus to engage with the business owner or licensee in order to fix the small violation in a productive manner. Additionally, this bill directs the boards and bureaus to determine the violations that qualify as minor so that no egregious violation is without monetary consequence.”
2. **DCA Programs and Enforcement.** Within the DCA are 38 entities, including 26 boards, eight bureaus, two committees, one program, and one commission (hereafter “boards” unless otherwise noted). Collectively, these boards regulate more than 100 types of businesses and 200 different industries and professions. As regulators, these boards perform two primary functions:
 - Licensing—which entails ensuring only those who meet minimum standards are issued a license to practice, and
 - Enforcement—which entails investigation of alleged violations of laws and/or regulations and taking disciplinary action, when appropriate.

The various practice acts governing boards and bureaus outline the functions for these regulatory bodies to investigate complaints and take disciplinary action against licensees when those licensees have engaged in activities that harm the public.

Investigations by board or bureau staff that determine a licensee has committed a minor violation that does not warrant formal disciplinary action against a license can result in discipline like a citation and fine. Most programs have an informal and internal process for these types of actions.

3. **Related Legislation.** SB 102 (Melendez) is an urgency measure that prohibits the Department of Consumer Affairs (DCA), certain boards within the DCA, and the Department of Alcoholic Beverage Control (ABC) from revoking a license or imposing a fine or penalty for failure to comply with any COVID-19 state of emergency orders or COVID-19 stay-at-home orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19. (Status: *The measure failed passage in this committee and is pending reconsideration.*)

SB 430 (Borgeas) establishes the California Small Business Regulatory Fairness Act, which requires a state agency to establish a policy to provide to reduce or waive civil penalties for small businesses that violate certain regulatory or statutory requirements, under certain circumstances. Requires a state agency that establishes a policy to report to the Office of Small Business Advocate and list certain data about the numbers of small businesses that qualified for reductions or waivers on the agency's website. (Status: *The measure is pending in the Senate Committee on Appropriations*)

4. **Arguments in Support.** The National Federation of Independent Business writes that "California businesses are confronting the worst economic challenges since the Depression, with 2.5 million Californian's filing for unemployment during the pandemic. California small businesses and the communities they serve are especially impacted by employer mandates, particularly in the most distressed parts of the state...Businesses are just opening. People are still out of work. Small business employ over one-half of the private workforce. California is battling a health crisis, but also needs to recover a crippled economy. Small business is the backbone of the California economy."

According to the Professional Beauty Federation of California, "...this measure will help elevate the professionalism of our industry by having our State Board regulators encourage/educate our licensed professionals rather than punish them for minor violations that do not involve the health/safety of their public patrons."

The Southwest Legislative Counsel believes this bill "will provide financial relief to businesses and licensed professionals by allowing them to correct minor violations without being subject to a monetary penalty."

5. **Arguments in Opposition.** The Board of Psychology asks to be removed from the bill "as this bill would prohibit the assessment of an administrative fine for a minor violation. While violations may be deemed minor, violations speak to the character of the licensee and thus all violations should be addressed as part of a larger context."

The Board for Professional Engineers, Land Surveyors, and Geologists says that this bill "would usurp the Board's authority to determine the appropriate penalty to

be ordered based on the specific facts obtained during the investigation of violations of the laws and regulations under the Board's jurisdiction...The licensure laws were created to protect the "health, safety, and welfare of the public," and violations of the laws are threats to the health, safety, and welfare of the public. One way to address violations, especially the less serious ones, and still protect the health, safety, and welfare of the public, is to issue citations containing orders to pay administrative fines to licensees who violate the laws. Issuing a citation puts the licensee on notice of the violation so that they will understand the requirements of the law and ensure they comply in the future; including as a penalty the requirement to pay a fine also helps to reinforce this."

According to the California Acupuncture Board, "The majority of the causes for citations and fines meet the proposed criteria for a minor violation set by the bill. The purpose of a fine is to make the licensee more accountable in complying with any possible orders of abatement through the citation. The Board has concern that without the authority to fine for minor violations, there won't be as much incentive for the licensee to comply."

6. **Precedent and Parity.** Licensees are subject to laws set forth in practice acts and enforced by regulatory bodies, but also agree to comply with all laws. The bill is broadly drafted and as such, applies to all of the millions of DCA licensees, including physicians and surgeons, private postsecondary education institutions, boxing referees, contractors, nurses, and cosmetologists, to name a few. While the Author's intention is to help small businesses, not all DCA licensees are small businesses and there are not categorizations to always differentiate which of the many millions of licensees is a small business or independent operator. The bill instead creates a pathway for all licensees to opt to just not comply with terms of their license. Holding a license implies that the licensee knows the laws outlined in a practice act and it is not clear why the Legislature would absolve licensees of accountability for not complying with the rules.

SUPPORT AND OPPOSITION:

Support:

National Federation of Independent Business
Professional Beauty Federation of California
Southwest California Legislative Council

Opposition:

Board for Professional Engineers, Land Surveyors, and Geologists
California Acupuncture Board
California Board of Psychology

SB 772 (Ochoa Bogh) - Professions and vocations: citations: minor violations.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 125.9 of the Business and Professions Code is amended to read:

125.9.

(a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), any board, bureau, or commission within the department, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine or comply with an order of abatement, or both, within 30 days of the date of assessment or order, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine and compliance with the order of abatement, if applicable, shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

(f) A licensee shall not be assessed an administrative fine for a violation of the applicable licensing act or any regulation adopted pursuant to the act if the violation is a minor violation. A violation shall be considered minor if all of the following conditions are satisfied:

(1) The violation did not pose a serious health or safety threat.

(2) There is no evidence that the violation was willful.

(3) The licensee was not on probation at the time of the violation.

(4) The licensee does not have a history of committing the violation.

(5) The licensee corrects the violation within 30 days from the date notice of the violation is sent to the licensee.

MEMORANDUM

DATE	August 13, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(1)(E) – SB 801 (Archuleta) - Healing arts: Board of Behavioral Sciences: Board of Psychology: licensees.

Background:

Senate Bill 801 is the vehicle for the Board's sunset renewal and other regulatory changes.

It extends the Board's sunset date to January 1, 2026. It also makes the following changes:

- Repeals the registered psychologist registration category
- Eliminates the term "psychological assistant" and instead creates the "registered psychological associate" (RPA) registration category
- Requires a registered psychological associate to have completed a master degree in psychology, education with the field of specialization in educational psychology, counseling psychology or school psychology, be an admitted candidate for a doctoral degree in psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology, or an admitted candidate for a doctoral degree in educational psychology, counseling psychology, or school psychology, or an admitted candidate for a doctoral degree in a field of specialization designed to prepare graduates for the professional practice of psychology after having satisfactorily completed three or more years of postgraduate education in psychology and having passed preliminary doctoral examinations.
- Eliminates psychiatrists as potential immediate supervisors for the purpose of gaining supervised professional experience and requires RPAs to be supervised by a licensed psychologist.
- Maintains that an RPA's primary supervisor shall not supervise more than three RPAs at any given time, and that the primary supervisor is responsible for ensuring that the extent, kind, and quality of the psychological services performed are consistent with the RPA's training and experience
- Prohibits an RPA from providing psychological services to the public except as a trainee, and prohibits an RPA from receiving payments, monetary or otherwise, directly from clients.
- Expands the degrees and specializations that are eligible for licensure as a psychologist to include: (1) Psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology. (2) Education with the field of specialization in counseling psychology,

educational psychology, or school psychology, (3) A field of specialization designed to prepare graduates for the professional practice of psychology.

- Adds the National Register of Health Services Psychologists (NRHSP) as a foreign credential evaluation service.
- Reduces the number of contact hours of coursework in aging and long-term care required for licensure as a psychologist from 10 hours to 6 hours and specifies that applied experience may count towards this requirement.
- Reduces the requirement that a person be licensed in another state or Canadian province from 5 years to 2 years in order to be eligible for licensure as a psychologist in California.
- Permits the BOP's licensure committee, upon delegation by the Board, to consider and decide requests from an applicant or licensee pertaining to their qualifications for licensure.
- Authorizes the Board to assess a file transfer fee of \$10.
- States that the BOP may accept in writing the offer of a surrender of a license, and that a license surrender shall be public information.
- Provides that the holder of a license that was surrendered to the BOP may petition the Board for reinstatement after a period of not less than one year after the effective date of the acceptance.

On 7/7/2021, this bill was amended to add the Board's requested amendments.

Location: Assembly Appropriations

Status: 7/15/21 Read second time and amended. Re-referred to Com. on APPR.
Set for hearing on 8/19/2021.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: Board Letter of Support

Attachment B: Assembly Business and Professions Analysis

Attachment C: SB 801 (Archuleta) Bill text

August 5, 2021

The Honorable Lorena Gonzalez
Chair, Assembly Committee on Appropriations
State Capitol, Room 2114
Sacramento, CA 95814

RE: **SB 801 (Archuleta - Roth) – Healing Arts: Board of Behavioral Sciences:
Board of Psychology: licensees**

Dear Chair Gonzalez:

The Board of Psychology (Board) **Supports** SB 801 (Archuleta – Roth) and appreciates the authors offices' willingness to accept the statutory changes submitted.

This bill would extend the statutory sunset of the Board of Psychology to 2026, authorize the Board to rename the registration of psychological assistant to registered psychological associate, and makes a variety of other changes to the licensing process which reduces or eliminates barriers to licensure.

The Board supports and agrees with the Sunset Review Committee staff's recommendation that "the practice of psychology continue to be regulated by the current Board members in order to protect the interests of the public and be reviewed once again in four years."

The Board appreciates the confidence the Committees have demonstrated in recommending the continuance of the regulation of the practice of psychology by the Board in its current configuration. In the next four years, the Board is committed to addressing the following issues:

1. Ensuring greater access to mental health care in California,
2. Establishing higher criteria for applicants for licensure to ensure consistency with other licensing jurisdictions across the nation,
3. Establishing continuing professional development to ensure competence of its licensees,
4. Redefining the psychological assistant statute to focus on appropriate supervision rather than physical setting,
5. Developing a mechanism to provide licensees an alternative retiree license status at the end of their career,
6. Increasing transparency to the consumers of psychological services in California by providing expanded educational and disciplinary data on its licensees; and

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7. Continuing to review and amend the statutes and regulations in order to be more transparent and understandable to consumers, and to evolve with the field.

The Board of Psychology protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession.

For all of these reasons, the Board requests that you support SB 801.

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,



Seyron Foo
President, Board of Psychology

cc: Assemblyman Frank Bigelow (Vice Chair)
Members of the Assembly Committee on Appropriations
Jennifer Swenson, Principal Consultant, Assembly Committee on Appropriations
Assembly Republican Caucus

Date of Hearing: July 14, 2021

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

SB 801 (Archuleta) – As Amended July 7, 2021

SENATE VOTE: 39-0

SUBJECT: Healing arts: Board of Behavioral Sciences: Board of Psychology: licensees

SUMMARY: Makes various changes to the regulation of licensed and registered professionals under the jurisdiction of the Board of Psychology (BOP) and the Board of Behavioral Sciences (BBS), including psychologists, registered psychologists, psychological assistants, licensed clinical social workers (LCSWs), licensed marriage and family therapists (LMFTs), licensed educational psychologists (LEPs), licensed professional clinical counselors (LPCCs), associate clinical social workers registrants (ASWs), associate marriage and family therapists registrants (AMFTs), and associate professional clinical counselors registrants (APCCs), stemming from the joint sunset review oversight of the BOP and the BBS.

EXISTING LAW:

- 1) Establishes the Psychology Licensing Law, which defines and regulates the practice of psychology in California. (Business and Professions Code (BPC) Section 2900 et seq.)
- 2) Defines the practice of psychology as rendering psychological service involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships, as specified. (BPC Section 2903)
- 3) Creates the Board of Psychology under the jurisdiction of the Department of Consumer Affairs, responsible for the licensing and enforcement of the psychology profession in California. (BPC Section 2920 et seq.)
- 4) Prohibits a person, with certain exceptions, to engage in the practice of psychology or representing themselves as a psychologist without a license granted by the BOP. (BPC Section 2903)
- 5) Enumerates the requirements to qualify for licensure as a psychologist, including:
 - a. Earning a doctorate degree in psychology, educational psychology, or education with the field of specialization in counseling psychology or educational psychology, as specified.
 - b. Accruing at least two years of supervised professional experience under supervision, as specified.

- c. Taking and passing an examination testing the knowledge in any theoretical or applied fields of psychology, as well as professional skills and judgement in the use of psychological techniques and methods and the ethical practice of psychology.
 - d. Completing pre-licensure courses, including alcohol and chemical dependency detection and treatment, spousal or partner abuse assessment detection and intervention strategies, aging and long-term care, suicide risk assessment and intervention, as specified. (BPC Section 2914, Section 2915.5 and Section 2915.4)
- 6) Establishes the “psychological assistant” registration category under the BOP, and allows such registrant to perform psychological functions in preparation for full licensure as a psychologist if the registrant:
- a. Meets specified educational requirements, such as completing a master’s degree, or being admitted to candidacy for a doctoral degree, or having a doctorate degree in psychology, educational psychology, or education.
 - b. Is at all times under the immediate supervision of a licensed psychologist or a licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology or the American College of Osteopathic Board of Neurology and Psychiatry.
 - c. Complies with regulations adopted by the BOP relating to the requirements in continuing education.
 - d. Does not provide psychological services to the public except as a supervisee. (BPC Section 2913)
- 7) Prohibits a licensed psychologist or a board certified psychiatrist from supervising more than three psychological assistants at any given time. (BPC Section 2913(c)(2))
- 8) Establishes the “registered psychologist” registration category under the BOP, and allows such registrant to perform activities of a psychological nature at a nonprofit community agency for a maximum period of 30 months, if the following conditions are met:
- a. The registrant has a doctorate degree in psychology, educational psychology, or in education, as specified.
 - b. The registrant has one year or more of supervised professional experience.
 - c. The nonprofit community agency receives a minimum of 25 percent of their financial support from any federal, state, county, or municipal governmental organizations. (BPC Section 2909.5)

- 9) Authorizes the following unlicensed individuals to perform activities of a psychological nature, as long as those persons are performing those activities as part of the duties for which they were employed, are performing those activities solely within the confines of or under the jurisdiction of the organization in which they are employed, and do not render or offer to render psychological services:
- a. Individuals who hold a valid and current credential as a school psychologist issued by the Commission on Teacher Credentialing.
 - b. Individuals who are employed in positions as psychologists or psychological assistants by accredited or approved colleges, junior colleges, or universities, or by federal, state, county, or municipal governmental organizations that are not primarily involved in the provision of direct health or mental health services, may conduct research and disseminate their research findings and scientific information. (BPC Section 2909)
- 10) Authorizes individuals who are salaried employees of accredited or approved academic institutions, public schools, or governmental agencies to practice psychology, if those employees are complying with the following:
- a. Performing those psychological activities as part of the duties for which they were hired.
 - b. Performing those activities solely within the jurisdiction or confines of those organizations.
 - c. Do not hold themselves out to the public by any title or description of activities incorporating the words “psychology,” “psychological,” or “psychologist.”
 - d. Are primarily gaining the supervised professional experience required for licensure that is being accrued consistent with the BOP’s regulations and the employees have as the primary supervisor a psychologist licensed in the state. (BPC Section 2910)
- 11) Provides that an applicant for licensure trained in an educational institution outside the United States or Canada must demonstrate that they possess an equivalent doctorate degree in psychology earned from a regionally accredited university in the United States or Canada to be eligible for licensure in California. Requires such applicants to provide a comprehensive evaluation of the degree, performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES). (BPC Section 2914(c)(4))
- 12) Specifies and an individual who passes the BOP’s supplemental licensing examination and has been licensed for at least five years by a psychology licensing authority in another state or Canadian province may obtain a license in California. (BPC Section 2946)

- 13) Establishes the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, the Licensed Professional Clinical Counselor Act, and the Educational Psychologist Practice Act, which outlines the licensure requirements, scope of practice, and professional responsibilities of those respective professions. (BPC Section 4980.04 et seq., BPC Section 4991 et seq., BPC Section 4999.10 et seq., and BPC 4989.10 et seq)
- 14) Establishes the Board of Behavioral Sciences under the jurisdiction of the Department of Consumer Affairs responsible for enforcing the provisions of the Practice Acts described above. (BPC Section 4990 seq.)
- 15) Unless specifically exempted, requires a person to obtain a valid license or registration with the BBS before engaging in the practice of marriage and family therapy, clinical social work, or professional clinical counseling (BPC Section 4980(b), BPC Section 4996(b), and BPC Section 4999.30)
- 16) Exempts from licensure requirements above any unlicensed or unregistered employee or volunteer working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable, as long as the employee or volunteer performs work solely under the supervision of the entity and provides a specified consumer protection form to clients. (BPC Section 4980.01(c), BPC Section 4996.14(b), and BPC section 4999.22(d))
- 17) Requires unlicensed or unregistered employees or volunteers to provide clients, prior to initiating psychotherapy, a notice on information about where to file a complaint. (BPC Section 4980.01, Section 4996.14, and Section 4999.22)
- 18) Requires licensees or registrants under the BBS to provide clients, prior to initiating psychotherapy, a notice on the how to file a complaint with the BBS. (BPC Section 4980.32. Section 4989.17, 4996.75, and Section 4999.71)
- 19) Permits health care providers, including associate marriage and family therapists and qualified autism providers, to provide telehealth services, as specified. (BPC Section 2290.5)
- 20) Outlines the educational, coursework and training requirements for a marriage and family therapist license. (BPC Section 4980.36 and Section 4980.37)
- 21) Defines the practice of marriage and family therapy as a service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate satisfying, and productive marriage and family adjustments. (BPC Section 4980.02)
- 22) States that the application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of

relationships, and the use, application, and integration of marriage and family therapy coursework. (Section 4980.02)

- 23) Permits the BBS to establish continuing education provider fees, as specified. (BPC Section 4980.54, Section 4989.34, Section 4996.22, and Section 4999.76)
- 24) Authorizes the BBS to charge application, examination, and renewal fees, as specified. (BPC Section 4984.7, Section 4989.32, Section 4989.68, Section 4996.3, and Section 4999.120)
- 25) Authorizes the BBS to charge all unpaid prior renewal fees and delinquency fees for LPCC and LEP licensees wishing to renew a license that has expired, as specified. (BPC Section 4989.36, Section 4989.40, and Section 4999.104)
- 26) Prohibits any LMFT, LCSW, LPCC who conducts a private practice under a fictitious business name from using any name that is false, misleading, or deceptive and must inform the patient prior to commencing treatment of the name and license designation of the owner or owners of the practice, as specified. (BPC Section 4980.46, Section 4998.2, and Section 4999.125)
- 27) States that a licensee or registrant under the BBS whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. Specifies the timeframes by which a licensee or registrant may file a petition. (BPC Section 4990.30)
- 28) Specifies that a LCSW can obtain continuing education from an accredited school of social work or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. (BPC Section 4996.22)

THIS BILL:

- 1) Repeals the registered psychologist registration category under the BOP.
- 2) Eliminates the term “psychological assistant” and instead creates the “registered psychological associate” (RPA) registration category under the BOP. Authorizes an RPA to perform psychological functions in preparation for licensure as a psychologist.
- 3) Requires an RPA to complete or be in any of the following:
 - a. Completed a master’s degree in psychology.
 - b. Completed a master’s degree in education with the field of specialization in educational psychology, counseling psychology or school psychology.

- c. Is an admitted candidate for a doctoral degree in psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.
 - d. Is an admitted candidate for a doctoral degree in educational psychology, counseling psychology, or school psychology.
 - e. Is an admitted candidate for a doctoral degree in a field of specialization designed to prepare graduates for the professional practice of psychology after having satisfactorily completed three or more years of postgraduate education in psychology and having passed preliminary doctoral examinations.
 - f. Completed any of the doctoral degrees above.
- 4) Eliminates psychiatrists as potential immediate supervisors for the purpose of gaining supervised professional experience, and requires RPAs to be supervised by a licensed psychologist.
 - 5) Maintains that an RPA's primary supervisor shall not supervise more than three RPAs at any given time, and that the primary supervisor is responsible for ensuring that the extent, kind, and quality of the psychological services performed are consistent with the RPA's training and experience.
 - 6) Prohibits an RPA to provide psychological services to the public except as a trainee, and prohibits an RPA from receiving payments, monetary or otherwise, directly from clients.
 - 7) Expands the degrees and specializations that are eligible for licensure as a psychologist to include:
 - a. Psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.
 - b. Education with the field of specialization in counseling psychology, educational psychology, or school psychology.
 - c. A field of specialization designed to prepare graduates for the professional practice of psychology.
 - 8) Adds the National Register of Health Services Psychologists (NRHSP) as a foreign credential evaluation service that an applicant for licensure trained outside the United States or Canada may use to perform a degree equivalency evaluation. Specifies that the member of NACES or the NRHSP must submit to the BOP:
 - a. A transcript in English, or translated into English by the credential evaluation service, of the degree used to qualify for licensure.
 - b. An indication that the degree used to qualify for licensure is verified using primary sources.

- c. A determination that the degree is equivalent to a degree earned in a regionally accredited institution in the United States or Canada that qualifies for licensure.
- 9) Reduces the number of contact hours of coursework in aging and long-term care required for licensure as a psychologist from 10 hours to 6 hours. Specifies that applied experience may count towards this requirement.
- 10) Provides that if an applicant for licensure as a psychologist does not have coursework related to aging and long-term care, the applicant may:
 - a. Obtain evidence of compliance as part of their applied experience in a practicum, internship, or formal postdoctoral placement or other qualifying supervised professional experience. The applicant must provide written certification from the director of training for the program or primary supervisor where the qualifying experience occurred stating that the training required by this section is included within the applied experience.
 - b. Take continuing education courses, as specified.
- 11) Reduces the requirement that a person be licensed in another state or Canadian province from 5 years to 2 years in order to be eligible for licensure as a psychologist in California.
- 12) Permits the BOP's licensure committee, upon delegation by the Board, to consider and decide requests from an applicant or licensee pertaining to their qualifications for licensure. Authorizes such licensure committee to convene in closed session, to the extent necessary to protect the privacy of individuals, to consider and decide request for the following:
 - a. An extension of time to gain supervised professional experience to meet the experience requirements for licensure.
 - b. An extension of time to hold a psychological associate registration beyond the maximum period otherwise allowed pursuant to regulations.
- 13) Authorizes the Board to assess a file transfer fee of \$10.
- 14) States that the BOP may accept in writing the offer of a surrender of a license, and that a license surrender shall be public information.
- 15) Provides that the holder of a license that was surrendered to the BOP may petition the Board for reinstatement after a period of not less than one year after the effective date of the acceptance.
- 16) Clarifies that associate clinical social workers and an associate professional clinical counselors may provide telehealth services.
- 17) Requires additional information on the BBS to be included on notices issued by unlicensed or unregistered employees or volunteers providing exempted psychotherapy services to clients.

- 18) Specifies that notices issued by unlicensed, unregistered, or licensed and registered individuals may be provided prior to initiating psychotherapy services or as soon as practicably possible thereafter, and that the delivery of the notice to the client must be documented.
- 19) Updates the definition of the practice of marriage and family therapy as the application of psychotherapeutic and family systems theories, principles, and methods in the delivery of services to individuals, couples, or groups in order to assess, evaluate, and treat relational issues, emotional disorders, behavioral problems, mental illness, alcohol and substance use, and to modify intrapersonal and interpersonal behaviors.
- 20) Clarifies that the application of marriage and family therapy principles and methods includes, but is not limited to, the following activities:
 - a. Assessment, evaluation, and prognosis.
 - b. Treatment, planning, and evaluation.
 - c. Individual, relationship, family, or group therapeutic interventions.
 - d. Relational therapy.
 - e. Psychotherapy.
 - f. Client education.
 - g. Clinical case management.
 - h. Consultation.
 - i. Supervision.
 - j. Use, application, and integration of marriage and family therapy coursework as required under existing law.
- 21) Specifies that LMFT and LPCC required education and practicum include training in prognosis.
- 22) Clarifies that a denial issued pursuant to the conviction of a specified crime, must comply with the conditions of denial as specified in BPC Section 480.
- 23) Eliminates the BBS' authority to charge continuing education provider fees.
- 24) Clarifies that associate registration fees under the BBS are to be renewed annually, and that licenses are to be renewed every two years.
- 25) States that the BBS does not charge accrued renewal or delinquency fees.

- 26) Aligns the requirements to renew and reinstate a LCSW suspended license with the existing requirements for LMFT, LEP, and LPCC licenses.
- 27) Adds conforming language for LEPs, which prohibits a LEP who conducts a private practice under a fictitious business name from using any name that is false, misleading, or deceptive, and must inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.
- 28) Requires an applicant, registrant, or licensee who has an electronic mail address to provide the BBS with that electronic mail address no later than July 1, 2022, and further requires an applicant, registrant, or licensee to provide to the BBS any and all changes to their electronic email address no later than 30-calendar days after the changes have occurred.
- 29) States that the electronic mail address is considered confidential and not subject to public disclosure.
- 30) Clarifies that any periods during which a probation was tolled is excluded from the statutory timeframes determining when a petition can be filed by a licensee or registrant whose license has been revoked, suspended, or placed on probation by the BBS.
- 31) Clarifies that if a petition is to be heard by the BBS, the petitioner may request that the BBS schedule the hearing on the petition for a board meeting at a specific city where the BBS regularly meets.
- 32) Increases the maximum LCSW application fee that the BBS may charge from \$400 to \$500.
- 33) Permits an LCSW to obtain continuing education from a school accredited by the U.S. Department of Education or approved by the Bureau for Private Postsecondary Education.
- 34) Extends the BOP and the BBS until January 1, 2026.
- 35) Makes various technical and conforming changes related to the BOP and BBS' operations.

FISCAL EFFECT: According to the Senate Committee on Appropriations, which analyzed the April 13, 2021 version of this bill:

“The [Board of Behavioral Sciences] anticipates costs of approximately \$1,314 (Behavioral Sciences Fund) to revise forms for applicants, registrants, and licensees; update website documents; and perform outreach to its licensing population. These costs are anticipated to be absorbable within existing resources.

The Office of Information Services anticipates costs of approximately \$1,600 to change the email address field on initial and renewal application forms, which is anticipated to be absorbable through the redirection of existing maintenance resources.”

COMMENTS:

Purpose. This bill is author-sponsored, and is one of a number of sunset bills advancing through the legislative process related to sunset review of specific regulatory boards. Each year, the Assembly Committee on Business and Professions and the Senate Business, Professions, and Economic Development Committee (Committees) hold joint sunset review oversight hearings in order to review regulatory boards and bureaus under the jurisdiction of the Department of Consumer Affairs (DCA). As these boards and bureaus are responsible for protecting consumers and the public and regulating the professionals they license, the sunset review process provides an opportunity for the DCA, the Legislature, the boards, and interested parties and stakeholders to discuss the performance of the boards, and make recommendations for improvements.

The joint Committees held sunset review oversight hearings for the Board of Behavioral Sciences on November 18, 2020 and for the Board of Psychology on March 3, 2021. Several of the issues examined during the hearings are also reviewed in a committee background papers “Identified Issues, Background, and Recommendations Regarding the Board of Behavioral Sciences” and “Identified Issues, Background, and Recommendations Regarding the Board of Psychology” – both of which are published and available on the Assembly Committee on Business and Professions’ website.

SB 801 is the sunset review bill that will implement changes to the BOP and the BBS’ operations, as identified on the committee background paper, the sunset review oversight hearing, and stakeholder input.

Background.

The Board of Psychology. The California Board of Psychology traces its origins back to the Certification Act of 1958, which provided an early regulatory framework by granting title protection for the practice of psychology. In 1967, the California legislature further defined the scope of practice of psychology, requiring licensure to practice and further protect the public from potential consumer harm. At the time, the practice of psychology was placed under the jurisdiction of the Psychology Examining Committee, which was part of the larger Division of Allied Health Professions of The Board of Medical Quality Assurance (BMQA). Throughout the 1970s, the Psychology Examining Committee gradually became more independent, and became responsible for its own operations – including the authority to adopt regulations and administrative disciplinary actions without the endorsement of BMQA. In 1990, the Psychology Examining Committee was officially renamed the Board of Psychology.

Today, the BOP regulates licensed psychologists, psychological assistants, and registered psychologists through the enforcement of the Psychology Licensing Law. The practice of psychology is defined as the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions and interpersonal relationships; and the methods and

procedures of interviewing, counseling, psychotherapy, behavior modification, and hypnosis; and of constructing, administering and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations.

Broadly, only licensed psychologists can practice psychology independently in California. Registered psychologists are registrants who work and train under supervision in non-profit agencies that receive government funding. Finally, Psychological assistants provide psychological services under the supervision of a qualified licensed psychologist or board-certified psychiatrist, generally to accrue the necessary supervised hours to obtain full licensure as a psychologist.

Provisions Related to the Board of Psychology. As currently amended, SB 801 contains several proposed statutory changes identified by the BOP, the Committees, and stakeholders involved with or impacted by the practice of psychology. In addition to technical and conforming changes, this bill proposes to enact several statutory changes to the BOP: (1) restructuring pathways to licensure as a psychologist; (2) providing an additional method to conduct foreign degree evaluation; (3) granting the BOP's licensure committee authority to consider matters related to supervised professional experience; (4) establishing a new file transfer fee; and (5) creating a process to reinstate a license after a non-disciplinary surrender.

BOP: Pathways to Licensure. The BOP has experienced a notable increase in the average time to process complete applications for licensure and a significant increase in the average time to process incomplete applications for licensure in the past three fiscal years. Additionally, the number of pending applications has outpaced completed applications. In response to this trend, BOP staff began in 2015 to review all statutory and regulatory sections related to pathways to licensure and compiled a list of proposed improvements. The BOP subsequently engaged with stakeholders, hosting review meetings that included professional associations, schools, training directors, and applicants, to get feedback on the BOP's proposed changes.

Of note, the BOP proposal would rename the "psychological assistant" registration category as "registered psychological associate" and would modify the list of degrees and specializations that can be used towards eligibility for a registration as a psychological associate. For example, in addition to psychology, eligible degrees would include education, with the field of specialization in educational psychology, counseling psychology, or school psychology. According to the BOP, such changes reduce confusion, and enhances consumer protection by ensuring qualifying degrees incorporate the application of psychological principles in coursework and training.

Existing law requires a psychological assistant to be under immediate supervision of either a licensed psychologist or a licensed physician and surgeon who is certified in psychiatry. SB 801 would eliminate psychiatrists as qualifying primary supervisor for the rebranded registered psychological associates. According to the BOP, this change is needed as the role of the primary supervisor is to socialize trainees into the profession of psychology – and as such requires knowledge and understanding of the practice of psychology and appropriate obligations for an independent practitioner of psychology.

The BOP also proposes to eliminate the "registered psychologist" registration category. This registration designation is intended to be a method by which an unlicensed person can perform limited psychological functions at a non-profit community agency that receives specified

governmental funding, in order for the registered psychologist to accrue hours of supervised professional experience towards full licensure. According to the BOP, eliminating this category would reduce confusion regarding the type of registration needed to accrue the experience, and would also eliminate confusion in the public's mind as the term "registered psychologist" could be perceived as an independent practitioner. Additionally, there is a very small number of registered psychologists: in FY 2018/2019, the BOP reported 129 active registered psychologists; compared to 18,719 active psychologists and 1,378 active psychological assistants.

SB 801 also proposes reducing the number of hours of coursework in aging and long-term care from 10 hours to 6 hours, and adding applied experience and continuing education as alternative pathways to meet this requirement for licensure. According to the BOP, this change is to be consistent with other pre-licensure coursework requirements.

BOP: Foreign Degree Evaluation. BPC Section 2914 requires an applicant for licensure trained in an educational institution outside the United States or Canada to demonstrate to the satisfaction of the board that the applicant possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. To do so, applicants must provide the BOP with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation the BOP deems necessary.

The Association of State and Provincial Psychology Boards conducted a discussion on foreign-trained applicants and received information about the National Register of Health Services Psychologists (NRHSP). Established in 1974, the NRHSP describes itself as an independent nonprofit organization and the largest credentialing organization for psychologists and psychology doctoral students.

After reviewing the NRHSP credentials review process, the BOP is requesting legislative changes to add the NRHSP as an additional credential evaluation service. To that end, SB 801 would allow the NRHSP to perform foreign credential evaluation services for the purpose of determining the qualifications of applicants trained in an educational institution outside the United States or Canada. According to the BOP, this proposed change will offer foreign-trained applicants an additional avenue to obtain the credentials evaluation required for licensure.

BOP: Authority of the Licensure Committee. All state boards and commissions are subject to the Open Meeting Act which specifies, among other items, that meetings must be noticed in advance and open to the public. As an exception, the Open Meeting Act does permit a licensing board to conduct, under specified circumstances, a closed session meeting to discuss matters that may constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting. The BOP's Licensure Committee uses this statutory discretion when discussing licensing-related requests from applicants. For example, the BOP's Licensure Committee reviews requests for additional time to accrue supervised professional experience due to health-related reasons. According to the BOP, the Licensure Committee is often presented with personal medical information that accompanies these requests. The Licensure Committee then brings its recommendations to the full BOP for final decision in an open session at a board meeting, where the requests must be substantially redacted to protect sensitive personal

information. The BOP suggests that this process creates unnecessary delays for those seeking licensure, as these individuals may be unable to practice while awaiting a final decision from the BOP.

SB 801 permits the BOP's Licensure Committee to meet in closed session and independently consider and decide whether an applicant or licensee should be granted an extension of time to gain supervised professional experience to meet the experience requirements for licensure, or an extension of time to hold a psychological associate registration beyond the maximum period otherwise allowed. This bill would only allow the Licensure Committee to convene in closed session to the extent necessary to protect the privacy of the applicant or licensee.

BOP: File Transfer Fee. The BOP is a special-funded entity, and as such does not receive funding from California's General Fund. The BOP generates revenue primarily from license, application, and examination fees levied on psychologists, psychological assistants, and registered psychologists. The BOP is currently facing a budget structural deficit, with expenditures outpacing revenue streams.

Existing law establishes statutory limits on the various fees levied on licensees. The BOP may adjust such fees via regulations, as long as the dollar amount remain within the statutory limits. The BOP has not yet reached the cap on several fee types: for example, both the initial licensing fee and the biennial renewal fee for psychologists are currently set by the Board at \$400, but are statutorily limited to \$500.

Based on current projections, the Board expects that it will need to increase its fees in some manner by FY 2023-24. In order to alleviate budget pressures, the BOP has conducted an analysis of its existing operations to determine if small administrative fees can be levied to recoup actual costs for completing certain service. To that end, SB 801 permits the BOP to charge a file transfer fee of \$10 to recoup the cost of retrieving and returning the appropriate documents from the State Records Center for the BOP's licensees and applicants.

BOP: License Reinstatement. Based on the Board's analysis of its aging licensee demographic and input from its stakeholders about discipline related to a licensee's cognitive impairment, the Board has reevaluated its approach to investigation and discipline of complaints where there is no consumer harm involved. The Board reports instances where licensees have diminished cognitive capacity due to diseases such as Alzheimer's and the licensee's family or a fellow licensee reported that the licensee is starting to experience cognitive issues due to their impairment but have no consumer complaints filed against them.

Currently, the Board has implicit statutory authority to accept a non-disciplinary surrender of a license. However, the Board reports that it does not have a mechanism for reinstatement of such a surrendered license in circumstances where medication or surgery could restore cognitive function. As such, the Board is requesting clarification of the process for voluntary surrender and to establish a mechanism for such individuals to petition the Board for reinstatement of their license.

SB 801 proposes that the BOP may, at its discretion, accept the offer of a surrender of a license. Such surrender shall be public information. Additionally, SB 801 outlines that the individual who surrendered a license may petition the BOP for reinstatement after a period of not less than

one year after the effective date of the surrender's acceptance.

The Board of Behavioral Sciences. The history of the Board of Behavioral Sciences began in 1945, originally formed as the Board of Social Work Examiners whose purpose was to register social workers. In 1963, tasked with administering the Marriage, Family, and Child Counselor Act, the regulatory board was duly renamed the Social Worker and Marriage Counselor Qualification Board. The board then took under its jurisdiction licensed clinical social worker and educational psychologists in 1967 and 1970, respectively – changing its name once again to the Board of Behavioral Science Examiners. In 1997, the board adopted its current name, the Board of Behavioral Sciences. Today, the BBS licenses and regulates licensed clinical social workers, licensed marriage and family therapists, licensed educational psychologists, and licensed professional clinical counselors. The board also registers trainee level associate clinical social workers, associate marriage and family therapists, and associate professional clinical counselors. Each profession has its own scope of practice, entry-level requirements, and professional settings with some overlap in areas:

- LMFTs are employed in mental health agencies, counseling centers, and private practice. LMFTs utilize counseling or therapeutic techniques to assist individuals, couples, families, and groups with a focus on marriage, family, and relationship issues.
- LCSWs are employed in health facilities, private practice, and state and county mental health agencies. LCSWs utilize counseling and psychotherapeutic techniques to assist individuals, couples, families, and groups.
- LEPs work in schools or in private practice and provide educational counseling services such as aptitude and achievement testing or psychological testing. LEPs may not provide psychological testing or counseling services that are unrelated to academic learning processes in the education system.
- LPCCs apply counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. LPCCs work in a variety of settings including hospitals, private practice, and community-based mental health organizations.

Provisions related to the Board of Behavioral Sciences. In addition to technical and conforming changes, this bill enacts several changes related to the BBS' operations and its licensees and registrants, outlined below.

BBS: Telehealth services. BPC Section 2290.5 specifies that health care providers licensed under Division 2 of the code – which includes registrants under the BBS – are able to perform telehealth services. This section also specifically states that associate marriage and family therapists or marriage and family therapist trainees are permitted to perform services via telehealth.

However, according to the Board, the omission of associate professional clinical counselors and associate clinical social workers from the code section has led to questions from the public about

whether the omitted license types can perform services via telehealth. These associates are able to do per existing statutes, but the BBS proposes to affirmatively include them on the list of health care providers who may provide services via telehealth. This change would provide clarity and minimize confusion. SB 801 codifies this proposal in BPC Section 2290.5 by including associate clinical workers and associate professional clinical counselors on the list of health care providers who may provide services via telehealth.

BBS: Notice to Clients. Licensees and registrants under the BBS provide mental health services in a variety of different settings. These locations can include hospitals, community clinics, schools, non-profits, private companies, government agencies, and many others. Generally, individuals providing psychotherapeutic services in California within the scope of practice of a LMFT, LCSW, or LPCC are required to have a license or registration with the Board. However, state law provides certain exemptions to these licensure requirements. These “exempt settings” are statutory defined to include governmental entities, schools, colleges, universities, or nonprofit and charitable institutions, and allow unlicensed or unregistered employees or volunteers in such settings to provide psychotherapy services under specified conditions. Exempt settings have been excluded from the Board’s practice acts since the 1980s, and have been described as an important tool for non-profit entities to provide mental health services.

AB 630 (Arambula, Chapter 229, Statutes of 2019) required licensee, registrant, as well as unlicensed or unregistered therapists in an exempt settings to provide their clients with information about where to file a complaint about the therapist. In its review of the bill, the Senate Committee on Business, Professions, and Economic Development suggested that additional language also be included in the notice provided to clients of unlicensed or unregistered therapists. SB 801 includes specific language to be include in the notice provided to clients by an unlicensed or unregistered therapist, describing the role of the BBS and how an individual may check if a counselor is licensed or registered and how to file a complaint.

AB 630 also required all therapist practitioners to provide their notice to clients about where to file a complaint about their therapist prior to initiating psychotherapy services. According to the BBS, stakeholders raised the concern that in crisis situations, it may not be feasible or appropriate to stop the delivery of immediate services to provide and/or discuss the required notice. To address this concern, SB 801 states that the notice must be provided prior to initiating psychotherapy services, or as soon as practicably possible thereafter. This requirement applies for both licensed and registered individuals under the BBS, as well as unlicensed and unregistered individuals in an exempt setting. In addition, the bill requires the delivery of the notice to the client to be documented.

BBS: Re-inclusion of the Term Prognosis. Previously, California law listed the required education and practicum for LMFT and LPCC licensure, and included required training in assessment, diagnosis, and prognosis. In 2019, the BBS sponsored a legislative amendment via SB 796 (Committee on Business, Professions and Economic Development, Chapter 456, Statutes of 2019) replacing the term “prognosis” with the term “treatment planning,” because it believed that treatment planning was a more accurate representation of the course of psychotherapy. According to the BBS, stakeholders have expressed concerns that other mental health professions may be interpreting the BBS’ law change as meaning LMFTs and LPCCs are not permitted to perform prognosis. To address these concerns, SB 801 proposes to add back the

term “prognosis” where it was previously deleted, to be included along with the term “treatment planning.”

BBS: Continuing Education Provider Fees. Existing law authorizes the BBS to establish a procedure for identifying acceptable providers of continuing education courses. In addition, the BPC authorizes the BBS to charge continuing education provider fees in order to administer the BBS’ responsibilities related to continuing education. According to the BBS, its authority to approve continuing education providers was removed on January 1, 2015 when its new continuing education regulations became effective, and instead established the BBS’ authority to accept continuing education credits from providers who have been approved or registered by a BBS recognized “approval agency” or by an organization, institution, association or entity that has been recognized by the BBS as a continuing education provider. The BBS states that this change in regulation entrusted the review and approval of continuing providers, coursework and instructors to professional associations and other entities recognized by the BBS, because these entities have extensive experience and expertise administering and approving continuing education programs that the BBS does not have. As the BBS no longer has the authority to approve CE providers, SB 801 proposes to eliminate statutes authorizing the Board to charge continuing education provider fees.

BBS: Fee Schedule. Existing law authorizes the BBS to charge application and renewal fees to licensees and registrants. However, the BBS notes that how often a renewal is paid is not directly specified in the BBS’ statutory fee schedules. SB 801 clarifies that that associate registrations are renewed annually, and licenses are renewed every two years, as needed.

BBS: Delinquency Fee. Existing law authorizes the BBS to charge accrued renewal and delinquency fees to LPCC and LEP licensees wishing to renew a license that has expired. The BBS notes some inconsistencies in this practice, as statutes do not authorize charging accrued fees for LMFTs and LCSWs. To establish consistency, SB 801 amends LEP and LPCC statutes to clarify that the BBS does not charge accrued renewal or delinquency fees. The bill also clarifies that such renewal does not entitle the licensee, while its license remains suspended and until it is reinstated, to engage in activity otherwise allowed by the license.

BBS: Fee Maximum for LCSW. In 2020, the Legislature authorized the BBS to increase its licensing fees through AB 3330 (Calderon, Chapter 359, Statutes of 2020). Across all license types, the base application fee for licensure was set at \$250. Statutes also intended to authorize the BBS to increase those fees at a maximum amount of \$500 via the adoption of regulations. This maximum was set for LMFT, LEP, and LPCC license types – however, the LCSW license type was erroneously set at \$400.

SB 801 corrects this error and sets the LCSW maximum application fee at \$500. According to the BBS, this change does not increase the current LCSW application for licensure fee, which is set at \$250. This change is intended to align the correct maximum fees to \$500 across all license types.

BBS: E-mail Address Requirements. SB 801 requires an applicant, registrant, or licensee who has an electronic mail address to provide the BBS with that electronic mail address no later than July 1, 2022. Additionally, the bill requires such individuals to provide to the board any and all changes to their electronic mail address no later than 30 calendar days after the changes have

occurred. The electronic mail address shall be considered confidential and not subject to public disclosure. According to the BBS, this change would allow the Board to communicate information about law changes or examination processes to most of its licensee and registrant population more quickly and effectively.

BBS: Petition for License Reinstatement. Existing law provides that a person under the jurisdiction of the BBS whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. The BPC provides timeframes by which the licensee or registrant may file the petition: for example, a person may petition on or after three years for reinstatement of a license or registration that was revoked for unprofessional conduct.

The BBS recommends clarifying certain provisions regarding the procedure for petitioning to terminate probation early or modify a penalty. To that end, SB 801 clarifies that periods of probation tolling are excluded from the statutory timeframes before a petition can be filed. In addition, the bill clarifies that if the petition is to be heard by the BBS, the petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.

BBS: Denial of Licensure. AB 2138 (Chiu, Chapter 995, Statutes of 2018) was enacted into law and amended BPC 480 in order to lower barriers to licensure for individuals with prior criminal convictions. Broadly, AB 2138 limits a regulatory board's discretion to deny a new license application to cases where the applicant was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board, with offenses older than seven years no longer eligible for license denial, with several enumerated exemptions.

The BBS conducted a review of its licensing statutes and is proposing statute changes to provide consistency with AB 2138's provisions – such as updating statutory language clarifying that individuals applying for licensure must not be subject to denial of licensure pursuant to BPC 480.

MFT Scope of Practice Update. The BPC currently defines the practice of marriage and family therapy as service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. The BPC further states that the application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training, as specified in California law and described above.

SB 801, at the request of the California Association of Marriage and Family Therapists, updates this scope of practice language and integrates MFT educational and training references outlined in existing statutes into the definition of the practice of marriage and family therapy. With these changes, marriage and family therapy would be defined as the application of psychotherapeutic and family systems theories, principles, and methods in the delivery of services to individuals, couples, or groups in order to assess, evaluate, and treat relational issues, emotional disorders, behavioral problems, mental illness, alcohol and substance use, and to modify intrapersonal and interpersonal behaviors. In addition, this bill updates examples of the of marriage and family

therapy applications to include assessment, evaluation, and prognosis; treatment, planning, and evaluation; individual, relationship, family, or group therapeutic interventions; relational therapy; psychotherapy; client education; clinical case management; consultation; supervision; and the use, application, and integration of the coursework and training, as specified in California law.

ARGUMENTS IN SUPPORT:

The California Psychological Association writes in support: “The bill contains the sunset review for the Board of Psychology (BOP), as well as other mental and behavioral health boards, and makes minor changes pursuant to these reviews. [...] We believe the BOP should continue its operations and regulation of our membership.”

The California Association of Marriage and Family Therapists writes in support: “[SB 801] extends the sunset date for the Board of Behavioral Sciences, makes various technical changes to the Business and Professions Code, and provides necessary clarity to the scope of practice for Marriage and Family Therapists (MFT) by more accurately capturing the types of care and services that MFTs currently provide. California has made significant strides to recognize the impact of behavioral conditions and substance use disorders on society. SB 801 helps to further this achievement by updating the MFT scope of practice to reflect the clinical skill set possessed by MFTs, as referenced in their education and training requirements.”

ARGUMENTS IN OPPOSITION:

None on file.

AMENDMENTS:

At the request of the author, the committee proposes a technical amendment to align the language on the notices provided to clients receiving psychotherapy:

Page 82, line 18, strike the word “counselor” and insert the word “practitioner” to read:

“NOTICE TO CLIENTS

The (Name of office or unit) of the (Name of agency) receives and responds to complaints regarding the practice of psychotherapy by any unlicensed or unregistered ~~counselor~~ *practitioner* providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, or mailing address of agency).”

REGISTERED SUPPORT:

California Psychological Association
California Association of Marriage and Family Therapists

REGISTERED OPPOSITION:

None on file.

Analysis Prepared by: Patrick Le / B. & P. / (916) 319-3301

SB-801 (Archuleta) Healing arts: Board of Behavioral Sciences: Board of Psychology: licensees.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 27 of the Business and Professions Code is amended to read:

27.

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as the licensee's address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet.

(b) In providing information on the internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Household Goods and Services shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, service contract administrators, and household movers.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The Acupuncture Board shall disclose information on its licensees.

(13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.

(14) The Dental Board of California shall disclose information on its licensees.

(15) The State Board of Optometry shall disclose information on its licensees and registrants.

(16) The Board of Psychology shall disclose information on its licensees, including ~~psychologists, psychological assistants, psychologists~~ and registered ~~psychologists~~. *psychological associates*.

(17) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Cannabis Control shall disclose information on its licensees.

~~(f)~~ (g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2.

Section 2290.5 of the Business and Professions Code is amended to read:

2290.5.

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means any of the following:

(A) A person who is licensed under this division.

(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3.

(C) A qualified autism service provider or qualified autism service professional certified by a national entity pursuant to Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.

(D) An associate clinical social worker functioning pursuant to Section 4996.23.2.

(E) An associate professional clinical counselor functioning pursuant to Section 4999.46.3.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Before the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) This section does not preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of a health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to the patient's medical information shall apply to telehealth interactions.

(g) All laws and regulations governing professional responsibility, unprofessional conduct, and standards of practice that apply to a health care provider under the health care provider's license shall apply to that health care provider while providing telehealth services.

(h) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(i) (1) Notwithstanding any other law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 3.

Section 2909 of the Business and Professions Code is repealed.

~~2909.~~

~~This chapter shall not be construed as restricting or preventing activities of a psychological nature or the use of the official title of the position for which they were employed on the part of the following persons, provided those persons are performing those activities as part of the duties for which they were employed, are performing those activities solely within the confines of or under the jurisdiction of the organization in which they are employed, and do not render or offer to render psychological services, as defined in Section 2903:~~

~~(a) Persons who hold a valid and current credential as a school psychologist issued by the Commission on Teacher Credentialing.~~

~~(b) Persons who are employed in positions as psychologists or psychological assistants by accredited or approved colleges, junior colleges, or universities, or by federal, state, county, or municipal governmental organizations that are not primarily involved in the provision of direct health or mental health services, may conduct research and disseminate their research findings and scientific information.~~

SEC. 4.

Section 2909.5 of the Business and Professions Code is repealed.

~~2909.5.~~

~~This chapter shall not be construed as restricting or preventing activities of a psychological nature or the use of the official title of the position for which persons were employed on the part~~

~~of persons who meet the educational requirements of subdivision (b) of Section 2914 and who have one year or more of the supervised professional experience referenced in subdivision (c) of Section 2914, if they are employed by nonprofit community agencies that receive a minimum of 25 percent of their financial support from any federal, state, county, or municipal governmental organizations for the purpose of training and providing services, provided those persons are performing those activities as part of the duties for which they were employed, are performing those activities solely within the confines of or under the jurisdiction of the organization in which they are employed and do not render or offer to render psychological services to the public, as defined in Section 2903. Those persons shall be registered by the agency with the board at the time of employment and shall be identified in the setting as a "registered psychologist." Those persons shall be exempt from this chapter for a maximum period of 30 months from the date of registration.~~

SEC. 5.

Section 2910 of the Business and Professions Code is amended to read:

2910.

~~(a) This chapter shall not be construed to restrict the practice of psychology on the part of persons who are salaried employees~~ *persons who are employed in positions as psychologists or registered psychological associates* of accredited or approved academic institutions, public schools, or governmental agencies, ~~agencies from practicing psychology or using the official title of the position for which they were employed~~ if those employees are complying with the following:

(1) Performing those psychological activities as part of the duties for which they were hired.

(2) Performing those activities solely within the jurisdiction or confines of those organizations.

~~(3) Do not hold themselves out to the public by any title or description of activities incorporating the words "psychology," "psychological," or "psychologist," as rendering or offering to render psychological services to any person outside of the organization in which they are employed.~~

(4) Are primarily gaining the supervised professional experience required for licensure that is being accrued consistent with the board's regulations ~~and the employees have as the primary supervisor a psychologist licensed in the state.~~ *regulations.*

(b) Commencing January 1, 2016, an individual employed or who becomes employed by one or more employers as described in subdivision (a) shall be exempt under this section for a cumulative total of five years.

(c) This chapter shall not be construed to restrict or prohibit a person who holds a valid and current credential as a school psychologist issued by the Commission on Teacher Credentialing from engaging in activities of a psychological nature or using the official title of the position for which they are employed, including the word "psychology" or any derivation.

(d) This chapter shall not be construed to restrict or prohibit a person who is employed as a psychologist, registered psychological associate, professor, or instructor by an accredited or approved college, junior college, or university, or by a federal, state, county, or municipal governmental organization that is not primarily involved in the provision of direct health or

mental health services, and who conducts research and disseminates their research findings and scientific information from engaging in activities of a psychological nature or using the official title of the position for which they are employed, including the word "psychology" or any derivation if that person complies with the following:

(1) Performs only those psychological activities as part of the duties for which they are employed.

(2) Performs those activities solely within the jurisdiction or confines of those organizations in which they are employed.

(3) Does not hold themselves out as rendering or offering to render psychological services to any person outside of the organization in which they are employed.

SEC. 6.

Section 2911 of the Business and Professions Code is amended to read:

2911.

Nothing in this chapter shall be construed as restricting the activities and services of a graduate student or ~~psychological~~ *psychology* intern *enrolled* in ~~psychology pursuing a course of study leading to a graduate degree in psychology at an accredited or approved college or university and working in a training program, or a postdoctoral trainee working in a postdoctoral placement overseen a doctoral program leading to one of the degrees listed in subdivision (b) of Section 2914 or a trainee in a post-doctoral placement approved~~ by the American Psychological Association (APA), ~~Association,~~ the Association of Psychology Postdoctoral and Internship Centers (APPIC), ~~Centers,~~ or the California Psychology Internship Council (CAPIC), ~~provided that these activities and services constitute a part of his or her supervised course of study and that those persons are~~ Council. *These persons may be* designated by the title "psychological *psychology* intern," "psychological *psychology* trainee," "postdoctoral intern," *psychology fellow,*" or another title clearly indicating the training status appropriate to his or her level of training. The aforementioned terms shall be reserved for persons enrolled in the doctoral program leading to one of the degrees listed in subdivision (b) of Section 2914 at an accredited or approved college or university or in a formal postdoctoral internship overseen by APA, APPIC, or CAPIC. *person's training status.*

SEC. 7.

Section 2913 of the Business and Professions Code is amended to read:

2913.

A person other than a licensed psychologist may perform psychological functions in preparation for licensure as a psychologist only if all of the following conditions are met:

(a) The person ~~shall register himself or herself~~ *is registered* with the board as a "psychological ~~assistant.~~" *registered psychological associate.*" This registration shall be renewed annually in accordance with regulations adopted by the board.

(b) (1) *The person has completed or is any of the following:*

(A) Completed a master's degree in psychology.

(B) Completed a master's degree in education with the field of specialization in educational psychology, counseling psychology, or school psychology.

(C) Is an admitted candidate for a doctoral degree in any of the following:

(i) Psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.

(ii) Education, with the field of specialization in educational psychology, counseling psychology, or school psychology.

~~(b) (iii) The person (1) has completed a master's degree in psychology or education with the A field of specialization in psychology or counseling psychology, or (2) has been admitted to candidacy for a doctoral degree in psychology or education with the field of specialization in psychology or counseling psychology, designed to prepare graduates for the professional practice of psychology after having satisfactorily completed three or more years of postgraduate education in psychology and having passed preliminary doctoral examinations, or (3) has completed a doctoral degree that qualifies for licensure under Section 2914. examinations.~~

(D) Completed a doctoral degree that qualifies for licensure under Section 2914.

(2) The board shall make the final determination as to whether a degree meets the requirements of this subdivision.

~~(c) (1) The registered psychological assistant is at all times under the immediate supervision, as defined in regulations adopted by the board, of a licensed psychologist, or a licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology or the American College of Osteopathic Board of Neurology and Psychiatry, who associate is supervised by a licensed psychologist. The registered psychological associate's primary supervisor shall be responsible for insuring ensuring that the extent, kind, and quality of the psychological services that the psychological assistant performs performed are consistent with his or her training and experience and the registered psychological associate's and the primary supervisor's training and experience. The primary supervisor shall be responsible for the registered psychological assistant's associate's compliance with this chapter and regulations. A primary supervisor may delegate supervision as prescribed by the board's regulations.~~

~~(2) A licensed psychologist or board-certified psychiatrist shall not supervise more than three registered psychological assistants associates at any given time. No psychological assistant may provide psychological services to the public except as a supervisee pursuant to this section.~~

(d) A registered psychological associate shall not do either of the following:

(1) Provide psychological services to the public except as a trainee pursuant to this section.

~~(d) (2) The psychological assistant shall comply with regulations that the board may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education. Receive payments, monetary or otherwise, directly from clients.~~

SEC. 8.

Section 2914 of the Business and Professions Code is amended to read:

2914.

~~Each applicant for licensure shall comply with all of the following requirements:~~

~~(a) is not~~ *An applicant for licensure shall not be* subject to denial of licensure under Division 1.5 (commencing with Section 475).

(b) (1) On and after January 1, 2020, an applicant for licensure shall possess an earned doctoral degree in any of the following:

(A) Psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.

(B) Education with the field of specialization in counseling psychology, educational psychology, or school psychology.

(C) A field of specialization designed to prepare graduates for the professional practice of psychology.

~~(b) (2) Possess~~ *(A) an earned doctorate degree (1) in psychology, (2) in educational psychology, or (3) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (h), this subparagraph (B), the degree or training obtained pursuant to paragraph (1) shall be obtained from an accredited university, college, or professional school. The board shall make the final determination as to whether a degree meets the requirements of this section. a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education.*

(B) Subparagraph (A) does not apply to any student who was enrolled in a doctoral program in psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology or in education with the field of specialization in counseling psychology, educational psychology, or school psychology at a nationally accredited or approved institution as of December 31, 2016.

(3) The board shall make the final determination as to whether a degree meets the requirements of this subdivision.

~~(c) (4) (1) On or after January 1, 2020, possess an earned doctorate degree in psychology, in educational psychology, or in education with the field of specialization in counseling psychology or educational psychology from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education. Until January 1, 2020, the board may accept an applicant who possesses~~
a doctorate doctoral degree in psychology, educational psychology, or in education with the field of specialization in counseling psychology or educational psychology from an institution

that is not accredited by an accrediting agency recognized by the United States Department of Education, but is approved to operate in this state by the Bureau for Private Postsecondary Education. *Education on or before July 1, 1999 and has not, since July 1, 1999, had a new location, as described in Section 94823.5 of the Education Code.*

~~(2) Paragraph (1) does not apply to any student who was enrolled in a doctoral program in psychology, educational psychology, or in education with the field of specialization in counseling psychology or educational psychology at a nationally accredited or approved institution as of December 31, 2016.~~

~~(3) No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology.~~

(4) (5) An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that ~~he or she~~ *the applicant* possesses a ~~doctorate~~ *doctoral* degree in psychology or education as specified in paragraphs (1) and (2) that is equivalent to a degree earned from a regionally accredited university ~~academic institution~~ in the United States or Canada. ~~These applicants shall provide~~ *Canada by providing* the board with a ~~comprehensive~~ *an* evaluation of the degree ~~performed~~ by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), *or by the National Register of Health Services Psychologists (NRHSP)*, and any other documentation the board deems necessary. *The member of the NACES or the NRHSP shall submit the evaluation to the board directly and shall include in the evaluation all of the following:*

(A) *A transcript in English, or translated into English by the credential evaluation service, of the degree used to qualify for licensure.*

(B) *An indication that the degree used to qualify for licensure is verified using primary sources.*

(C) *A determination that the degree is equivalent to a degree that qualifies for licensure pursuant to paragraphs (1) and (2).*

~~(d) (c) (1) Have~~ *An applicant for licensure shall have* engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall ~~be after being awarded the doctorate in psychology.~~ *have occurred after the applicant was awarded the qualifying doctoral degree.* The supervisor shall submit verification of the experience ~~required by this subdivision~~ to the trainee ~~in a manner~~ as prescribed by the board. If the supervising licensed psychologist fails to provide verification to the trainee in a timely manner, the board may establish alternative procedures for obtaining the necessary documentation. Absent good cause, the failure of a supervising licensed psychologist to provide the verification to the board upon request shall constitute unprofessional conduct.

(2) The board shall establish qualifications by regulation for supervising psychologists.

~~(e) (d) Take~~ *An applicant for licensure shall take* and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter.

~~(f) (e) Show by evidence satisfactory to the board that he or she has completed~~ *An applicant for licensure shall complete coursework or provide evidence of* training in the detection and treatment of alcohol and other chemical substance dependency. ~~This requirement applies only to applicants who matriculate on or after September 1, 1985.~~

~~(g) (1) Show by evidence satisfactory to the board that he or she has completed coursework in spousal or partner abuse assessment, detection, and intervention. This requirement applies to applicants who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003.~~

~~(2) (f) An applicant who began graduate training on or after January 1, 2004, shall show by evidence satisfactory to the board that he or she has completed a minimum of 15 contact hours of coursework for licensure shall complete coursework or provide evidence of training~~ in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. An applicant may request an exemption from this requirement if he or she intends to practice in an area that does not include the direct provision of mental health services. *intervention.*

~~(3) Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.~~

~~(h) Until January 1, 2020, an applicant holding a doctoral degree in psychology from an approved institution is deemed to meet the requirements of this section if both of the following are true:~~

~~(1) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the former Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999.~~

~~(2) The approved institution has not, since July 1, 1999, had a new location, as described in Section 94823.5 of the Education Code.~~

SEC. 9.

Section 2915 of the Business and Professions Code is amended to read:

2915.

(a) Except as provided in this section, the board shall issue a renewal license only to an ~~applicant~~ *a licensed psychologist* who has completed 36 hours of approved continuing professional development in the preceding two years.

(b) ~~Each person who applies to renew or reinstate his or her. A licensed psychologist who renews or applies to reinstate their~~ license issued pursuant to this chapter shall certify under penalty of perjury that ~~he or she is~~ *they are* in compliance with this section and shall retain

proof of this compliance for submission to the board upon request. False statements submitted pursuant to this section shall be a violation of Section 2970.

(c) Continuing professional development means certain ~~continuing education~~ learning activities approved in four different categories:

(1) ~~Professional.~~ *Professional activities.*

(2) ~~Academic.~~ *Academic activities.*

(3) Sponsored continuing education coursework.

(4) Board certification from the American Board of Professional Psychology.

The board may develop regulations further defining acceptable continuing professional development activities.

~~(d) (1) The board shall require a licensed psychologist who began graduate study prior to January 1, 2004, to take a continuing education course during his or her first renewal period after the operative date of this section in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement.~~

~~(2) Continuing education courses taken pursuant to this subdivision shall be applied to the 36 hours of approved continuing professional development required under subdivision (a).~~

~~(e)~~ (d) Continuing education courses approved to meet the requirements of this section shall be approved *for credit* by organizations approved by the board. An organization previously approved by the board to provide or approve continuing education is deemed approved under this section.

~~(f)~~ (e) The board may accept continuing education courses approved by an entity that has demonstrated to the board in writing that it has, at a minimum, a 10-year history of providing educational programming for psychologists and has documented procedures for maintaining a continuing education approval program. The board shall adopt regulations necessary for implementing this section.

~~(g) The board may grant an exemption, or an extension of the time for compliance with, from the continuing professional development requirement of this section.~~

~~(h)~~ (f) The administration of this section may be funded through professional license fees and continuing education provider and course approval fees, or both. The fees related to the administration of this section shall not exceed the costs of administering the corresponding provisions of this section.

SEC. 10.

Section 2915.5 of the Business and Professions Code is amended to read:

2915.5.

(a) Any applicant for licensure as a psychologist ~~who began graduate study on or after January 1, 2004, shall complete,~~ as a condition of licensure, a minimum of ~~40~~ six contact hours of coursework *or applied experience* in aging and long-term care, which may include, but need not be limited to, the biological, social, and psychological aspects of aging. ~~On and after January 1, 2012, this~~ *This* coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

~~(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.~~

~~(c)~~ (b) In order to satisfy the coursework requirement of this section, the applicant shall submit to the board a *written* certification from the ~~chief academic officer~~ *registrar or training director* of the educational institution *or program* from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for ~~graduation,~~ *graduation at the time the applicant graduated,* or within the coursework, that was completed by the applicant.

(c) (1) *If an applicant does not have coursework pursuant to this section, the applicant may obtain evidence of compliance as part of their applied experience in a practicum, internship, or formal postdoctoral placement that meets the requirement of Section 2911, or other qualifying supervised professional experience.*

(2) *To satisfy the applied experience requirement of this section, the applicant shall submit to the board a written certification from the director of training for the program or primary supervisor where the qualifying experience occurred stating that the training required by this section is included within the applied experience.*

~~(d) The board shall not issue a license to the applicant until the applicant has met the requirements of this section. If an applicant does not meet the curriculum or coursework requirement pursuant to this section, the applicant may obtain evidence of compliance by taking a continuing education course that meets the requirements of subdivision (d) or (e) of Section 2915 and that qualifies as a learning activity category specified in paragraph (2) or (3) of subdivision (c) of Section 2915. To satisfy this requirement, the applicant shall submit to the board a certification of completion.~~

(e) *A written certification made or submitted pursuant to this section shall be done under penalty of perjury.*

SEC. 11.

Section 2915.7 of the Business and Professions Code is repealed.

2915.7.

~~(a) A licensee who began graduate study prior to January 1, 2004, shall complete a three-hour continuing education course in aging and long-term care during his or her first renewal period after the operative date of this section, and shall submit to the board evidence acceptable to the board of the person's satisfactory completion of that course.~~

~~(b) The course should include, but is not limited to, the biological, social, and psychological aspects of aging. On and after January 1, 2012, this coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.~~

~~(c) Any person seeking to meet the requirements of subdivision (a) of this section may submit to the board a certificate evidencing completion of equivalent courses in aging and long-term care taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The board, in its discretion, may accept that certification as meeting the requirements of this section.~~

~~(d) The board may not renew an applicant's license until the applicant has met the requirements of this section.~~

~~(e) A licensee whose practice does not include the direct provision of mental health services may apply to the board for an exception to the requirements of this section.~~

SEC. 12.

Section 2920 of the Business and Professions Code is amended to read:

2920.

(a) The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.

(b) This section shall remain in effect only until January 1, 2022, 2026, and as of that date is repealed.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 13.

Section 2933 of the Business and Professions Code is amended to read:

2933.

(a) Except as provided by Section 159.5, the board shall employ and shall make available to the board within the limits of the funds received by the board all personnel necessary to carry out this chapter. The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology. The board shall make all expenditures to carry out this chapter. The board may accept contributions to effectuate the purposes of this chapter.

(b) This section shall remain in effect only until January 1, 2022, 2026, and as of that date is repealed.

SEC. 14.

Section 2942 of the Business and Professions Code is amended to read:

2942.

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- The board may utilize examinations for a psychologist's license may be conducted by the board under a uniform examination system, and for that purpose the board may make arrangements with organizations furnishing examination material as may in its discretion be desirable. to supply and administer examination materials.~~

SEC. 15.

Section 2944 of the Business and Professions Code is repealed.

~~2944.~~

~~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.~~

SEC. 16.

Section 2946 of the Business and Professions Code is amended to read:

2946.

The board shall grant a license to any person who passes the board's supplemental licensing examination and, at the time of application, has been licensed for at least ~~five~~ *two* years by a psychology licensing authority in another state or *territory of the United States or* Canadian province if the requirements for obtaining a certificate or license *to practice psychology* in that ~~state- state, territory,~~ or province were substantially equivalent to the requirements of this chapter.

A psychologist certified or licensed in another ~~state- state, territory,~~ or province ~~and- who has made application-~~ *applied* to the board for a license in this state may perform activities and services of a psychological nature without a valid *California* license for a period not to exceed 180 calendar days from the time of submitting ~~his or her- their~~ application or from the commencement of residency in this state, whichever first occurs.

The board at its discretion may waive the examinations, when in the judgment of the board the applicant has already demonstrated competence in areas covered by the examinations. The board at its discretion may waive the examinations for diplomates of the American Board of Professional Psychology. *An applicant shall take and pass the required examinations unless waived by the board pursuant to this section.*

SEC. 17.

Section 2949 is added to the Business and Professions Code, to read:

2949.

(a) Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee of the board formed to address issues relating to licensure, and to which the board delegates authority to consider and decide requests from an applicant or licensee pertaining to their qualifications for licensure, may convene in closed session to consider and decide a request from an applicant or licensee for either of the following:

(1) An extension of time to gain supervised professional experience to meet the experience requirements for licensure.

(2) An extension of time to hold a psychological associate registration beyond the maximum period otherwise allowed pursuant to regulations.

(b) The committee shall only convene in closed session to the extent that it is necessary to protect the privacy of the applicant or licensee.

SEC. 18.

Section 2960 of the Business and Professions Code is amended to read:

2960.

The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or *registered* psychological ~~assistant~~ *associate*.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to ~~himself or herself~~, *themselves*, any other person, or the public, or to an extent that this use impairs ~~his or her~~ *their* ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use ~~his or her~~ *their* license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

- (i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.
- (j) Being grossly negligent in the practice of ~~his or her~~ *their* profession.
- (k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.
- (l) The aiding or abetting of any person to engage in the unlawful practice of psychology.
- (m) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to practice psychology or as a psychological assistant issued by that state or country to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.
- (n) The commission of any dishonest, corrupt, or fraudulent act.
- (o) Any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions or duties of a psychologist or ~~psychological assistant or registered psychologist~~ *registered psychological associate*.
- (p) Functioning outside of ~~his or her~~ *their* particular field or fields of competence as established by ~~his or her~~ *their* education, training, and experience.
- (q) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the board.
- (r) Repeated acts of negligence.

SEC. 19.

Section 2987 of the Business and Professions Code is amended to read:

2987.

The amount of the fees prescribed by this chapter shall be determined by the board, and shall be as follows:

- (a) The application fee for a psychologist shall not be more than fifty dollars (\$50).
- (b) The examination and reexamination fees for the examinations shall be the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination.
- (c) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued.
- (d) The biennial renewal fee for a psychologist shall be four hundred dollars (\$400). The board may increase the renewal fee to an amount not to exceed five hundred dollars (\$500).
- (e) The application fee for registration as a *registered* psychological ~~assistant~~ *associate* under Section 2913 shall not be more than seventy-five dollars (\$75).

(f) The annual renewal fee for registration of a psychological assistant shall not be more than seventy-five dollars (\$75).

(g) The duplicate license or registration fee is five dollars (\$5).

(h) The delinquency fee is 50 percent of the renewal fee for each license type, not to exceed one hundred fifty dollars (\$150).

(i) The endorsement fee is five dollars (\$5).

(j) The file transfer fee is ten dollars (\$10).

Notwithstanding any other provision of law, the board may reduce any fee prescribed by this section, when, in its discretion, the board deems it administratively appropriate.

SEC. 20.

Section 2988.7 is added to the Business and Professions Code, to read:

2988.7.

(a) 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.

(b) The license surrender shall be public information.

(c) 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.

(d) The reinstatement proceeding shall be conducted pursuant to Section 2965.

SEC. 21.

Section 4980.01 of the Business and Professions Code is amended to read:

4980.01.

(a) This chapter shall not be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, the Licensed Professional Clinical Counselor Act, or the Psychology Licensing Law.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of their pastoral or professional duties, or to any person who is admitted to practice law in the state, or a physician and surgeon who provides counseling services as part of their professional practice.

(c) This chapter shall not apply to an unlicensed or unregistered employee or volunteer working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable if both of the following apply:

(1) The work of the employee or volunteer is performed solely under the supervision of the entity.

(2) (A) On and after July 1, 2020, the employee or volunteer provides a client, prior to initiating psychotherapy ~~services,~~ *services or as soon as practicably possible thereafter,* a notice written in at least 12-point type that is in substantially the following form:

NOTICE TO CLIENTS

The (Name of office or unit) of the (Name of agency) receives and responds to complaints regarding the practice of psychotherapy by any unlicensed or unregistered ~~counselor~~ *practitioner* providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, or mailing address of agency).

The Board of Behavioral Sciences receives and responds to complaints regarding services provided by individuals licensed and registered by the board. If you have a complaint and are unsure if your practitioner is licensed or registered, please contact the Board of Behavioral Sciences at 916-574-7830 for assistance or utilize the board's online license verification feature by visiting www.bbs.ca.gov.

(B) The delivery of the notice described in subparagraph (A) to the client shall be documented.

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care provider subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

(e) Notwithstanding subdivisions (b) and (c), all persons registered as associates or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

SEC. 22.

Section 4980.02 of the Business and Professions Code is amended to read:

4980.02.

(a) For the purposes of this chapter, the practice of marriage and family therapy shall mean ~~that service performed with~~ *the application of psychotherapeutic and family systems theories, principles, and methods in the delivery of services to* individuals, couples, or groups ~~wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling. in order to assess, evaluate, and treat relational issues, emotional disorders, behavioral problems, mental illness, alcohol and substance use, and to modify intrapersonal and interpersonal behaviors.~~

(b) The application of marriage and family therapy principles and methods includes, but is not limited to, ~~the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training required by Sections 4980.36, 4980.37, and 4980.41, as applicable.~~ *all of the following:*

- (1) Assessment, evaluation, and prognosis.*
- (2) Treatment, planning, and evaluation.*
- (3) Individual, relationship, family, or group therapeutic interventions.*
- (4) Relational therapy.*
- (5) Psychotherapy.*
- (6) Client education.*
- (7) Clinical case management.*
- (8) Consultation.*
- (9) Supervision.*
- (10) Use, application, and integration of the coursework and training required by Sections 4980.36, 4980.37, and 4980.41, as applicable.*
- (c) The amendments to this section made by the act adding this subdivision do not constitute a change in, but are declaratory of, existing law. It is the intent of the Legislature that these amendments shall not be construed to expand or constrict the existing scope of practice of a person licensed pursuant to this chapter.*

SEC. 23.

Section 4980.32 of the Business and Professions Code is amended to read:

4980.32.

(a) On and after July 1, 2020, a licensee or registrant shall provide a client with a notice written in at least 12-point type prior to initiating psychotherapy ~~services~~ services, or as soon as *practicably possible thereafter*, that reads as follows:

NOTICE TO CLIENTS

The Board of Behavioral Sciences receives and responds to complaints regarding services provided within the scope of practice of marriage and family therapists. You may contact the board online at www.bbs.ca.gov, or by calling (916) 574-7830.

(b) Delivery of the notice required by this section to the client shall be documented.

SEC. 24.

Section 4980.36 of the Business and Professions Code is amended to read:

4980.36.

(a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctoral or master's degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or either counseling or clinical mental health counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy. The degree shall be obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education, or accredited by either the Commission on Accreditation for Marriage and Family Therapy Education, or a regional or national institutional accrediting agency that is recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

(c) A doctoral or master's degree program that qualifies for licensure or registration shall be a single, integrated program that does the following:

(1) Integrate all of the following throughout its curriculum:

(A) Marriage and family therapy principles.

(B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.

(C) An understanding of various cultures and the social and psychological implications of socioeconomic position, and an understanding of how poverty and social stress impact an individual's mental health and recovery.

(2) Allow for innovation and individuality in the education of marriage and family therapists.

(3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

(1) Both of the following:

(A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, including elder adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.

(B) Practicum that involves direct client contact, as follows:

(i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.

(ii) A minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(iii) A student must be enrolled in a practicum course while counseling clients, except as specified in subdivision (c) of Section 4980.42.

(iv) The practicum shall provide training in all of the following areas:

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, *prognosis*, and treatment planning.

(III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.

(IV) Professional writing, including documentation of services, treatment plans, and progress notes.

(V) How to connect people with resources that deliver the quality of services and support needed in the community.

(v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low income and multicultural mental health settings.

(vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following, or a combination thereof:

(I) Client centered advocacy, as defined in Section 4980.03.

(II) Face-to-face experience counseling individuals, couples, families, or groups.

(2) Instruction in all of the following:

(A) Diagnosis, assessment, *prognosis*, treatment planning, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer-reviewed literature.

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

- (i) The effects of developmental issues on individuals, couples, and family relationships.
 - (ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.
 - (iii) Aging and its biological, social, cognitive, and psychological aspects. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.
 - (iv) A variety of cultural understandings of human development.
 - (v) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.
 - (vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.
 - (vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.
- (C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:
- (i) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.
 - (ii) Spousal or partner abuse assessment, detection, intervention strategies, and same gender abuse dynamics.
 - (iii) Cultural factors relevant to abuse of partners and family members.
 - (iv) Childbirth, child rearing, parenting, and stepparenting.
 - (v) Marriage, divorce, and blended families.
 - (vi) Long-term care.
 - (vii) End-of-life and grief.
 - (viii) Poverty and deprivation.
 - (ix) Financial and social stress.
 - (x) Effects of trauma.
 - (xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.
- (D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.
- (E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(F) The effects of socioeconomic status on treatment and available resources.

(G) Resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.

(H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.

(I) Substance use disorders, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:

(i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, "co-occurring disorders" means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(ii) Medical aspects of substance use disorders and co-occurring disorders.

(iii) The effects of psychoactive drug use.

(iv) Current theories of the etiology of substance abuse and addiction.

(v) The role of persons and systems that support or compound substance abuse and addiction.

(vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.

(vii) Legal aspects of substance abuse.

(viii) Populations at risk with regard to substance use disorders and co-occurring disorders.

(ix) Community resources offering screening, assessment, treatment, and follow up for the affected person and family.

(x) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.

(xi) The prevention of substance use disorders and addiction.

(J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(iii) The current legal patterns and trends in the mental health professions.

(iv) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and the practitioner's professional behavior and ethics.

(vi) The application of legal and ethical standards in different types of work settings.

(vii) Licensing law and licensing process.

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.

SEC. 25.

Section 4980.37 of the Business and Professions Code is amended to read:

4980.37.

(a) This section shall apply to applicants for licensure or registration who began graduate study before August 1, 2012, and completed that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4980.36.

(b) To qualify for a license or registration, applicants shall possess a doctoral or master's degree in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or either counseling or clinical mental health counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy. The degree shall be obtained from a school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this section, a doctoral or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester units or 72 quarter units of instruction. This instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment. The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect on individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within

couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, abuse and neglect of older and dependent adults, and geropsychology.

(4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(c) (1) In addition to the 12 semester or 18 quarter units of coursework specified in subdivision (b), the doctoral or master's degree program shall contain not less than six semester units or nine quarter units of supervised practicum in applied psychotherapeutic technique, assessments, diagnosis, *prognosis*, treatment planning, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(d) As an alternative to meeting the qualifications specified in subdivision (b), the board shall accept as equivalent degrees those master's or doctoral degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(e) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program that meets the educational qualifications for licensure or registration under this section shall do all of the following:

(1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, *prognosis*, treatment planning, and treatment of mental disorders.

(2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.

(3) Train students specifically in the application of marriage and family relationship counseling principles and methods.

(4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.

(6) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

(f) Educational institutions are encouraged to design the practicum required by this section to include marriage and family therapy experience in low income and multicultural mental health settings.

SEC. 26.

Section 4980.40 of the Business and Professions Code is amended to read:

4980.40.

An applicant for licensure shall satisfy all of the following qualifications:

(a) Meet the educational requirements of Section 4980.36 or both Sections 4980.37 and 4980.41, as applicable.

(b) Be at least 18 years of age.

(c) Have at least two years of supervised experience as specified in this chapter and its corresponding regulations.

(d) Successfully pass a California law and ethics examination and a clinical examination. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

(e) ~~Not have committed acts or crimes constituting grounds for~~ *be subject to* denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or ~~territory~~ *territory, in accordance with Section 480.*

SEC. 27.

Section 4980.43.3 of the Business and Professions Code is amended to read:

4980.43.3.

(a) A trainee, associate, or applicant for licensure shall only perform mental health and related services as an employee or volunteer, and not as an independent contractor. The requirements of this chapter regarding hours of experience and supervision shall apply equally to employees and volunteers. A trainee, associate, or applicant for licensure shall not perform any services or gain any experience within the scope of practice of the profession, as defined in Section 4980.02, as an independent contractor. While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.

(1) If employed, an associate shall provide the board, upon application for licensure, with copies of the W-2 tax forms for each year of experience claimed.

(2) If volunteering, an associate shall provide the board, upon application for licensure, with a letter from ~~his or her~~ *the associate's* employer verifying the associate's status as a volunteer during the dates the experience was gained.

(b) (1) A trainee shall not perform services in a private practice. A trainee may be credited with supervised experience completed in a setting that meets all of the following:

(A) Is not a private practice.

(B) Lawfully and regularly provides mental health counseling or psychotherapy.

(C) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice for the profession, as defined in Section 4980.02.

(2) Only experience gained in the position for which the trainee volunteers or is employed shall qualify as supervised experience.

(c) (1) An associate may be credited with supervised experience completed in any setting that meets both of the following:

~~(1)~~ (A) Lawfully and regularly provides mental health counseling or psychotherapy.

~~(2)~~ (B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice for the profession, as defined in Section 4980.02.

~~(3)~~ (2) Only experience gained in the position for which the associate volunteers or is employed shall qualify as supervised experience.

~~(4)~~ (3) An applicant for registration as an associate shall not be employed or volunteer in a private practice until ~~he or she~~ *the applicant* has been issued an associate registration by the board.

(d) Any experience obtained under the supervision of a spouse, relative, or domestic partner shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(e) A trainee, associate, or applicant for licensure shall not receive any remuneration from patients or clients and shall only be paid by ~~his or her~~ *their* employer, if an employee.

(f) A trainee, associate, or applicant for licensure shall have no proprietary interest in ~~his or her~~ *their* employer's business and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of ~~his or her~~ *their* employer.

(g) A trainee, associate, or applicant for licensure who provides voluntary services in any lawful work setting other than a private practice and who only receives reimbursement for expenses actually incurred shall be considered an employee. The board may audit an applicant for licensure who receives reimbursement for expenses and the applicant for licensure shall have the burden of demonstrating that the payment received was for reimbursement of expenses actually incurred.

(h) A trainee, associate, or applicant for licensure who receives a stipend or educational loan repayment from a program designed to encourage demographically underrepresented groups to enter the profession or to improve recruitment and retention in underserved regions or settings shall be considered an employee. The board may audit an applicant who receives a stipend or educational loan repayment and the applicant shall have the burden of demonstrating that the payment received was for the specified purposes.

(i) An associate or a trainee may provide services via telehealth that are in the scope of practice outlined in this chapter.

(j) Each educational institution preparing applicants pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage ~~his or her~~ *the supervisor's* associates and trainees regarding the advisability of undertaking individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, educational institutions and supervisors are encouraged to assist the applicant to locate counseling or psychotherapy at a reasonable cost.

SEC. 28.

Section 4980.54 of the Business and Professions Code is amended to read:

4980.54.

(a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to ensure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (d) of Section 4980.40 and, if ~~he or she~~ *an applicant* passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) Except as provided in subdivision (e), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that ~~he or she~~ *the applicant* has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

(d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as defined by the board.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.36 or 4980.37. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, as specified by the board by regulation.

(g) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (f), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(h) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.

(2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

(i) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

~~(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.~~

~~(k)~~ (j) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 29.

Section 4980.81 of the Business and Professions Code is amended to read:

4980.81.

This section applies to persons subject to Section 4980.78 who apply for licensure or registration.

(a) For purposes of Section 4980.78, an applicant shall meet all of the following educational requirements:

(1) A minimum of two semester units of instruction in the diagnosis, assessment, *prognosis*, treatment planning, and treatment of mental disorders, including severe mental disorders, evidence-based practices, and promising mental health practices that are evaluated in peer-reviewed literature.

(2) At least one semester unit or 15 hours of instruction in psychological testing and at least one semester unit or 15 hours of instruction in psychopharmacology.

(3) (A) Developmental issues from infancy to old age, including demonstration of at least one semester unit, or 15 hours, of instruction that includes all of the following subjects:

(i) The effects of developmental issues on individuals, couples, and family relationships.

(ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.

(iii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

(B) An applicant who is deficient in any of these subjects may remediate the coursework by completing three hours of instruction in each deficient subject.

(4) (A) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:

(i) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated under that section.

(ii) A minimum of 10 contact hours of coursework that includes all of the following:

(I) The assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(II) Aging and its biological, social, cognitive, and psychological aspects.

(III) Long-term care.

(IV) End-of-life and grief.

(iii) A minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iv) Cultural factors relevant to abuse of partners and family members.

(v) Childbirth, child rearing, parenting, and stepparenting.

(vi) Marriage, divorce, and blended families.

(vii) Poverty and deprivation.

(viii) Financial and social stress.

(ix) Effects of trauma.

(x) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (ix), inclusive.

(5) At least one semester unit, or 15 hours, of instruction in multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(6) A minimum of 10 contact hours of training or coursework in human sexuality, as specified in Section 25 and any regulations promulgated under that section, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.

(7) A minimum of 15 contact hours of coursework in substance use disorders, and a minimum of 15 contact hours of coursework in co-occurring disorders and addiction. The following subjects shall be included in this coursework:

(A) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, "co-occurring disorders" means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(B) Medical aspects of substance use disorders and co-occurring disorders.

(C) The effects of psychoactive drug use.

(D) Current theories of the etiology of substance abuse and addiction.

(E) The role of persons and systems that support or compound substance abuse and addiction.

(F) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.

(G) Legal aspects of substance abuse.

(H) Populations at risk with regard to substance use disorders and co-occurring disorders.

(I) Community resources offering screening, assessment, treatment, and followup for the affected person and family.

(J) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.

(K) The prevention of substance use disorders and addiction.

(8) A minimum of a two semester or three quarter unit course in law and professional ethics for marriage and family therapists, including instruction in all of the following subjects:

(A) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(B) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(C) The current legal patterns and trends in the mental health professions.

(D) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(E) A recognition and exploration of the relationship between a practitioner's sense of self and human values and their professional behavior and ethics.

(F) The application of legal and ethical standards in different types of work settings.

(G) Licensing law and licensing process.

SEC. 30.

Section 4982 of the Business and Professions Code is amended to read:

4982.

The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if the licensee or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. ~~A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section.~~ *conviction has the same meaning as defined in Section 7.5.* The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, ~~irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.~~ *sentence. All actions pursuant to this subdivision shall be taken pursuant to Division 1.5 (commencing with Section 475).*

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to themselves any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

- (d) Gross negligence or incompetence in the performance of marriage and family therapy.
- (e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.
- (f) Misrepresentation as to the type or status of a license or registration held by the licensee or registrant or otherwise misrepresenting or permitting misrepresentation of the licensee's or registrant's education, professional qualifications, or professional affiliations to any person or entity.
- (g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use the licensee's or registrant's license or registration.
- (h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.
- (i) Intentionally or recklessly causing physical or emotional harm to any client.
- (j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.
- (k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage and family therapist.
- (l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee, registered associate, or applicant for licensure under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.
- (m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.
- (n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.
- (o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. This subdivision does not prevent collaboration among two or more licensees in a case or cases. However, a fee shall not be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).
- (p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered associate, trainee, or applicant for licensure by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform mental health services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee, registered associate, or applicant for licensure under one's supervision or control to perform, or permitting the trainee, registered associate, or applicant for licensure to hold themselves out as competent to perform, mental health services beyond the trainee's, registered associate's, or applicant for licensure's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(z) Failure to comply with Section 2290.5.

(aa) (1) Engaging in an act described in Section 261, 286, 287, or 289 of, or former Section 288a of, the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(ab) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

SEC. 31.

Section 4984.7 of the Business and Professions Code is amended to read:

4984.7.

(a) The board shall assess the following fees relating to the licensure of marriage and family therapists:

(1) The application fee for an associate registration shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).

(2) The *annual* renewal fee for an associate registration shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).

(3) The fee for the application for licensure shall be two hundred fifty dollars (\$250). The board may adopt regulations to set the fee at a higher amount, up to a maximum of five hundred dollars (\$500).

(4) (A) (i) The fee for the clinical examination shall be two hundred fifty dollars (\$250). The board may adopt regulations to set the fee at a higher amount, up to a maximum of five hundred dollars (\$500).

(ii) The fee for the California law and ethics examination shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).

(B) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fee.

(C) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for the issuance of an initial license shall be two hundred dollars (\$200). The board may adopt regulations to set the fee at a higher amount, up to a maximum of four hundred dollars (\$400).

(7) The fee for *the two-year* license renewal shall be two hundred dollars (\$200). The board may adopt regulations to set the fee at a higher amount, up to a maximum of four hundred dollars (\$400).

(8) The renewal delinquency fee shall be one-half of the fee for license renewal. A person who permits their license to expire is subject to the delinquency fee.

(9) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(10) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(11) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) This section shall become operative on January 1, 2021.

SEC. 32.

Section 4987.5 of the Business and Professions Code is amended to read:

4987.5.

A marriage and family therapy corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services ~~who are licensed marriage and family therapists, physicians and surgeons, psychologists, licensed professional clinical counselors, licensed clinical social workers, registered nurses, chiropractors, or acupuncturists~~ are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and any other statute or regulation pertaining to that corporation and the conduct of its affairs. With respect to a marriage and family therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

SEC. 33.

Section 4989.17 of the Business and Professions Code is amended to read:

4989.17.

(a) On and after July 1, 2020, a licensee shall provide a client with a notice written in at least 12-point type prior to initiating psychological ~~services~~ *services, or as soon as practicably possible thereafter*, that reads as follows:

NOTICE TO CLIENTS

The Board of Behavioral Sciences receives and responds to complaints regarding services provided within the scope of practice of licensed educational psychologists. You may contact the board online at www.bbs.ca.gov, or by calling (916) 574-7830.

(b) Delivery of the notice required by this section to the client shall be documented.

SEC. 34.

Section 4989.20 of the Business and Professions Code is amended to read:

4989.20.

(a) The board may issue a license as an educational psychologist if the applicant satisfies, with proof satisfactory to the board, the following requirements:

(1) Possession of, at minimum, a master's degree in psychology, educational psychology, school psychology, counseling and guidance, or a degree deemed equivalent by the board. This degree shall be obtained from an educational institution approved by the board according to the regulations adopted under this chapter.

(2) Attainment of 18 years of age.

(3) ~~No commission of an act or crime constituting grounds for~~ *Is not subject to* denial of licensure ~~under~~ *pursuant to* Section 480.

(4) Successful completion of 60 semester hours of postgraduate work in pupil personnel services.

(5) Two years of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public schools. The applicant shall not be credited with experience obtained more than six years prior to filing the application for licensure.

(6) One of the following:

(A) One year of supervised professional experience in an accredited school psychology program.

(B) In addition to the requirements of paragraph (5), one year of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public schools obtained under the direction of a licensed educational psychologist or a licensed psychologist.

(7) Passage of an examination specified by the board.

SEC. 35.

Section 4989.24 of the Business and Professions Code is amended to read:

4989.24.

(a) The board shall not issue a license to a person who has been convicted of a crime in this or any other state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(b) A denial issued pursuant to this section shall comply with the conditions for denial specified in Section 480.

SEC. 36.

Section 4989.32 of the Business and Professions Code is amended to read:

4989.32.

To renew an unexpired license, the licensee shall, on or before the expiration date of the license, take all of the following actions:

(a) Apply for renewal on a form prescribed by the board.

(b) Pay a *two-year* renewal fee prescribed by the board.

(c) Inform the board of whether ~~he or she~~ *the licensee* has been convicted, as defined in Section 490, of any misdemeanor or felony and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state after the prior issuance or renewal of ~~his or her~~ a license.

(d) Complete the continuing education requirements described in Section 4989.34.

SEC. 37.

Section 4989.34 of the Business and Professions Code is amended to read:

4989.34.

(a) To renew ~~his or her~~ a license, a licensee shall certify to the board, on a form prescribed by the board, completion in the preceding two years of not less than 36 hours of approved continuing education in, or relevant to, educational psychology.

(b) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider as specified by the board by regulation.

(2) The board shall establish, by regulation, a procedure identifying acceptable providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(c) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

(d) The board may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.

~~(f) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.~~

~~(g)~~ (f) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 38.

Section 4989.36 of the Business and Professions Code is amended to read:

4989.36.

A licensee may renew a license that has expired at any time within three years after its expiration date by taking all of the actions described in Section 4989.32 and by paying ~~all unpaid prior renewal fees and delinquency fees.~~ *the delinquency fee.*

SEC. 39.

Section 4989.38 of the Business and Professions Code is amended to read:

4989.38.

A suspended license is subject to expiration *and shall be renewed* as provided in this article ~~and may be renewed, following the period of suspension, if the licensee takes all of the actions described in Section 4989.32.~~ *article, but such renewal does not entitle the licensee, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.*

SEC. 40.

Section 4989.40 of the Business and Professions Code is amended to read:

4989.40.

A revoked license is subject to expiration as provided in this article and shall not be renewed. The applicant may apply to the board for reinstatement of ~~his or her license and shall their license.~~ *If it is reinstated after its expiration, the licensee shall, as a condition precedent to its reinstatement, pay a reinstatement fee in an amount equal to the renewal fee in effect at that time and any delinquency fees that may have accrued and comply with other requirements of the board for reinstatement. on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.*

SEC. 41.

Section 4989.47 is added to the Business and Professions Code, to read:

4989.47.

Any licensed educational psychologist who conducts a private practice under a fictitious business name shall not use any name that is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

SEC. 42.

Section 4989.54 of the Business and Professions Code is amended to read:

4989.54.

The board may deny a license or may suspend or revoke the license of a licensee if the person has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

~~(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.~~ *conviction has the same meaning as defined in Section 7.5.*

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of ~~sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.~~ *sentence. All actions pursuant to this subdivision shall be taken pursuant to Division 1.5 (commencing with Section 475).*

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to themselves a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to themselves or to any other person or to the public or to the extent that the use impairs their ability to safely perform the functions authorized by the license. The board shall deny an application for a license or revoke the license of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing educational psychology.

(d) Failure to comply with the consent provisions in Section 2290.5.

(e) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as an educational psychologist, a clinical social worker, professional clinical counselor, or marriage and family therapist.

(j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(k) Gross negligence or incompetence in the practice of educational psychology.

(l) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of the licensee's education, professional qualifications, or professional affiliations to any person or entity.

(m) Intentionally or recklessly causing physical or emotional harm to any client.

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

(o) Before the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(r) Performing, holding oneself out as being able to perform, offering to perform, or permitting any unlicensed person under supervision to perform, any professional services beyond the scope of the license authorized by this chapter or beyond the person's field or fields of competence as established by the person's education, training, or experience. For purposes of this subdivision, "unlicensed person" includes, but is not limited to, an applicant for licensure, an associate, an intern, or a trainee under the Licensed Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)), or the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10)).

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An

educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize the person's private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(x) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(y) (1) Engaging in an act described in Section 261, 286, 287, or 289 of, or former Section 288a of, the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

(aa) Impersonation of another by any licensee or applicant for a license, or, in the case of a licensee, allowing any other person to use the person's license.

(ab) Permitting an unlicensed person under the licensee's supervision or control to perform, or permitting that person to hold themselves out as competent to perform, mental health services beyond the unlicensed person's level of education, training, or experience. For purposes of this subdivision, "unlicensed person" is defined in subdivision (r).

(ac) The violation of any statute or regulation governing the gaining and supervision of experience of an unlicensed person, including an unlicensed person identified in subdivision (ab), by a licensee that violates this chapter, the Licensed Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)), the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10)), or any rules or regulations adopted by the board pursuant to those provisions. For purposes of this subdivision, "unlicensed person" is defined in subdivision (r).

(ad) The violation of any statute or regulation governing the gaining and supervision of experience of an unlicensed person required by the Licensed Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)), or the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10)).

SEC. 43.

Section 4989.68 of the Business and Professions Code is amended to read:

4989.68.

(a) The board shall assess the following fees relating to the licensure of educational psychologists:

(1) The application fee for licensure shall be two hundred fifty dollars (\$250). The board may adopt regulations to set the fee at a higher amount, up to a maximum of five hundred dollars (\$500).

(2) The fee for issuance of the initial license shall be two hundred dollars (\$200). The board may adopt regulations to set the fee at a higher amount, up to a maximum of four hundred dollars (\$400).

(3) The fee for *the two-year* license renewal shall be two hundred dollars (\$200). The board may adopt regulations to set the fee at a higher amount, up to a maximum of four hundred dollars (\$400).

(4) The delinquency fee shall be one-half of the fee for license renewal. A person who permits their license to expire shall be subject to the delinquency fee.

(5) The written examination fee shall be two hundred fifty dollars (\$250). The board may adopt regulations to set the fee at a higher amount, up to a maximum of five hundred dollars (\$500). An applicant who fails to appear for an examination, once having been scheduled, shall forfeit any examination fees they paid.

(6) The fee for rescoring a written examination shall be twenty dollars (\$20).

(7) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(8) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(9) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) This section shall become operative on January 1, 2021.

SEC. 44.

Section 4990 of the Business and Professions Code is amended to read:

4990.

(a) There is in the Department of Consumer Affairs, a Board of Behavioral Sciences that consists of the following members:

- (1) Two state licensed clinical social workers.
- (2) One state licensed educational psychologist.
- (3) Two state licensed marriage and family therapists.
- (4) One state licensed professional clinical counselor.
- (5) Seven public members.

(b) Each member, except the seven public members, shall have at least two years of experience in their profession.

(c) Each member shall reside in the State of California.

(d) The Governor shall appoint five of the public members and the six licensed members with the advice and consent of the Senate. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Each member of the board shall be appointed for a term of four years. A member appointed by the Senate Committee on Rules or the Speaker of the Assembly shall hold office until the appointment and qualification of their successor or until one year from the expiration date of the term for which they were appointed, whichever first occurs. Pursuant to Section 1774 of the Government Code, a member appointed by the Governor shall hold office until the appointment and qualification of their successor or until 60 days from the expiration date of the term for which they were appointed, whichever first occurs.

(f) A vacancy on the board shall be filled by appointment for the unexpired term by the authority who appointed the member whose membership was vacated.

(g) Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.

(h) Each member of the board shall receive a per diem and reimbursement of expenses as provided in Section 103.

(i) This section shall remain in effect only until January 1, ~~2022~~, 2026, and as of that date is repealed.

(j) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 45.

Section 4990.04 of the Business and Professions Code is amended to read:

4990.04.

(a) The board shall appoint an executive officer. This position is designated as a confidential position and is exempt from civil service under subdivision (e) of Section 4 of Article VII of the California Constitution.

(b) The executive officer serves at the pleasure of the board.

(c) The executive officer shall exercise the powers and perform the duties delegated by the board and vested in them by this chapter.

(d) With the approval of the director, the board shall fix the salary of the executive officer.

(e) The chairperson and executive officer may call meetings of the board and any duly appointed committee at a specified time and place. For purposes of this section, "call meetings" means setting the agenda, time, date, or place for any meeting of the board or any committee.

(f) This section shall remain in effect only until January 1, ~~2022~~, 2026, and as of that date is repealed.

SEC. 46.

Section 4990.07 is added to the Business and Professions Code, to read:

4990.07.

(a) An applicant, registrant, or licensee who has an electronic mail address shall provide the board with that electronic mail address no later than July 1, 2022. The electronic mail address shall be considered confidential and not subject to public disclosure.

(b) An applicant, registrant, and licensee shall provide to the board any and all changes to their electronic mail address no later than 30 calendar days after the changes have occurred.

(c) The board shall, with each renewal application, remind licensees and registrants of their obligation to report and keep current their electronic mail address with the board.

SEC. 47.

Section 4990.30 of the Business and Professions Code is amended to read:

4990.30.

(a) A licensed marriage and family therapist, associate marriage and family therapist, licensed clinical social worker, associate clinical social worker, licensed professional clinical counselor, associate professional clinical counselor, or licensed educational psychologist whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. The petition shall be on a form provided by the board and shall state any facts and information as may be required by the board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order. The petition shall be verified by the petitioner who shall file an original and sufficient copies of the petition, together with any supporting documents, for the members of the board, the administrative law judge, and the Attorney General.

(b) The licensee or registrant may file the petition on or after the expiration of the following timeframes, each of which *excludes any periods during which the probation was tolled*, and commences on the effective date of the decision ordering the disciplinary action or, if the order of the board, or any portion of it, is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

(1) Three years for reinstatement of a license or registration that was revoked for unprofessional conduct, except that the board may, in its sole discretion, specify in its revocation order that a petition for reinstatement may be filed after two years. A registrant who is ineligible for reinstatement pursuant to Section 4984.01, 4996.28, or 4999.100 may apply for a subsequent registration number.

(2) Two years for early termination of any probation period of three years or more.

(3) One year for modification of a condition, reinstatement of a license or registration revoked for mental or physical illness, or termination of probation of less than three years. A registrant who is ineligible for reinstatement pursuant to Section 4984.01, 4996.28, or 4999.100 may apply for a subsequent registration number.

(c) The petition may be heard by the board itself or the board may assign the petition to an administrative law judge pursuant to Section 11512 of the Government Code.

(d) ~~The~~ *If the petition is to be heard by the board, the* petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.

(e) The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition and an opportunity to present both oral and documentary evidence and argument to the board or the administrative law judge.

(f) The petitioner shall at all times have the burden of production and proof to establish by clear and convincing evidence that they are entitled to the relief sought in the petition.

(g) The board, when it is hearing the petition itself, or an administrative law judge sitting for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time their license or registration was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

(h) The hearing may be continued from time to time as the board or the administrative law judge deems appropriate but in no case may the hearing on the petition be delayed more than 180 days from its filing without the consent of the petitioner.

(i) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge, may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4990.40. If a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board. The board may take action with respect to the proposed decision and petition as it deems appropriate.

(j) The petitioner shall pay a fingerprinting fee and provide a current set of their fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to the release shall be confidential and shall not be subject to discovery or subpoena in any other proceeding, and shall not be admissible in any action, other than before the board, to determine the petitioner's fitness to practice as required by Section 822.

(k) The board may delegate to its executive officer authority to order investigation of the contents of the petition.

(l) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or the petitioner is required to register pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(m) Except in those cases where the petitioner has been disciplined for violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

SEC. 48.

Section 4992.3 of the Business and Professions Code is amended to read:

4992.3.

The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if the licensee or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. ~~A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section.~~ *conviction has the same meaning as defined in Section 7.5.* The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of ~~sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.~~ *sentence. All actions pursuant to this subdivision shall be taken pursuant to Division 1.5 (commencing with Section 475).*

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to themselves any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under the person's care.

(d) Incompetence in the performance of clinical social work.

(e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.

(f) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(g) Misrepresentation as to the type or status of a license or registration held by the licensee or registrant or otherwise misrepresenting or permitting misrepresentation of the licensee's or registrant's education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(h) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use the licensee's or registrant's license or registration.

(i) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(j) Intentionally or recklessly causing physical or emotional harm to any client.

(k) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(l) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(m) Performing, or holding oneself out as being able to perform, or offering to perform or permitting, any registered associate, trainee, or applicant for licensure under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

(n) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. This subdivision does not prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (o).

(q) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(r) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device. A licensee shall limit access to that test or device to persons with professional interest who are expected to safeguard its use.

(s) Any conduct in the supervision of any registered associate, trainee, or applicant for licensure by any licensee that violates this chapter or any rules or regulations adopted by the board.

(t) Performing or holding oneself out as being able to perform mental health services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(u) Permitting an applicant for licensure, trainee, or registrant under one's supervision or control to perform, or permitting the supervisee to hold themselves out as competent to perform, mental health services beyond the supervisee's level of education, training, or experience.

(v) The violation of any law governing the gaining or supervision of experience required by this chapter.

(w) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(x) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(y) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(z) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(aa) Failure to comply with Section 2290.5.

(ab) (1) Engaging in an act described in Section 261, 286, 287, or 289 of, or former Section 288a of, the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(ac) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

SEC. 49.

Section 4996.2 of the Business and Professions Code is amended to read:

4996.2.

Each applicant for a license shall furnish evidence satisfactory to the board that ~~he or she~~ *the applicant* complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of supervised post-master's degree experience, as specified in Section 4996.23.

(d) ~~Has not committed any crimes or acts constituting grounds for~~ *Not be subject to* denial of licensure ~~under~~ *pursuant to* Section 480. The board shall not issue a registration or license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or ~~territory~~. *territory, in accordance with Section 480.*

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

(f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. This requirement applies to an applicant who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003. An applicant who began graduate training on or after January 1, 2004, shall complete a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

SEC. 50.

Section 4996.3 of the Business and Professions Code is amended to read:

4996.3.

(a) The board shall assess the following fees relating to the licensure of clinical social workers:

(1) The application fee for registration as an associate clinical social worker shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).

(2) The fee for *annual* renewal of an associate clinical social worker registration shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).

(3) The fee for application for licensure shall be two hundred fifty dollars (\$250). The board may adopt regulations to set the fee at a higher amount, up to a maximum of ~~four~~ five hundred dollars ~~(\$400)~~. (\$500).

(4) (A) (i) The fee for the board-administered clinical examination, if the board chooses to adopt this examination in regulations, shall be two hundred fifty dollars (\$250). The board may adopt regulations to set the fee at a higher amount, up to a maximum of five hundred dollars (\$500).

(ii) The fee for the California law and ethics examination shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).

(B) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fees.

(C) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license shall be two hundred dollars (\$200). The board may adopt regulations to set the fee at a higher amount, up to a maximum of four hundred dollars (\$400).

(7) The fee for *the two-year* license renewal shall be two hundred dollars (\$200). The board may adopt regulations to set the fee at a higher amount, up to a maximum of four hundred dollars (\$400).

(8) The renewal delinquency fee shall be one-half of the fee for license renewal. A person who permits their license to expire shall be subject to the delinquency fee.

(9) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(10) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(11) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) This section shall become operative on January 1, 2021.

SEC. 51.

Section 4996.14 of the Business and Professions Code is amended to read:

4996.14.

(a) This chapter shall not be construed to constrict, limit, or withdraw the Medical Practice Act, the Licensed Marriage and Family Therapist Act, the Nursing Practice Act, the Licensed Professional Clinical Counselor Act, or the Psychology Licensing Law.

(b) This chapter shall not apply to an unlicensed or unregistered employee or volunteer working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable if both of the following apply:

(1) The work of the employee or volunteer is performed solely under the supervision of the entity.

(2) (A) On and after July 1, 2020, the employee or volunteer provides a client, prior to initiating psychotherapy ~~services,~~ *services or as soon as practicably possible thereafter,* a notice written in at least 12-point type that is in substantially the following form:

NOTICE TO CLIENTS

The (Name of office or unit) of the (Name of agency) receives and responds to complaints regarding the practice of psychotherapy by any unlicensed or unregistered ~~counselor~~ *practitioner* providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, or mailing address of agency).

The Board of Behavioral Sciences receives and responds to complaints regarding services provided by individuals licensed and registered by the board. If you have a complaint and are unsure if your practitioner is licensed or registered, please contact the Board of Behavioral Sciences at 916-574-7830 for assistance or utilize the board's online license verification feature by visiting www.bbs.ca.gov.

(B) The delivery of the notice described in subparagraph (A) to the client shall be documented.

(c) This chapter shall not apply to a person using hypnotic techniques if their client was referred by a physician and surgeon, dentist, or psychologist.

(d) This chapter shall not apply to a person using hypnotic techniques that offer vocational self-improvement, and the person is not performing therapy for emotional or mental disorders.

SEC. 52.

Section 4996.17.2 of the Business and Professions Code is amended to read:

4996.17.2.

(a) This section applies to persons with education gained from an out-of-state school or experience gained outside of California who apply for licensure or registration and who do not qualify for a license under Section 4996.17.1.

(b) The board shall accept experience gained outside of California for the purpose of satisfying the licensure requirements if the experience is substantially the equivalent to the requirements of this chapter. If the applicant has fewer than 3,000 hours of qualifying supervised experience, the board shall accept as qualifying experience the amount of time the applicant held an active license in good standing in another state or country as a clinical social worker at the highest level for independent practice at a rate of 100 hours per month, up to a maximum of 1,200 hours.

(c) The board shall accept education gained from an out-of-state school for purposes of satisfying licensure or registration requirements if the applicant has received a master's degree from an accredited school of social work, or complies with subdivision ~~(g)~~ (e) of Section 4996.18.

(d) In addition to the experience and education described in subdivisions (b) and (c), the applicant shall pass, or have passed, the licensing examinations as specified in Section 4996.1 and pay the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience as described in subdivision (b).

(2) Completion of the coursework or training specified in this paragraph taken from an accredited school or department of social work, a school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education, a school, college, or university that is approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is identified as acceptable to the board pursuant to Section 4996.22. Undergraduate coursework shall not satisfy this requirement. This coursework may be completed while registered as an associate, unless otherwise specified.

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting, as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality, as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(E) A minimum of 10 contact hours of coursework in aging and long-term care, as specified in Section 4996.25.

(F) Completion of a 12-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, the application of legal and ethical standards in different types of work settings, and licensing law and process. This coursework shall be completed before registration as an associate.

(G) At least one semester unit, or 15 hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(3) On and after January 1, 2021, an applicant for licensure shall show proof of completion of at least six hours of coursework or applied experience under supervision in suicide risk assessment and intervention using one of the methods specified in Section 4996.27.

(4) The applicant's license is in good standing and is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant shall provide a certification from each state where the applicant holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(e) An applicant who obtained a license or registration under another state or country may qualify for licensure with the board without taking the clinical examination specified in Section 4996.1 if both of the following conditions are met:

(1) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(2) The applicant's license or registration in that state or country is active and in good standing at the time of the application and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

SEC. 53.

Section 4996.18 of the Business and Professions Code is amended to read:

4996.18.

(a) Except as provided in subdivision (b) of Section 4996.23, an applicant shall have an active registration with the board as an associate clinical social worker in order to gain hours of supervised experience. The application shall be made on a form prescribed by the board.

(b) An applicant for registration shall satisfy the following requirements:

(1) Possess a master's degree from an accredited school or department of social work.

(2) ~~Have committed no crimes or acts constituting grounds for~~ *Not be subject to* denial of licensure ~~under~~ *pursuant to* Section 480.

(3) Have completed training or coursework, which may be embedded within more than one course, in California law and professional ethics for clinical social workers. The coursework shall be taken from an accredited school or department of social work, a school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education, a school, college, or university that is approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the board, as defined in Section 4996.22. Undergraduate coursework shall not satisfy this requirement. The coursework shall include instruction in all of the following areas of study:

(A) Contemporary professional ethics and statutes, regulations, and court decisions that delineate the scope of practice of clinical social work.

(B) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of clinical social work, including, but not limited to, family law.

(C) The current legal patterns and trends in the mental health professions.

(D) The psychotherapist-patient privilege, confidentiality, dangerous patients, and the treatment of minors with and without parental consent.

(E) A recognition and exploration of the relationship between a practitioner's sense of self and human values, and the practitioner's professional behavior and ethics.

(F) The application of legal and ethical standards in different types of work settings.

(G) Licensing law and process.

(c) An applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education shall be eligible, and, except as provided in subdivision (b) of Section 4996.23, shall be required to register as an associate clinical social worker in order to gain experience

toward licensure if the applicant ~~has not committed any crimes or acts that constitute grounds for~~ *is not subject to* denial of licensure ~~under~~ *pursuant to* Section 480. That applicant shall not, however, be eligible to take the clinical examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.

(d) An applicant who possesses a master's degree from an accredited school or department of social work shall be able to apply experience the applicant obtained during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of Section 4996.23. This subdivision shall apply retroactively to persons who possess a master's degree from an accredited school or department of social work and who obtained experience during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.

(e) An applicant for registration or licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that the applicant possesses a master's of social work degree that is equivalent to a master's degree issued from a school or department of social work that is accredited by the Commission on Accreditation of the Council on Social Work Education. These applicants shall provide the board with a comprehensive evaluation of the degree and shall provide any other documentation the board deems necessary. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements regardless of evaluation or accreditation.

(f) All applicants for licensure and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised and who shall be responsible to the board for compliance with all laws governing the practice of clinical social work.

(g) All applicants and registrants shall inform each client or patient before performing any professional services that the applicant or registrant is unlicensed and is under the supervision of a licensed professional.

SEC. 54.

Section 4996.22 of the Business and Professions Code is amended to read:

4996.22.

(a) (1) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that ~~he or she~~ *the applicant* has completed not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the board.

(2) The board shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the board that during the applicant's first renewal period after the operative date of this section, ~~he or she~~ *the*

applicant completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under paragraph (1).

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4991.2, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) A school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education or a school, college, or university that is approved by the Bureau for Private Postsecondary Education.

~~(2) (3) Other~~ *Another* continuing education providers, *provider*, as specified by the board by regulation.

(e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to the procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

(g) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

(i) The board may adopt regulations as necessary to implement this section.

~~(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.~~

SEC. 55.

Section 4996.61 is added to the Business and Professions Code, to read:

4996.61.

A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

SEC. 56.

Section 4996.62 is added to the Business and Professions Code, to read:

4996.62.

A revoked license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee shall, as a condition precedent to its reinstatement, pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

SEC. 57.

Section 4996.75 of the Business and Professions Code is amended to read:

4996.75.

(a) On and after July 1, 2020, a licensee or registrant shall provide a client with a notice written in at least 12-point type prior to initiating psychotherapy ~~services~~ services, or as soon as practicably possible thereafter, that reads as follows:

NOTICE TO CLIENTS

The Board of Behavioral Sciences receives and responds to complaints regarding services provided within the scope of practice of clinical social workers. You may contact the board online at www.bbs.ca.gov, or by calling (916) 574-7830.

(b) Delivery of the notice required by this section to the client shall be documented.

SEC. 58.

Section 4998 of the Business and Professions Code is amended to read:

4998.

A licensed clinical social worker corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services ~~who are licensed clinical social workers, physicians and surgeons, psychologists, licensed professional clinical counselors, licensed marriage and family therapists, registered nurses, chiropractors, or acupuncturists~~ ~~are~~ are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to that corporation and the conduct of its affairs. With respect to a licensed clinical social worker corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

SEC. 59.

Section 4998.2 of the Business and Professions Code is amended to read:

4998.2.

Notwithstanding Section 4996, the name of a licensed clinical social worker corporation and any name or names under which it may be rendering professional services shall contain the words "licensed clinical social worker" and wording or abbreviations denoting corporate existence.

A licensed clinical social worker corporation that conducts business under a fictitious business name shall not use any name ~~which~~ *that* is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, that the business is conducted by a licensed clinical social worker corporation.

SEC. 60.

Section 4999.22 of the Business and Professions Code is amended to read:

4999.22.

(a) Nothing in this chapter shall prevent qualified persons from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, these qualified persons shall not hold themselves out to the public by any title or description of services incorporating the words "licensed professional clinical counselor" and shall not state

that they are licensed to practice professional clinical counseling, unless they are otherwise licensed to provide professional clinical counseling services.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Clinical Social Worker Practice Act, the Nursing Practice Act, the Psychology Licensing Law, or the Licensed Marriage and Family Therapist Act.

(c) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination who performs counseling services as part of their pastoral or professional duties, or to any person who is admitted to practice law in this state, or who is licensed to practice medicine, who provides counseling services as part of their professional practice.

(d) This chapter shall not apply to an unlicensed or unregistered employee or volunteer working in a governmental entity or a school, a college, a university, or an institution that is both nonprofit and charitable, if both of the following apply:

(1) The work of the employee or volunteer is performed solely under the supervision of the entity.

(2) (A) On and after July 1, 2020, the employee or volunteer provides a client, prior to initiating psychotherapy ~~services,~~ *services or as soon as practicably possible thereafter,* a notice written in at least 12-point type that is in substantially the following form:

NOTICE TO CLIENTS

The (Name of office or unit) of the (Name of agency) receives and responds to complaints regarding the practice of psychotherapy by any unlicensed or unregistered ~~counselor~~ *practitioner* providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, or mailing address of agency).

The Board of Behavioral Sciences receives and responds to complaints regarding services provided by individuals licensed and registered by the board. If you have a complaint and are unsure if your practitioner is licensed or registered, please contact the Board of Behavioral Sciences at 916-574-7830 for assistance or utilize the board's online license verification feature by visiting www.bbs.ca.gov.

(B) The delivery of the notice described in subparagraph (A) to the client shall be documented.

(e) All persons registered as associates or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

SEC. 61.

Section 4999.32 of the Business and Professions Code is amended to read:

4999.32.

(a) This section shall apply to applicants for licensure or registration who began graduate study before August 1, 2012, and completed that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4999.33.

(b) To qualify for licensure or registration, applicants shall possess a master's or doctoral degree that is counseling or psychotherapy in content and that meets the requirements of this section, obtained from an accredited or approved institution, as defined in Section 4999.12. For purposes of this subdivision, a degree is "counseling or psychotherapy in content" if it contains the supervised practicum or field study experience described in paragraph (3) of subdivision (c) and, except as provided in subdivision (d), the coursework in the core content areas listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c).

(c) The degree described in subdivision (b) shall be a single, integrated program that contains not less than 48 graduate semester units or 72 graduate quarter units of instruction, which shall, except as provided in subdivision (d), include all of the following:

(1) The equivalent of at least three semester units or four quarter units of graduate study in each of the following core content areas:

(A) Counseling and psychotherapeutic theories and techniques, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to assist in selection of appropriate counseling interventions, models of counseling consistent with current professional research and practice, development of a personal model of counseling, and multidisciplinary responses to crises, emergencies, and disasters.

(B) Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.

(C) Career development theories and techniques, including career development decisionmaking models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.

(D) Group counseling theories and techniques, including principles of group dynamics, group process components, developmental stage theories, therapeutic factors of group work, group leadership styles and approaches, pertinent research and literature, group counseling methods, and evaluation of effectiveness.

(E) Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.

(F) Multicultural counseling theories and techniques, including counselors' roles in developing cultural self-awareness, identity development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual of Mental Disorders, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

(H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.

(I) Professional orientation, ethics, and law in counseling, including professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

(2) In addition to the course requirements described in paragraph (1), a minimum of 12 semester units or 18 quarter units of advanced coursework to develop knowledge of specific treatment issues, special populations, application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience that involves direct client contact in a clinical setting that provides a range of professional clinical counseling experience, including the following:

(A) Applied psychotherapeutic techniques.

(B) Assessment.

(C) Diagnosis.

(D) *Prognosis*.

~~(D)~~ (E) Treatment planning.

~~(E)~~ (F) Treatment.

~~(F)~~ (G) Issues of development, adjustment, and maladjustment.

~~(G)~~ (H) Health and wellness promotion.

~~(H)~~ (I) Other recognized counseling interventions.

~~(I)~~ (J) A minimum of 150 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(d) (1) (A) An applicant whose degree is deficient in no more than two of the required areas of study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) may satisfy

those deficiencies by successfully completing postmaster's or postdoctoral degree coursework at an accredited or approved institution, as defined in Section 4999.12.

(B) Notwithstanding subparagraph (A), an applicant shall not be deficient in the required areas of study specified in subparagraph (E) or (G) of paragraph (1) of subdivision (c) unless the applicant meets one of the following criteria and remediates the deficiency:

(i) The application for licensure was received by the board on or before August 31, 2020.

(ii) The application for registration was received by the board on or before August 31, 2020, and the registration was subsequently issued by the board.

(2) Coursework taken to meet deficiencies in the required areas of study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) shall be the equivalent of three semester units or four quarter units of study.

(3) The board shall make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation.

(e) In addition to the degree described in this section, or as part of that degree, an applicant shall complete the following coursework or training prior to registration as an associate:

(1) A minimum of 15 contact hours of instruction in alcoholism and other chemical substance abuse dependency, as specified by regulation.

(2) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(3) A two semester unit or three quarter unit survey course in psychopharmacology.

(4) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics.

(5) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations adopted thereunder.

(6) A minimum of 18 contact hours of instruction in California law and professional ethics for professional clinical counselors that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to clients, and state and federal laws related to confidentiality of patient health information. When coursework in a master's or doctoral degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester unit or 72 quarter unit requirement in subdivision (c).

(7) A minimum of 10 contact hours of instruction in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging. On and

after January 1, 2012, this coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(8) A minimum of 15 contact hours of instruction in crisis or trauma counseling, including multidisciplinary responses to crises, emergencies, or disasters, and brief, intermediate, and long-term approaches.

SEC. 62.

Section 4999.33 of the Business and Professions Code is amended to read:

4999.33.

(a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for licensure or registration, applicants shall possess a master's or doctoral degree that is counseling or psychotherapy in content and that meets the requirements of this section, obtained from an accredited or approved institution, as defined in Section 4999.12. For purposes of this subdivision, a degree is "counseling or psychotherapy in content" if it contains the supervised practicum or field study experience described in paragraph (3) of subdivision (c) and, except as provided in subdivision (f), the coursework in the core content areas listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c).

(c) The degree described in subdivision (b) shall be a single, integrated program that contains not less than 60 graduate semester units or 90 graduate quarter units of instruction, which shall, except as provided in subdivision (f), include all of the following:

(1) The equivalent of at least three semester units or four quarter units of graduate study in all of the following core content areas:

(A) Counseling and psychotherapeutic theories and techniques, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to assist in selection of appropriate counseling interventions, models of counseling consistent with current professional research and practice, development of a personal model of counseling, and multidisciplinary responses to crises, emergencies, and disasters.

(B) Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.

(C) Career development theories and techniques, including career development decisionmaking models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.

(D) Group counseling theories and techniques, including principles of group dynamics, group process components, group developmental stage theories, therapeutic factors of group work, group leadership styles and approaches, pertinent research and literature, group counseling methods, and evaluation of effectiveness.

(E) Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.

(F) Multicultural counseling theories and techniques, including counselors' roles in developing cultural self-awareness, identity development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual of Mental Disorders, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

(H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.

(I) Professional orientation, ethics, and law in counseling, including California law and professional ethics for professional clinical counselors, professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

(J) Psychopharmacology, including the biological bases of behavior, basic classifications, indications, and contraindications of commonly prescribed psychopharmacological medications so that appropriate referrals can be made for medication evaluations and so that the side effects of those medications can be identified.

(K) Addictions counseling, including substance abuse, co-occurring disorders, and addiction, major approaches to identification, evaluation, treatment, and prevention of substance abuse and addiction, legal and medical aspects of substance abuse, populations at risk, the role of support persons, support systems, and community resources.

(L) Crisis or trauma counseling, including crisis theory; multidisciplinary responses to crises, emergencies, or disasters; cognitive, affective, behavioral, and neurological effects associated with trauma; brief, intermediate, and long-term approaches; and assessment strategies for

clients in crisis and principles of intervention for individuals with mental or emotional disorders during times of crisis, emergency, or disaster.

(M) Advanced counseling and psychotherapeutic theories and techniques, including the application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(2) In addition to the course requirements described in paragraph (1), 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations.

(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience that involves direct client contact in a clinical setting that provides a range of professional clinical counseling experience, including the following:

(A) Applied psychotherapeutic techniques.

(B) Assessment.

(C) Diagnosis.

(D) *Prognosis*.

~~(D)~~ (E) Treatment planning.

~~(E)~~ (F) Treatment.

~~(F)~~ (G) Issues of development, adjustment, and maladjustment.

~~(G)~~ (H) Health and wellness promotion.

~~(H)~~ (I) Professional writing including documentation of services, treatment plans, and progress notes.

~~(I)~~ (J) How to find and use resources.

~~(J)~~ (K) Other recognized counseling interventions.

~~(K)~~ (L) A minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(d) The 60 graduate semester units or 90 graduate quarter units of instruction required pursuant to subdivision (c) shall, in addition to meeting the requirements of subdivision (c), include instruction in all of the following:

(1) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

(2) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(3) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

- (4) An understanding of the effects of socioeconomic status on treatment and available resources.
- (5) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability and their incorporation into the psychotherapeutic process.
- (6) Case management, systems of care for the severely mentally ill, public and private services for the severely mentally ill, community resources for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. The instruction required in this paragraph may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.
- (7) Human sexuality, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.
- (8) Spousal or partner abuse assessment, detection, intervention strategies, and same gender abuse dynamics.
- (9) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting, as specified in Section 28, and any regulations promulgated thereunder.
- (10) Aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.
- (e) A degree program that qualifies for licensure under this section shall do all of the following:
- (1) Integrate the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments.
- (2) Integrate an understanding of various cultures and the social and psychological implications of socioeconomic position.
- (3) Provide the opportunity for students to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.
- (f) (1) (A) An applicant whose degree is deficient in no more than three of the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) may satisfy those deficiencies by successfully completing post-master's or postdoctoral degree coursework at an accredited or approved institution, as defined in Section 4999.12.
- (B) Notwithstanding subparagraph (A), an applicant shall not be deficient in the required areas of study specified in subparagraphs (E) or (G) of paragraph (1) of subdivision (c) unless the applicant meets one of the following criteria and remediates the deficiency:
- (i) The application for licensure was received by the board on or before August 31, 2020.
- (ii) The application for registration was received by the board on or before August 31, 2020, and the registration was subsequently issued by the board.

(2) Coursework taken to meet deficiencies in the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) shall be the equivalent of three semester units or four quarter units of study.

(3) The board shall make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation.

SEC. 63.

Section 4999.42 of the Business and Professions Code is amended to read:

4999.42.

(a) An applicant shall meet all of the following qualifications to qualify for registration as an associate:

(1) Earned a master's or doctoral degree as specified in Section 4999.32 or 4999.33, as applicable. An applicant whose education qualifies ~~him or her~~ *the applicant* under Section 4999.32 shall also have completed the coursework or training specified in subdivision (e) of Section 4999.32.

(2) Be at least 18 years of age.

(3) ~~Not have committed acts or crimes constituting grounds for~~ *be subject to* denial of licensure ~~under~~ *pursuant to* Section 480.

(b) (1) The board shall not issue a registration to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(2) *A denial issued pursuant to this subdivision shall comply with the conditions for denial specified in Section 480.*

SEC. 64.

Section 4999.46.1 of the Business and Professions Code is amended to read:

4999.46.1.

(a) An associate or applicant for licensure shall be under the supervision of a supervisor at all times.

~~(b) As used in this chapter, the term "supervision" means responsibility for, and control of, the quality of mental health and related services provided by the supervisee. Consultation or peer discussion shall not be considered supervision and shall not qualify as supervised experience. Supervision includes, but is not limited to, all of the following:~~

~~(1) Ensuring the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the supervisee.~~

~~(2) Monitoring and evaluating the supervisee's assessment, diagnosis, and treatment decisions and providing regular feedback.~~

~~(3) Monitoring and evaluating the supervisee's ability to provide services at the site or sites where he or she is practicing and to the particular clientele being served.~~

~~(4) Monitoring and addressing clinical dynamics, including, but not limited to, countertransference, intrapsychic, interpersonal, or trauma-related issues that may affect the supervisory or practitioner-patient relationship.~~

~~(5) Ensuring the supervisee's compliance with laws and regulations governing the practice of licensed professional clinical counseling.~~

~~(6) Reviewing the supervisee's progress notes, process notes, and other patient treatment records, as deemed appropriate by the supervisor.~~

~~(7) With the client's written consent, providing direct observation or review of audio or video recordings of the supervisee's counseling or therapy, as deemed appropriate by the supervisor.~~

~~(e)~~ (b) An associate shall do both of the following:

(1) Inform each client, ~~prior to~~ *before* performing any professional services, that ~~he or she~~ *the associate* is unlicensed and under supervision.

(2) Renew the registration a maximum of five times. ~~No~~ A registration shall *not* be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked.

~~(d)~~ (c) When no further renewals are possible, an applicant may apply for and obtain a subsequent associate registration number if the applicant meets the educational requirements for a subsequent associate registration number and has passed the California law and ethics examination. An applicant issued a subsequent associate registration number shall not be employed or volunteer in a private practice.

SEC. 65.

Section 4999.51 of the Business and Professions Code is amended to read:

4999.51.

An applicant for licensure as a professional clinical counselor or registration as an associate shall satisfy the following qualifications:

(a) ~~Not have committed acts or crimes constituting grounds for~~ *be subject to* denial of licensure ~~under~~ *pursuant to* Section 480.

(b) (1) Not have been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(2) *A denial issued pursuant to this subdivision shall comply with the conditions for denial specified in Section 480.*

(c) Have successfully passed a state and federal level criminal offender record information search conducted through the Department of Justice by submitting fingerprint images and other information to the Department of Justice for the purpose of obtaining records of state and

federal convictions and arrests. The board shall request the subsequent arrest notification service on all applicants, pursuant to Section 11105.2 of the Penal Code.

SEC. 66.

Section 4999.71 of the Business and Professions Code is amended to read:

4999.71.

(a) Effective July 1, 2020, a licensee or registrant shall provide a client with a notice written in at least 12-point type prior to initiating psychotherapy ~~services~~ services, or as soon as *practicably possible thereafter*, that reads as follows:

NOTICE TO CLIENTS

The Board of Behavioral Sciences receives and responds to complaints regarding services provided within the scope of practice of professional clinical counselors. You may contact the board online at www.bbs.ca.gov, or by calling (916) 574-7830.

(b) The delivery of the notice required by this section to the client shall be documented.

SEC. 67.

Section 4999.76 of the Business and Professions Code is amended to read:

4999.76.

(a) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that ~~he or she~~ *the applicant* has completed not less than 36 hours of approved continuing education in or relevant to the field of professional clinical counseling in the preceding two years, as determined by the board.

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completed continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause, as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) A school, college, or university that is accredited or approved, as defined in Section 4999.12. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers as specified by the board by regulation.

(e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of professional clinical counseling.

(2) Significant recent developments in the discipline of professional clinical counseling.

(3) Aspects of other disciplines that enhance the understanding or the practice of professional clinical counseling.

(g) A system of continuing education for licensed professional clinical counselors shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

~~(h) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For the purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.~~

~~(i)~~ (h) The continuing education requirements of this section shall fully comply with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 68.

Section 4999.80 of the Business and Professions Code is amended to read:

4999.80.

In order to carry out the provisions of this chapter, the board shall do all of the following:

(a) Enforce laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.

(b) Investigate complaints concerning the conduct of any licensed professional clinical counselor.

(c) Revoke, suspend, or fail to renew a license that it has authority to issue for just cause, as enumerated in rules and regulations of the board. The board may deny, suspend, or revoke any license granted under this chapter pursuant to Section 480, 481, 484, 490, 496, 498, or 499.

SEC. 69.

Section 4999.90 of the Business and Professions Code is amended to read:

4999.90.

The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any associate or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

- (a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. ~~A plea or verdict of guilty or a conviction following a plea of not contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section.~~ *conviction has the same meaning as defined in Section 7.5.* The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, ~~irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.~~ *sentence. All actions pursuant to this subdivision shall be taken pursuant to Division 1.5 (commencing with Section 475).*
- (b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.
- (c) Administering to themselves any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.
- (d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.
- (e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.
- (f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of the licensee's or registrant's education, professional qualifications, or professional affiliations to any person or entity.

- (g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use the licensee's or registrant's license or registration.
- (h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.
- (i) Intentionally or recklessly causing physical or emotional harm to any client.
- (j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.
- (k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed professional clinical counselor.
- (l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee, applicant, or registrant under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.
- (m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.
- (n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.
- (o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional clinical counseling services actually provided by the licensee. This subdivision does not prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).
- (p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.
- (q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.
- (r) Any conduct in the supervision of a registered associate, trainee, or applicant by any licensee that violates this chapter or any rules or regulations adopted by the board.
- (s) Performing or holding oneself out as being able to perform mental health services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee, associate, or applicant under one's supervision or control to perform, or permitting the trainee, associate, or applicant to hold themselves out as competent to perform, mental health services beyond the trainee's, associate's, or applicant's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 287, or 289 of, or former Section 288a of, the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a professional clinical counselor, clinical social worker, educational psychologist, or marriage and family therapist.

(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telehealth.

(ad) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

SEC. 70.

Section 4999.104 of the Business and Professions Code is amended to read:

4999.104.

Licenses issued under this chapter that have expired may be renewed at any time within three years of expiration. To renew an expired license described in this section, the licensee shall do all of the following:

- (a) File an application for renewal on a form prescribed by the board.
- (b) Pay ~~all fees that would have been paid if the license had not become delinquent.~~ *a two-year renewal fee prescribed by the board.*
- (c) Pay ~~all a delinquency fees.~~ *fee.*
- (d) Certify compliance with the continuing education requirements set forth in Section 4999.76.
- (e) Notify the board whether ~~he or she~~ *the licensee* has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

SEC. 71.

Section 4999.120 of the Business and Professions Code is amended to read:

4999.120.

(a) The board shall assess the following fees relating to the licensure of professional clinical counselors:

- (1) The fee for the application for licensure shall be two hundred fifty dollars (\$250). The board may adopt regulations to set the fee at a higher amount, up to a maximum of five hundred dollars (\$500).
- (2) The fee for the application for associate registration shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).
- (3) (A) (i) The fee for the board-administered clinical examination, if the board chooses to adopt this examination in regulations, shall be two hundred fifty dollars (\$250). The board may adopt regulations to set the fee at a higher amount, up to a maximum of five hundred dollars (\$500).
- (ii) The fee for the California law and ethics examination shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).
- (B) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fees.
- (C) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(4) The fee for the issuance of a license shall be two hundred dollars (\$200). The board may adopt regulations to set the fee at a higher amount, up to a maximum of four hundred dollars (\$400).

(5) The fee for *the* annual renewal of an associate registration shall be one hundred fifty dollars (\$150). The board may adopt regulations to set the fee at a higher amount, up to a maximum of three hundred dollars (\$300).

(6) The fee for *the two-year* license renewal shall be two hundred dollars (\$200). The board may adopt regulations to set the fee at a higher amount, up to a maximum of four hundred dollars (\$400).

(7) The renewal delinquency fee shall be one-half of the fee for license renewal. A person who permits their license to expire shall be subject to the delinquency fee.

(8) The fee for issuance of a retired license shall be forty dollars (\$40).

(9) The fee for rescoring an examination shall be twenty dollars (\$20).

(10) The fee for issuance of a replacement license or registration shall be twenty dollars (\$20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(b) This section shall become operative on January 1, 2021.

SEC. 72.

Section 4999.122 of the Business and Professions Code is repealed.

~~4999.122.~~

~~The professional clinical counselor licensing program shall be supported from fees assessed to applicants, interns, and licensees. Startup funds to implement this program shall be derived, as a loan, from the reserve fund of the Board of Behavioral Sciences, subject to an appropriation by the Legislature in the annual Budget Act. The board shall not implement this chapter until funds have been appropriated.~~

SEC. 73.

Section 4999.123 of the Business and Professions Code is amended to read:

4999.123.

A professional clinical counselor corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees who are rendering professional services ~~and who are licensed professional clinical counselors, licensed marriage and family therapists, physicians and surgeons, psychologists, licensed clinical social workers, registered nurses, chiropractors, or acupuncturists, are~~ are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and any other statute or regulation pertaining to that corporation and the conduct of its affairs. With respect to a professional clinical counselor

corporation, the term “governmental agency” in the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code) shall be construed to mean the Board of Behavioral Sciences.

SEC. 74.

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~~ *their* 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 Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, when ~~he or she is~~ *they are* 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 *registered* psychological ~~assistant~~ *associate* 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 an associate marriage and family therapist who is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed professional clinical counselor, 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) (h)~~ (h) A psychological intern as defined in Section 2911 of the Business and Professions Code who is under the *primary* supervision of a licensed ~~psychologist or board-certified psychiatrist~~ *psychologist*.

~~(j) (i)~~ (i) A trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, who is fulfilling ~~his or her~~ *their* 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)~~ (j) 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)~~ (k)

↓

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

~~(n)~~ (m) 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)~~ (n) A person registered as an associate professional clinical counselor 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 4999.48, inclusive, of the Business and Professions Code.

~~(p)~~ (o) 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~~ *their* 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.

SEC. 75.

The Legislature finds and declares that the addition by this act of Sections 2949 and 4990.07 to the Business and Professions Code imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) In order to protect the privacy of applicants and licensees of the Board of Psychology, it is necessary to allow these individuals the opportunity for a closed hearing as provided in Section 2949 of the Business and Professions Code.

(2) Restricting access to email addresses of registrants, applicants, and licensees submitted to the Board of Behavioral Sciences pursuant to Section 4990.07 of the Business and Professions Code is necessary to protect the privacy of these individuals.

SEC. 76.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(2)(A) – AB 29 (Cooper): State bodies – meetings.

Background:

This bill would expand the Bagley-Keene Open Meeting Act requirements to include all writings or materials provided for the noticed meeting be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier.

Location: Assembly

Status: 5/20/2021 In committee: Held under submission.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 29 (Cooper) Bill Text

AB 29 (Cooper)

11125.

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the ~~Internet~~ *state body's internet website* at least 10 days in advance of the ~~meeting, meeting~~ and shall include the name, address, and telephone number of any person who can provide further information ~~prior to~~ *before* the ~~meeting, meeting~~ but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the ~~Internet-site~~ *internet website* where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) (1) A notice provided pursuant to subdivision (a) shall include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting.

(2) The writings or materials described in paragraph (1) shall be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier.

(3) A state body may not distribute or discuss writings or materials described in paragraph (1), or take action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with this subdivision.

~~(c)~~ (d) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

~~(d)~~ (e) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the

state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

~~(e)~~ (f) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

~~(f)~~ (g) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(2)(B) – AB 54 (Kiley): COVID-19 emergency order violation: license revocation.

Background:

This bill would prohibit boards under the Department of Consumer Affairs (DCA), and the Department of Alcoholic Beverage Control, from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that a lack of compliance resulted in transmission of COVID-19.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 54 (Kiley).

On 4/2/2021, the Board approved the Legislative and Regulatory Affairs Committee recommendation to watch AB 54 (Kiley).

On 4/5/2021, this bill was amended to exempt healing arts boards.

Location: Committee on Business and Professions

Status: 4/13/2021 In committee: Set, first hearing. Failed passage.
Ayes: 6; Noes: 7; Abstain: 6.

Action Requested:

This is for informational purposes only. No action is requested as this time.

Attachment A: AB 54 (Kiley) Bill Text

AB 54 (Kiley) - COVID-19 emergency order violation: license revocation.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 464.5 is added to the Business and Professions Code, to read:

464.5.

(a) The department and any board shall not revoke a license for failure to comply with any COVID-19 emergency orders, unless the department or board can prove that lack of compliance resulted in the transmission of COVID-19.

(b) This section shall not apply to any board or licensee within Division 2 (commencing with Section 500).

SEC. 2.

Section 24200.8 is added to the Business and Professions Code, to read:

24200.8.

The Department of Alcoholic Beverage Control shall not revoke the license of any licensee for failure to comply with any COVID-19 emergency orders unless the department can prove that lack of compliance resulted in transmission of COVID-19.

SEC. 3.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect businesses, including small businesses, which continue to make significant contributions to economic security, which helps ensure public safety, during these unprecedented times caused by the COVID-19 pandemic, as soon as possible, it is necessary for this act to take effect immediately

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(3)C) – AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses

Background:

Existing law requires specified boards within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. Existing law requires these temporary licenses to expire 12 months after issuance. Under existing law, some of the funds within the jurisdiction of a board consist of revenue from fees that are continuously appropriated.

This bill would require the temporary licenses described above to expire 30 months after issuance. The bill would require boards not responsible for the licensure and regulation of healing arts licensees and not subject to the temporary licensing provisions described above to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, as provided. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license.

The bill would authorize the immediate termination of a license issued pursuant to these provisions upon a finding that the license holder failed to meet specified requirements or provided substantively inaccurate information that would affect the person's eligibility for licensure, as provided.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 225 (Gray).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 225 (Gray).

Location: Senate

Status: 6/30/2021 In committee: Hearing postponed by committee.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 225 (Gray) Bill Text

AB 225 (Gray) - Department of Consumer Affairs: boards: veterans: military spouses: licenses.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 115.6 of the Business and Professions Code is amended to read:

115.6.

(a) A board within the department shall, after appropriate investigation, issue the following eligible temporary licenses to an applicant if the applicant meets the requirements set forth in subdivision (c):

- (1) Registered nurse license by the Board of Registered Nursing.
- (2) Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
- (3) Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
- (4) Speech-language pathologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (5) Audiologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (6) Veterinarian license issued by the Veterinary Medical Board.
- (7) All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.
- (8) All licenses issued by the Medical Board of California.
- (9) All licenses issued by the Podiatric Medical Board of California.

(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

(c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

(1) The applicant shall supply evidence satisfactory to the board that the applicant is one of the following:

~~(4) (A) The applicant shall supply evidence satisfactory to the board that the applicant is married~~ *Married* to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(B) A veteran of the Armed Forces of the United States within 60 months of separation from active duty under other than dishonorable conditions.

(C) A veteran of the Armed Forces of the United States within 120 months of separation from active duty under other than dishonorable conditions and a resident of California prior to entering into military service.

(D) An active duty member of the Armed Forces of the United States with official orders for separation within 90 days under other than dishonorable conditions.

(2) The applicant shall hold a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board.

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license and that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

(4) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

(5) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(6) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

(d) A board may adopt regulations necessary to administer this section.

(e) A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or provided substantively inaccurate information that would affect the person's eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue a notice of termination that shall require the temporary licenseholder to immediately cease the practice of the licensed profession upon receipt.

(f) An applicant seeking a temporary license as a civil engineer, geotechnical engineer, structural engineer, land surveyor, professional geologist, professional geophysicist, certified engineering geologist, or certified hydrogeologist pursuant to this section shall successfully pass the appropriate California-specific examination or examinations required for licensure in those respective professions by the Board for Professional Engineers, Land Surveyors, and Geologists.

(g) A temporary license issued pursuant to this section shall expire 12 months after issuance, upon issuance of ~~an expedited license pursuant to Section 115.5, or upon denial of the application for expedited licensure by the board,~~ a standard license, a license by endorsement, or an expedited license pursuant to Section 115.5, whichever occurs first.

SEC. 2.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the

Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(2)(D) – AB 339 (Lee): Local government: open and public meetings

Background:

This bill requires the following: all open and public meetings of a city council or a county board of supervisors that governs a jurisdiction containing at least 250,000 people to include an opportunity for members of the public to attend via a telephonic option or an internet-based service option; all open and public meetings include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency; all open and public meetings to provide the public with an opportunity to comment on proposed legislation in person and remotely via a telephonic or an internet-based service option.

This bill sunsets on December 31, 2023.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 339 (Lee).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 339 (Lee).

On 4/15/2021, this bill was amended to remove state bodies from the requirements. It pertains to local governments with more than 250,000 residents.

On 7/5/2021, this bill was amended to require that city councils and counties that have provided video streaming of at least one of their meetings, to continue to provide video streaming of their meetings.

Location: Senate Appropriations

Status: 7/14/2021 From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (July 13). Re-referred to Com. on APPR. Hearing set for 8/16/21.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 339 (Lee) Bill Text

AB-339 (Lee) - Local government: open and public meetings.
As Amends the Law Today – August 10, 2021

SECTION 1.

Section 54953 of the Government Code is amended to read:

54953.

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local ~~agency~~, *agency in person*, except as otherwise provided in this chapter. *Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, the language access and other nondiscrimination obligations of Section 11135 and Subchapter V (commencing with Section 2000d) of Chapter 21 of Title 42 of the United States Code.*

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the

form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a ~~county sponsored~~ *county-sponsored* health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

SEC. 2.

Section 54953.9 is added to the Government Code, to read:

54953.9.

(a) A city council or a county board of supervisors that governs a jurisdiction containing at least 250,000 people shall comply with the following requirements:

(1) (A) All open and public meetings shall include an opportunity for members of the public to attend via a two-way telephonic option or a two-way internet-based service option.

(B) If a city council or a county board of supervisors elects to provide a two-way internet-based service option, the local agency shall publicly post and provide a call-in option, and activate any automatic captioning function during the meeting if an automatic captioning function is included with the system.

(2) (A) If a city council or county board of supervisors has, as of June 15, 2021, provided video streaming of at least one open and public meeting, the city council or county board of supervisors shall continue to provide that video streaming.

(B) "Video streaming" means media in which the data from a live filming or a video file is continuously delivered via the internet to a remote user, allowing a video to be viewed online by the public without being downloaded on a host computer or device.

(3) (A) Unless there are any laws that prohibit in-person government meetings in the case of a declared state of emergency, including a public health emergency, all open and public meetings shall include an in-person public comment opportunity, wherein members of the public can report to a designated site to give public comment in person. The location of the designated site and any relevant instructions on in-person commenting shall be included with the public posting of the agenda.

(B) All open and public meetings shall provide the public with an opportunity to comment on proposed legislation via a two-way telephonic or internet-based service option, and ensure the opportunity for the members of the public participating via a two-way telephonic or internet-based option to comment on agenda items with the same time allotment as a person attending a meeting in person.

(b) This section shall remain in effect only until December 31, 2023, and as of that date is repealed.

SEC. 3.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result either from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, or because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4.

The Legislature finds and declares that Sections 1 and 2 of this act, which amends Section 54953 of, and adds Section 54953.9 to, the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The provisions of the act allow for greater public access through requiring specified entities to provide a telephonic or internet-based service option and instructions on how to access these options to the public for specified meetings.

SEC. 5.

The Legislature finds and declares that improving accessibility to open and public meetings of local legislative bodies is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act adding Section 54953.9 to the Government Code applies to all cities and counties, including charter cities and counties.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(2)(E) – AB 562 (Low) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services.

Background:

This bill would require the director of the Department of Consumer Affairs to establish a mental health resiliency program, to provide mental health services to licensed health care providers who provide or have provided healthcare services to COVID-19 patients. The bill would require the relevant healing arts boards to notify licensees and solicit applications for access to the mental health resiliency program immediately upon the availability of services. The bill would require an applicant to make an attestation that states, among other things, that the applicant is an eligible licensee, as defined. The bill would make an applicant who willfully makes a false statement in their attestation guilty of a misdemeanor.

The bill would exempt the records associated with the mental health resiliency program from disclosure pursuant to the California Public Records Act.

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 562 (Low).

On 4/8/2021, this bill was amended to, among other things, define "board" as the Board of Registered Nursing, the Medical Board of California, the Osteopathic Medical Board of California, the Physician Assistant Board, and the Respiratory Care Board; define "eligible licensee" as a person licensed as a healing arts provider who is or was also a frontline health care COVID-19 provider; and define "frontline COVID-19 health care provider" as a person who provides or has provided consistent in-person health care services to patients with COVID-19.

On 7/8/2021, staff contacted the author's office to ask whether they would consider adding the Board of Psychology. The author's office indicated that they are open to adding additional boards such as the Board of Behavioral Sciences and Board of Psychology. They are waiting for an opportunity to amend the bill. Staff will maintain communications with the author's office and assist as needed.

Location: Senate Appropriations

Status: 7/7/2021 From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 0.) (July 6). Re-referred to Com. on APPR. Hearing set for 8/16/2021.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: Senate Judiciary Analysis

Attachment B: AB 562 (Low) Bill Text

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 562 (Low)
Version: April 8, 2021
Hearing Date: July 6, 2021
Fiscal: Yes
Urgency: Yes
AWM

SUBJECT

Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care
providers: mental health services

DIGEST

This bill requires the Director of the Department of Consumer Affairs (DCA) to establish a mental health resiliency program, as specified, to provide mental health services to licensed health care providers who provide or have provided consistent in-person healthcare services to COVID-19 patients.

EXECUTIVE SUMMARY

Since the start of the COVID-19 pandemic, California's frontline medical providers have been caring for COVID-19 patients through multiple surges, including a record-breaking death toll in December 2020. These frontline providers are suffering from burnout and are at high risk of mental health conditions, including depression, anxiety, post-traumatic stress disorder, and suicidal thoughts. To provide desperately needed mental health services to these frontline workers, this bill establishes the Frontline COVID-19 Provider Mental Health Resiliency Act of 2021, which requires the DCA to establish a mental health resiliency program in consultation with relevant health arts boards. Under the program, the DCA would contract with vendors of mental health services for the duration of the program; the individual boards would then administer the program and determine eligibility. The bill provides that treatment records and other mental-health-related information are not subject to disclosure under the California Public Records Act (CPRA).

This bill is sponsored by United Nurses Associations of California/Union of Health Care Professionals, the California Society of Anesthesiologists, the California Medical Association, and American Federation of State, County, and Municipal Employees (AFSCME), AFL-CIO, and supported by a number of medical practitioner groups.

There is no known opposition. This bill passed out of the Senate Business, Professions and Economic Development Committee with a vote of 12-0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Regulates the healing arts and related professions, including physicians, surgeons, osteopathic physicians and surgeons, nurses, and physician assistants, each of which is governed by a board dedicated to implementation of regulations and requirements concerning the profession. (Bus. & Prof. Code, §§ 2000-2529.6; 2700-2838.4; 3500-3546.)
- 2) Authorizes, whenever it appears that any person holding a healing arts license, certificate, or permit may be unable to practice their profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. (BPC § 820)
- 3) Authorizes the Medical Board to establish a Physician and Surgeon Health and Wellness Program for the early identification of, and appropriate interventions to support a physician and surgeon in their rehabilitation from, their substance use to ensure that the physician and surgeon remains able to practice medicine in a manner that will not endanger the public health and safety and that will maintain the integrity of the medical profession. If established, the board must contract for the program's administration with a private third-party independent administering entity pursuant to a request for proposals. (Bus. & Prof. Code, §§ 2340-2340.8.)¹
- 4) For the professions of osteopathic physicians and surgeons, nurses, and physician assistants, establishes committees established, as a voluntary approach to traditional disciplinary action, to identify members of the profession whose competency may be impaired due to the use of substances and, in the case of nursing, mental illness, so that the practitioner may be rehabilitated and return to practice. (Bus. & Prof. Code, §§ 2360-2370, 2770, 3534-3534.10.)

This bill:

- 1) Establishes the Frontline COVID-19 Provider Mental Health Resiliency Act of 2021.
- 2) Finds and declares that, from the beginning of the COVID-19 pandemic, Nurses, physicians and surgeons, and other frontline health care providers are suffering

¹ According to the author, this program was never implemented because of its cost.

from burnout and have been experiencing, or are at high risk of, a variety of mental health conditions, including depression, anxiety, post-traumatic stress disorder, and suicidal thoughts, which will likely endure long after the pandemic ends.

- 3) States that it is the intent of the Legislature that the DCA, through the relevant boards, immediately establish a mental health resiliency program for frontline health care providers who have provided direct and in-person care to COVID-19 patients during the pandemic.
- 4) Requires the Director of the DCA (Director), within three months of the effective date of this bill, in consultation with the relevant boards, to establish a mental health resiliency program to provide mental health services to frontline COVID-19 providers; and authorizes the Director to engage and supervise vendors of mental health services to implement the program.
- 5) Requires that all vendor contracts in connection with the program specify that all personal or identifiable program participant data must be kept confidential, and that the confidentiality obligations shall survive the termination of the contract.
- 6) Exempts the program from the requirements of the Administrative Procedure Act.
- 7) Requires the relevant boards to notify licensees and professionals of the program, establishes application requirements – including that the applicant was a frontline COVID-19 worker, and requires that all eligible licensees be granted access to the program. An applicant who knowingly makes a false statement on an application for the program is guilty of a misdemeanor.
- 8) Provides that the program will sunset on January 1, 2025.
- 9) Requires the DCA and relevant boards, no later than June 30, 2025, report to the relevant policy committees of the Legislature specified information about the utilization of the program and the associated costs.
- 10) Exempts records associated with the program from disclosure under the CPRA, and provides that application to or participation in the program shall not be used in connection with disciplinary proceedings and shall be kept confidential.
- 11) Includes an urgency clause.

COMMENTS

1. Author's comment

According to the author:

If the true measure of a society is how it treats its most vulnerable people, we should be equally concerned with how well we support heroes who have been working nonstop during a generational crisis. The pandemic has placed our nurses, physicians, and frontline health care workers under enormous stress, and they have been carrying this unbelievable burden for nearly a year. The trauma they have experienced will not just go away when vaccines become ubiquitous and the pandemic comes to an end. We need urgent action to support these heroes by expanding access to mental and behavioral health services.

2. This bill creates a mental health treatment program for frontline COVID-19 healthcare workers that allows their mental health struggles to remain confidential

Frontline medical workers are like firefighters: when most people are fleeing dangerous conditions, frontline medical workers are running towards it. For nearly a year and a half, frontline medical workers have put their lives in danger to treat, comfort, and mourn patients who contracted COVID-19. Even with personal protective equipment – which was not reliably available at the start of the pandemic – frontline medical workers have at least a threefold risk of contracting COVID-19 as compared to the general population.² Nonwhite healthcare workers made up a disproportionate number of the deaths;³ notably, Filipino and Filipina nurses make up 4 percent of the registered nurses in the United States, but accounted for 31.5 percent of the registered nurses who passed away from COVID-19.⁴ As of September 2020, California had the highest total number of frontline medical worker COVID-19 cases and the third-highest fatality rate.⁵ The staffing shortages caused by healthcare worker illnesses became so overwhelming

² Nguyen, et al., *Risk of COVID-19 among front-line health-care workers and the general community: a prospective cohort study*, The Lancet, Vol. 5, Iss. 9 (Sept. 1, 2020), available at [https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(20\)30164-X/fulltext](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(20)30164-X/fulltext) [last visited Jul. 2, 2021].

³ The Guardian & Kaiser Health News, *Lost on the frontline*, The Guardian (Apr. 2021), <https://www.theguardian.com/us-news/ng-interactive/2020/aug/11/lost-on-the-frontline-covid-19-coronavirus-us-healthcare-workers-deaths-database> [last visited Jul. 2, 2021].

⁴ National Nurses United, *Sins of Omission: How Government Failures to Track Covid-19 Data Have Led to More Than 1,700 Health Care Worker Deaths and Jeopardize Public Health*, (Sept. 2020), at p. 12, available at https://www.nationalnursesunited.org/sites/default/files/nnu/graphics/documents/0920_Covid19_SinsOfOmission_Data_Report.pdf [last visited Jul. 2, 2021].

⁵ *Id.* at pp. 13-14.

that the United States Department of Defense lent combat medics and nurses to assist in hospitals around the state.⁶

The strain on healthcare workers went far beyond the risk of infection. Frontline workers describe experiencing “the unrelenting stress that has become an endemic part of the health care crisis nationwide.”⁷ This includes “spikes in anxiety and depressive thoughts, as well as a chronic sense of hopelessness and deepening fatigue, spurred in part by the cavalier attitudes of many Americans who seem to have lost patience with the pandemic.”⁸ Blue Shield of California reported in December 2020 that two-thirds of California healthcare workers felt emotionally frustrated, overworked, and burned out.⁹ The emotional toll pushed many healthcare professionals to the breaking point. In the words of one nurse:

“To be a nurse, you have to really care about people,” Neville said. But when an ICU is packed with COVID-19 patients, most of whom are likely to die, “to protect yourself, you just shut down. You get to the point where you realize that you’ve become a machine. There’s only so many bags you can zip.”¹⁰

Everyone agrees that these healthcare workers are heroes. From the beginning of the pandemic, healthcare workers were praised for their strength and resilience in the face of the unimaginable trauma they face on a daily basis. But those glowing words were often empty praise, as people and governments failed to take concrete actions that could ease the burden on those they claimed to admire. One nurse described the “wartime rhetoric” as a way “for things to seem like the deaths of health care workers and the illnesses of health care workers were inevitable, unavoidable, when really we’re being sacrificed by the refusal of the federal government to up its manufacturing of [personal protective equipment].”¹¹ Doctors and nurses from three California health systems made a video pleading with people not to celebrate the Christmas and New Year holidays indoors, to avoid overwhelming the already-overburdened healthcare

⁶ Karlamangla, *Thousands of L.A. healthcare workers sickened by coronavirus, worsening crisis in hospitals*, Los Angeles Times (Jan. 2, 2021), <https://www.latimes.com/california/story/2021-01-06/covid-19-surge-infecting-la-healthcare-workers-in-huge-numbers> [last visited Jul. 2, 2021].

⁷ Wu, *Covid Combat Fatigue: ‘I Would Come Home With Tears in My Eyes’*, New York Times (Nov. 25, 2020; updated Jan. 28, 2021), <https://www.nytimes.com/2020/11/25/health/doctors-nurses-covid-stress.html> [last visited Jul. 2, 2021].

⁸ *Ibid.*

⁹ Crook, *As COVID-19 Surges in California, Healthcare Workers, ICUs and Providers Struggle to Cope*, Blue Shield California News Center (Dec. 18, 2020), <https://news.blueshieldca.com/2020/12/18/as-covid-19-surges-in-california-healthcare-workers-ic-us-and-providers-struggle-to-cope> [last visited Jul. 2, 2021].

¹⁰ Yong, *‘No One Is Listening to Us’*, The Atlantic (Nov. 13, 2020), <https://www.theatlantic.com/health/archive/2020/11/third-surge-breaking-healthcare-workers/617091/> [last visited Jul. 2, 2021].

¹¹ Palus, *A Nurse Explains Who Can Call Her a Hero and What She Thinks of All the Applause*, Slate (Apr. 23, 2020), <https://slate.com/technology/2020/04/nurse-hero-protest.html> [last visited Jul. 2, 2021].

system¹² – after a post-Thanksgiving surge when people ignored recommendations not to gather in large groups.¹³

This bill is intended to move past platitudes and provide frontline medical workers access to meaningful mental health assistance. The bill requires the Director of the DCA, within three months of the effective date of the bill, to establish a mental health resiliency program to provide mental health services to frontline COVID-19 providers. The program will include targeted in-person, online, and telehealth psychological services to support mental and behavior health needs arising from the toll of the COVID-19 pandemic. Medical professionals would be eligible for the program if they provide or have provided consistent in-person health care services to patients with COVID-19. The bill includes an urgency clause, to ensure the program is developed as soon as possible, and a sunset clause to end the program on January 1, 2025. At that point, the DCA and relevant medical boards will report to the Legislature disaggregated information relating to utilization of the program.

Relevant to this Committee is this bill's provisions regarding the confidentiality of certain records created in connection with the frontline worker mental health program. Specifically, the bill provides that all personal or identifiable program participant data created in connection with the program shall be confidential, and not subject to disclosure under the CPRA, including applications to the program; the bill provides a narrow exception for deidentified aggregate participant data, in order to provide a report to the relevant policy committees of the Legislature on the utilization rates of the program. The bill further provides that application to, and participation in, the program may not be used in connection with any disciplinary proceedings.

According to the author, the confidentiality provisions are essential to the purpose of the bill, because without them, healthcare professionals would not be willing to participate in the program. There is strong evidence that people often avoid seeking mental health treatment due to the stigma surrounding mental illness;¹⁴ reports suggest that medical professionals are particularly likely to avoid seeking treatment because they fear they could suffer negative professional consequences.¹⁵ Accordingly, for this

¹² Zitser, *Doctors and nurses in California released a harrowing video begging people not to gather for the holidays, saying it will 'cripple our hospital system'*, Business Insider (Dec. 24, 2020), <https://www.businessinsider.com/video-doctors-nurse-california-beg-people-dont-gather-for-holidays-2020-12> [last visited Jul. 2, 2021].

¹³ Fernandez, et al., *As Christmas Nears, Virus Experts Look for Lessons from Thanksgiving*, New York Times (Dec. 20, 2020), <https://www.nytimes.com/interactive/2020/12/20/us/covid-thanksgiving-effect.html> [last visited Jul. 2, 2021].

¹⁴ E.g., American Psychiatric Association, *Stigma, Prejudice and Discrimination Against People with Mental Illness*, <https://www.psychiatry.org/patients-families/stigma-and-discrimination> [last visited Jul. 2, 2021].

¹⁵ Behbahani & Thompson, *Why don't doctors seek mental health treatment? They'll be punished for it.*, Washington Post (May 11, 2020), <https://www.washingtonpost.com/outlook/2020/05/11/mental-health-doctors-covid/> [last visited Jul. 2, 2021].

program to be remotely effective, potential participants must be secure in the knowledge that their mental health struggles will remain private.

The CPRA exemptions created by the bill – for personal mental health information and records – are consistent with existing CPRA exemptions. Medical files “the disclosure of which would constitute an unwarranted invasion of personal privacy” are already exempted,¹⁶ as are communications between a patient and a psychotherapist or psychologist¹⁷ and a range of information relating to persons with mental health disorders.¹⁸ Particularly relevant are the existing diversionary programs available for medical professionals, all of which make board and committee records of proceedings relating to a participating professional confidential and, for the most part, not subject to discovery or subpoena.¹⁹ To the extent an exemption to the CPRA and the constitutional right to inspect government records demands a superior competing interest, health care workers’ right to keep their mental health records private is clearly compelling.²⁰

3. Arguments in support

According to bill co-sponsor AFSCME, AFL-CIO:

A recent study supported by the Johnson & Johnson Foundation showed that 93 percent of surveyed healthcare workers were experiencing general stress, 86 percent reported anxiety, 77 percent reported overall frustration, 76 percent reported exhaustion and burnout, and 75 percent said they were overwhelmed. Additionally, 76 percent surveyed worried about exposing their children to the virus while approximately half worried about exposure to their spouses and elderly family members. Based on the DSM-5, post-traumatic stress symptoms can follow the witnessing of death, the threat of death to oneself, or the threat of death to loved ones; frontline workers have faced these each day for the past year. After witnessing unfathomable suffering, bearing the brunt of the pandemic, and sacrificing for their families and communities, healthcare workers have been pushed beyond what is reasonable to expect them to endure. COVID-19 frontline workers deserve to have their traumatic experiences acknowledged and the effects mitigated, both for their own well-being and for the sustainability of our healthcare infrastructure.

Mental health among frontline workers is just as imperative to their overall wellness as their physical condition and AB 562 provides immediate support to those who have taken care of our communities throughout the pandemic.

¹⁶ Gov. Code, § 6254(c).

¹⁷ *Id.*, § 6254(k); Evid. Code, § 1014; Bus. & Prof. Code, § 6276.36.

¹⁸ Gov. Code, § 6276.34.

¹⁹ See Bus. & Prof. Code, §§ 2340.6, 2369, 2770.12, 3534.7.

²⁰ See Cal. Const., art. I, § 3(b)(1) & (3).

According to bill co-sponsor United Nurses Associations of California/Union of Health Care Professionals:

During the COVID-19 pandemic, nurses and other hospital workers were on the frontline of battling a dangerous, deadly, and highly infectious disease. They experienced record-setting deaths, dangerously overcrowded health facilities, and months of overtime and extra shifts to help care for those infected with the virus. Many nurses had to convey last goodbyes to critically ill patients whose families could not be present for fear of exposure to the disease. The incredible toll under unprecedented conditions has led many nurses and other health care professionals to the brink of burnout. They endured a continuous barrage of high-stress, trauma-inducing events in the workplace, and many are experiencing various forms of PTSD.

AB 562 would ensure that these heroes have access to the mental health [care] they need. Not only will this directly benefit the impacted health care workers, but it will also benefit the public at large by ensuring that our health care workforce can remain strong, resilient, and ready to adapt to the next public health crisis. The bill would require the Director of the Department of Consumer Affairs to establish a mental health resiliency program to provide mental health services to health care workers licensed by the Department. These mental health care services would include individualized and targeted assessments and interventions to improve the mental health of the COVID-19 healthcare workforce...

Nurses and other frontline COVID-19 workers need effective mental health treatment. AB 562 provides a pathway for them to get the services they need and deserve.

SUPPORT

AFSCME, AFL-CIO (co-sponsor)

California Medical Association (co-sponsor)

California Society of Anesthesiologists (co-sponsor)

United Nurses Associations of California/Union of Health Care Professionals (co-sponsor)

American College of Emergency Physicians, California Chapter

California Academy of Family Physicians

California Association of Health Facilities

California Pharmacists Association

California State Association of Psychiatrists

Depression and Bipolar Support Alliance

National Association of Social Workers, California Chapter

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SB 213 (Cortese, 2021) creates workers' compensation rebuttable presumptions that specified injuries that develop or manifest in a hospital employee who provides direct patient care in an acute care hospital arose out of and in the course of the employment. SB 213 was placed on the Senate inactive file.

AB 650 (Muratsuchi, 2021) establishes the Health Care Workers Recognition and Retention Act, which requires specified medical employers to provide hazard pay for health care employees. AB 650 was placed on the Assembly inactive file.

Prior Legislation:

SB 1177 (Galgiani, Ch. 591, Stats. 2016) authorized the Medical Board of California to establish a Physician and Surgeon Health and Wellness Program for the early identification of, and appropriate interventions to support a physician and surgeon in his or her rehabilitation from, substance abuse, as specified.

PRIOR VOTES:

Senate Business, Professions and Economic Development Committee (Ayes 12, Noes 0)

Assembly Floor (Ayes 75, Noes 0)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Business and Professions Committee (Ayes 18, Noes 0)

AB 562 (Low) - Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services.

As Amends the Law Today – August 10, 2021

SECTION 1.

Chapter 1.7 (commencing with Section 950) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 1.7. Frontline COVID-19 Provider Mental Health Resiliency Act of 2021
950.

This chapter shall be known, and may be cited, as the Frontline COVID-19 Provider Mental Health Resiliency Act of 2021.

951.

(a) The Legislature finds and declares the following:

(1) Since the start of the pandemic, California's frontline health care workers have been caring for COVID-19 patients through multiple surges, which included a record-shattering death toll in December 2020.

(2) Nurses, physicians and surgeons, and other frontline health care providers are suffering from burnout and have been experiencing, or are at high risk of, a variety of mental health conditions, including depression, anxiety, post-traumatic stress disorder, and suicidal thoughts.

(3) As the result of prolonged stress and repeated trauma, frontline health care providers may continue to endure the negative effects of the pandemic long after it ends.

(4) To bolster the resiliency of the health care workforce through the COVID-19 pandemic and beyond, it is imperative that additional mental health services are made immediately available.

(b) It is the intent of the Legislature that the Department of Consumer Affairs, through the relevant boards, immediately establish a mental health resiliency program for frontline health care providers who have provided direct and in-person care to COVID-19 patients during the pandemic.

952.

For the purposes of this chapter, the following definitions apply:

(a) "Board" means the following:

(1) The Board of Registered Nursing.

(2) The Medical Board of California.

(3) The Osteopathic Medical Board of California.

(4) The Physician Assistant Board.

(5) The Respiratory Care Board of California.

(b) "Eligible licensee" means a person licensed pursuant to this division who is or was also a frontline health care COVID-19 provider.

(c) "Frontline COVID-19 health care provider" means a person who provides or has provided consistent in-person health care services to patients with COVID-19.

(d) "Mental health services" means targeted in-person, online, and telehealth psychological distress and behavioral health assessments and interventions, professional or self-administered, to support mental and behavioral health needs resulting from the COVID-19 pandemic. Interventions include counseling, wellness coaching, and any other mental health treatment to improve the psychological and behavioral health of the eligible licensee.

(e) "Vendor of mental health services" means a third-party vendor that provides mental health services, assessments, or interventions.

953.

(a) (1) Within three months of the effective date of this section, the director shall, in consultation with the relevant boards, establish a mental health resiliency program to provide mental health services to frontline COVID-19 providers.

(2) The director shall contract with one or more vendors of mental health services for the duration of the program. The director may in addition contract or partner with vendors or agencies that offer services that are publicly available and free of charge.

(3) The director, or the director's designee, shall supervise all vendors, shall monitor vendor utilization rates, and may terminate any contract. If the vendor's contract is terminated, the director shall contract with a replacement vendor as soon as practicable.

(4) The contract shall specify that all personal or identifiable program participant data shall be kept confidential, and that the confidentiality obligations shall survive the termination of the contract.

(5) The development of the mental health resiliency program under this section shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) (1) The relevant boards shall notify licensees and solicit applications for access to the mental health resiliency program immediately upon the availability of any services contracted for.

(2) An applicant to the program shall make an attestation that states all of the following:

(A) The applicant is an eligible licensee, as defined under subdivision (a) of Section 952.

(B) The location and type of the facility or facilities the applicant worked as a frontline COVID-19 provider.

(C) The applicant's assigned unit or units at the facility or facilities.

(3) An applicant shall be deemed an eligible licensee if the attestation is complete and any facility and unit listed would provide care to COVID-19 patients.

(4) An applicant who willfully makes a false statement in their attestation is guilty of a misdemeanor.

(5) The relevant boards shall grant all eligible licensees access to the program.

(6) The relevant boards shall include in the application a voluntary survey of race or ethnicity and gender identity.

(c) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

954.

No later than June 30, 2025, the department and relevant boards shall report to the relevant policy committees of the Legislature the following information regarding the mental health resiliency program:

- (a) A description of the contracted vendors, services provided, and contract dates.*
- (b) The deidentified aggregate number of applicants and eligible licensees and a monthly breakdown.*
- (c) The deidentified and aggregate number of eligible licensees by location, race, ethnicity, and gender identity.*
- (d) Utilization rates from the vendors.*
- (e) The costs associated with the program.*

955.

(a) Except as specified under Section 954, records associated with the mental health resiliency program are exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) Application to or participation in the mental health resiliency program shall not be used for purposes of disciplinary action and, except as specified under Section 954, shall be kept confidential.

SEC. 2.

Section 6276.30 of the Government Code is amended to read:

6276.30.

Managed care health plans, confidentiality of proprietary information, Section 14091.3 of the Welfare and Institutions Code.

Managed Risk Medical Insurance Board, negotiations with entities contracting or seeking to contract with the board, subdivisions (v) and (y) of Section 6254.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975 of the Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Sections 1603.1, 1603.3, and 121022 of the Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015 of the Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081 of the Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987 of the Evidence Code.

Market reports, confidential, subdivision (e) of Section 6254.

Marketing of commodities, confidentiality of financial information, Section 58781 of the Food and Agricultural Code.

Marketing orders, confidentiality of processors' or distributors' information, Section 59202 of the Food and Agricultural Code.

Marriage, confidential, certificate, Section 511 of the Family Code.

Medi-Cal Benefits Program, confidentiality of information, Section 14100.2 of the Welfare and Institutions Code.

Medi-Cal Benefits Program, Request of Department for Records of Information, Section 14124.89 of the Welfare and Institutions Code.

Medi-Cal Fraud Bureau, confidentiality of complaints, Section 12528.

Medi-Cal managed care program, exemption from disclosure for financial and utilization data submitted by Medi-Cal managed care health plans to establish rates, Section 14301.1 of the Welfare and Institutions Code.

Medi-Cal program, exemption from disclosure for best price contracts between the State Department of Health Care Services and drug manufacturers, Section 14105.33 of the Welfare and Institutions Code.

Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16 of the Civil Code.

Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30 of the Civil Code.

Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157 of the Evidence Code.

Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828 of the Business and Professions Code.

Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5 of the Business and Professions Code.

Meetings of state agencies, disclosure of agenda, Section 11125.1.

Mental health resiliency program, records, Section 955 of the Business and Professions Code.

Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135 of the Welfare and Institutions Code.

Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620 of the Penal Code.

Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103 of the Welfare and Institutions Code.

Milk marketing, confidentiality of records, Section 61443 of the Food and Agricultural Code.

Milk product certification, confidentiality of, Section 62121 of the Food and Agricultural Code.

Milk, market milk, confidential records and reports, Section 62243 of the Food and Agricultural Code.

Milk product registration, confidentiality of information, Section 38946 of the Food and Agricultural Code.

Milk equalization pool plan, confidentiality of producers' voting, Section 62716 of the Food and Agricultural Code.

Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207 of the Public Resources Code.

Minor, criminal proceeding testimony closed to public, Section 859.1 of the Penal Code.

Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5 of the Labor Code.

Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5 of the Penal Code.

Monetary instrument transaction records, confidentiality of, Section 14167 of the Penal Code.

Missing persons' information, disclosure of, Sections 14204 and 14205 of the Penal Code.

Morbidity and mortality studies, confidentiality of records, Section 100330 of the Health and Safety Code.

Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014 of the Vehicle Code.

Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, of the Vehicle Code.

Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3 of the Insurance Code.

Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628 of the Insurance Code.

Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8.

SEC. 3.

The Legislature finds and declares that Section 1 of this act, which adds Section 955 to the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of frontline providers of health care services to COVID-19 patients, it is necessary to prevent disclosure of records associated with the mental health resiliency program.

SEC. 4.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 5.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve the current and future health care workforce by ensuring that frontline health care providers have access to necessary services to address the ongoing stress and trauma of the COVID-19 pandemic as soon as possible, it is necessary that this act take effect immediately.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(2)(F) – AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions

Background:

This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on the board's internet website. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its internet website that the person's license was revoked and information previously posted regarding arrests, charges, and convictions.

A board within the department may charge a fee to the applicant not to exceed the reasonable cost of administering this section. The fee shall be deposited by the board into the appropriate fund and shall be available only upon appropriation by the Legislature.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 646 (Low).

On 3/23/2021, the Assembly Business and Professions Committee voted 17 – 0 to refer the bill to the Appropriations Committee.

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 646 (Low).

On 4/14/2021, this bill was amended to remove the fee amount of \$50.

Location: Assembly

Status: 5/20/2021 In committee: Hearing postponed by committee.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 646 (Low) Bill Text

AB 646 (Low) - Department of Consumer Affairs: boards: expunged convictions.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 493.5 is added to the Business and Professions Code, to read:

493.5.

(a) A board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime, upon receiving from the person a certified copy of an expungement order granted pursuant to Section 1203.4 of the Penal Code for the underlying offense, shall, within 90 days of receiving the expungement order, unless it is otherwise prohibited by law, or by other terms or conditions, do either of the following:

(1) If the person reapplies for licensure or has been relicensed, post notification of the expungement order and the date thereof on its internet website.

(2) If the person is not currently licensed and does not reapply for licensure, remove the initial posting on its internet website that the person's license was revoked and information previously posted regarding arrests, charges, and convictions.

(b) A board within the department may charge a fee to a person described in subdivision (a), not to exceed the reasonable cost of administering this section. The fee shall be deposited by the board into the appropriate fund and shall be available only upon appropriation by the Legislature.

(c) For purposes of this section, "board" means an entity listed in Section 101.

(d) If any provision in this section conflicts with Section 2027, Section 2027 shall prevail.

MEMORANDUM

DATE	August 6, 2020
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(2)(G) – AB 657 (Cooper) State civil service system: personal services contracts: professionals

Background:

This bill would prohibit a state agency from entering into a contract with a professional, as defined, for a period of more than 365 consecutive days or for a period of 365 nonconsecutive days in a 24-month period. The bill would define “professional,” for these provisions, to include, among others, a physician and surgeon, dentist, and clinical psychologist. The bill would require each state agency that has a contract with a professional pursuant to these provisions to prepare a monthly report to the exclusive bargaining representative for the professional, if the professional is represented, providing certain information, including the name and contact information of the professionals subject to a contract with the state agency, the details of the contract period for each professional, and the number of open professional positions available, as specified.

This bill would also require a state agency that uses a personal services contract for an employee position for each state agency that has a budgetary allocation to provide the applicable employee organization that represents employees who provide the same or similar services with certain information, including, among other things, the expenditures for recruiting and advertising to fill positions for which contractors are hired, and the number of applications for personal services received in the most recent quarter of the fiscal year.

On 3/19/2021, staff received notice from the author’s office, that they will be submitting an amendment to remove programs under the Department of Consumer Affairs from this requirement.

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee’s recommendation to watch AB 657 (Cooper).

On 4/21/2021, this bill was amended to add Assemblymember Cooper as the lead author and to exempt boards within DCA.

On 6/15/2021, this bill was amended to add the Department of Human Resources, during a state of emergency, as the contract approving entity and exempts the Department of Consumer Affairs and any boards/bureaus within it from its provisions.

Location: Senate

Status: 7/6/2021 In committee: Set, first hearing. Failed passage. Reconsideration granted.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 657 (Cooper) Bill Text as Amended

AB-657 (Cooper) - State civil service system: personal services contracts: professionals.
As Amends the Law Today – August 10, 2021

SECTION 1.

Section 19136 is added to the Government Code, to read:

19136.

(a) Notwithstanding Section 19130 or any other law, a professional, as defined in subdivision (c), who has a personal services contract with any state agency shall not be under contract with the state agency for a time period that exceeds either of the following:

(1) Three hundred sixty-five consecutive days to the state agency.

(2) Three hundred sixty-five nonconsecutive days in a 24-month period.

(b) (1) Notwithstanding subdivision (a), during a state of emergency declared by the Governor pursuant to Section 8625, a state agency may renew a personal services contract with a professional even if the renewal will exceed the time period limitations described in subdivision (a) if it receives approval for the renewal from the Department of Human Resources. The request to renew shall include at least all of the following:

(A) A detailed accounting of the state agency's expenditures in efforts to increase and expand recruitment and retention efforts for the agency.

(B) An analysis of the state agency's vacancies for the position for which the professional was contracted. The analysis shall include a comparison of current vacancies for the position and vacancies for the position one year prior.

(C) A detailed analysis of the state agency's efforts to fill the position with permanent civil service employees.

(D) A discussion of how the renewal of the contract will assist the agency in addressing the state of emergency.

(2) A state agency shall be required to seek authorization to renew pursuant to this subdivision each time it renews a contract under this subdivision. A renewed personal services contract pursuant to this subdivision shall not be between a professional and any state agency for a time period that exceeds either of the following:

(A) Three hundred sixty-five consecutive days to the state agency.

(B) Three hundred sixty-five nonconsecutive days in a 24-month period.

(3) The Department of Human Resources shall not approve a renewal of a personal services contract with a professional pursuant to this subdivision unless the renewal is necessary for the state agency to address the state of emergency.

(4) This subdivision shall not be construed to limit the Governor's authority to suspend statutes pursuant to Section 8571.

(c) For purposes of this section, "professional" means any of the following:

(1) A physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.

(2) A dentist licensed by the Dental Board of California.

(3) A clinical psychologist licensed by the Board of Psychology.

(4) A clinical social worker licensed by the Board of Behavioral Sciences.

(5) A pharmacist licensed by the California State Board of Pharmacy.

(d) Each state agency that has a contract with a professional to which this section applies shall assign a unique identification number to each of those professionals for purposes of determining compliance with this section and complying with subdivisions (e) and (f).

(e) Each state agency that has a contract with a professional to which this section applies shall prepare a monthly report to the exclusive bargaining representative for the professional, if the professional is represented. The monthly report shall include all of the following information:

(1) The names and unique identification numbers, as assigned pursuant to subdivision (d), of the professionals subject to a contract with the state agency.

(2) The details of the contract period for each professional, including, but not limited to, their hourly rate, beginning and end date, and the number of days worked pursuant to their current contract.

(3) The number of open professional positions for the state agency and the number of contract professional positions. For purposes of this paragraph, "open" means a position authorized in the budget for the state agency.

(f) If a state agency uses a personal services contract for an employee position for which the agency has a budgetary allocation, the agency shall provide to the applicable employee organization that represents employees who provide the same or similar services the following information:

(1) The expenditures for recruiting and advertising in the most recent quarter of the fiscal year to fill positions for which contractors are hired.

(2) The number of applications for personal services contracts received in the most recent quarter of the fiscal year.

(3) The number of applicants interviewed for personal services contracts received in the most recent quarter of the fiscal year.

(4) The number of applicants rejected for personal services contracts received in the most recent quarter of the fiscal year.

(g) This section shall not apply to the Department of Consumer Affairs or a board or bureau of the Department of Consumer Affairs, as described in Section 101 of the Business and Professions Code.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(2)(H) – AB 810 (Flora) Healing arts: reports: claims against licensees

Background:

Existing law makes failure of a licensee of the Medical Board of California, the Podiatric Medical Board of California, the Board of Psychology, the Dental Board of California, the Dental Hygiene Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, or the Physician Assistant Board, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from one of those boards, who does not possess professional liability insurance as to the claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 or more than \$500, as specified.

This bill would increase the minimum fine for a violation of that provision to \$100.

Existing law makes failure of a marriage and family therapist, clinical social worker, professional clinical counselor, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor who does not possess professional liability insurance as to that claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 nor more than \$500, as specified.

This bill would increase the minimum fine for a violation of that provision to \$100.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 810 (Flora).

On 4/2/2020, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 810 (Flora).

Location: Assembly Committee on Business and Professions

Status: 2/25/2021 Referred to Committee on Business and Professions

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 810 (Flora) Bill Text

AB-810 (Flora) Healing arts: reports: claims against licensees.
As Amends the Law Today – August 10, 2021

SECTION 1.

Section 802 of the Business and Professions Code is amended to read:

802.

(a) Every settlement, judgment, or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from an agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or ~~his or her~~ *their* counsel, with a copy of the communication to be sent to the claimant through ~~his or her~~ *their* counsel if the person is so represented, or directly if ~~he or she is~~ *they are* not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the ~~claimant himself or herself~~ *claimant*) has not received a copy of the report, ~~he or she shall himself or herself~~ *they shall* make the complete report. Failure of the licensee or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than ~~fifty-one hundred~~ *one hundred* dollars (~~\$50~~) (*\$100*) or more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

(b) Every settlement, judgment, or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10), respectively, who does not possess professional liability insurance as to that claim shall within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or ~~his or her~~ *their* counsel, with a copy of the communication to be sent to the claimant through ~~his or her~~ *their* counsel if ~~he or she is~~ *they are* so represented, or directly if ~~he or she is~~ *they are* not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if ~~he or she is~~ *they are* not represented by counsel, the ~~claimant himself or herself~~ *claimant*) has not received a copy of the report, ~~he or she shall himself or herself~~ *they shall* make a complete report. Failure of the marriage and family therapist, clinical social

worker, or professional clinical counselor or claimant (or, if represented by counsel, ~~his or her~~ *their* counsel) to comply with this section is a public offense punishable by a fine of not less than ~~fifty~~ *one hundred* dollars (~~\$50~~) (*\$100*) nor more than five hundred dollars (\$500).

Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section or to hinder or impede any other person in that compliance, is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(2)(I) – AB 830 (Flora): Business: Department of Consumer Affairs: Architects Practice Act: Contractor's State License Law: Alarm Company Act: Real Estate Law: process servers: professional photocopiers.

Background:

Requires the Director of Consumer Affairs to notify the appropriate policy committees of the Legislature within 60 days after the position of chief or executive officer of any bureau or board within the department becomes vacant.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 830 (Flora).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 830 (Flora).

On 4/19/2021, this bill was amended to make various technical changes and noncontroversial reforms to laws governing professions regulated by boards and bureaus under the Department of Consumer Affairs.

On 6/28/2021, this bill was amended to add the Architects Practice Act, the Contractor's State License Law and process servers and professional photocopiers.

Location: Senate Appropriations

Status: 7/12/2021 From committee: Do pass and re-refer to Com. on APPR with recommendation: To Consent Calendar. (Ayes 14. Noes 0.) (July 12). Re-referred to Com. on APPR. Set for hearing on 8/16/2021.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 830 (Flora) Bill Text

AB-830 (Flora) - Business: Department of Consumer Affairs: Architects Practice Act: Contractors' State License Law: Alarm Company Act: Real Estate Law: process servers: professional photocopiers.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 308 is added to the Business and Professions Code, to read:

308.

The director shall notify the appropriate policy committees of the Legislature within 60 days after the position of chief or executive officer of any bureau or board within the department becomes vacant pursuant to Section 1770 of the Government Code.

SEC. 2.

Section 5535.2 of the Business and Professions Code is amended to read:

5535.2.

(a) This chapter does not prevent an architect from forming a business entity or collaborating with persons who are not architects, provided that any architects' professional services that are provided through that entity or collaboration are offered and provided under the responsible control of an architect, or architects, and in accordance with the provisions of this chapter.

(b) (1) *A business entity organized as a general corporation may include in its name any or all of the following:*

(A) *A fictitious name.*

(B) *The name of one or more licensed architects.*

(C) *The term "architect," the term "architecture," or a variation of the term "architect" or "architecture."*

(2) *Nothing in paragraph (1) shall limit a business entity organized as a general corporation from including in its name any other word or name that is not otherwise prohibited by law.*

(3) *Notwithstanding paragraphs (1) and (2), a business entity organized as a general corporation shall not include in its name the term "professional corporation."*

SEC. 3.

Section 7068 of the Business and Professions Code is amended to read:

7068.

(a) The board shall require an applicant to show the degree of knowledge and experience in the classification applied for, and the general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business that the board deems necessary for the safety and protection of the public.

(b) An applicant shall qualify in regard to ~~his or her~~ *their* experience and knowledge in one of the following ways:

(1) If an individual, ~~he or she~~ *they* shall qualify by personal appearance or by the appearance of ~~his or her~~ *their* responsible managing employee who is qualified for the same license classification as the classification being applied for.

(2) If a partnership or a limited partnership, it shall qualify by the appearance of a general partner or by the appearance of a responsible managing employee who is qualified for the same license classification as the classification being applied for.

(3) If a corporation, or any other combination or organization, it shall qualify by the appearance of a responsible managing officer or responsible managing employee who is qualified for the same license classification as the classification being applied for.

(4) If a limited liability company, it shall qualify by the appearance of a responsible managing officer, a responsible managing manager, responsible managing member, or a responsible managing employee who is qualified for the same license classification as the classification being applied for.

(c) A (1) ~~responsible managing employee for the purpose of this chapter shall mean~~ *For purposes of this chapter, "a responsible managing employee" means* an individual who is a bona fide employee of the applicant and is actively engaged in the classification of work for which that responsible managing employee is the qualifying person on behalf of the applicant.

(2) *For purposes of this subdivision, the following definitions apply:*

(A) *"Bona fide employee of the applicant" means an employee who is permanently employed by the applicant.*

(B) *"Actively engaged" means working 32 hours per week, or 80 percent of the total hours per week that the applicant's business is in operation, whichever is less.*

(d) The board shall, in addition, require an applicant who qualifies by means of a responsible managing employee under either paragraph (1) or (2) of subdivision (b) to show ~~his or her~~ *their* general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(e) Except in accordance with Section 7068.1, no person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) shall hold any other active contractor's license while acting in the capacity of a qualifying individual pursuant to this section.

(f) At the time of application for renewal of a license, the current qualifying individual shall file a statement with the registrar, on a form prescribed by the registrar, verifying ~~his or her~~ *their* capacity as a qualifying individual to the licensee.

(g) Statements made by or on behalf of an applicant as to the applicant's experience in the classification applied for shall be verified by a qualified and responsible person. In addition, the registrar shall, as specified by board regulation, randomly review a percentage of such statements for their veracity.

(h) The registrar shall review experience gained by applicants from other states to determine whether all of that experience was gained in a lawful manner in that state.

SEC. 4.

Section 7068.1 of the Business and Professions Code is amended to read:

7068.1.

(a) The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of Section 7068 shall be responsible for exercising ~~that direct~~ supervision and control of ~~his or her~~ *their* employer's or principal's construction operations to secure compliance with this chapter and the rules and regulations of the board. This person shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists:

(1) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.

(2) The additional firm is a subsidiary of or a joint venture with the first. "Subsidiary," as used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the other firm.

(3) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section 7068, the majority of the partners, officers, or managers are the same.

(b) Notwithstanding paragraphs (1) to (3), inclusive, of subdivision (a), a qualifying individual may act as the qualifier for no more than three firms in any one-year period.

(c) The following definitions shall apply for purposes of this section:

(1) "Firm" means a partnership, a limited partnership, a corporation, a limited liability company, or any other combination or organization described in Section 7068.

(2) "Person" is limited to natural persons, notwithstanding the definition of "person" in Section 7025.

(3) *"Supervision or control" means direct supervision or control or monitoring and being available to assist others to whom direct supervision and control has been delegated.*

(4) *"Direct supervision or control" means any of the following:*

(A) Supervising construction.

(B) Managing construction activities by making technical and administrative decisions.

(C) Checking jobs for proper workmanship.

(D) Supervision on construction sites.

(d) The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction ~~operations.~~ *operations, including, but not limited to, an employment duty statement prepared by the qualifier's employer*

or principal. Failure of an applicant or licensee to provide information required by this subdivision constitutes a violation of this section.

(e) Violation of this section shall constitute a cause for disciplinary action and shall be punishable as a misdemeanor by imprisonment in a county jail not to exceed six months, by a fine of not less than three thousand dollars (\$3,000), but not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment.

~~SEC. 2.~~ SEC. 5.

Section 7590.1 of the Business and Professions Code is amended to read:

7590.1.

The following terms as used in this chapter have the meaning expressed in this article:

(a) (1) "Advertisement" means:

(A) Any written or printed communication for the purpose of soliciting, describing, or promoting the licensed business of the licensee, including a brochure, letter, pamphlet, newspaper, periodical, publication, or other writing.

(B) A directory listing caused or permitted by the licensee which indicates ~~his or her~~ *their* licensed activity.

(C) A radio, television, or similar airwave transmission that solicits or promotes the licensed business of the licensee.

(2) "Advertisement" does not include any of the following:

(A) Any printing or writing used on buildings, vehicles, uniforms, badges, or other property where the purpose of the printing or writing is identification.

(B) Any printing or writing on communications, memoranda, or any other writings used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of business.

(C) Any printing or writing on novelty objects used in the promotion of the licensee's business where the printing of the information required by this chapter would be impractical due to the available area or surface.

(b) "Alarm agent" means a person employed by an alarm company operator whose ~~duties~~ *duties, being physically conducted within the state*, include selling on premises, altering, installing, maintaining, moving, repairing, replacing, servicing, responding, or monitoring an alarm system, *and those ancillary devices connected to and controlled by the alarm system, including supplementary smoke detectors*, or a person who manages or supervises a person employed by an alarm company to perform any of the duties described in this subdivision or any person in training for any of the duties described in this subdivision.

(c) (1) "Alarm system" means an assembly of equipment and devices arranged to *detect a hazard or* signal the presence of a ~~hazard requiring urgent attention and to which police may respond~~ *an off-normal situation*.

(2) *“Alarm system” does not include a fire protection system, as defined in the California Fire Code.*

(d) “Branch office” means any location, other than the principal place of business of the licensee, which is licensed as set forth in Article 11 (commencing with Section 7599.20).

(e) “Branch office manager” means an individual designated by the qualified manager to manage the licensee’s branch office and who has met the requirements as set forth in Article 11 (commencing with Section 7599.20).

(f) “Bureau” means the Bureau of Security and Investigative Services.

(g) “Chief” means the Chief of the Bureau of Security and Investigative Services.

(h) “Deadly weapon” means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles; any dirk, dagger, pistol, revolver, or any other firearm; any knife having a blade longer than five inches; any razor with an unguarded blade; or any metal pipe or bar used or intended to be used as a club.

(i) “Department” means the Department of Consumer Affairs.

(j) “Director” means the Director of Consumer Affairs.

(k) “Employee” means an individual who works for an employer, is listed on the employer’s payroll records, and is under the employer’s direction and control.

(l) “Employer” means a person who employs an individual for wages or salary, lists the individual on the employer’s payroll records, and withholds all legally required deductions and contributions.

(m) “Employer-employee relationship” means an individual who works for another and where the individual’s name appears on the payroll records of the employer.

(n) “Firearm permit” means and includes “firearms permit,” “firearms qualification card,” “firearms qualification,” and “firearms qualification permit.”

(o) “Firearms permit” means a permit issued by the bureau, pursuant to Article 6 (commencing with Section 7596), to a licensee, a qualified manager, or an alarm agent, to carry an exposed firearm while on duty.

(p) “Licensee” means a business entity, whether an individual, partnership, limited liability company, or corporation licensed under this chapter.

(q) ~~“Manager” means~~ *“Manager” means* an individual designated under an operating agreement of a manager-managed limited liability company who is responsible for performing the management functions for the limited liability company specified in subdivision (c) of Section 17704.07 of the Corporations Code.

(r) “Member” means an individual who is a member of a limited liability company as defined in subdivision (p) of Section 17701.02 of the Corporations Code.

(s) “Person” means any individual, firm, company, association, organization, partnership, limited liability company, or corporation.

(t) "Qualified manager" means an individual who is in active control, management, and direction of the licensee's business, and who is in possession of a current and valid qualified manager's certificate pursuant to this chapter.

(u) "Registrant" means any person registered or who has applied for registration under this chapter.

(v) "Residential sales agreement" means and includes an agreement between an alarm company operator and an owner or tenant for the purchase of an alarm system to be utilized in the personal residence of the owner or tenant.

~~SEC. 3.~~ SEC. 6.

Section 7590.2 of the Business and Professions Code is amended to read:

7590.2.

(a) An "alarm company operator" means a person who, for any consideration whatsoever, engages in business or accepts employment to install, maintain, alter, sell on premises, monitor, or service alarm ~~systems~~ *systems, and those ancillary devices connected to and controlled by the alarm system, including supplementary smoke detectors*, or who responds to alarm systems except for any alarm agent. "Alarm company operator," includes any entity that is retained by a licensed alarm company operator, a customer, or any other person or entity, to monitor one or more alarm systems, whether or not the entity performs any other duties within the definition of an alarm company operator. The provisions of this chapter, to the extent that they can be made applicable, shall be applicable to the duties and functions performed in monitoring alarm systems.

(b) A person licensed as an alarm company operator shall not conduct any investigation or investigations except those that are incidental to personal injury, or the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which ~~he or she has~~ *they have* been hired or engaged to protect.

(c) A person who is licensed, certified, or registered pursuant to this chapter is exempt from locksmithing requirements, pursuant to subdivision (e) of Section 6980.12, if the duties performed that constitute locksmithing are performed in combination with the installation, maintenance, moving, repairing, replacing, servicing, or reconfiguration of an alarm system, as defined in Section 7590.1, and limited to work on electronic locks or access control devices that are controlled by an alarm system control device, including the removal of existing hardware.

SEC. 7.

Section 7590.6 is added to the Business and Professions Code, immediately following Section 7590.5, to read:

7590.6.

(a) Notwithstanding any law, any application for a license, registration, certification, or permit required by this chapter shall be submitted electronically through the online licensing and enforcement platform, including, but not limited to, applications for an original, renewal, reinstatement, or replacement license, registration, certificate, or permit.

(b) This section shall become operative on July 1, 2022.

~~SEC. 5.~~ SEC. 8.

Section 7592.9 of the Business and Professions Code is amended to read:

7592.9.

Notwithstanding Section 7592.8, a city, county, or city and county that requires a person who owns, leases, rents, or otherwise possesses an alarm system to obtain a local use permit to operate the alarm system shall not fine an alarm company for requesting dispatch to a customer, whether residential or commercial, that does not have a current local use permit if either apply:

(a) It was not the alarm company's legal responsibility to obtain the local use permit for the customer or renew the local use permit for the customer.

(b) If it is the alarm company's legal responsibility to renew the local use permit for the customer, the alarm company was not notified that the customer's local use permit had expired.

(c) Except as otherwise required by this chapter, this section shall not be construed to require the bureau to investigate, hear, or adjudicate a cause of action between an alarm company and a city, county, or city and county that pertains to liability for penalties imposed under an ordinance enacted by the city, county, or city and county.

~~SEC. 6.~~ SEC. 9.

Section 7593.1 of the Business and Professions Code, as amended by Section 10 of Chapter 406 of the Statutes of 2018, is amended to read:

7593.1.

(a) Each individual applicant, partner of a partnership, designated officer of a corporation, member, officer, or manager of a limited liability company, and a qualified manager *shall submit* with the application one personal identification form provided by the chief, ~~upon which shall appear a photograph taken within one year immediately preceding the date of the filing of the application together~~ with two legible sets of fingerprints, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background check, and personal description of each such person, respectively. The identification form shall include residence addresses and employment history for the previous five years.

(b) The bureau may impose a fee not to exceed three dollars (\$3) for processing classifiable fingerprint cards submitted by applicants excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

(c) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

~~SEC. 7.~~ SEC. 10.

Section 7593.1 of the Business and Professions Code, as amended by Section 11 of Chapter 406 of the Statutes of 2018, is amended to read:

7593.1.

(a) Each individual applicant, partner of a partnership, designated officer of a corporation, and a qualified manager shall submit with the application, one personal identification form provided by the chief upon which shall appear a photograph taken within one year immediately preceding the date of the filing of the application together with two legible sets of fingerprints, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background check, and personal description of each such person, respectively. The identification form shall include residence addresses and employment history for the previous five years.

(b) The bureau may impose a fee not to exceed three dollars (\$3) for processing classifiable fingerprint cards submitted by applicants excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

(c) This section shall become operative on January 1, 2024.

~~SEC. 8.~~ SEC. 11.

Section 7593.7 of the Business and Professions Code is amended to read:

7593.7.

The chief shall issue a pocket identification card to the owner; any partner, officer, member, or manager active in the licensed business; and qualified manager. The chief shall determine the form and content of the card. ~~A photo identification card will be furnished to any owner, partner, officer, member, manager, qualified manager, or branch office manager upon written request and payment of the fee prescribed by this chapter.~~

~~SEC. 9.~~ SEC. 12.

Section 7596.3 of the Business and Professions Code is amended to read:

7596.3.

The director shall issue a firearms permit when all of the following conditions exist:

(a) The applicant is a licensee, a qualified manager of a licensee, a designated branch office manager of a licensee, or a registered alarm agent. A firearms permit may only be associated with the following:

- (1) A sole owner of a sole ownership licensee.
- (2) A partner of a partnership licensee.
- (3) A qualified manager of a licensee.
- (4) A designated branch office manager of a licensee.
- (5) A registered alarm agent.

(b) The applicant has filed with the bureau a classifiable fingerprint card, a completed application for a firearms permit on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and

correct. In lieu of a classifiable fingerprint card, the applicant may submit fingerprints into an electronic fingerprinting system administered by the Department of Justice. An applicant who submits their fingerprints by electronic means shall have their fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic fingerprinting. The terminal operator may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(c) (1) ~~A certified~~ *bureau-certified* firearms training instructor certifies that the applicant has successfully completed ~~the bureau-approved~~ *a written examination prepared by the bureau and a training course in the carrying and use of firearms.* ~~firearms approved by the bureau.~~

(2) *An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the requirement of paragraph (1) and shall instead carry out the requirements under another bureau-certified firearms training instructor.*

(d) The applicant has provided the bureau with evidence that the applicant has completed a course in the exercise of the powers to arrest.

(e) The applicant is at least 21 years of age and the bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of their duties, presents no apparent threat to the public safety, or the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(f) The applicant has produced evidence to the firearm training facility that the applicant is a citizen of the United States or has permanent legal alien status in the United States. Evidence of citizenship or permanent legal alien status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(g) The application is accompanied by the fee prescribed in this chapter.

~~SEC. 10.~~ SEC. 13.

Section 7596.7 of the Business and Professions Code is amended to read:

7596.7.

A firearms qualification card expires two years from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card shall file an application for renewal at least 60 days prior to the card's expiration. A person whose card has expired shall not carry a firearm until the person has been issued a renewal card by the bureau.

The director shall not renew a firearms qualification card unless all of the following conditions exist:

(a) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(b) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(c) (1) The applicant has requalified on the range and has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(2) *An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the requirement of paragraph (1) and shall instead carry out the requirements under another bureau-certified firearms training instructor.*

(d) The applicant has produced evidence to the firearm training facility, either upon receiving an original qualification card or upon filing for renewal of that card, that the applicant is a citizen of the United States or has permanent legal alien status in the United States. Evidence of citizenship or permanent legal alien status is that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, United States Citizenship and Immigration Services Form I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(e) An expired firearms qualification card may not be renewed. A person with an expired firearms qualification card is required to apply for a new card in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until the person has been issued a new firearms qualification card by the bureau.

~~SEC. 11.~~ SEC. 14.

Section 7598.14 of the Business and Professions Code is amended to read:

7598.14.

~~(a) Upon approval of an application for registration, the chief shall cause to be issued to the applicant, at his or her- their last known address, a registration card in a form approved by the director. A photo identification card shall be issued upon written request of the applicant, submission of two recent photographs of the applicant, and payment of the fee.~~ The applicant may request to be issued an enhanced pocket card that shall be composed of a durable material and may incorporate technologically advanced security features. The bureau may charge a fee sufficient to reimburse the department's costs for furnishing the enhanced license. The fee charged may not exceed the actual costs for system development, maintenance, and processing necessary to provide this service, and may not exceed six dollars (\$6). If the applicant does not request an enhanced card, the department shall issue a standard card at no cost to the applicant. Every person, while engaged in any activity for which registration is required, shall display their valid pocket card as provided by regulation.

~~(b) This section shall become operative on July 1, 2018.~~

~~SEC. 12.~~ SEC. 15.

Section 7598.51 of the Business and Professions Code is amended to read:

7598.51.

(a) (1) An alarm agent shall carry on ~~his or her~~ *their* person, while on duty, either a valid and current registration card or a temporary application for ~~registration~~. *registration and a valid photo identification. The registration card or temporary application may be in a digital format.*

(2) *The temporary application shall include the application number that is assigned at the time that the application is received.*

(b) *For purposes of this section, "digital format" shall include, but not be limited to, an easily legible screenshot or image of the registration card or temporary application.*

~~(b)~~ (c) A fine of one hundred fifty dollars (\$150) may be assessed for each violation of subdivision (a).

~~SEC. 13.~~ SEC. 16.

Section 7599 of the Business and Professions Code is amended to read:

7599.

Except as otherwise provided in this chapter, an applicant for a qualified manager certificate for an alarm company operator license shall:

(a) Have had at least two years' experience in alarm company work or the equivalent thereof as determined by the director.

A year's experience shall consist of not less than 2,000 hours of actual compensated alarm company work performed by each applicant preceding the filing of an application.

Applicants shall substantiate the claimed years and hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from employers on forms prescribed by the director, subject to independent verification by the director as ~~he or she~~ *they* may determine. In the event the applicant is unable to supply a written certification from an employer, the applicant may offer such other written certifications as may be properly considered by the director. In addition, applicants shall supply such evidence for consideration, as may be required by the director.

(b) Be at least 18 years of age.

(c) Complete and forward to the bureau an application for a qualified manager certificate for an alarm company operator license, which shall be on a form prescribed by the director. The application shall be accompanied by two ~~recent photographs of the applicant, measuring 1 1/4" by 1 1/2", with a face size no greater than 1" by 1 1/4", and two~~ classifiable sets of ~~his or her~~ *the applicant's* fingerprints.

(d) Pass the required examination.

(e) Pay the required application and examination fees to the chief.

~~SEC. 14.~~ SEC. 17.

Section 7599.54 of the Business and Professions Code is amended to read:

7599.54.

(a) Except as provided by Section 7599.56, every agreement, including, but not limited to, lease agreements, monitoring agreements, and service agreements, including all labor, services, and materials to be provided for the installation of an alarm system, shall be in writing. Except as provided by Section 7599.56, all amendments subject to the provisions of this section to an initial agreement shall be in writing. Each initial agreement shall contain, but not be limited to, the following:

(1) (A) The name, business address, business telephone number, ~~and~~ *and, except as provided in subparagraphs (B) and (C)*, license number of the licensed alarm company operator and the *name and* registration number of any alarm agent who solicited or negotiated the agreement.

(B) An alarm agent that is working with a temporary registration pursuant to Section 7598.7 shall include the application number in lieu of the registration number.

(C) This paragraph does not apply to an agreement that was not solicited or negotiated by a registered alarm agent.

(2) The approximate dates when the work will begin and be substantially completed.

(3) A description of the work to be done, a description of the materials to be used, and the agreed consideration for the work.

(4) A disclosure that alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, including the bureau's current address and contact information.

(5) A description of the alarm system including the major components thereof and services to be provided to the purchaser once the alarm is installed, including response or monitoring services, if any.

(6) Other matters agreed to by the parties of the contract. The agreement shall be legible and shall be in a form as to clearly describe any other document which is to be incorporated into the contract, and, before any work is done, the client shall be furnished with a copy of the written agreement signed by the licensee.

(7) A statement setting forth that upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system.

(8) In the event a mechanic's lien is to be utilized, a notice-to-owner statement which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in the office of a contractor's payment bond for private work.

(9) For residential agreements entered into on or after January 1, 2017, that include an automatic renewal provision renewing the agreement for a period of more than one month, a clear and distinct disclosure shall be included separate from the terms and conditions of the agreement advising the consumer that the agreement ~~he or she is~~ *they are* entering into contains an automatic renewal provision. The disclosure shall include the length of time of the

renewal term and specify that failure to provide notification of nonrenewal to the licensee, as required in the agreement, will result in the automatic renewal of the agreement. The consumer shall acknowledge being advised of the automatic renewal provision by signing or initialing the disclosure. The disclosure may be included on the same document as the three-day right to cancel form required by Section 1689.7 of the Civil Code. The automatic renewal provision shall be void and invalid without a separate acknowledgment of the disclosure by the consumer.

(10) In addition to the above, every initial residential sales and lease agreement, the total cost which over the time period fixed by the agreement exceeds two hundred fifty dollars (\$250), including the cost of all labor, service, or material to be provided by the licensee for the installation, shall include, but not be limited to, the following:

(A) A schedule of payments showing the amount of each payment as a sum in dollars and cents. This schedule of payments shall be referenced to the amount of work for services to be performed or to any materials or equipment to be supplied.

(B) If the payment schedule contained in the agreement provides for a downpayment to be paid to the licensee by the owner or the tenant before commencement of the work, that downpayment shall not exceed one thousand dollars (\$1,000) or 10 percent of the contract price, excluding finance charges, whichever is the lesser.

(C) In no event shall the payment schedule provide that the licensee receive, nor shall the licensee actually receive, payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the licensee may receive an initial downpayment authorized by subparagraph (B). A failure by the licensee, without legal excuse, to substantially commence work within 20 days of the approximate date specified in the contract when work is to commence, shall postpone the next succeeding payment to the licensee for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur.

(D) A notice-to-owner statement which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in the office of a contractor's payment bond for private work.

(E) A description of what constitutes substantial commencement of work pursuant to the contract.

(F) A disclosure that failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act.

(G) A disclosure informing the buyer of any potential permit fees which may be required by local jurisdictions concerning the monitoring of an existing alarm system.

(H) This section shall not be construed to prohibit the parties to a residential alarm system sale contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

(b) A violation of this section or failure to commence work pursuant to subparagraph (F) of paragraph (10) of subdivision (a) may result in a fine of one hundred dollars (\$100) for the first violation and a fine of five hundred dollars (\$500) for each subsequent violation.

SEC. 18.

Section 7599.62 is added to the Business and Professions Code, to read:

7599.62.

Notwithstanding any other law, the failure of any person licensed to do business as a corporation or limited liability company in this state to be registered and in good standing with the Secretary of State and the Franchise Tax Board after notice from the bureau shall result in the automatic suspension of the licensee by operation of law. The bureau shall notify the licensee in writing of its failure to be registered and in good standing with the Secretary of State or the Franchise Tax Board, or both, and that the licensee shall be suspended 30 days from the date of the notice if the licensee does not provide proof satisfactory to the bureau that it is properly registered and in good standing with the Secretary of State or the Franchise Tax Board, or both. Reinstatement may be made at any time following the suspension by providing proof satisfactory to the bureau that the licensee is properly registered and in good standing and the payment of the reinstatement fee as prescribed by this chapter.

~~SEC. 16.~~ **SEC. 19.**

Section 7599.70 of the Business and Professions Code is amended to read:

7599.70.

~~(a)~~ -The bureau shall establish and assess fees and penalties for licensure and registration as follows:

~~(1)~~ (a) An alarm company operator license application fee shall be at least three hundred seventy dollars (\$370) and may be increased to an amount not to exceed four hundred seven dollars (\$407).

~~(2)~~ (b) An original license fee for an alarm company operator license shall be at least six hundred dollars (\$600) and may be increased to an amount not to exceed six hundred sixty dollars (\$660). A renewal fee for an alarm company operator license shall be seven hundred fifty dollars (\$750) and may be increased to an amount not to exceed eight hundred twenty-five dollars (\$825).

~~(3)~~ (c) A qualified manager certificate application and examination fee shall be at least three hundred fifty dollars (\$350) and may be increased to an amount not to exceed three hundred eighty-five dollars (\$385).

~~(4)~~ (d) A renewal fee for a qualified manager certificate shall be at least two hundred twenty-five dollars (\$225) and may be increased to an amount not to exceed two hundred forty-eight dollars (\$248).

~~(5)~~ (e) An original license fee for a branch office certificate shall be at least two hundred fifty dollars (\$250) and may be increased to an amount not to exceed two hundred seventy-five dollars (\$275). A renewal fee for a branch office certificate shall be at least one hundred fifty

dollars (\$150) and may be increased to an amount not to exceed one hundred sixty-five dollars (\$165).

~~(6)~~ (f) Notwithstanding Section 163.5, the reinstatement fee as required by Sections 7593.12 and 7598.17 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

~~(7)~~ (g) A fee for reexamination of an applicant for a qualified manager shall be at least sixty dollars (\$60) and may be increased to an amount not to exceed sixty-six dollars (\$66).

~~(8)~~ (h) An initial registration fee for an alarm agent shall be at least fifty-five dollars (\$55) and may be increased to an amount not to exceed sixty dollars (\$60).

~~(9)~~ (i) A registration renewal fee for an alarm agent shall be at least forty dollars (\$40) and may be increased to an amount not to exceed forty-four dollars (\$44).

~~(10)~~ (j) A firearms permit fee shall be at least one hundred dollars (\$100) and may be increased to an amount not to exceed one hundred ten dollars (\$110), and a firearms permit renewal fee shall be at least eighty dollars (\$80) and may be increased to an amount not to exceed eighty-eight dollars (\$88).

~~(11)~~ (k) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

~~(12)~~ (l) The processing fee required pursuant to ~~Sections 7593.7 and~~ Section 7598.14 is the amount equal to the expenses incurred to provide a photo identification card.

~~(13)~~ (m) The fee for a Certificate of Licensure, as specified in Section 7593.8, shall be twenty-five dollars (\$25).

~~(14)~~ (n) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars (\$25).

~~(15)~~ (o) The processing fee for the assignment of an alarm company operator license pursuant to Section 7593.15 shall be at least four hundred dollars (\$400) and may be increased to an amount not to exceed four hundred forty dollars (\$440).

~~(16)~~ (p) The fee for the replacement of a lost or destroyed registration card, license, certificate, or permit authorized by this chapter shall be twenty-five dollars (\$25). The request for a replacement of a registration card, license, certificate, or permit shall be made in the manner prescribed by the bureau.

~~(17)~~ (q) The fee for an endorsed verification of licensure, certification, registration, or permit shall be twenty-five dollars (\$25). The verification document shall include the license, certificate, registration, or permit number, the ~~date of issuance and expiration of the~~ license, certificate, registration, or permit, ~~the current license, certificate, registration, or permit~~ *permit history and current* status, the date of the endorsement, an embossed seal, and the signature of the chief.

~~(b) (r) This section shall become operative on July 1, 2018. The reinstatement fee following a suspension pursuant to subdivision (f) of Section 7599.34 and Section 7599.62 shall be 25 percent of the renewal fee.~~

~~SEC. 17.~~ SEC. 20.

Section 10140.6 of the Business and Professions Code is amended to read:

10140.6.

(a) A real estate licensee shall not publish, circulate, distribute, or cause to be published, circulated, or distributed in any newspaper or periodical, or by mail, any matter pertaining to any activity for which a real estate license is required that does not contain a designation disclosing that ~~he or she~~ *the licensee* is performing acts for which a real estate license is required.

(b) (1) A real estate licensee shall disclose ~~his or her~~ *their* name, license identification number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, if that licensee is a mortgage loan originator, and responsible broker's identity, as defined in Section 10015.4, on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting in a manner that requires a real estate license or mortgage loan originator license endorsement in those transactions. The commissioner may adopt regulations identifying the materials in which a licensee must disclose a license identification number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, and responsible broker's identity.

(2) A real estate licensee who is a natural person and who legally changes the surname in which their license was originally issued may continue to utilize their former surname for the purpose of conducting business associated with their license so long as both names are filed with the department. Use of a former surname shall not constitute a fictitious name for the purposes of Section 10159.5.

~~(2)~~ (3) For purposes of this section, "solicitation materials" include business cards, stationery, advertising flyers, advertisements on television, in print, or electronic media, "for sale," rent, lease, "open house," and directional signs, and other materials designed to solicit the creation of a professional relationship between the licensee and a consumer.

~~(3)~~ (4) Nothing in this section shall be construed to limit or change the requirement described in Section 10236.4 as applicable to real estate brokers.

(c) This section shall not apply to "for sale," rent, lease, "open house," and directional signs that do either of the following:

(1) Display the responsible broker's identity, as defined in Section 10015.4, without reference to an associate broker or licensee.

(2) Display no licensee identification information.

(d) "Mortgage loan originator," "unique identifier," and "Nationwide Mortgage Licensing System and Registry" have the meanings set forth in Section 10166.01.

~~(e) This section shall become operative on January 1, 2018.~~

SEC. 21.

Section 22351 of the Business and Professions Code is amended to read:

22351.

(a) The certificate of registration of a registrant who is a natural person shall contain the following:

- (1) The name, age, address, *email address*, and telephone number of the registrant.
- (2) A statement, signed by the registrant under penalty of perjury, that the registrant has not been convicted of a felony, or, if the registrant has been convicted of a felony, a copy of a certificate of rehabilitation, expungement, or pardon.
- (3) A statement that the registrant has been a resident of this state for a period of one year immediately preceding the filing of the certificate.
- (4) A statement that the registrant will perform ~~his or her~~ *their* duties as a process server in compliance with the provisions of law governing the service of process in this state.

(b) The certificate of registration of a registrant who is a partnership or corporation shall contain the following:

- (1) The names, ages, addresses, *email addresses*, and telephone numbers of the general partners or officers.
 - (2) A statement, signed by the general partners or officers under penalty of perjury, that the general partners or officers have not been convicted of a felony.
 - (3) A statement that the partnership or corporation has been organized and existing continuously for a period of one year immediately preceding the filing of the certificate or a responsible managing employee, partner, or officer has been previously registered under this chapter.
 - (4) A statement that the partnership or corporation will perform its duties as a process server in compliance with the provisions of law governing the service of process in this state.
- (c) The county clerk shall retain the certificate of registration for a period of three years following the expiration date of the certificate, after which time the certificate may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the certificate is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 22.

Section 22452 of the Business and Professions Code is amended to read:

22452.

(a) The application for registration of a natural person shall contain all of the following statements about the applicant certified to be true:

- (1) Name, age, address, *email address*, and telephone number.
- (2) ~~He or she has~~ *They have* not been convicted of a felony.

(3) ~~He or she~~ They will perform ~~his or her~~ their duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about each general partner or corporate officer, and be certified to be true:

(1) The names, ages, addresses, *email addresses*, and telephone numbers of the general partners or officers.

(2) The general partners or officers have not been convicted of a felony.

(3) The partnership or corporation will perform its duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

(c) The county clerk shall retain the application for registration for a period of three years following the expiration date of the application, after which time the application may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the application is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

(d) A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation in the minimum amount of two thousand five hundred dollars (\$2,500) and the maximum amount of twenty-five thousand dollars (\$25,000). An action for a civil penalty under this provision may be brought by any public prosecutor in the name of the people of the State of California and the penalty imposed shall be enforceable as a civil judgment.

SEC. 23.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(2)(J) – AB 885 (Quirk) – Bagley-Keene Open Meeting Act: teleconferencing

Background:

The Bagley-Keene Open Meeting Act of 1967 provides the public the ability to actively engage with its government and be a part of the decision-making process. Bagley-Keene mandates open meetings for California State agencies, boards, committees, and commissions and facilitates transparency of government activities to protect the rights of citizens to participate in state government proceedings.

Under existing law, any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference if the meeting complies with the requirements of the Bagley-Keene Act. Existing law requires that when a member of a multimember state advisory body participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting.

AB 885 seeks to modernize the teleconferencing statute of Bagley-Keene to encourage more participation and engagement in public service. This bill ensures accessibility for both the public, as well as members of a state body. AB 885 maintains that public meetings remain transparent, by requiring public meetings that are conducted via teleconference to be observable to the public both audibly and visually. Additionally, AB 885 clarifies that members of a state body participating remotely shall count towards a quorum and would only require public disclosure of the designated primary physical meeting location from which the public may participate. Lastly, the reform in this bill is not replacing physical meetings, but authorizing state bodies to have the ability to have a meeting via teleconference in addition to a physical meeting location.

On 4/29/2021, staff learned that this bill will be a two-year bill.

On 5/21/2021, the Board agreed with staff's recommendation to watch AB 885 and directed staff to seek clarification from the author's staff on a few matters of interest.

Location: 3/25/2021 Assembly Governmental Organization

Status: Re-referred to Committee on G.O.

Action Requested:

This is for informational purposes only. Not action is required at this time.

Attachment A: AB 885 (Quirk) Bill Text

AB-885 (Quirk) Bagley-Keene Open Meeting Act: teleconferencing.
As Amends the Law Today – August 10, 2021

SECTION 1.

Section 11123 of the Government Code is amended to read:

11123.

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be ~~audible~~ *both audibly and visually observable* to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post ~~agendas at all teleconference locations and~~ *an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate, and* conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. ~~Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public.~~ The agenda shall provide an opportunity for members of the public to address the state body *via teleconference* directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through ~~either audio or both audio and video~~. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

SEC. 2.

Section 11123.5 of the Government Code is amended to read:

11123.5.

(a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is ~~an~~ ~~advisory~~ a board, ~~advisory~~ commission, ~~advisory~~ committee, ~~advisory~~ subcommittee, or similar multimember ~~advisory~~ body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.

(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its ~~Internet Web site~~ *internet website* and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).

(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (e), but is not required to disclose information regarding any remote location.

(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance *via teleconference or in person physically* at the primary physical meeting location, and members of the state body participating remotely shall ~~not~~ count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely ~~hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to~~ *observe the meeting's proceedings, both audibly and visually, including the* members of the state body participating remotely. The applicable teleconference phone number or ~~Internet Web site~~, *internet website*, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in

accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its ~~Internet Web site~~ *internet website* and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may ~~hear audio of the meeting or observe the meeting.~~ *observe the meeting, both audibly and visually.*

(h) For purposes of this section:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

SEC. 3.

The Legislature finds and declares that Section 1 of this act, which amends Section 11123 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(2)(K) – AB 1026 (Smith) Business licenses: veterans

Background:

This bill would require the department and any board within the department to grant a 50% fee reduction for an initial license to an applicant who provides satisfactory evidence, as defined, that the applicant has served as an active duty member of the United States Armed Forces or the California National Guard and was honorably discharged.

This bill would authorize a board to adopt regulations necessary to administer these provisions.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 1026 (Smith).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 1026 (Smith).

On 5/20/2021, this bill was held in committee.

Location: Assembly

Status: 5/20/2021 In committee: Held under submission.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 1026 (Smith) Bill Text

AB-1026 (Smith) Business licenses: veterans.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 115.4 of the Business and Professions Code is amended to read:

115.4.

(a) Notwithstanding any other law, on and after July 1, 2016, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

(b) The department and any board within the department shall grant a 50-percent fee reduction for an initial license to an applicant who provides satisfactory evidence the applicant has served as an active duty member of the United States Armed Forces or the California National Guard and was honorably discharged.

(c) Satisfactory evidence, as referenced in this section, shall be a copy of a current and valid driver's license or identification card with the word "Veteran" printed on its face.

~~(b)~~ (d) A board may adopt regulations necessary to administer this section.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(2)(L) – AB 1236 (Ting): Healing arts: licensees: data collection.

Background:

As amended, this bill would require all boards overseeing healing arts licensees to request workforce data from licensees and registrants for the purposes of future workforce planning. It specifies that the data may be requested at the time of electronic application for a license or license renewal, or at least biennially, from a scientifically selected random sample of licensees and registrants. The bill would require these boards to maintain the confidentiality of the information they receive from licensees and to only release information in aggregate form that cannot be used to identify an individual.

In addition, AB 1236 directs these boards to post the specified demographic information in aggregate, which was collected on the internet website that they each maintain. Lastly, beginning July 1, 2022, this bill would require each board, or the Department of Consumer Affairs on its behalf, to provide the information annually to the Office of Statewide Health Planning and Development.

On 3/19/2021, the Legislative and Regulatory Affairs Committee voted to watch AB 1236 and directed the Chair of the Committee and staff to have a conversation with the author's office about the data points being collected to allow a more informed discussion at the April 2021 Board meeting.

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 1236 (Ting).

Since the Board's initial review of this bill, it has been amended to add sexual orientation and disability status as data points. It also states that a licensee or registrant shall not be required to provide any of the data outlined in the legislation.

The bill is keyed fiscal. Per the Assembly Appropriations Committee, this bill has a fiscal effect of \$230,000 in information technology changes to collect the required data.

Staff has learned from the author's office that they are working with OSHPD to gather the data and produce the report specified in the bill. As such, the bill was moved to the inactive file.

Location: Assembly

Status: 6/1/2021 Ordered to inactive file at the request of Assembly Member Ting.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: Assembly Floor Analysis

Attachment B: AB 1236 Bill Text

ASSEMBLY THIRD READING

AB 1236 (Ting)

As Amended April 29, 2021

Majority vote

SUMMARY

Requires health care regulatory boards under the jurisdiction of the Department of Consumer Affairs (DCA) to collect demographic information from its licensees and registrants, as specified. Requires such boards to post de-identified, aggregate information on the data collected on their websites, and to transmit the data to the Office of Statewide Health Planning and Development (OSHPD) beginning July 1, 2022.

Major Provisions

- 1) Requires health care regulatory boards to request demographic workforce data from their licensees and registrants for the purposes of future workforce planning. Specifies that the data may be requested at the time of electronic application for a license and license renewal, or at least biennially from a scientifically selected random sample of licensees and registrants.
- 2) Specifies the data that must be requested, which includes location of practice, employer classification, work hours, work titles, time spent in patient care, clinical practice area, race or ethnicity, gender identity, languages spoken, educational background, future work intentions, job satisfaction rating, sexual orientation, and disability status.
- 3) Clarifies that data submission is optional, and that a licensee or registrant is not required to submit the information listed above. Directs each board collecting data to maintain the confidentiality of the information and specifies that any information may only be released in aggregate form.
- 4) Requires each health care regulatory board, or DCA on its behalf, beginning July 1, 2022, to provide the data collected to OSHPD for inclusion into OSHPD's annual report to the legislature related to California's healthcare workforce.

COMMENTS

OSHPD and the Healthcare Workforce Clearinghouse (HWC). The HWC, established in 2007 and housed under OSHPD's Healthcare Workforce Development Division, serves as California's central source for collection, analysis, and reporting of information on the healthcare workforce employment and educational data trends for the state. As part of its statutory duties, OSHPD is mandated to prepare an annual report to the Legislature that accomplishes the following three goals: (1) identifying education and employment trends in the health care professions (2) reporting on the current supply and demand for health care workers in California and gaps in the educational pipeline producing workers in specific occupations and geographic areas; and (3) recommending state policy needed to address issues of workforce shortage and distribution.

Data Collection under AB 2102. AB 2102 (Ting, Chapter 420, Statutes of 2014) required four specific boards – the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California, and the Board of Vocational Nursing and Psychiatric Technicians – to collect and report specific demographic data related to its licensees.

Additionally, the bill required the data to be provided to OSHPD for inclusion in the OSHPD annual report to the legislature. The bill was enacted, in part, because race, language capacity and gender demographic information for many important allied health professionals was at the time incomplete and uncollected. Access to this data was critical to determining California's capacity to provide culturally and linguistically competent care to its diverse population.

This bill expands upon existing data collection mandates on California's health care workforce. Specifically, AB 1236 requires all healing arts boards under DCA to collect specified demographic data, and to produce and publish online a report containing such workforce data collected on a biennial basis. The bill specifies the data to be collected, which spans 14 categories: 1) City, county, and ZIP Code of practice; 2) type of employer or classification of primary practice site among the types of practice sites such as a clinic, hospital, managed care organization, or private practice; 3) work hours; 4) titles of positions held; 5) time spent in direct patient care; 6) clinical practice area; 7) race or ethnicity; 8) gender identity; 9) languages spoken; 10) educational background; 11) future work intentions; 12) job satisfaction ratings and 13) sexual orientation and 14) disability status. Beginning July 1, 2022 and every year thereafter, this bill also requires each board or DCA to provide the data collected to OSHPD for the purpose of OSHPD's annual report to the Legislature related to health care workforce planning.

Healthcare Boards under the Department of Consumer Affairs. This bill applies to 20 health care boards that are responsible for licensing and regulating health professionals. The healing arts boards include the following entities: Acupuncture Board; Board of Behavioral Sciences; Board of Chiropractic Examiners; Dental Board of California; Dental Hygiene Board of California; Medical Board of California; Naturopathic Medicine Committee; California Board of Occupational Therapy; Board of Optometry; Osteopathic Medical Board of California; Board of Pharmacy; Physical Therapy Board of California; Physician Assistant Board; Podiatric Medical Board of California; Board of Psychology; Board of Registered Nursing; Respiratory Care Board; Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board; Veterinary Medical Board; and the Board of Vocational Nursing and Psychiatric Technicians.

According to the Author

This bill is sponsored by the *San Francisco Jewish Vocational Service and the California Pan-Ethnic Health Network*. According to the author: "For millions of Californians, comprehensive access to healthcare depends on professionals who can provide culturally and linguistically appropriate medical services. The state recognizes that communities of color are more likely to use needed health care services when their provider speaks their language or shares the same cultural background, but the current data is insufficient for determining the state's capacity to address the needs of our diverse population. By expanding demographic data collection on healthcare workers, the state can better identify healthcare disparities, conduct targeted outreach strategies, and craft solutions to ensure comprehensive coverage and greater healthcare access for all Californians."

Arguments in Support

The San Francisco Jewish Vocational Service, the California Pan-Ethnic Health Network, the California LGBT Health and Human Services Network, the California State Council of Service Employees International Union, and the National Association of Social Workers – California Chapter collectively write in support: "The demographic data collected would [...] would provide the state with a greater sense of the workforce shortage needs including the need to serve

specific underserved populations. This data would be useful in conducting more targeted outreach strategies."

CaliforniaHealth+ Advocates write in support: "National reports suggest a more diverse health workforce are better equipped to serve diverse patient populations and form patient-provider concordance, which result in better health outcomes. CHCs recognize provider race and ethnicity data collection as a vital tool to expand California's workforce diversity and close gaps in the provider shortage.

The Little Hoover Commission writes in support: "While anecdotal reports suggest that minorities are often negatively and disproportionately affected by licensing regulations, it is impossible to know for sure without demographic information. To remedy this, the Commission recommended the Legislature authorize the collection of demographic information, supplied voluntarily, for license applications across all licensed occupations in California. AB 1236 advances our recommendation by requiring all healing arts boards to request demographic information.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, this bill has a fiscal effect of \$230,000 in information technology changes to collect the required data (various fee-supported special funds). Cost to aggregate data and provide data to OSHPD, as well as the cost for OSHPD to include the data in an annual report, is expected to be minor and absorbable.

VOTES

ASM BUSINESS AND PROFESSIONS: 19-0-0

YES: Low, Flora, Arambula, Berman, Bloom, Chen, Chiu, Cunningham, Megan Dahle, Fong, Gipson, Grayson, Holden, Irwin, McCarty, Medina, Mullin, Salas, Ting

ASM APPROPRIATIONS: 16-0-0

YES: Lorena Gonzalez, Bigelow, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

UPDATED

VERSION: April 29, 2021

CONSULTANT: Patrick Le / B. & P. / (916) 319-3301

FN: 0000705

AB-1236 (Ting) Healing arts: licensees: data collection.

As Amends the Law Today – August 10, 2021

SECTION 1.

Section 502 is added to the Business and Professions Code, to read:

502.

(a) A board that supervises healing arts licensees under this division shall request workforce data from its licensees and, if designated by the board, its registrants, as specified in subdivision (b) for future workforce planning. The data may be requested at the time of electronic application for a license and license renewal, or at least biennially from a scientifically selected random sample of licensees and registrants.

(b) The workforce data collected by each board about its licensees and, if applicable, registrants shall include, at a minimum, information concerning all of the following:

(A) City, county, and ZIP Code of practice.

(B) Type of employer or classification of primary practice site among the types of practice sites specified by the board, including, but not limited to, clinic, hospital, managed care organization, or private practice.

(C) Work hours.

(D) Titles of positions held.

(E) Time spent in direct patient care.

(F) Clinical practice area.

(G) Race or ethnicity, subject to paragraph (2).

(H) Gender identity.

(I) Languages spoken.

(J) Educational background.

(K) Future work intentions.

(L) Job satisfaction ratings.

(M) Sexual orientation.

(N) Disability status.

(c) Each board shall maintain the confidentiality of the information it receives from licensees and registrants under this section and shall release information only in an aggregate form that cannot be used to identify an individual.

(d) Each board shall produce reports containing the workforce data it collects pursuant to this section, at a minimum, on a biennial basis. Aggregate information collected pursuant to this section shall be posted on each board's internet website.

(e) Each board, or the Department of Consumer Affairs on its behalf, shall, beginning on July 1, 2022, and annually thereafter, provide the data it collects pursuant to this section to the Office of Statewide Health Planning and Development in a manner directed by the office that allows for inclusion of the data into the annual report it produces pursuant to Section 128052 of the Health and Safety Code.

(f) A licensee or registrant shall not be required to provide any of the information listed in subdivision (b).

SEC. 2.

Section 2717 of the Business and Professions Code is repealed.

SEC. 3.

Section 2852.5 of the Business and Professions Code is repealed.

SEC. 4.

Section 3518.1 of the Business and Professions Code is repealed.

SEC. 5.

Section 3770.1 of the Business and Professions Code is repealed.

SEC. 6.

Section 4506 of the Business and Professions Code is repealed.

SEC. 7.

The Legislature finds and declares that Section 1 of this act, which adds Section 502 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of licensees and registrants, while also gathering useful workforce data, it is necessary that some information collected from licensees and registrants only be released in aggregate form.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(2)(M) – AB 1386 (Cunningham) License fees: military partners and spouses

Background:

This bill prohibits a licensing board under the Department of Consumer Affairs from charging an initial or original license fee to an applicant who holds a current similar license in another state and is the spouse of an active duty member of the Armed Forces that is stationed in California.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 1386 (Cunningham).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 1386 (Cunningham).

On 5/5/2021, this bill was in committee: Set, first hearing. Referred to APPR. suspense file.

Location: Assembly

Status: 5/20/2021 In committee: Held under submission.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: AB 1386 (Cunningham) Bill Text

AB-1386 (Cunningham) License fees: military partners and spouses.
As Amends the Law Today – August 10, 2021

SECTION 1.

Section 115.5 of the Business and Professions Code is amended to read:

115.5.

(a) A board within the department shall expedite the licensure process for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board.

(b) (1) A board shall not charge an applicant who meets the requirements in subdivision (a) an initial application fee or an initial license issuance fee.

(2) The board shall not charge an applicant who meets the requirements in subdivision (a) an initial examination fee if the examination is administered by the board.

~~(b)~~ (c) A board may adopt regulations necessary to administer this section.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(2)(N) – SB 102 (Melendez) COVID-19 emergency order violation: license revocation

Background:

This bill would prohibit a board within the Department of Consumer Affairs that does not regulate healing arts licensees, and the Department of Alcoholic Beverage Control from revoking a license or imposing a fine or penalty for failure to comply with any COVID-19 state of emergency orders or COVID-19 stay-at-home orders, unless the board or department can prove that lack of compliance resulted in transmission of COVID-19. The bill would specify that the provisions do not preclude issuance of fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home order. The provisions of the bill would remain in effect until either the COVID-19 state of emergency is terminated or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, but in no case would the provisions remain in effect after January 1, 2024.

This bill would declare that it is to take effect immediately as an urgency statute.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch SB 102 (Melendez).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch SB 102 (Melendez).

Location: Senate

Status: 4/5/2021 April 5 set for final hearing. Failed passage in committee. (Ayes 6. Noes 7.) Reconsideration granted.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: SB 102 (Melendez) Bill Text

SB-102 (Melendez) COVID-19 emergency order violation: license revocation.
As Amends the Law Today – August 10, 2021

SECTION 1.

Section 464.5 is added to the Business and Professions Code, to read:

464.5.

(a) The department and any board shall not revoke a license, fine, or impose a penalty for failure to comply with any COVID-19 state of emergency orders or COVID-19 stay-at-home orders, unless the department or board can prove that lack of compliance resulted in the transmission of COVID-19.

(b) For the purposes of this section, board does not include a healing arts board as described in Division 2 (commencing with Section 500).

(c) For the purposes of this section:

(1) "COVID-19 state of emergency" means the state of emergency proclaimed by the Governor on March 4, 2020.

(2) "COVID-19 stay-at-home order" means either of the following:

(A) Executive Order No. N-33-20, or any similar order issued by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the State Department of Public Health that requires the closure of businesses in response to the COVID-19 state of emergency.

(B) Any order by a local government that requires the closure of businesses in response to the COVID-19 state of emergency, including, but not limited to, an order issued pursuant to the police power of a city or county or any order issued by a local health officer pursuant to Section 101040 or 120175 of the Health and Safety Code.

(d) Nothing in this section shall preclude the department or any board from issuing fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home orders.

(e) This section shall remain in effect only until either the COVID-19 state of emergency terminates pursuant to Section 8629 of the Government Code or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, and as of that date is repealed. However, if those contingencies are not met, then in no case shall this section remain in effect after January 1, 2024, and as of that date is repealed.

SEC. 2.

Section 24200.8 is added to the Business and Professions Code, to read:

24200.8.

(a) The Department of Alcoholic Beverage Control shall not revoke the license, fine, or impose a penalty of any licensee for failure to comply with any COVID-19 state of emergency orders, or COVID-19 stay-at-home orders, unless the department can prove that lack of compliance resulted in transmission of COVID-19.

(b) For the purposes of this section:

(1) "COVID-19 state of emergency" means the state of emergency proclaimed by the Governor on March 4, 2020.

(2) "COVID-19 stay-at-home order" means either of the following:

(A) Executive Order No. N-33-20, or any similar order issued by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the State Department of Public Health that requires the closure of businesses in response to the COVID-19 state of emergency.

(B) Any order by a local government that requires the closure of businesses in response to the COVID-19 state of emergency, including, but not limited to, an order issued pursuant to the police power of a city or county or any order issued by a local health officer pursuant to Section 101040 or 120175 of the Health and Safety Code.

(c) Nothing in this section shall preclude the department or any board from issuing fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home orders.

(d) This section shall remain in effect only until either the COVID-19 state of emergency terminates pursuant to Section 8629 of the Government Code or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, and as of that date is repealed. However, if those contingencies are not met, then in no case shall this section remain in effect after January 1, 2024, and as of that date is repealed.

SEC. 3.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect businesses, including small businesses, which continue to make significant contributions to economic security, which helps ensure public safety, during these unprecedented times caused by the COVID-19 pandemic, as soon as possible, it is necessary for this act to take effect immediately.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11 (b)(2)(O) – SB 221 (Wiener): Health care coverage – timely access to care.

Background:

This bill codifies existing timely access to care standards for health plans and health insurers, applies these requirements to Medi-Cal managed care plans, and adds a standard for non-urgent follow-up appointments for nonphysician mental health care or substance use disorder providers within ten business days of the prior appointment.

On 5/20/2021, this bill was amended to clarify that timely access standards are intended solely to be minimum requirements and not to replace clinical judgment in decisions regarding speed and frequency of medically necessary care.

On 6/28/2021, this bill was amended to add clarifying language: this subparagraph does not limit coverage for nonurgent follow-up appointments with a nonphysician mental health care or substance use disorder provider to once every 10 business days.

Location: Assembly Appropriations

Status: 7/7/2021 From committee: Do pass and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (July 6). Re-referred to Com. on APPR.

Action Requested:

Staff recommends the Board **Support** SB 221 (Wiener).

Attachment A: SB 221 Board staff analysis

Attachment B: Assembly Health Committee Analysis

Attachment C: SB 221 (Wiener) Bill Text

2021 Bill Analysis

Author: Wiener	Bill: SB 221	Related Bills: SB 855 (Wiener, 2020) SB 964 (Hernandez, 2014) AB 2179 (Cohn, 2002)
Sponsor: National Union of Healthcare Workers	Version: Amended: 6/28/2021	
Subject: Healthcare coverage: timely access to care		

SUMMARY

SB 221 codifies the regulations adopted by the Department of Managed Health Care (DMHC) and the Department of Insurance (CDI) to provide timely access standards for health care service plans (health plans) and insurers for nonemergency health care services. It requires a health plan and a health insurer, including a Medi-Cal Managed Care Plan, to ensure that an enrollee or insured that is undergoing a course of treatment for an ongoing mental health or substance use disorder (SUD) condition is able to schedule a follow-up appointment with a nonphysician mental health care or SUD provider within 10 business days of the prior appointment. It requires that a referral to a specialist by another provider meet the timely access standards. It further requires the health plan, including a Medi-Cal Managed Care Plan, to arrange coverage outside the plan's contracted network if a health plan is operating in a service area that has a shortage of providers and is not able to meet the geographic and timely access standards for providing mental health or substance use disorder services with an in-network provider.

RECOMMENDATION

SUPPORT – Staff recommends the Board SUPPORT SB 221 as it would increase timely access to mental health care services.

REASON FOR THE BILL

According to the author, SB 221 will establish clear timely access standards for mental health care follow-up appointments needed by patients in ongoing, medically necessary treatment for mental health and substance use disorders. This bill will close a critical loophole in the state's timely access requirements by ensuring HMOs and health insurers provide patients with timely follow-up care, addressing widespread, lengthy delays.

Without timely access to follow-up mental health treatment, patients can suffer longer recovery times and worse outcomes including a more chronic course of their disorders. Delays in accessing appropriate treatment can lead to increased morbidity and mortality

rates, increased time away from work, increased strain on families, increased risk of decompensation, and accelerating crises requiring more costly and intensive care.

ANALYSIS

This bill amends sections 1367.03 and 1367.031 of the Health and Safety Code, as well as section 10133.53 of the Insurance Code; it adds section 10133.54 to the Insurance Code as it relates to health care coverage.

This bill does numerous things. They include the following:

- a) Requires a health plan or insurer to provide or arrange for the provision of covered health care services in a timely manner appropriate for the nature of the enrollee's or insured's condition consistent with good professional practice. Requires a plan or insurer to establish and maintain provider networks, policies, procedures, and quality assurance monitoring systems and processes sufficient to ensure compliance with this clinical appropriateness standard. Requires a health plan or insurer that uses a tiered network to demonstrate compliance with the standards established by this bill based on the providers available at the lowest cost-sharing tier,
- b) Requires a health plan/insurer to make certain that all plan/insurer and provider processes necessary to obtain covered health care services, including, but not limited to, prior authorization processes, are completed in a manner that assures the provision of covered health care services to an enrollee or insured in a timely manner appropriate for the enrollee or insured's condition and in compliance with this bill;
- c) Requires the appointment, if necessary, be promptly rescheduled in a manner that is appropriate for the enrollee or insured's health care needs and ensures continuity of care consistent with good professional practice, and consistent with this bill and the regulations adopted.
- d) Requires that interpreter services be coordinated with scheduled appointments for health care services to ensure that interpreter services are available at the time of the appointment without imposing delay on the scheduling of the appointment,
- e) Requires a health plan or insurer to ensure that its contracted provider network has adequate capacity and availability of licensed health care providers to offer enrollees or insureds appointments that meet the following timeframes:
 - i) Urgent care appointments for services that do not require prior authorization: within 48 hours of the request for appointment, except as provided in viii) below,
 - ii) Urgent care appointments for services that require prior authorization: within 96 hours of the request for appointment, except as provided in viii) below,
 - iii) Nonurgent appointments for primary care: within 10 business days of the request for appointment, except as provided in viii) and ix) below,
 - iv) Nonurgent appointments with specialist physicians: within 15 business days of the request for appointment, except as provided in viii) and ix) below,
 - v) Nonurgent appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the request for appointment, except as provided in viii) and ix) below,
 - vi) Nonurgent follow-up appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the prior appointment for those undergoing a course of treatment for an ongoing mental

- health or substance use disorder condition, except as provided in viii) below.
Specifies that this bill does not limit coverage for nonurgent follow-up appointments with a nonphysician mental health or substance use disorder provider to once every 10 business days,
- vii) Nonurgent appointments for ancillary services for the diagnosis or treatment of injury, illness, or other health condition: within 15 business days of the request for appointment, except as provided in viii) and ix) below
 - viii) Allows the applicable waiting time for a particular appointment to be extended if the referring or treating licensed health care provider has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the enrollee or insured;
 - ix) Allows preventive care services, as defined in 5) below, and periodic follow-up care, including standing referrals to specialists for chronic conditions, periodic office visits to monitor and treat pregnancy, cardiac, mental health, or substance use disorder conditions, and laboratory and radiological monitoring for recurrence of disease, to be scheduled in advance consistent with professionally recognized standards of practice;
 - x) Requires a referral to a specialist by a primary care provider (PCP) or another specialist to be subject to the relevant time-elapsed standard in i), ii), iv) above, unless the requirements in viii) and ix) above are met, and to be subject to the other provisions of this bill; and,
 - xi) Allows a plan or insurer to demonstrate compliance with the primary care time elapsed standards established by this subdivision through implementation of standards, processes, and systems providing advanced access to primary care appointments, as defined in 5) below.
- f) Requires each dental plan or insurer, and each full service plan or insurer offering coverage for dental services to, in addition to ensuring compliance with the clinical appropriateness standard set forth in a) above, ensure that contracted dental provider networks have adequate capacity and availability of licensed health care providers to offer enrollees appointments for covered dental services in accordance with the following requirements:
- i) Requires urgent appointments within the dental plan or insurer network to be offered within 72 hours of the time of request for appointment, if consistent with the enrollee's or insured's individual needs and as required by professionally recognized standards of dental practice,
 - ii) Requires nonurgent appointments to be offered within 36 business days of the request for appointment, except as provided in iii) below; and
 - iii) Requires preventive dental care appointments to be offered within 40 business days of the request for appointment.
- g) Requires a plan or insurer to ensure it has sufficient contracted providers to maintain compliance with the standards established by this bill.
- h) Specifies that this bill does not modify the requirements regarding provider-to-enrollee ratio or geographic accessibility
- i) Requires a plan operating in a service area that has a shortage of one or more types of providers to ensure timely access to covered health care services as required by this section, including applicable time-elapsed standards, by referring an enrollee to, or, in

the case of a preferred provider network, by assisting an enrollee to locate available and accessible contracted providers in neighboring service areas consistent with patterns of practice for obtaining health care services in a timely manner appropriate for the enrollee's health needs. Requires a plan to arrange for the provision of specialty services from specialists outside the plan's contracted network if unavailable within the network if medically necessary for the enrollee's condition. Prohibits enrollee costs for medically necessary referrals to non-network providers from exceeding applicable copayments, coinsurance, and deductibles. Specifies that this requirement does not prohibit a plan or its delegated provider group from accommodating an enrollee's preference to wait for a later appointment from a specific contracted provider. Requires a health plan to arrange coverage outside the plan's contracted network if medically necessary treatment of a MH or SUD is not available in network within the geographic and timely access standards set by law or regulation.

j) Requires a plan or insurer to provide or arrange for the provision, 24 hours per day, 7 days per week, of triage or screening services by telephone, as defined in 5) below.

k) Requires a plan or insurer to ensure that telephone triage or screening services are provided in a timely manner appropriate for the enrollee's condition, and that the triage or screening waiting time does not exceed 30 minutes.

l) Authorizes a plan to provide or arrange for the provision of telephone triage or screening services through one or more of the following means: plan-operated telephone triage or screening services, telephone medical advice services as specified, the plan's contracted primary care and MH care or SUD provider network, or another method that provides triage or screening services consistent with this section.

m) Requires a plan or insurer that arranges for the provision of telephone triage or screening services through contracted primary care, MH care, and SUD providers to require those providers to maintain a procedure for triaging or screening enrollee telephone calls, which, at a minimum, to include the employment, during and after business hours, of a telephone answering machine, an answering service, or office staff, that inform the caller of both of the following:

- i) Regarding the length of wait for a return call from the provider; and,
- ii) How the caller may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

n) Requires a plan or insurer that arranges for the provision of triage or screening services through contracted primary care, MH care, and SUD providers who are unable to meet the time-elapsed standards established in 1) above to also provide or arrange for the provision of plan-contracted or operated triage or screening services be made available to enrollees or insured affected by that portion of the plan's or insurer's network.

o) Allows an unlicensed staff person handling enrollee or insured calls to ask questions on behalf of a licensed staff person to help ascertain the condition of an insured so that the enrollee may be referred to licensed staff. Prohibits an unlicensed staff person from, under any circumstances, using the answers to those questions in an attempt to assess, evaluate, advise, or make a decision regarding the condition of an enrollee or determine when an enrollee or insured needs to be seen by a licensed medical professional.

p) Requires dental, vision, chiropractic, and acupuncture plans to ensure that contracted providers employ an answering service or a telephone answering machine during nonbusiness hours, which provide instructions regarding how an enrollee may obtain urgent or emergency care, including how to contact another provider who has agreed to be on call to triage or screen by phone or deliver urgent or emergency care.

q) Requires a plan or insurer to ensure that, during normal business hours, the waiting time for an enrollee to speak by telephone with a plan customer service representative shall not exceed 10 minutes.

2) Requires dental, vision, chiropractic, and acupuncture plans to comply with 1) i), iii), iv), vii), ix), and x) above.

3) Prohibits the obligation of a plan to comply with this bill from being waived if the plan delegates to its medical groups, independent practice associations, or other contracting entities any services or activities that the plan is required to perform. Requires a plan's implementation of this bill to be consistent with the Health Care Providers' Bill of Rights, and a material change in the obligations of a plan's contracting providers to be considered a material change to the provider contract

4) Prohibits a plan or insurer from preventing, discouraging, or disciplining a contracting provider or employee for informing an enrollee or subscriber about the timely access standards.

LEGISLATIVE HISTORY

SB 855 (Wiener) Chapter 151, Statutes of 2020, repeals California's mental health parity law and replaces it with a broader requirement on health plans and disability insurers to cover medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions; establishes new requirements for medically necessary care determinations and utilization review; and bans discretionary clauses in health plan contracts.

AB 964 (Hernandez) Chapter 573, Statutes of 2014, requires a health plan to annually report specified network adequacy data, as specified, to DMHC as a part of its annual timely access compliance report, and requires DMHC to review the network adequacy data for compliance.

AB 2179 (Cohn) Chapter 792, Statutes of 2002, requires DMHC and CDI to develop and adopt regulations to ensure that enrollees have access to needed health care services.

OTHER STATES' INFORMATION

Not Applicable

PROGRAM BACKGROUND

The Board protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

This bill would have a positive impact on access to mental health services.

FISCAL IMPACT

California Department of Insurance (CDI): one-time cost associated with drafting and adopting conforming regulations. (CDI would need \$88,000 FY 2021-22 and \$97,000 FY 2022-23) from the Insurance Fund (license fee revenue).

Department of Health Care Services (DHCS): would require additional staffing to meet the expanded workload created by SB 221. Specifically, DHCS would require one permanent full-time Health Program Specialist I position, one permanent full-time Staff Services Manager I, and two permanent full-time Associate Governmental Program Analysts in the Managed Care Quality and Monitoring Division and additional contract costs to add to the timely access survey. (DHCS would need \$674,000 [\$337,500 General Fund] in the first year and \$638,999 [\$ 319,500 General Fund] annually ongoing).

Department of Managed Health Care (DMHC): DMHC estimates the total cost of this bill to be approximately \$1,488,000 Managed Care Fund (MCF) and 5.0 PYs in FY 2021-22, \$3,424,000 MCF and 14.9 PYs in FY 2022-23, \$3,667,000 MCF and 16.1 PYs in FY 2023-24, \$3,472,000 MCF and 16.1 PYs in FY 2024-25, \$3,562,000 MCF and 16.1 PYs in FY 2025-26 and annually thereafter. These costs are primarily a result of workload to review health plan documents, develop methodology for monitoring plan compliance, address the increased volume of health plan surveys, and enforcement costs. These costs also include legal research, and workload related to promulgating regulations to clarify the requirements set forth in this bill, and for application upgrades for health plan submittals. All costs associated with this bill would be incurred by the Managed Care Fund (MCF) and covered through fees assessed on health plans.

ECONOMIC IMPACT

Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support: National Union of Healthcare Workers (source)
Association of Regional Center Agencies
Autism Speaks
California Alliance of Children and Family Services
California Association for Marriage and Family Therapists
California Association of Social Rehabilitation Agencies
California Behavioral Health Planning Council

California Catholic Conference
California Council of Community Behavioral Health Agencies
California Psychological Association
California Retired Teachers Association
California School Employees Association
California Senior Legislature
California State Association of Psychiatrists
California State Employees Association
Center for Autism and Related Disorders
Depression and Bipolar Support Alliance
Disability Rights California
Health Access California
Housing Rights Committee of San Francisco
Mental Health & Autism Insurance Project
Mental Health America of California
National Alliance on Mental Illness
National Health Law Program
San Francisco Black, Jewish and Unity Group
Steinberg Institute
The Kennedy Forum
Western Center on Law and Poverty, INC.

Opposition: Association of California Life and Health Insurance Companies
California Association of Health Plans

ARGUMENTS

Proponents: The National Union of Healthcare Workers, the sponsor of this bill, writes that the American Psychological Association (APA), the premier standard-setting organization for psychological care in the United States, recommends either weekly or biweekly therapy appointments for the ongoing treatment of depression in adults and adolescents, PTSD in adults, and obsessive compulsive disorder in children. For the already very common and increasingly frequent diagnosis of depression among adults, the APA recommends seven possible treatment modalities, all of which are recommended to be delivered to patients weekly. Nevertheless, in a December 2020 survey of mental health and substance use disorders clinicians at California's largest HMO, 88% of therapists reported that weekly individual psychotherapy is unavailable for patients who need it. Fifty-one percent of therapists reported that their patients have to wait more than four weeks for a follow-up treatment appointment. On average, these therapists reported that they had no follow-up appointments available in their schedules for fully twenty-two business days. The Kennedy Forum writes this bill will hold health plans and insurers accountable in a common-sense way to ensure timely

access to follow-up care, minimizing the negative consequences associated with delays in treatment.

Opponents: The California Association of Health Plans (CAHP) and the Association of California Life and Health Insurance Companies (ACLHIC) write this bill assumes that health plans and insurers can easily evaluate their independently contracted providers' availability for follow-up appointments. This is not as easy as this bill presumes. Most practitioners practice independently and do not work directly for a health plan, so it would be extremely challenging for a health plan or insurer to ensure their contracted providers are scheduling follow-up appointments within ten business days. CAHP and ACLHIC are concerned that this bill would force contracted mental health and substance use disorder providers to unnecessarily manage or limit their caseload in order to ensure enough flexibility to schedule follow-up appointments within ten business days. This bill could undermine existing provider networks by creating a disincentive for providers to continue to participate in health plan networks. Geographic distribution of mental health providers in California has been particularly challenging, especially for sub-specialties and in very rural areas of the state. That is why it is so critical to incentivize these providers to contract with health plans. Codifying the timely access standards may unnecessarily cause confusion among health plans, insurers, consumers and regulators. Further, this may undermine the DMHC and CDI's authority to fulfill oversight functions that are licensed under their respective jurisdictions.

Date of Hearing: July 6, 2021

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
SB 221 (Wiener) – As Amended June 28, 2021

SENATE VOTE: 32-7

SUBJECT: Health care coverage: timely access to care.

SUMMARY: AMENDMENTS. Codifies the regulations adopted by the Department of Managed Health Care (DMHC) and the Department of Insurance (CDI) to provide timely access standards for health care service plans (health plans) and insurers for nonemergency health care services. Requires a health plan and a health insurer, including a Medi-Cal Managed Care Plan, to ensure that an enrollee or insured that is undergoing a course of treatment for an ongoing mental health (MH) or substance use disorder (SUD) condition is able to get a followup appointment with a nonphysician MH care or SUD provider within 10 business days of the prior appointment. Requires that a referral to a specialist by another provider meet the timely access standards. Requires the health plan, including a Medi-Cal Managed Care Plan, to arrange coverage outside the plan's contracted network if a health plan is operating in a service area that has a shortage of providers and is not able to meet the geographic and timely access standards for providing MH or SUD services with an in-network provider. Specifically, **this bill:**

- 1) Requires a health plan or insurer, as specified, to comply with the following timely access requirements:
 - a) Requires a health plan or insurer to provide or arrange for the provision of covered health care services in a timely manner appropriate for the nature of the enrollee's or insured's condition consistent with good professional practice. Requires a plan or insurer to establish and maintain provider networks, policies, procedures, and quality assurance monitoring systems and processes sufficient to ensure compliance with this clinical appropriateness standard. Requires a health plan or insurer that uses a tiered network to demonstrate compliance with the standards established by this bill based on providers available at the lowest cost-sharing tier;
 - b) Requires a health plan or insurer to ensure that all plan or insurer and provider processes necessary to obtain covered health care services, including, but not limited to, prior authorization processes, are completed in a manner that assures the provision of covered health care services to an enrollee or insured in a timely manner appropriate for the enrollee or insured's condition and in compliance with bill;
 - c) Requires the appointment, if it is necessary for a provider or an enrollee or insured to reschedule an appointment, to be promptly rescheduled in a manner that is appropriate for the enrollee or insured's health care needs, and ensures continuity of care consistent with good professional practice, and consistent with this bill and the regulations adopted;
 - d) Requires interpreter services to be coordinated with scheduled appointments for health care services in a manner that ensures the provision of interpreter services at the time of the appointment without imposing delay on the scheduling of the appointment, as specified;
 - e) Requires a health plan or insurer, in addition to ensuring compliance with the clinical appropriateness standard set forth in a) above, to ensure that its contracted provider

network has adequate capacity and availability of licensed health care providers to offer enrollees or insureds appointments that meet the following timeframes:

- i) Urgent care appointments for services that do not require prior authorization: within 48 hours of the request for appointment, except as provided in viii) below;
 - ii) Urgent care appointments for services that require prior authorization: within 96 hours of the request for appointment, except as provided in viii) below;
 - iii) Nonurgent appointments for primary care: within 10 business days of the request for appointment, except as provided in viii) and ix) below;
 - iv) Nonurgent appointments with specialist physicians: within 15 business days of the request for appointment, except as provided in viii) and ix) below;
 - v) Nonurgent appointments with a nonphysician MH care or SUD provider: within 10 business days of the request for appointment, except as provided in viii) and ix) below;
 - vi) Nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the prior appointment for those undergoing a course of treatment for an ongoing mental health or substance use disorder condition, except as provided in viii) below. Specifies that this bill does not limit coverage for nonurgent followup appointments with a nonphysician MH or SUD provider to once every 10 business days;
 - vii) Nonurgent appointments for ancillary services for the diagnosis or treatment of injury, illness, or other health condition: within 15 business days of the request for appointment, except as provided in viii) and ix) below;
 - viii) Allows the applicable waiting time for a particular appointment to be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the enrollee or insured;
 - ix) Allows preventive care services, as defined in 5) below, and periodic followup care, including standing referrals to specialists for chronic conditions, periodic office visits to monitor and treat pregnancy, cardiac, MH, or SUD conditions, and laboratory and radiological monitoring for recurrence of disease, to be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed health care provider acting within the scope of their practice;
 - x) Requires a referral to a specialist by a primary care provider (PCP) or another specialist to be subject to the relevant time-elapsd standard in i), ii), iv) above, unless the requirements in viii) and ix) above are met, and to be subject to the other provisions of this bill; and,
 - xi) Allows a plan or insurer to demonstrate compliance with the primary care time-elapsd standards established by this subdivision through implementation of standards, processes, and systems providing advanced access to primary care appointments, as defined in 5) below.
- f) Requires each dental plan or insurer, and each full service plan or insurer offering coverage for dental services to, in addition to ensuring compliance with the clinical appropriateness standard set forth in a) above, ensure that contracted dental provider networks have adequate capacity and availability of licensed health care providers to offer enrollees appointments for covered dental services in accordance with the following requirements:

- i) Requires urgent appointments within the dental plan or insurer network to be offered within 72 hours of the time of request for appointment, if consistent with the enrollee's or insured's individual needs and as required by professionally recognized standards of dental practice;
 - ii) Requires nonurgent appointments to be offered within 36 business days of the request for appointment, except as provided in iii) below; and
 - iii) Requires preventive dental care appointments to be offered within 40 business days of the request for appointment.
- g) Requires a plan or insurer to ensure it has sufficient numbers of contracted providers to maintain compliance with the standards established by this bill.
- h) Specifies that this bill does not modify the requirements regarding provider-to-enrollee ratio or geographic accessibility, as specified.
- i) Requires a plan operating in a service area that has a shortage of one or more types of providers to ensure timely access to covered health care services as required by this section, including applicable time-elapsed standards, by referring an enrollee to, or, in the case of a preferred provider network, by assisting an enrollee to locate available and accessible contracted providers in neighboring service areas consistent with patterns of practice for obtaining health care services in a timely manner appropriate for the enrollee's health needs. Requires a plan to arrange for the provision of specialty services from specialists outside the plan's contracted network if unavailable within the network if medically necessary for the enrollee's condition. Prohibits enrollee costs for medically necessary referrals to non-network providers from exceeding applicable copayments, coinsurance, and deductibles. Specifies that this requirement does not prohibit a plan or its delegated provider group from accommodating an enrollee's preference to wait for a later appointment from a specific contracted provider. Requires a health plan to arrange coverage outside the plan's contracted network, as specified, if medically necessary treatment of a MH or SUD is not available in network within the geographic and timely access standards set by law or regulation.
- j) Requires a plan or insurer to provide or arrange for the provision, 24 hours per day, 7 days per week, of triage or screening services by telephone, as defined in 5) below.
- k) Requires a plan or insurer to ensure that telephone triage or screening services are provided in a timely manner appropriate for the enrollee's condition, and that the triage or screening waiting time does not exceed 30 minutes.
- l) Authorizes a plan to provide or arrange for the provision of telephone triage or screening services through one or more of the following means: plan-operated telephone triage or screening services, telephone medical advice services as specified, the plan's contracted primary care and MH care or SUD provider network, or another method that provides triage or screening services consistent with this section.
- m) Requires a plan or insurer that arranges for the provision of telephone triage or screening services through contracted primary care, MH care, and SUD providers to require those providers to maintain a procedure for triaging or screening enrollee telephone calls, which, at a minimum, to include the employment, during and after business hours, of a telephone answering machine, an answering service, or office staff, that inform the caller of both of the following:
 - i) Regarding the length of wait for a return call from the provider; and,
 - ii) How the caller may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

- n) Requires a plan or insurer that arranges for the provision of triage or screening services through contracted primary care, MH care, and SUD providers who are unable to meet the time-elapsd standards established in 1) above to also provide or arrange for the provision of plan-contracted or operated triage or screening services, which to, at a minimum, be made available to enrollees or insured affected by that portion of the plan's or insurer's network.
 - o) Allows an unlicensed staff person handling enrollee or insured calls to ask questions on behalf of a licensed staff person to help ascertain the condition of an insured so that the enrollee may be referred to licensed staff. Prohibits an unlicensed staff person from, under any circumstances, using the answers to those questions in an attempt to assess, evaluate, advise, or make a decision regarding the condition of an enrollee or determine when an enrollee or insured needs to be seen by a licensed medical professional.
 - p) Requires dental, vision, chiropractic, and acupuncture plans to ensure that contracted providers employ an answering service or a telephone answering machine during nonbusiness hours, which provide instructions regarding how an enrollee may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.
 - q) Requires a plan or insurer to ensure that, during normal business hours, the waiting time for an enrollee to speak by telephone with a plan customer service representative knowledgeable and competent regarding the enrollee's questions and concerns shall not exceed 10 minutes.
- 2) Requires dental, vision, chiropractic, and acupuncture plans to comply with 1) i), iii), iv), vii), ix), and x) above.
- 3) Prohibits the obligation of a plan to comply with this bill from being waived if the plan delegates to its medical groups, independent practice associations, or other contracting entities any services or activities that the plan is required to perform. Requires a plan's implementation of this bill to be consistent with the Health Care Providers' Bill of Rights, and a material change in the obligations of a plan's contracting providers to be considered a material change to the provider contract, as specified.
- 4) Prohibits a plan or insurer from preventing, discouraging, or disciplining a contracting provider or employee for informing an enrollee or subscriber about the timely access standards.
- 5) Defines the following:
- a) Advanced access to be the provision, by an individual provider, or by the medical group or independent practice association to which an enrollee is assigned, of appointments with a primary care physician, or other qualified PCP such as a nurse practitioner or physician's assistant, within the same or next business day from the time an appointment is requested, and advance scheduling of appointments at a later date if the enrollee prefers not to accept the appointment offered within the same or the next business day;
 - b) Appointment waiting time as the time from the initial request for health care services by an enrollee or insured or the enrollee's or insurer's treating provider to the earliest date offered for the appointment for services inclusive of time for obtaining authorization from the plan or completing any other condition or requirement of the plan or insurer or its contracting providers;

- c) Preventive care as health care provided for prevention and early detection of disease, illness, injury, or another health condition and, in the case of a full service plan includes all of the basic health care services, as specified;
 - d) Provider group as set forth in existing law;
 - e) Triage or screening as the assessment of an enrollee's or insured's health concerns and symptoms via communication with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an enrollee or insured who may need care for the purpose of determining the urgency of the enrollee's or insured's need for care;
 - f) Triage or screening waiting time means the time waiting to speak by telephone with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an enrollee who may need care.
 - g) Urgent care means health care for a condition that requires prompt attention, as specified.
- 6) Requires the Department of Managed Health Care (DMHC) to develop standardized methodologies for reporting to be used by health plans to demonstrate compliance with this bill and any regulations adopted, including demonstration of the average waiting time for each class of appointment regulated under this bill.
- 7) Applies this bill to Medi-Cal managed care plan contracts entered into with the State Department of Health Care (DHCS), as specified.
- 8) Requires a health plan contract or insurance policy, that is issued, renewed, or amended on or after July 1, 2022, to provide information to an enrollee regarding the standards for timely access to care required by 1) above, and the information required by this bill, including information related to receipt of interpreter services in a timely manner, no less than annually.
- 9) Makes various findings and declarations, including that existing law and regulations have been interpreted to set clear timely access standards for health care service plans and health insurers to meet enrollees' requests for initial appointments with nonphysician providers of mental health and substance use disorder services, but not to set similarly clear timely access standards for the provision of followup appointments with these providers for the many enrollees who need them.
- 10) Makes technical and conforming changes.

EXISTING LAW

- 1) Establishes the DMHC to regulate health plans and the California Department of Insurance (CDI) to regulate health insurers.
- 2) Establishes the federal Patient Protection and Affordable Care Act (ACA), which enacts various health care coverage market reforms including the availability of health insurance exchanges (exchanges) and new individual and small group products offered on and off the exchanges beginning 2014.

- 3) Requires health plans and health insurers providing health coverage in the individual and small group markets to cover, at a minimum, essential health benefits (EHBs), including the 10 EHB benefit categories in the ACA, as specified in state law, which include the following 10 categories: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; MH and SUD services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and, pediatric services, including oral and vision care.
- 4) Requires health plans to provide basic health care services, including: physician services; hospital inpatient and ambulatory care services; diagnostic laboratory and diagnostic and therapeutic radiologic services; home health services; preventive health services; emergency health care services; and, hospice care.
- 5) Requires every health plan contract and disability insurance policy that provides hospital, medical, or surgical coverage issued, amended, or renewed on or after January 1, 2021 to provide coverage for medically necessary treatment of MH and SUD under the same terms and conditions applied to other medical conditions, as specified.
- 6) Defines medically necessary treatment of MH or SUD as a service or product addressing the specific needs of that patient, for the purposes of preventing, diagnosing, or treating an illness, injury, condition, or its symptoms, including minimizing the progression of that illness, injury, condition, or its symptoms, in a manner as specified.
- 7) Requires health plans to ensure that all services be readily available at reasonable times to each enrollee consistent with good professional practice, and to the extent feasible, a health plan to make all services readily accessible to all enrollees consistent with existing law on timely access to health care services.
- 8) Requires DMHC to develop and adopt regulations to ensure that enrollees have access to health care services in a timely manner and consider specified indicators of timeliness of access to care.
- 9) Requires CDI to promulgate regulations to ensure that insureds have the opportunity to access needed health care services in a timely manner and ensure adequacy of the number and locations of facilities and providers and consider the regulations adopted by DMHC.
- 10) Requires a health plan to annually report network adequacy data, as specified, to DMHC as part of its annual timely access compliance report, and requires DMHC to review the network adequacy data for compliance with existing requirements.
- 11) Requires a health plan to ensure that there is at least one full-time equivalent primary care physician for every 2,000 enrollees, and permits the number of enrollees per primary care physician to be increased by up to 1,000 additional enrollees for each full-time equivalent nonphysician medical practitioner supervised by that primary care physician.
- 5) Establishes the Health Care Provider's Bill of Rights which governs contracts between health care providers and health plans as well as health care providers and health insurers and, among other provisions, prohibits specified terms such as a provision that requires a health care provider to accept additional patients beyond the contracted number or in the absence of

a number if, in the reasonable professional judgment of the provider, accepting additional patients would endanger patients' access to, or continuity of, care. Requires that a plan give a provider at least 45 business days' notice of its intent to change a material contract term, unless a change in state or federal law or regulations, as specified, requires a shorter timeframe for compliance.

- 6) Defines provider group as a medical group, independent practice association, or any other similar organization.
- 7) Establishes the Medi-Cal Program, administered by DHCS, to provide comprehensive health benefits to low-income individuals who meet specified eligibility criteria.

FISCAL EFFECT: According to the Senate Appropriations Committee, CDI reports that the requirements set forth in the bill do not fully align with the existing CDI network adequacy regulations, the fiscal impact on CDI will include the one-time cost associated with drafting and adopting conforming regulations. (CDI would need \$88,000 fiscal year (FY 2021-22 and \$97,000 FY 2022-23) from the Insurance Fund (license fee revenue).

DHCS would require additional staffing to meet the expanded workload created by this bill. Specifically, DHCS would require one permanent full-time Health Program Specialist I position, one permanent full-time Staff Services Manager I, and two permanent full-time Associate Governmental Program Analysts in the Managed Care Quality and Monitoring Division and additional contract costs to add to the timely access survey. (DHCS would need \$674,000 [\$337,500 General Fund] in the first year and \$638,999 [\$ 319,500 General Fund] annually ongoing).

DMHC estimates the total cost of this bill to be approximately \$1,488,000 Managed Care Fund (MCF) and 5.0 personnel years (PYs) in FY 2021-22, \$3,424,000 MCF and 14.9 PYs in FY 2022-23, \$3,667,000 MCF and 16.1 PYs in FY 2023-24, \$3,472,000 MCF and 16.1 PYs in FY 2024-25, \$3,562,000 MCF and 16.1 PYs in FY 2025-26 and annually thereafter. These costs are primarily a result of workload to review health plan documents, develop methodology for monitoring plan compliance, address the increased volume of health plan surveys, and enforcement costs. These costs also include legal research, and workload related to promulgating regulations to clarify the requirements set forth in this bill, and for application upgrades for health plan submittals. All costs associated with this bill would be incurred by the MCF and covered through fees assessed on health plans.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, this bill will ensure the people are able to get timely follow-up mental health appointments. Currently, people frequently have to wait long periods of time, frequently months, for follow-up appointments, thus undermining their care. This bill will establish clear, timely access standards for follow-up appointments needed by patients in ongoing, medically necessary treatment for MH and SUD. The author states that in the absence of clear, timely access standards for follow-up appointments with non-physician MH and SUD providers, such as social workers and therapists, large numbers of Californians requiring ongoing courses of treatment for MH and SUD have been unable to access care within the timeframes that are clinically appropriate for their diagnoses. This

problem is exacerbated by the significant increase in demand for MH and SUD services driven by the COVID-19 pandemic, with national survey data showing that the rate of anxiety and depression has tripled over the last year and a recent Centers for Disease Control study finding that one in four people age 18 to 24 has seriously considered suicide in the past 30 days. The author concludes that timely access to ongoing MH and SUD treatment is essential and must be accessible when medically necessary.

2) BACKGROUND.

a) **Existing Network Adequacy Requirements.** California law sets forth various network adequacy requirements on health plans and insurers. For example, health plans are subject to the following:

i) **Timely Access.** Timely Access Regulations require that health plans meet a set of standards which include specific time frames under which enrollees must be able to access care. These requirements generally include the following standards for appointment availability:

- (1) *Urgent care without prior authorization: **within 48 hours;***
- (2) *Urgent care with prior authorization: **within 96 hours;***
- (3) *Non-urgent primary care appointments: **within 10 business days;***
- (4) *Non-urgent specialist appointments: **within 15 business days;***
- (5) *Non-Urgent mental health appointments: within 15 business days for psychiatrist, within 10 business days for non-physician mental health provider; and,*
- (6) *Non-urgent appointment for ancillary services for the diagnosis or treatment of injury, illness or other health condition: **within 15 business days.***

Existing regulations also authorize the applicable waiting time for a particular appointment to be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of his or her practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the enrollee. This bill codifies into statute existing law currently set forth in timely access regulations and adds a provision specifically related to follow up MH and SUD appointments.

ii) **Geographic Access.** Health plans are also generally required to ensure geographic access such that there are a sufficient number of providers located within a reasonable distance from where each enrollee lives or works. For example, PCPs and hospitals should be **located within 15 miles or 30 minutes** from work or home.

Health plans must also ensure provider capacity such that health plan networks have enough of each of the right types of providers to deliver the volume of services needed. For example, plan networks should include **one PCP for every 2,000 beneficiaries.**

iii) **Grievance Process.** Health plan enrollees can also file a complaint (also known as an appeal or grievance) if he or she has a problem with a health plan, for example, if he or she is unable to schedule an appointment pursuant to the above. Additionally,

enrollees can apply for an Independent Medical Review (IMR) with the DMHC when a health care service or treatment has been denied, modified or delayed. An IMR is a review by independent doctors who are not part of the health plan.

- b) **Pending DMHC regulations.** Health plans report to the DMHC, on an annual basis, compliance with timely access to care standards and report to the DMHC the adequacy of the health plan's provider network. In 2010, the DMHC adopted clarifying regulations for timely access to care compliance. In the years following implementation of the regulation, health plan timely access reports received by the DMHC were filled with errors and reflected inaccurate information that was often incomplete and unhelpful during the DMHC's review. The disparate, incomplete, and poor quality information contained within the health plan reports made it impossible for the DMHC to determine timely access to care compliance. SB 964 (Hernandez), Chapter 573, Statutes of 2014, authorized DMHC to develop standardized reporting methodologies for the health plans' annual timely access reporting and annual network adequacy reporting. The authority for the DMHC to develop a standardized methodology for the annual timely access report and the annual network adequacy report is pursuant to an exemption from the Administrative Procedures Act (APA). The exemption expires on January 1, 2020. The current rulemaking process proposes to codify and implement the processes and methodologies developed during the APA exemption period. The DMHC recently concluded its third public comment period to clarify and make specific the timely access to care and annual network reporting requirements for health plans.
- c) **Appointment availability surveys.** According to the California Health Care Foundation's (CHCF) 2020 survey of California residents, 52% of those who tried to make an appointment believe they waited longer than was reasonable to get one. The author also provided the results of a December 2020 survey of mental health therapists practicing at California's largest HMO, in which 88% of therapists reported that weekly individual psychotherapy treatment is unavailable for patients who need it. Fifty-one percent of therapists reported that their patients have to wait more than four weeks for a follow-up treatment appointment. Therapists reported that they had no follow-up appointments available in their schedules for an average of twenty-two business days. In another survey, Californians ranked access to mental health treatment as the state's top health care priority in a 2019 survey conducted jointly by the CHCF and the Kaiser Family Foundation. A majority (57%) of Californians responded that most people with mental health conditions in the state are not able to get the services they need, and nearly half (48%) said the same about people with alcohol or drug use problems.
- d) **Work force issues.** A recent Sac Bee article reported that Sacramento County received funding to begin pairing MH counselors with law enforcement agencies and until recently could only staff six of the 11 teams funded. County officials cited the intense competition for therapists. The article also noted a 2019 report by the Legislative Analyst's Office (LAO) that concluded that there was only "mixed evidence" of a shortage. The LAO report cast doubt on the shortage assumption because salaries for MH professions were not growing at a rapid pace, a possible sign of intense competition. The LAO report referred to researchers at the University of California, San Francisco (UCSF) who project that, unless the total number of people entering MH professions in the state increases, California would face a shortage of MH professionals between 2016 and 2028. If the total number of people entering MH professions does *not* increase, these projections show that the supply of MH professionals could fall short of demand for MH professionals by

between 12% and 40% by 2028. At the time of the LAO publication, the state had experienced growth in the number of masters- and doctoral-level professional mental health graduates. The LAO report also noted that the growth in professional MH graduates brought uncertainty to whether the state is facing a shortage. To see whether the number of people entering MH professions has in fact remained constant in recent years (which would suggest that the education and training of new MH professionals is likely not meeting the state's workforce needs), the LAO reviewed data on the number of individuals graduating with professional masters or doctoral degrees in MH-related fields from California universities. From 2009-10 to 2016-17, the annual number of professional degree graduates in the fields of clinical psychology, social work, counseling, and psychiatric nursing increased from 4,700 to around 8,000—a 70% increase. (Over this same time period, California's resident population increased by about 6%.) If sustained, this increase in the number of graduates may, but is not guaranteed to, significantly ameliorate the projected MH workforce shortage that does not necessarily assume an increase. More than 80% of the increase in professional MH graduates is from graduates of private universities in the state, which do not rely on augmentations in state funding to grow enrollment.

- 3) **SUPPORT.** National Union of Healthcare Workers, NUHW, sponsor of this bill, writes that this bill will close a loophole in state law and regulations and establish a clear and appropriate timely access standard for follow-up appointments for MH and SUD treatment. This bill will hold health plans and insurers accountable to arrange for the timely follow-up care to which enrollees are entitled, and help minimize negative consequences associated with delays in treatment. The sponsor states that it is common for patients to wait more than four weeks for a follow-up appointment for clinically appropriate treatment. Delays in accessing appropriate treatment can lead to longer recovery times; worse outcomes; increased morbidity and mortality rates; increased time away from work; increased strain on families; increased risk of decompensation; and, accelerating crisis requiring more costly and intensive care.
- 4) **CONCERNS.** Kaiser Permanente writes that the change to a 10-day follow-up appointment standard for non-physician MH providers locks in a return interval not tied to clinical judgement. Return appointments for MH and SUD should meet individual patient needs and be deemed medically indicated by the patient's treating provider. This mandate will lead to an increase in caseloads for mental health therapists, which Kaiser Permanente and other health systems must manage. A primary and fundamental challenge is to build the workforce necessary to meet the current demand for MH care. As the UCSF San Francisco benchmark study of the mental health care workforce illustrates, we face a MH workforce shortage crisis in California. In 2018, UCSF noted that without concerted effort California will have 50% fewer psychiatrists and nearly 30 percent fewer therapists than we need to meet patterns of demand for behavioral health services by 2028. Forty-five percent of psychiatrists and 37% of psychologists will be approaching retirement age in that same period. Kaiser Permanente concludes that the COVID-19 pandemic has exacerbated the shortage we were already facing, as demand for MH care has greatly increased.
- 5) **OPPOSITION.** The California Association of Health Plans and the California Life and Health Insurance Companies are concerned that the 10-day follow-up appointment provision included in this bill may unintentionally limit access to these vital services, undermine existing

provider networks and unnecessarily create significant administrative and compliance challenges on providers, plans and insurers.

6) PREVIOUS LEGISLATION.

- a) SB 855 (Wiener), Chapter 151, Statutes of 2020, revises and recasts California's Mental Health Parity provisions, and requires a health plan contract or disability insurance policy issued, amended, or renewed on or after January 1, 2021, to provide coverage for medically necessary treatment of MH and SUD, as defined, under the same terms and conditions applied to other medical conditions and prohibits a health plan or disability insurer from limiting benefits or coverage for MH and SUD to short-term or acute treatment. Specifies that if services for the medically necessary treatment of a MH and SUD are not available in network within the geographic and timely access standards in existing law, the health plan or insurer is required to arrange coverage to ensure the delivery of medically necessary out of network services and any medically necessary follow up services, as specified.
- b) SB 964 (Hernandez), Chapter 573, Statutes of 2014, requires a health plan to annually report specified network adequacy data, as specified, to DMHC as a part of its annual timely access compliance report, and requires DMHC to review the network adequacy data for compliance.
- c) AB 2179 (Cohn), Chapter 797, Statutes of 2002, requires DMHC and CDI to develop and adopted regulations to ensure that enrollees have access to needed health care services.

REGISTERED SUPPORT / OPPOSITION:

Support

National Union of Healthcare Workers (sponsor)
Association of Regional Center Agencies
Autism Speaks
CA Behavioral Health Planning Council
CA Council of Community Behavioral Health Agencies
California Access Coalition
California Alliance of Child and Family Services
California Association of Alcohol and Drug Program Executives, INC.
California Association of Marriage and Family Therapists
California Association of Social Rehabilitation Agencies
California Catholic Conference
California Consortium of Addiction Programs and Professionals
California Psychological Association
California Retired Teachers Association
California School Employees Association
California Senior Legislature
California State Association of Psychiatrists (CSAP)
Center for Autism and Related Disorders (CARD); the
Dbsa California
Disability Rights California

Friends Committee on Legislation of California
Health Access California
Housing Rights Committee of San Francisco
Mental Health & Autism Insurance Project
Mental Health America of California
National Alliance on Mental Illness (NAMI-CA)
National Association of Social Workers, California Chapter
National Health Law Program
National Union of Healthcare Workers
San Francisco Black, Jewish and Unity Group
San Francisco Board of Supervisors
Steinberg Institute
The Kennedy Forum
Western Center on Law & Poverty, INC.

Opposition

Association of California Life & Health Insurance Companies
California Association of Health Plans

Analysis Prepared by: Kristene Mapile / HEALTH / (916) 319-2097

SB-221 Health care coverage: timely access to care.

As Amends the Law Today - August 10, 2021

SECTION 1.

The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to ensure that all enrollees of health care service plans and health insurers who require ongoing courses of medically necessary treatment for mental health and substance use disorders are able to obtain followup appointments with nonphysician providers of mental health and substance use disorder services within timeframes that are clinically appropriate to care for their diagnoses.

(b) Existing law and regulations have been interpreted to set clear timely access standards for health care service plans and health insurers to meet enrollees' requests for initial appointments with nonphysician providers of mental health and substance use disorder services, but not to set similarly clear timely access standards for the provision of followup appointments with these providers for the many enrollees who need them.

(c) This loophole in existing law and regulations has resulted in failures to provide enrollees followup appointments with nonphysician providers of mental health and substance use disorder services within the timeframes consistent with generally accepted standards of care.

(d) Closing this loophole is urgently necessary to address the widespread and lengthy delays in access to followup appointments with nonphysician providers of mental health and substance use disorder services experienced by thousands of Californians, including individuals suffering from major disorders and reporting suicidal ideation.

(e) Closing this loophole has grown even more urgent as the prevalence of mental health and substance use disorders has increased dramatically during the COVID-19 pandemic, and efforts to meet increased demand have focused on providing initial appointments while timely access to appropriate followup care has further diminished.

(f) Closing this loophole would in no way prohibit a health care service plan or health insurer from offering enrollees or insureds followup appointments with nonphysician mental health care or substance use disorder providers faster or more frequently than required by this act. The timely access standards codified by this act are intended solely to be minimum requirements. The clinical judgment of the treating mental health care or substance use disorder provider shall continue to play the primary role in decisions regarding the speed and frequency of medically necessary care for mental health and substance use disorders.

SEC. 2.

Section 1367.03 of the Health and Safety Code is amended to read:

1367.03.

(a) A health care service plan that provides or arranges for the provision of hospital or physician services, including a specialized mental health plan that provides physician or hospital services, or that provides mental health services pursuant to a contract with a full service plan, shall comply with the following timely access requirements:

~~(a) (1) Not later than January 1, 2004, the department shall develop and adopt regulations to ensure that enrollees have access to needed~~ A health care service plan shall provide or arrange for the provision of covered health care services in a timely manner. ~~In developing these regulations, the department shall develop indicators of timeliness of access to care and, in so doing, shall consider the following as indicators of timeliness of access to care: manner~~ appropriate for the nature of the enrollee's condition consistent with good professional practice. A plan shall establish and maintain provider networks, policies, procedures, and quality assurance monitoring systems and processes sufficient to ensure compliance with this clinical appropriateness standard. A health care service plan that uses a tiered network shall demonstrate compliance with the standards established by this section based on providers available at the lowest cost-sharing tier.

(2) A health care service plan shall ensure that all plan and provider processes necessary to obtain covered health care services, including, but not limited to, prior authorization processes, are completed in a manner that assures the provision of covered health care services to an enrollee in a timely manner appropriate for the enrollee's condition and in compliance with this section.

(3) If it is necessary for a provider or an enrollee to reschedule an appointment, the appointment shall be promptly rescheduled in a manner that is appropriate for the enrollee's health care needs, and ensures continuity of care consistent with good professional practice, and consistent with this section and the regulations adopted thereunder.

(4) Interpreter services required by Section 1367.04 of this code and Section 1300.67.04 of Title 28 of the California Code of Regulations shall be coordinated with scheduled appointments for health care services in a manner that ensures the provision of interpreter services at the time of the appointment without imposing delay on the scheduling of the appointment. This subdivision does not modify the requirements established in Section 1300.67.04 of Title 28 of the California Code of Regulations, or approved by the department pursuant to Section 1300.67.04 of Title 28 of the California Code of Regulations for a plan's language assistance program.

(5) In addition to ensuring compliance with the clinical appropriateness standard set forth in paragraph (1), a health care service plan shall ensure that its contracted provider network has adequate capacity and availability of licensed health care providers to offer enrollees appointments that meet the following timeframes:

(A) Urgent care appointments for services that do not require prior authorization: within 48 hours of the request for appointment, except as provided in subparagraph (H).

(B) Urgent care appointments for services that require prior authorization: within 96 hours of the request for appointment, except as provided in subparagraph (H).

(C) Nonurgent appointments for primary care: within 10 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(D) Nonurgent appointments with specialist physicians: within 15 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(E) Nonurgent appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(F) Nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the prior appointment for those undergoing a course of treatment for an ongoing mental health or substance use disorder condition, except as provided in subparagraph (H). This subparagraph does not limit coverage for nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider to once every 10 business days.

(G) Nonurgent appointments for ancillary services for the diagnosis or treatment of injury, illness, or other health condition: within 15 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(H) The applicable waiting time for a particular appointment may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the enrollee.

(I) Preventive care services, as defined in subdivision (e), and periodic followup care, including standing referrals to specialists for chronic conditions, periodic office visits to monitor and treat pregnancy, cardiac, mental health, or substance use disorder conditions, and laboratory and radiological monitoring for recurrence of disease, may be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed health care provider acting within the scope of their practice.

(J) A referral to a specialist by a primary care provider or another specialist shall be subject to the relevant time-elapsed standard in subparagraph (A), (B), or (D), unless the requirements in subparagraph (H) or (I) are met, and shall be subject to the other provisions of this section.

(K) A plan may demonstrate compliance with the primary care time-elapsed standards established by this subdivision through implementation of standards, processes, and systems providing advanced access to primary care appointments, as defined in subdivision (e).

(6) In addition to ensuring compliance with the clinical appropriateness standard set forth in paragraph (1), each dental plan, and each full service plan offering coverage for dental services, shall ensure that contracted dental provider networks have adequate capacity and availability of licensed health care providers to offer enrollees appointments for covered dental services in accordance with the following requirements:

(A) Urgent appointments within the dental plan network shall be offered within 72 hours of the time of request for appointment, if consistent with the enrollee's individual needs and as required by professionally recognized standards of dental practice.

(B) Nonurgent appointments shall be offered within 36 business days of the request for appointment, except as provided in subparagraph (C).

(C) Preventive dental care appointments shall be offered within 40 business days of the request for appointment.

(7) A plan shall ensure it has sufficient numbers of contracted providers to maintain compliance with the standards established by this section.

(A) This section does not modify the requirements regarding provider-to-enrollee ratio or geographic accessibility established by Section 1300.51, 1300.67.2, or 1300.67.2.1 of Title 28 of the California Code of Regulations.

(B) A plan operating in a service area that has a shortage of one or more types of providers shall ensure timely access to covered health care services as required by this section, including applicable time-elapsed standards, by referring an enrollee to, or, in the case of a preferred provider network, by assisting an enrollee to locate available and accessible contracted providers in neighboring service areas consistent with patterns of practice for obtaining health care services in a timely manner appropriate for the enrollee's health needs. A plan shall arrange for the provision of specialty services from specialists outside the plan's contracted network if unavailable within the network if medically necessary for the enrollee's condition. Enrollee costs for medically necessary referrals to nonnetwork providers shall not exceed applicable copayments, coinsurance, and deductibles. This requirement does not prohibit a plan or its delegated provider group from accommodating an enrollee's preference to wait for a later appointment from a specific contracted provider. If medically necessary treatment of a mental health or substance use disorder is not available in network within the geographic and timely access standards set by law or regulation, a health care service plan shall arrange coverage outside the plan's contracted network in accordance with subdivision (d) of Section 1374.72.

(8) A plan shall provide or arrange for the provision, 24 hours per day, 7 days per week, of triage or screening services by telephone, as defined in subdivision (e).

(A) A plan shall ensure that telephone triage or screening services are provided in a timely manner appropriate for the enrollee's condition, and that the triage or screening waiting time does not exceed 30 minutes.

(4) (B) ~~Waiting times for appointments with physicians, including~~ A plan may provide or arrange for the provision of telephone triage or screening services through one or more of the following means: plan-operated telephone triage or screening services, telephone medical advice services pursuant to Section 1348.8, the plan's contracted primary care and specialty physicians, mental health care or substance use disorder provider network, or another method that provides triage or screening services consistent with this section.

(i) A plan that arranges for the provision of telephone triage or screening services through contracted primary care, mental health care, and substance use disorder providers shall require those providers to maintain a procedure for triaging or screening enrollee telephone calls, which, at a minimum, shall include the employment, during and after business hours, of a telephone answering machine, an answering service, or office staff, that shall inform the caller of both of the following:

(I) Regarding the length of wait for a return call from the provider.

(II) How the caller may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

(ii) A plan that arranges for the provision of triage or screening services through contracted primary care, mental health care, and substance use disorder providers who are unable to meet the time-elapsed standards established in subparagraph (A) shall also provide or arrange for the

provision of plan-contracted or operated triage or screening services, which shall, at a minimum, be made available to enrollees affected by that portion of the plan's network.

(iii) An unlicensed staff person handling enrollee calls may ask questions on behalf of a licensed staff person to help ascertain the condition of an insured so that the enrollee may be referred to licensed staff. However, an unlicensed staff person shall not, under any circumstances, use the answers to those questions in an attempt to assess, evaluate, advise, or make a decision regarding the condition of an enrollee or determine when an enrollee needs to be seen by a licensed medical professional.

(9) Dental, vision, chiropractic, and acupuncture plans shall ensure that contracted providers employ an answering service or a telephone answering machine during nonbusiness hours, which provide instructions regarding how an enrollee may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

(10) A plan shall ensure that, during normal business hours, the waiting time for an enrollee to speak by telephone with a plan customer service representative knowledgeable and competent regarding the enrollee's questions and concerns shall not exceed 10 minutes.

(b) Dental, vision, chiropractic, and acupuncture plans shall comply with paragraphs (1), (3), (4), (7), (9), and (10) of subdivision (a).

(c) The obligation of a plan to comply with this section shall not be waived if the plan delegates to its medical groups, independent practice associations, or other contracting entities any services or activities that the plan is required to perform. A plan's implementation of this section shall be consistent with the Health Care Providers' Bill of Rights, and a material change in the obligations of a plan's contracting providers shall be considered a material change to the provider contract, within the meaning of subdivision (b) and paragraph (2) of subdivision (h) of Section 1375.7.

(d) A plan shall not prevent, discourage, or discipline a contracting provider or employee for informing an enrollee or subscriber about the timely access standards.

(e) For purposes of this section:

(2) ~~(1) Timeliness of care in an episode of illness, including the timeliness of referrals and obtaining other services, if needed.~~ "Advanced access" means the provision, by an individual provider, or by the medical group or independent practice association to which an enrollee is assigned, of appointments with a primary care physician, or other qualified primary care provider such as a nurse practitioner or physician's assistant, within the same or next business day from the time an appointment is requested, and advance scheduling of appointments at a later date if the enrollee prefers not to accept the appointment offered within the same or the next business day.

(2) "Appointment waiting time" means the time from the initial request for health care services by an enrollee or the enrollee's treating provider to the earliest date offered for the appointment for services inclusive of time for obtaining authorization from the plan or completing any other condition or requirement of the plan or its contracting providers.

(3) *"Preventive care" means health care provided for prevention and early detection of disease, illness, injury, or another health condition and, in the case of a full service plan includes all of the basic health care services required by paragraph (5) of subdivision (b) of Section 1345, and subdivision (f) of Section 1300.67 of Title 28 of the California Code of Regulations.*

(4) *"Provider group" has the meaning set forth in subdivision (g) of Section 1373.65.*

~~(3) (5) Waiting time to speak to~~ *"Triage" or "screening" means the assessment of an enrollee's health concerns and symptoms via communication with a physician, registered nurse, or other qualified health professional acting within his or her their scope of practice and who is trained to screen or triage an enrollee who may need care for the purpose of determining the urgency of the enrollee's need for care.*

~~(b) In developing these standards for timeliness of access, the department shall consider the following:~~

~~(1) Clinical appropriateness.~~

~~(2) The nature of the specialty.~~

~~(3) The urgency of care.~~

~~(4) The requirements of other provisions of law, including Section 1367.01 governing utilization review, that may affect timeliness of access.~~

~~(c) (6) The department may adopt standards other than the time elapsed between the time an enrollee seeks health care and obtains care. If the department chooses a standard other than the time elapsed between the time an enrollee first seeks health care and obtains it, the department shall demonstrate why that standard is more appropriate. In developing these standards, the department shall consider the nature of the plan network. "Triage or screening waiting time" means the time waiting to speak by telephone with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an enrollee who may need care.~~

~~(d) The department shall review and adopt standards, as needed, concerning the availability of primary care physicians, specialty physicians, hospital care, and other health care, so that consumers have timely access to care. In so doing, the department shall consider the nature of physician practices, including individual and group practices as well as the nature of the plan network. The department shall also consider various circumstances affecting the delivery of care, including urgent care, care provided on the same day, and requests for specific providers. If the department finds that health care service plans and health care providers have difficulty meeting these standards, the department may make recommendations to the Assembly Committee on Health and the Senate Committee on Insurance of the Legislature pursuant to subdivision (i).~~

~~(e) (7) In developing standards under subdivision (a), the department shall consider requirements under federal law, requirements under other state programs, standards adopted by other states, nationally recognized accrediting organizations, and professional associations. The department shall further consider the needs of rural areas, specifically those in which health facilities are more than 30 miles apart and any requirements imposed by the State Department of Health Care Services on health care service plans that contract with the State Department of~~

~~Health Care Services to provide Medi-Cal managed care. “Urgent care” means health care for a condition that requires prompt attention, consistent with paragraph (2) of subdivision (h) of Section 1367.01.~~

(f) (1) Contracts between health care service plans and health care providers shall ensure compliance with the standards developed under this ~~section~~ *chapter*. These contracts shall require reporting by health care providers to health care service plans and by health care service plans to the department to ensure compliance with the standards.

(2) Health care service plans shall report annually to the department on compliance with the standards in a manner specified by the department. The reported information shall allow consumers to compare the performance of plans and their contracting providers in complying with the standards, as well as changes in the compliance of plans with these standards.

(3) The department ~~may~~ *shall* develop standardized methodologies for reporting that shall be used by health care service plans to demonstrate compliance with this section and any regulations adopted pursuant to it. ~~it, including demonstration of the average waiting time for each class of appointment regulated under this section.~~ The methodologies shall be sufficient to determine compliance with the standards developed under this section for different networks of providers if a health care service plan uses a different network for Medi-Cal managed care products than for other products or if a health care service plan uses a different network for individual market products than for small group market products. ~~The development and adoption of these methodologies shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) until January 1, 2020. The~~ department shall consult with stakeholders in developing standardized methodologies under this paragraph.

~~(g) (1) When evaluating compliance with the standards, the department shall focus more upon patterns of noncompliance rather than isolated episodes of noncompliance.~~

~~(2)~~ (g) (1) The director may investigate and take enforcement action against plans regarding noncompliance with the requirements of this section. Where substantial harm to an enrollee has occurred as a result of plan noncompliance, the director may, by order, assess administrative penalties subject to appropriate notice of, and the opportunity for, a hearing in accordance with Section 1397. The plan may provide to the director, and the director may consider, information regarding the plan’s overall compliance with the requirements of this section. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45. The director shall periodically evaluate grievances to determine if any audit, investigative, or enforcement actions should be undertaken by the department.

~~(3)~~ (2) The director may, after appropriate notice and opportunity for hearing in accordance with Section 1397, by order, assess administrative penalties if the director determines that a health care service plan has knowingly committed, or has performed with a frequency that indicates a general business practice, either of the following:

(A) Repeated failure to act promptly and reasonably to assure timely access to care consistent with this chapter.

(B) Repeated failure to act promptly and reasonably to require contracting providers to assure timely access that the plan is required to perform under this chapter and that have been delegated by the plan to the contracting provider when the obligation of the plan to the enrollee or subscriber is reasonably clear.

(C) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed warranted by the director to enforce this chapter.

~~(4)~~ (3) The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(h) The department shall work with the patient advocate to assure that the quality of care report card incorporates information provided pursuant to subdivision (f) regarding the degree to which health care service plans and health care providers comply with the requirements for timely access to care.

(i) The department shall annually review information regarding compliance with the standards developed under this section and shall make recommendations for changes that further protect enrollees. Commencing no later than December 1, 2015, and annually thereafter, the department shall post its final findings from the review on its ~~Internet Web site~~ *internet website*.

(j) The department shall post on its ~~Internet Web site~~ *internet website* any waivers or alternative standards that the department approves under this section on or after January 1, 2015.

(k) This section shall apply to Medi-Cal managed care plan contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 3.

Section 1367.031 of the Health and Safety Code is amended to read:

1367.031.

(a) A health care service plan contract that is issued, renewed, or amended on or after July 1, 2017, shall provide information to an enrollee regarding the standards for timely access to care adopted pursuant to Section 1367.03 and the information required by this section, including information related to receipt of interpreter services in a timely manner, no less than annually.

(b) A health care service plan contract that is issued, renewed, or amended on or after July 1, 2022, shall provide information to an enrollee regarding the standards for timely access to care required by Section 1367.032, adopted pursuant to Section 1367.03, and the information required by this section, including information related to receipt of interpreter services in a timely manner, no less than annually.

~~(b)~~ (c) A health care service plan at a minimum shall provide information regarding appointment wait times for urgent care, nonurgent primary care, nonurgent specialty care, and telephone screening established *in Section 1367.032 or* pursuant to Section 1367.03 to enrollees and contracting providers. The information shall also include notice of the availability of interpreter

services at the time of the appointment pursuant to Section 1367.04. A health care service plan may indicate that exceptions to appointment wait times may apply if the department has found exceptions to be permissible.

~~(e)~~ (d) The information required to be provided pursuant to this section shall be provided to an enrollee with individual coverage upon initial enrollment and annually thereafter upon renewal, and to enrollees and subscribers with group coverage upon initial enrollment and annually thereafter upon renewal. A health care service plan may include this information with other materials sent to the enrollee. The information shall also be provided in the following manner:

(1) In a separate section of the evidence of coverage titled "Timely Access to Care."

(2) At least annually, in or with newsletters, outreach, or other materials that are routinely disseminated to the plan's enrollees.

(3) Commencing January 1, 2018, in a separate section of the provider directory published and maintained by the health care service plan pursuant to Section 1367.27. The separate section shall be titled "Timely Access to Care."

(4) On the ~~Internet Web site~~ *internet website* published and maintained by the health care service plan, in a manner that allows enrollees and prospective enrollees to easily locate the information.

~~(d)~~ (e) (1) A health care service plan shall provide the information required by this section to contracting providers on no less than an annual basis.

(2) A health care service plan shall also inform a contracting provider of all of the following:

(A) Information about a health care service plan's obligation under California law to provide or arrange for timely access to care.

(B) How a contracting provider or enrollee can contact the health care service plan to obtain assistance if a patient is unable to obtain a timely referral to an appropriate provider.

(C) The toll-free telephone number for the Department of Managed Health Care where providers and enrollees can file a complaint if they are unable to obtain a timely referral to an appropriate provider.

(3) A health care service plan may comply with this subdivision by including the information with an existing communication with a contracting provider.

~~(e)~~ (f) This section shall apply to Medi-Cal managed care plan contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 4.

Section 10133.53 of the Insurance Code is amended to read:

10133.53.

(a) (1) A health insurance policy that is issued, renewed, or amended on or after July 1, 2017, that provides benefits through contracts with providers for alternative rates pursuant to Section 10133 shall provide information to an insured regarding the standards for timely access to care adopted pursuant to Section 10133.5 and the information required by this section, including information related to receipt of interpreter services in a timely manner, no less than annually.

(2) A health insurance policy that is issued, renewed, or amended on or after July 1, 2022, that provides benefits through contracts with providers for alternative rates pursuant to Section 10133 shall provide information to an insured regarding the standards for timely access to care required by Section 10133.54, adopted pursuant to Section 10133.5, and the information required by this section, including information related to receipt of interpreter services in a timely manner, no less than annually.

(b) A health insurer that contracts with providers for alternative rates of payment pursuant to Section 10133 shall, at a minimum, provide information regarding appointment wait times for urgent care, nonurgent primary care, nonurgent specialty care, and telephone screening established in Section 10133.54 or pursuant to Section 10133.5 to insureds and contracting providers. The information shall also include notice of the availability of interpreter services at the time of the appointment pursuant to Section 10133.8. A health insurer may indicate that exceptions to appointment wait times may apply if the department has found exceptions to be permissible.

(c) The information required to be provided pursuant to this section shall be provided to an insured with individual coverage upon initial enrollment and annually thereafter upon renewal, and to insureds and group policyholders with group coverage upon initial enrollment and annually thereafter upon renewal. An insurer may include this information with other materials sent to the insured. The information shall also be provided in the following manner:

(1) In a separate section of the evidence of coverage titled "Timely Access to Care."

(2) At least annually, in or with newsletters, outreach, or other materials that are routinely disseminated to the policy's insureds.

(3) Commencing January 1, 2018, in a separate section of the provider directory published and maintained by the insurer pursuant to Section 10133.15. The separate section shall be titled "Timely Access to Care."

(4) On the ~~Internet Web site~~ *internet website* published and maintained by the insurer, in a manner that allows insureds and prospective insureds to easily locate the information.

(d) (1) A health insurer shall provide the information required by this section to contracting providers on no less than an annual basis.

(2) A health insurer shall also inform a contracting provider of all of the following:

(A) Information about a health insurer's obligation under California law to provide or arrange for timely access to care.

(B) How a contracting provider or insured can contact the health insurer to obtain assistance if a patient is unable to obtain a timely referral to an appropriate provider.

(C) The toll-free telephone number for the Department of Insurance where providers and insureds can file a complaint if they are unable to obtain a timely referral to an appropriate provider.

(3) A health insurer may comply with this subdivision by including the information with an existing communication with a contracting provider.

SEC. 5.

Section 10133.54 is added to the Insurance Code, to read:

10133.54.

(a) This section applies to policies of health insurance, as defined by subdivision (b) of Section 106. The requirements of this section apply to all health care services covered by a health insurance policy.

(b) Notwithstanding Section 10133.5, a health insurer shall comply with the timely access requirements in this section, but a specialized health insurance policy as defined in subdivision (c) of Section 106, other than a specialized mental health insurance policy, is exempt from the provisions of this section, except as specified in paragraph (6) and subdivision (c).

(1) A health insurer shall provide or arrange for the provision of covered health care services in a timely manner appropriate for the nature of the insured's condition, consistent with good professional practice. An insurer shall establish and maintain provider networks, policies, procedures, and quality assurance monitoring systems and processes sufficient to ensure compliance with this clinical appropriateness standard. An insurer that uses a tiered network shall demonstrate compliance with the standards established by this section based on providers available at the lowest cost-sharing tier.

(2) A health insurer shall ensure that all insurer and provider processes necessary to obtain covered health care services, including, but not limited to, prior authorization processes, are completed in a manner that assures the provision of covered health care services to an insured in a timely manner appropriate for the insured's condition and in compliance with this section.

(3) If it is necessary for a provider or an insured to reschedule an appointment, the appointment shall be promptly rescheduled in a manner that is appropriate for the insured's health care needs, and ensures continuity of care consistent with good professional practice, and consistent with the objectives of Section 10133.5, the regulations adopted pursuant to Section 10133.5, and this section.

(4) Interpreter services required by Section 10133.8 of this code and Article 12.1 (commencing with Section 2538.1) of Title 10 of the California Code of Regulations shall be coordinated with scheduled appointments for health care services in a manner that ensures the provision of interpreter services at the time of the appointment, consistent with Section 2538.6 of Title 10 of the California Code of Regulations, without imposing delay on the scheduling of the appointment. This subdivision does not modify the requirements established in Sections 10133.8 and 10133.9 of this code and Section 2538.6 of Title 10 of the California Code of Regulations, or approved by the department pursuant to Section 2538.6 of Title 10 of the California Code of Regulations for an insurer's language assistance program.

(5) In addition to ensuring compliance with the clinical appropriateness standard set forth in paragraph (1), a health insurer shall ensure that its contracted provider network has adequate capacity and availability of licensed health care providers to offer insureds appointments that meet the following timeframes:

(A) Urgent care appointments for services that do not require prior authorization: within 48 hours of the request for appointment, except as provided in subparagraph (H).

(B) Urgent care appointments for services that require prior authorization: within 96 hours of the request for appointment, except as provided in subparagraph (H).

(C) Nonurgent appointments for primary care: within 10 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(D) Nonurgent appointments with specialist physicians: within 15 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(E) Nonurgent appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(F) Nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the prior appointment for those undergoing a course of treatment for an ongoing mental health or substance use disorder condition, except as provided in subparagraph (H). This subparagraph does not limit coverage for nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider to once every 10 business days.

(G) Nonurgent appointments for ancillary services for the diagnosis or treatment of injury, illness, or other health condition: within 15 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(H) The applicable waiting time for a particular appointment may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the insured.

(I) Preventive care services, as defined in subdivision (e), and periodic follow up care, including standing referrals to specialists for chronic conditions, periodic office visits to monitor and treat pregnancy, cardiac, mental health, or substance use disorder conditions, and laboratory and radiological monitoring for recurrence of disease, may be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed health care provider acting within the scope of their practice.

(J) A referral to a specialist by a primary care provider or another specialist shall be subject to the relevant time-elapsing standard in subparagraph (A), (B) or (D), unless the requirements in subparagraph (H) or (I) are met, and shall be subject to the other provisions of this section.

(6) (A) The following types of health insurance policies shall be subject to the requirements in subparagraph (B):

(i) A health insurance policy covering the pediatric oral or vision essential health benefit.

(ii) A specialized health insurance policy that provides coverage for the pediatric oral essential health benefit, as defined in paragraph (5) of subdivision (a) of Section 10112.27.

(iii) A specialized health insurance policy that covers dental benefits only, as defined in subdivision (c) of Section 106.

(B) In addition to ensuring compliance with the clinical appropriateness standard set forth in paragraph (1), each health insurance policy specified in subparagraph (A) shall ensure that contracted oral or vision provider networks have adequate capacity and availability of licensed health care providers, including generalist and specialist dentists, ophthalmologists, optometrists, and opticians, to offer insureds appointments for covered oral or vision services in accordance with the following requirements:

(i) Urgent appointments within the plan network shall be offered within 72 hours of the time of request for appointment, if consistent with the insured's individual needs and as required by professionally recognized standards of dental practice.

(ii) Nonurgent appointments shall be offered within 36 business days of the request for appointment, except as provided in clause (iii).

(iii) Preventive care appointments shall be offered within 40 business days of the request for appointment.

(iv) The applicable waiting time for a particular appointment in this paragraph may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of the provider's practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the insured.

(7) An insurer shall ensure it has sufficient numbers of contracted providers to maintain compliance with the standards established by this section.

(A) This section does not modify the requirements regarding accessibility established by Article 6 (commencing with Section 2240) of Title 10 of the California Code of Regulations.

(B) An insurer shall ensure timely access to covered health care services as required by this section, including applicable time-elapsed standards, by assisting an insured to locate available and accessible contracted providers in a timely manner appropriate for the insured's health needs. An insurer shall arrange for the provision of services outside the insurer's contracted network if unavailable within the network if medically necessary for the insured's condition. Insured costs for medically necessary referrals to nonnetwork providers shall not exceed applicable in-network copayments, coinsurance, and deductibles.

(8) An insurer shall provide or arrange for the provision, 24 hours per day, 7 days per week, of triage or screening services by telephone, as defined in subdivision (f).

(A) An insurer shall ensure that telephone triage or screening services are provided in a timely manner appropriate for the insured's condition, and that the triage or screening waiting time does not exceed 30 minutes.

(B) An insurer may provide or arrange for the provision of telephone triage or screening services through one or more of the following means: insurer-operated telephone triage or screening services, telephone medical advice services pursuant to Section 10279, the insurer's contracted primary care and mental health care or substance use disorder provider network, or other method that provides triage or screening services consistent with this section.

(i) An insurer that arranges for the provision of telephone triage or screening services through contracted primary care and mental health care and substance use disorder providers shall require those providers to maintain a procedure for triaging or screening insured telephone calls, which, at a minimum, shall include the employment, during and after business hours, of a telephone answering machine, an answering service, or office staff, that shall inform the caller of both of the following:

(I) Regarding the length of wait for a return call from the provider.

(II) How the caller may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

(ii) An insurer that arranges for the provision of triage or screening services through contracted primary care and mental health care and substance use disorder providers who are unable to meet the time-elapsed standards established in subparagraph (A) shall also provide or arrange for the provision of insurer-contracted or operated triage or screening services, which shall, at a minimum, be made available to insureds affected by that portion of the insurer's network.

(iii) An unlicensed staff person handling insured calls may ask questions on behalf of a licensed staff person to help ascertain the condition of an insured so that the insured may be referred to licensed staff. However, an unlicensed staff person shall not, under any circumstances, use the answers to those questions in an attempt to assess, evaluate, advise, or make a decision regarding the condition of an insured or determine when an insured needs to be seen by a licensed medical professional.

(9) A health insurance policy providing coverage for the pediatric oral and vision essential health benefit, and a specialized health insurance policy that provides coverage for dental care expenses only, shall require that contracted providers employ an answering service or a telephone answering machine during nonbusiness hours, which provides instructions regarding how an insured may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

(10) An insurer shall ensure that, during normal business hours, the waiting time for an insured to speak by telephone with an insurer customer service representative knowledgeable and competent regarding the insured's questions and concerns shall not exceed 10 minutes, or that the covered person will receive a scheduled call-back within 30 minutes.

(c) Notwithstanding subdivision (b), a specialized health insurance policy, as defined in subdivision (c) of Section 106, other than a specialized mental health insurance policy, is exempt from this section, except as specified in this subdivision. A specialized health insurance policy that provides coverage for dental care expenses only shall comply with paragraphs (1), (3), (4), (6), (7), (9), and (10) of subdivision (b).

(d) An insurer shall not prevent, discourage, or discipline a contracting provider or employee for informing an insured or policyholder about the timely access standards.

(e) For purposes of this section:

(1) "Appointment waiting time" means the time from the initial request for health care services by an insured or the insured's treating provider to the earliest date offered for the appointment for services inclusive of time for obtaining authorization from the insurer or completing any other condition or requirement of the insurer or its contracting providers.

(2) "Preventive care" means health care provided for prevention and early detection of disease, illness, injury, or other health condition and includes, but is not limited to, all of the services required by all of the following laws:

(A) Section 146.130 of Title 45 of the Code of Federal Regulations.

(B) Section 10112.2 (incorporating the requirements of Section 2713 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-13)).

(C) Clause (ii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 10112.27.

(3) "Provider group" has the meaning set forth in subdivision (v) of Section 10133.15.

(4) "Triage" or "screening" means the assessment of an insured's health concerns and symptoms via communication with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an insured who may need care for the purpose of determining the urgency of the insured's need for care.

(5) "Triage or screening waiting time" means the time waiting to speak by telephone with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an insured who may need care.

(6) "Urgent care" means health care for a condition which requires prompt attention, consistent with paragraph (2) of subdivision (h) of Section 10123.135.

SEC. 6.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #11(b)(2)(P) – SB 224 (Portantino) Pupil instruction: mental health education

Background:

As amended on 7/13/2021, this bill would require each school district, county office of education, state special school, and charter school that offers courses in health education to middle and high school students to also offer courses in mental health. The content of these courses should meet the following criteria: instruction should cover the overarching themes and core principles of mental health; it should define signs and symptoms of common mental health challenges which may include depression, suicidal thoughts and behaviors, schizophrenia, bipolar disorder, eating disorders, anxiety and post-traumatic stress disorder; delineating the evidence-based services and supports that help individuals manage mental health challenges; promoting mental health wellness and protective factors; the ability to identify warning signs of common mental health problems in order to promote awareness and early intervention including how to seek and find assistance from professionals and services within the school district and evidence-based and culturally responsive practices that are proven to help overcome mental health challenges. The amendments also require that the State Department of Education develop a plan to increase mental health education in public schools on or before January 1, 2024.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch SB 224 (Portantino).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch SB 224 (Portantino).

Location: Assembly

Status: 7/12/2021 Read second time and amended. Re-referred to Com. on APPR.

Action Requested:

This is for informational purposes only. No action is required at this time.

Attachment A: SB 224 (Portantino) Bill Text

SB-224 (Portantino) Pupil instruction: mental health education.

As Amends the Law Today – August 10, 2021

SECTION 1.

(a) The Legislature finds and declares all of the following:

(1) Mental health is critical to overall health, well-being, and academic success.

(2) Mental health challenges affect all age groups, races, ethnicities, and socioeconomic classes.

(3) Millions of Californians, including at least one in five youths, live with mental health challenges. Millions more are affected by the mental health challenges of someone else, such as a close friend or family member.

(4) Mental health education is one of the best ways to increase awareness and the seeking of help, while reducing the stigma associated with mental health challenges. The public education system is the most efficient and effective setting for providing this education to all youth.

(b) For the foregoing reasons, it is the intent of the Legislature in enacting this measure to ensure that all California pupils in grades 1 to 12, inclusive, have the opportunity to benefit from a comprehensive mental health education.

SEC. 2.

Article 6 (commencing with Section 51925) is added to Chapter 5.5 of Part 28 of Division 4 of Title 2 of the Education Code, to read:

**Article 6. Mandatory Mental Health Education
51925.**

Each school district, county office of education, state special school, and charter school that offers one or more courses in health education to pupils in middle school or high school shall include in those courses instruction in mental health that meets the requirements of this article. This section shall not be construed to limit a school district, county office of education, state special school, or charter school in offering or requiring instruction in mental health as specified in this article. This instruction shall include all of the following:

(a) Reasonably designed instruction on the overarching themes and core principles of mental health.

(b) Defining signs and symptoms of common mental health challenges. Depending on pupil age and developmental level, this may include defining conditions such as depression, suicidal thoughts and behaviors, schizophrenia, bipolar disorder, eating disorders, and anxiety, including post-traumatic stress disorder.

(c) Elucidating the evidence-based services and supports that effectively help individuals manage mental health challenges.

(d) Promoting mental health wellness and protective factors, which includes positive development, social and cultural connectedness and supportive relationships, resiliency,

problem solving skills, coping skills, self-esteem, and a positive school and home environment in which pupils feel comfortable.

(e) The ability to identify warning signs of common mental health problems in order to promote awareness and early intervention so that pupils know to take action before a situation turns into a crisis. This shall include instruction on both of the following:

(1) How to seek and find assistance from professionals and services within the school district that includes, but is not limited to, school counselors with a pupil personnel services credential, school psychologists, and school social workers, and in the community for themselves or others.

(2) Evidence-based and culturally responsive practices that are proven to help overcome mental health challenges.

(f) The connection and importance of mental health to overall health and academic success and to co-occurring conditions, such as chronic physical conditions, chemical dependence, and substance abuse.

(g) Awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of race, ethnicity, and culture on the experience and treatment of mental health challenges.

(h) Stigma surrounding mental health challenges and what can be done to overcome stigma, increase awareness, and promote acceptance. This shall include, to the extent possible, classroom presentations of narratives by trained peers and other individuals who have experienced mental health challenges and how they coped with their situations, including how they sought help and acceptance.

51926.

Instruction and materials required pursuant to this article shall satisfy all of the following:

(a) Be appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners.

(b) Be accessible to pupils with disabilities, including, but not limited to, providing a modified curriculum, materials and instruction in alternative formats, and auxiliary aids.

(c) Not reflect or promote bias against any person on the basis of any category protected by Section 220.

(d) Be coordinated with any existing on-campus mental health providers including, but not limited to, providers with a pupil personnel services credential, who may be immediately called upon by pupils for assistance.

51927.

(a) This article does not limit a pupil's health and mental health privacy or confidentiality rights.

(b) A pupil receiving instruction pursuant to this article shall not be required to disclose their confidential health or mental health information at any time in the course of receiving that instruction, including, but not limited to, for the purpose of the peer component described in subdivision (h) of Section 51925.

51928.

For purposes of this article, the following definitions apply:

(a) "Age appropriate" has the same meaning as defined in Section 51931.

(b) "English learner" has the same meaning as defined in Section 51931.

(c) "Evidence-based" means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the mental health field.

(d) "Instructors trained in the appropriate courses" means instructors with knowledge of the most recent evidence-based research on mental health.

51929.

On or before January 1, 2024, the department shall develop a plan to increase mental health instruction in California public schools.

MEMORANDUM

DATE	August 10, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #12 – Regulatory Update

The following is a list of the Board's regulatory packages, and their status in the regulatory process:

a) Update on 16 CCR sections 1389.8 – Standards of Practice for Telehealth

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package was approved by OAL on 8/10/2021.

b) Update on 16 CCR sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package was provided to the Department of Consumer Affairs (DCA) on November 12, 2019 and is now in the Initial Departmental Review Stage. This stage involves a review by DCA's legal, budget, and executive offices, and the State's Business Consumer Services and Housing Agency (Agency). Upon approval by DCA and Agency, staff will notice this package for a 45-day comment period and subsequent hearing.

c) Update on 16 CCR sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package was provided to the Department of Consumer Affairs (DCA) on November 14, 2019 and is now in the Initial Departmental Review Stage. This stage involves a review by DCA's legal, budget, and executive offices, and the

State's Business Consumer Services and Housing Agency (Agency). Upon approval by DCA and Agency, staff will notice this package for a 45-day comment period and subsequent hearing.

d) **Update on 16 CCR sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development**

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package was delivered to OAL on 9/22/2020 and was in the Notice Register published on 10/2/2020. The language was subsequently modified and put out for an additional 15-day comment period. The Board reviewed those comments at its February meeting and approved the language.

e) **Update on 16 CCR sections 1391.13, and 1391.14 – Inactive Psychological Assistant Registration and Reactivating a Psychological Assistant Registration**

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package is in the Initial Review Stage. Staff received feedback from Legal Counsel on September 17, 2019 and have incorporated the recommended changes. Staff is waiting to submit the package back to Board Counsel until the Sunset Psychological Assistant regulatory package is farther through the regulatory process. Upon approval by Board Legal Counsel, the package will be submitted for the Initial Departmental Review which involves reviews by DCA Legal Affairs Division, DCA Budget Office, DCA's Division of Legislative Affairs, DCA Chief Counsel, DCA Director, and the Business Consumer Services and Housing Agency.

f) **Addition to 16 CCR section 1392 – Psychologist Fees – California Psychology Law and Ethics Exam (CPLEE) and Initial License and Biennial Renewal Fee for Psychologist**

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package is in the Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

g) **Addition to 16 CCR section 1395.2 – Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees**

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package is in the Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

Action Requested:

No action required at this time. This is for informational purposes only.

MEMORANDUM

DATE	August 5, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item 13 – Telepsychology Committee Meeting Report

Background:

The Telepsychology Committee met on May 7, 2021 to review and discuss whether the Board should take steps to join the Psychology Interjurisdictional Compact (PSYPACT).

The Committee heard a presentation from the Association of State and Provincial Psychology Boards (ASPPB) regarding PSYPACT and the benefits of the compact. Subsequently, the Committee received a report from Board staff regarding the history of PSYPACT and the Board's prior analysis and consideration of the compact.

The Committee received public comment from stakeholders including state boards that have chosen not to join PSYPACT and their reasons for doing so.

The Board received several letters/emails regarding the topic. Stakeholders who provided written letters include the Texas Behavioral Health Executive Council, the Psychotherapy Action Network (PsiAN), the California Institute of Integral Studies, and the California Psychology Internship Council. Individuals who provided written comment include Shelley Diamond, PhD; Renee Dumetz, PhD; Bernie Fitzpatrick, PhD; Indhushree Rajan, PhD; Juliet Rohde-Brown, PhD; Diana Rivera, PhD; Oksana Yakushko, PhD; Nancy Burke, PhD; Charles Eckhart, PhD; Enrico Gnaulati, PhD; Karina Schwab, Doctoral Student; James Stratigakes, PhD. Public comment was received during the meeting from Dr. Jo Linder-Crow of the California Psychological Association (CPA) (2), Karen Lese-Fowler, PhD; Willow Pearson, PhD; Elizabeth Winkelman (3), PhD of CPA; Charles Eckhart, PhD (2); Melodie Schaefer (3), PsyD; Colin Sueyres of CPA; and Gregory Gormanous, PhD. The majority of the comments received expressed a concern that in order to qualify to participate in PSYPACT, psychologists must attend programs accredited by the American Psychological Association (APA) Commission on Accreditation.

Upon conclusion of public comment, the Committee discussed the matter and concluded that they would recommend the Board not proceed to take steps to facilitate joining PSYPACT at this time. Issues of concern for the Committee members included the fact that should the Board move to join PSYPACT, it would take on additional workload in a time when staff resources are limited and with no accompanying source of funding from PSYPACT for the work performed. Further, PSYPACT would require annual payments from the Board for participation. Other concerns expressed were the variability of licensure requirements, including the continuing education requirements, which can vary greatly from state to state, and the exclusion of a portion of the Board's licensees due to the APA accreditation requirement. As the graduates of these programs have a more significant representation from historically underrepresented groups, this was a particular concern due to its variable impact on California consumers and the exclusion of licensees. An additional concern raised was the delegation of substantial authority to a non-governmental entity that would create regulations that would affect the Board, California licensees, and California consumers.

Action Requested:

The Telepsychology Committee recommends the Board not participate in PSYPACT at this time.

Attachments:

- Presentation on PSYPACT by ASPPB Representatives
- Historical Overview of the Psychology Interjurisdictional Compact
- Timeline of the Board's prior consideration of PSYPACT
- Correspondence between the Board of Psychology and the Association of State and Provincial Psychology Boards (ASPPB)
- Review of and Possible Action on PSYPACT Model Legislation for a Report to the Full Board on November 18-19, 2021
- Letters Received by the Committee and Board in Support and in Opposition to PSYPACT

MEMORANDUM

DATE	April 14, 2021
TO	Telepsychology Committee
FROM	Jonathan Burke Assistant Executive Officer
SUBJECT	Agenda Item 6 a & b. Historical Overview of the Psychology Interjurisdictional Compact (PSYPACT)

Background:

The Board formed a Telepsychology Committee (Committee) at its meeting on November 21, 2014 to discuss and analyze the content and requirements of the proposed PSYPACT. The Committee met on December 16, 2014 and reported its findings to the full Board at its January 9, 2015 meeting. Numerous concerns were raised by the Committee, and these concerns were reported to ASPPB in a letter dated January 22, 2015. In addition to raising the concerns of the Board, the letter informed ASPPB that the Board would not be seeking to join the PSYPACT at that time.

Telemedicine History in California

In California, the Telemedicine Development Act of 1996 (TDA) was established by SB 1665 (Thompson, Chapter 864, Statutes of 1996), making California one of the first states to utilize telemedicine (now referred to as “telehealth”).

AB 415 (Logue, Chapter 547, Statutes of 2011) updated the TDA by removing the term “telemedicine,” and its corresponding outdated definition. In its place, the term “telehealth” was used, and telehealth was defined to include a broader, more current range of services.

AB 809 (Logue, Chapter 404, Statutes of 2014), which became effective on September 18, 2014, amended the TDA to delete the requirement that the health care provider obtain informed consent at the originating site, and permitted consent to be made verbally or in writing. In addition, this statute corrected the problem of requiring consent prior to every instance of telehealth by making an amendment stating that the initial consent applies to subsequent instances of telehealth. Instead, it requires the documented written or oral permission to have been received prior to beginning telehealth.

Existing California Law:

1) Requires valid licensure to provide telehealth services to California residents; telehealth includes live interactive and store and forward technologies; patient’s verbal consent must be obtained prior to delivery of telehealth services and documented in the patient’s medical record. Failure to obtain patient consent in advance constitutes unprofessional conduct (BPC §§ 2904.5, 2290.5)

2) Allows any person who is licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada can provide psychological services in this state for a period not to exceed 30 days in any calendar year (BPC §2912)

3) Defines "telehealth" as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site.

4) Requires a health care provider to verbally inform the patient that telehealth may be used, obtain verbal or written consent from the patient for this use and requires the consent to be documented.

5) Establishes that failure to inform the patient that telehealth may be used and to obtain their informed consent constitutes unprofessional conduct.

6) States that all laws regarding the confidentiality of health care information and a patient's rights to his/her medical information apply to telehealth interactions.

Proposed Addition to Board of Psychology Regulations

In 2011, as part of the Board's Sunset Review, the Legislature asked the Board if legislative or regulatory changes needed to be made to address telehealth or online practice. In its report back to the Legislature, the Board stated it was researching and analyzing the use of telehealth as a mode for the practice of psychology and what impact this newer mode of psychotherapy delivery would have on the consumer of psychological services.

In 2016, as part of its next Sunset Review, the Board committed to developing telepsychology regulations that would instruct licensees how to provide telehealth to Californians and give additional opportunities to provide care to underserved populations. In its efforts to meet its commitment, the Board established the ad hoc Telepsychology Committee (Committee).

The Committee considered the American Psychological Association Guidelines (APA Guidelines) for the Practice of Telepsychology and the Association of State and Provincial Psychology Board (ASPPB) Telepsychology Task Force Principles and Standards when developing draft regulatory language.

This package was noticed for the initial 45-day comment period on August 14, 2020. This comment period ended on September 29, 2020. Staff conducted a hearing on September 30, 2020.

While this package was in review by the Department of Consumer Affairs (DCA), the Telepsychology Committee met and developed potential amendments to the package in review by DCA, with the intention of introducing these amendments after the initial comment period.

After reviewing the public comments received during the noticed comment period, staff made additional modifications to the Telepsychology Committee amendments to address these comments.

The Board considered the comments at the December 2020, Board meeting, and issued a notice of modified text was filed on December 4, 2020. The 15-day comment period ended on

December 22, 2020. The Board considered these comments at its February 2021 meeting and adopted the modified text.

Consequently, the Board is seeking to add Section 1396.8 of Article 8 of Division 13.1 of Title 16 of the California Code of Regulations to read:

§1396.8. Standards of Practice for Telehealth Services

(a) A licensee is permitted to provide psychological health care services via telehealth subject to the laws and regulations of the other jurisdiction where either the licensee and/or the client is located, including, but not limited to, the following circumstances:

- (1) To a client at an originating site in this State, as defined in section 2290.5 of the Code, when a licensee is located at a distant site within this state
- (2) To a client who has received services in California, and who is temporarily located outside of this State
- (3) To a client who is located in this State when a licensee is temporarily located outside of this State.

(b) As used in this section, a licensee shall include a licensee, registrant, psychology trainee, or other supervised individual permitted to provide psychological services under the Psychology Licensing Law, beginning with section 2900 of the Code.

(c) The provision of psychological health care services under subdivision (a) are subject to the following conditions:

- (1) The licensee holds a valid and current license issued by the Board or is otherwise allowed to practice under this section.
- (2) The licensee obtains and documents informed consent for the provision of psychological health care services via telehealth from the client. Such consent shall cover concerns unique to the receipt of psychological health care services via telehealth, including risks to confidentiality and security, data storage policies and procedures specific to telehealth, the possibility of disruption and/or interruption of service due to technological failure, insurance coverage considerations, and other issues that the licensee can reasonably anticipate regarding the non-comparability between psychological health care services delivered in person and those delivered via telehealth.
- (3) The licensee determines that delivery of psychological health care services via telehealth is appropriate after considering at least the following factors:
 - (A) The client's diagnosis, symptoms, and medical/psychological history;
 - (B) The client's preference for receiving psychological health care services via telehealth;
 - (C) The nature of the psychological health care services to be provided, including anticipated benefits, risks, and constraints resulting from their delivery via telehealth;
 - (D) The benefits, risks, or constraints posed by the client's physical location. These include the availability of appropriate physical space for the receipt of psychological health care services via telehealth, accessibility of local emergency psychological health care services, and other considerations related to the client's diagnosis, symptoms, or condition.
 - (E) The provision of telehealth services is within the scope of competency of a psychology trainee, or other supervised individuals as specified in (b) above, who provides psychological health care services under the supervision of the licensee.

- (4) The licensee is competent to deliver such services based upon whether the licensee possesses the appropriate knowledge, skills, and abilities relating to delivery of psychological health care services via telehealth, the information technology chosen for the delivery of telehealth services, and how such services might differ from those delivered in person.
- (5) The licensee takes reasonable steps to ensure that electronic data is transmitted securely and informs the client immediately of any known data breach or unauthorized dissemination of data.
- (6) The licensee complies with all other provisions of the Psychology Licensing Law and its attendant regulations, and all other applicable provisions of law and standards of care in this state and the other jurisdiction, if any, where either the licensee or the client is located.

Authority: 2930 Business and Professions Code

Reference: Business and Profession Code sections 686, 2290.5, 2904.5, 2960, 2960.6

Action Requested:

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

Attachments:

- January 22, 2015 Letter to ASPPB
- SB 1665 (Thompson, Chapter 864, Statutes of 1996) Bill text
- AB 415 (Logue, Chapter 547, Statutes of 2011) Bill text
- AB 809 (Logue, Chapter 404, Statutes of 2014) Bill text



January 22, 2015

Janet P. Orwig, MBA,
Association Executive Officer for Member Services
Association of State and Provincial Psychology Boards (ASPPB)
P. O. Box 3079
Peachtree City, GA 30269

RE: INTERJURISDICTIONAL TELEPSYCHOLOGY COMPACT

Dear Ms. Orwig:

The California Board of Psychology (Board) formed a Telepsychology Committee (Committee) to discuss and analyze the Interjurisdictional Telepsychology Compact (Compact) put forward by the Association of State and Provincial Psychology Boards (ASPPB). The Committee presented its opinions on the Compact at the January 9th Board Meeting.

The Board would like to commend ASPPB for the time and effort that went into the generation of the proposed Compact. The Board agrees with ASPPB that it is important to increase license portability and consumer access to psychological services. However, the Board's review raised a number of fundamental concerns which are outlined below;

- Article IX addresses the creation of the "Interjurisdictional Telepsychology Compact Commission" (Commission). The Compact States would pay for the operations of the Commission via (as yet unspecified) fees through a currently unspecified "formula". There will be costs associated with reporting to a database and additional administrative costs to the Board while all fees paid by licensees and state contributions to the administration of the Commission, under the proposed scheme, will go to ASPPB and the Commission. In other words, the Board takes up additional burdens and costs while all of the fees go elsewhere.
- The Commission would also have the ability to promulgate regulations which would have the force of law in Compact States.
- Article X of the Compact grants the Commission to grant "emergency rules". The definition and implementation of the clause is vague and is another example of the extraordinary regulatory authority ceded to the Commission by the Compact States.
- Article XIII of the Compact addresses the "Coordinated Licensure Information Exchange." States would be forced to rely on a complex national database for

licensing, complaint, and discipline information exchange. The system, which is not yet developed and would be owned and operated by a nongovernmental agency. It is unclear at this time who will be the "administrator" of the database.

- The current Compact language does not require any Continuing Education (CE) of Home State licensees. The E.Passport has a 6 (six) hour requirement once a renewal cycle (two years). Licensees from jurisdictions that do not require CE (e.g., New York) would be able to practice on California consumers with only three hours of CE per year in the area of technology and psychological practice.
- That the Compact would also place responsibilities on the Board to report information regarding our licensees and possibly even complainants which may currently be classified as confidential under our existing statutory and regulatory scheme. This would alter some protections afforded to licensees and complainants, with little knowledge on our part as to the safeguards for confidential information undertaken by other Compact States. This would need to be addressed in advance of a recommendation to the legislature regarding joining the Compact. Since reporting can be required in advance of resolution of a complaint in some instances, the Committee believes this requires further clarification.

The Board recognizes the need for statutes and regulations that address the issue of Telepsychology; however, it is the Board's opinion that the Compact unnecessarily cedes too much regulatory control and licensee information to non-governmental out-of-state entities.

The Board looks forward to exploring other Interjurisdictional Telepsychology possibilities, but will not seek to join the Compact at this time.

Sincerely,



MICHAEL ERICKSON, PHD
President, Board of Psychology

cc: Ms. Nicole J. Jones (Vice President)
Ms. Lucille Aquaye-Baddoo
Ms. Johanna Arias-Bhatia
Miguel Gallardo, PsyD
Andrew Harlem, PhD
Jacqueline Horn, PhD
Stephen Phillips, PhD, JD
Ms. Linda Starr

Assembly Bill No. 415

CHAPTER 547

An act to repeal and add Section 2290.5 of the Business and Professions Code, to repeal and add Section 1374.13 of the Health and Safety Code, to repeal and add Section 10123.85 of the Insurance Code, and to amend Sections 14132.72 and 14132.725 of the Welfare and Institutions Code, relating to telehealth.

[Approved by Governor October 07, 2011. Filed with Secretary of State October 07, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 415, Logue. Healing arts: telehealth.

(1) Existing law provides for the licensure and regulation of various healing arts professions by various boards within the Department of Consumer Affairs. A violation of specified provisions is a crime. Existing law defines telemedicine, for the purpose of its regulation, to mean the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Existing law requires a health care practitioner, as defined, to obtain verbal and written informed consent from the patient or the patient's legal representative before telemedicine is delivered. Existing law also imposes various requirements with regard to the provision of telemedicine by health care service plans, health insurers, or under the Medi-Cal program, including a prohibition on requiring face-to-face contact between a health care provider and a patient for services appropriately provided through telemedicine, subject to certain contracts or policies. Existing federal regulations, for the purposes of participation in the Medicare and Medicaid programs, authorize the governing body of a hospital whose patients are receiving telemedicine services to grant privileges based on its medical staff recommendations that rely on information provided by the distant-site hospital. Existing state regulations require medical staff, appointed by the governing body of a hospital, to adopt procedures for the evaluation of staff applications for credentials and privileges. Existing law provides that health care service plans and health insurers shall not be required to pay for consultations provided by telephone or facsimile machines. Existing law provides that a willful violation of the provisions governing health care service plans is a crime.

This bill would delete the provisions of state law regarding telemedicine as described above, and would instead set forth provisions relating to telehealth, as defined. This bill would require a health care provider, as defined, prior to the delivery of health care via telehealth, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient. This bill would provide that failure to comply with this provision constitutes unprofessional conduct. This bill would, subject to contract terms and conditions, also preclude health care service plans and health insurers from imposing prior to payment, certain requirements regarding the manner of service delivery. This bill would establish procedures for granting privileges to, and verifying and approving credentials for, providers of telehealth services. By changing the definition of a crime applicable to health care service plans, the bill would impose a state-mandated local program.

(2) Existing law prohibits a requirement of face-to-face contact between a health care provider and a patient under the Medi-Cal program for services appropriately provided through telemedicine, subject to reimbursement policies developed by the Medi-Cal program to compensate licensed health care providers who provide health care services, that are otherwise covered by the Medi-Cal program, through telemedicine.

This bill would, instead, prohibit a requirement of in-person contact between a health care provider and patient under the Medi-Cal program for any service otherwise covered by the Medi-Cal program when the service is appropriately provided by telehealth, as defined, and would make related changes.

(3) Existing law, until January 1, 2013, and to the extent that federal financial participation is available, authorizes, under the Medi-Cal program, teleophthalmology and teledermatology by store and forward, as defined.

This bill would delete the repeal of the above-described authorization.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

This act shall be known, and may be cited, as the Telehealth Advancement Act of 2011.

SEC. 2.

The Legislature finds and declares all of the following:

(a) Lack of primary care providers, specialty providers, and transportation continue to be significant barriers to access to health services in medically underserved rural and urban areas.

(b) Parts of California have difficulty attracting and retaining health professionals, as well as supporting local health facilities to provide a continuum of health care.

(c) Many health care providers in medically underserved areas are isolated from mentors, colleagues, and the information resources necessary to support them personally and professionally.

(d) It is the intent of the Legislature to create a parity of telehealth with other health care delivery modes, to actively promote telehealth as a tool to advance stakeholders' goals regarding health status and health system improvement, and to create opportunities and flexibility for telehealth to be used in new models of care and system improvements.

(e) Telehealth is a mode of delivering health care services and public health utilizing information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from health care providers.

(f) Telehealth is part of a multifaceted approach to address the problem of inadequate provider distribution and the development of health systems in medically underserved areas by improving communication capabilities and providing convenient access to up-to-date information, consultations, and other forms of support.

(g) The use of information and telecommunication technologies to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice, and improve access to health care, particularly in rural and other medically underserved areas.

(h) Telehealth will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of medical care in the local area, strengthening the health infrastructure, and preserving health care-related jobs.

(i) Consumers of health care will benefit from telehealth in many ways, including expanded access to providers, faster and more convenient treatment, better continuity of care, reduction of lost work time and travel costs, and the ability to remain with support networks.

(j) It is the intent of the Legislature that the fundamental health care provider-patient relationship cannot only be preserved, but can also be augmented and enhanced, through the use of telehealth as a tool to be integrated into practices.

(k) Without the assurance of payment and the resolution of legal and policy barriers, the full potential of telehealth will not be realized.

SEC. 3.

Section 2290.5 of the Business and Professions Code is repealed.

SEC. 4.

Section 2290.5 is added to the Business and Professions Code, to read:

2290.5.

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means a person who is licensed under this division.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is

at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. The verbal consent shall be documented in the patient's medical record.

(c) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(d) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(e) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

(f) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(g) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 5.

Section 1374.13 of the Health and Safety Code is repealed.

SEC. 6.

Section 1374.13 is added to the Health and Safety Code, to read:

1374.13.

(a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health care service plan shall require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(d) No health care service plan shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(e) The requirements of this subdivision shall also be operative for health care service plan contracts with the department pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), or Article 2.91 (commencing with Section 14089) of Chapter 7, or Chapter 8 (commencing with Section 14200) of, Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other provision, this section shall not be interpreted to authorize a health care service plan to require the use of telehealth when the health care provider has determined that it is not appropriate.

SEC. 7.

Section 10123.85 of the Insurance Code is repealed.

SEC. 8.

Section 10123.85 is added to the Insurance Code, to read:

10123.85.

(a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health insurer shall require that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the policyholder or contractholder and the insurer, and between the insurer and its participating providers or provider groups.

(d) No health insurer shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided by telehealth, subject to the terms and conditions of the contract between the policyholder or contract holder and the insurer, and between the insurer and its participating providers or provider groups.

(e) Notwithstanding any other provision, this section shall not be interpreted to authorize a health insurer to require the use of telehealth when the health care provider has determined that it is not appropriate.

SEC. 9.

Section 14132.72 of the Welfare and Institutions Code is amended to read:

14132.72.

(a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the provider.

(c) In-person contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telehealth, subject to reimbursement policies adopted by the department to compensate a licensed health care provider who provides health care services through telehealth that are otherwise reimbursed pursuant to the Medi-Cal program. Nothing in this section or the Telehealth Advancement Act of 2011 shall be construed to conflict with or supersede the provisions of Section 14091.3 of this code or any other existing state laws or regulations related to reimbursement for services provided by a noncontracted provider.

(d) The department shall not require a health care provider to document a barrier to an in-person visit for Medi-Cal coverage of services provided via telehealth.

(e) For the purposes of payment for covered treatment or services provided through telehealth, the department shall not limit the type of setting where services are provided for the patient or by the health care provider.

(f) Nothing in this section shall be interpreted to authorize the department to require the use of telehealth when the health care provider has determined that it is not appropriate.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

SEC. 10.

Section 14132.725 of the Welfare and Institutions Code is amended to read:

14132.725.

(a) Commencing July 1, 2006, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for teleophthalmology and teledermatology by store and forward. Services appropriately provided through the store and forward process are subject to billing and reimbursement policies developed by the department.

(b) For purposes of this section, “teleophthalmology and teledermatology by store and forward” means an asynchronous transmission of medical information to be reviewed at a later time by a physician at a distant site who is trained in ophthalmology or dermatology or, for teleophthalmology, by an optometrist who is licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, where the physician or optometrist at the distant site reviews the medical information without the patient being present in real time. A patient receiving teleophthalmology or teledermatology by store and forward shall be notified of the right to receive interactive communication with the distant specialist physician or optometrist, and shall receive an interactive communication with the distant specialist physician or optometrist, upon request. If requested, communication with the distant specialist physician or optometrist may occur either at the time of the consultation, or within 30 days of the patient’s notification of the results of the consultation. If the reviewing optometrist identifies a disease or condition requiring consultation or referral pursuant to Section 3041 of the Business and Professions Code, that consultation or referral shall be with an ophthalmologist or other appropriate physician and surgeon, as required.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

(d) On or before January 1, 2008, the department shall report to the Legislature the number and type of services provided, and the payments made related to the application of store and forward telemedicine as provided, under this section as a Medi-Cal benefit.

SEC. 11.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Assembly Bill No. 809

CHAPTER 404

An act to amend Section 2290.5 of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2014. Filed with Secretary of State September 18, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 809, Logue. Healing arts: telehealth.

Existing law requires a health care provider, as defined, prior to the delivery of health care services via telehealth, as defined, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. Existing law also provides that failure to comply with this requirement constitutes unprofessional conduct.

This bill would require the health care provider initiating the use of telehealth to obtain verbal or written consent from the patient for the use of telehealth, as specified. The bill would require that health care provider to document the consent.

This bill would declare that it is to take effect immediately as an urgency statute.

DIGEST KEY

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 2290.5 of the Business and Professions Code is amended to read:

2290.5.

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means a person who is licensed under this division.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 2.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and safety of the public due to a lack of access to health care providers in rural and urban medically underserved areas of California, the increasing strain on existing providers that occurred with the implementation of the federal Patient Protection and Affordable Care Act, and the assistance that further implementation of telehealth can provide to help relieve these burdens, it is necessary for this act to take effect immediately.

Senate Bill No. 1665

CHAPTER 864

An act to amend Section 2060 of, and to add Section 2290.5 to, the Business and Professions Code, to amend Sections 1367 and 1375.1 of, and to add Sections 1374.13 and 123149.5 to, the Health and Safety Code, to amend Section 10123.13 of, and to add Section 10123.85 to, the Insurance Code, and to add and repeal Section 14132.72 of the Welfare and Institutions Code, relating to telemedicine.

[Approved by Governor September 24, 1996. Filed
with Secretary of State September 25, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1665, M. Thompson. Medicine: telemedicine.

Existing law provides that the Medical Practice Act does not apply to any practitioner when in actual consultation with a licensed practitioner of this state, and would prohibit the practitioner from opening an office, a place to meet patients, and from receiving calls from patients within the limits of this state.

This bill would instead provide that the act does not apply to any practitioner located outside the state when in actual consultation either within this state or across state lines with a licensed practitioner of this state, and would also prohibit the out-of-state practitioner from having ultimate authority over the care or primary diagnosis of a patient who is located within this state.

Existing law provides for the licensure and regulation of physicians and surgeons and other health care professionals and provides that various actions constitute unprofessional conduct. Existing law also regulates health care service plans, disability insurers, and nonprofit hospital service plans and requires each of them to provide certain prescribed benefits. Existing law provides that a violation of the provisions governing health care service plans is subject to criminal sanction. Existing law establishes the Medi-Cal program which provides for health care services for individuals who meet certain financial eligibility criteria.

This bill would enact the "Telemedicine Development Act of 1996" by imposing several requirements governing the delivery of health care services through telemedicine, as defined. It would require a health care practitioner, as defined, prior to providing health care services through telemedicine, as defined, to obtain the verbal and written consent of the patient, and would provide that the failure to do so would constitute unprofessional conduct. This requirement would not apply when the patient is not directly involved in the telemedicine interaction, with a specified exception. The bill would

impose various requirements in regard to the provision of, or payment for, telemedicine services by health care service plans, disability insurers, and, until January 1, 2001, the Medi-Cal program.

Existing law establishes procedures regarding the maintenance of a patient's medical records and for the patient's access to medical records.

This bill would state that it is the intent of the Legislature that all medical information transmitted through telemedicine be maintained as a part of the patient's medical record. The bill would also provide that it should not be construed to alter the scope of practice of any health care provider or to authorize the delivery of health care services in a setting or in a manner not otherwise authorized by law.

By changing the definition of a crime applicable to health care service plans, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate additional changes in Section 10123.13 of the Insurance Code, proposed by SB 1478, to be operative only if SB 1478 and this bill are both chaptered and become effective on January 1, 1997, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Lack of primary care, specialty providers, and transportation continue to be significant barriers to access to health services in medically underserved rural and urban areas.

(b) Parts of California have difficulty attracting and retaining health professionals, as well as supporting local health facilities to provide a continuum of health care. As of June, 1995, 49 counties received federal designation as having medically underserved areas or populations.

(c) Many health care providers in medically underserved areas are isolated from mentors, colleagues, and the information resources necessary to support them personally and professionally.

(d) Telemedicine is broadly defined as the use of information technology to deliver medical services and information from one location to another.

(e) Telemedicine is part of a multifaceted approach to address the problem of provider distribution and the development of health systems in medically underserved areas by improving



communication capabilities and providing convenient access to up-to-date information, consultations, and other forms of support.

(f) The use of telecommunications to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice, and improve access to health care in rural and other medically underserved areas.

(g) Telemedicine has been utilized in one form or another for 30 years, and telemedicine projects currently exist in at least 40 states.

(h) Telemedicine will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of medical care in the local area, strengthening the health infrastructure, and preserving health care-related jobs.

(i) Consumers of health care will benefit from telemedicine in many ways, including expanded access to providers, faster and more convenient treatment, better continuity of care, reduction of lost work time and travel costs, and the ability to remain with support networks.

(j) Telemedicine does not change the existing scope of practice of any licensed health professional.

(k) It is the intent of the Legislature that telemedicine not replace health care providers or relegate them to a less important role in the delivery of health care. The fundamental health care provider-patient relationship can not only be preserved, but also augmented and enhanced, through the use of telemedicine.

(l) Without the assurance of payment and the resolution of legal and policy barriers, the full potential of telemedicine will not be realized.

(m) This act shall be known as the “Telemedicine Development Act of 1996.”

SEC. 2. This act shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

SEC. 3. Section 2060 of the Business and Professions Code is amended to read:

2060. Nothing in this chapter applies to any practitioner located outside this state, when in actual consultation, whether within this state or across state lines, with a licensed practitioner of this state, or when an invited guest of the California Medical Association or the California Podiatric Medical Association, or one of their component county societies, or of an approved medical or podiatric medical school or college for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is, at the time of the consultation, lecture, or demonstration a licensed physician and surgeon in the state or country in which he or she resides. This practitioner shall not open an office, appoint a place to

meet patients, receive calls from patients within the limits of this state, give orders, or have ultimate authority over the care or primary diagnosis of a patient who is located within this state.

SEC. 4. Section 2290.5 is added to the Business and Professions Code, to read:

2290.5. (a) For the purposes of this section, “telemedicine” means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications.

(b) For the purposes of this section, “health care practitioner” has the same meaning as “licentiate” as defined in paragraph (2) of subdivision (a) of Section 805.

(c) Prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient. The informed consent procedure shall ensure that at least all of the following information is given to the patient verbally and in writing:

(1) The individual retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the individual would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telemedicine.

(3) All existing confidentiality protections apply.

(4) Patient access to all medical information transmitted during a telemedicine consultation is guaranteed, and copies of this information are available for a reasonable fee.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient shall sign a written statement prior to the delivery of health care via telemedicine, indicating that the patient understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient shall become part of the patient’s medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) Where the patient is a minor, or is incapacitated or mentally incompetent such that he or she is unable to give informed consent, this section shall apply to the patient’s representative.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the

telemedicine interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections.

SEC. 5. Section 1367 of the Health and Safety Code is amended to read:

1367. Each health care service plan, and where applicable, each specialized health care service plan, shall meet the following requirements:

(a) All facilities located in this state including, but not limited to, clinics, hospitals, and skilled nursing facilities to be utilized by the plan shall be licensed by the State Department of Health Services, where licensure is required by law. Facilities not located in this state shall conform to all licensing and other requirements of the jurisdiction in which they are located.

(b) All personnel employed by or under contract to the plan shall be licensed or certified by their respective board or agency, where licensure or certification is required by law.

(c) All equipment required to be licensed or registered by law shall be so licensed or registered and the operating personnel for that equipment shall be licensed or certified as required by law.

(d) The plan shall furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice.

(e) (1) All services shall be readily available at reasonable times to all enrollees. To the extent feasible, the plan shall make all services readily accessible to all enrollees.

(2) To the extent that telemedicine services are appropriately provided through telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, these services shall be considered in determining compliance with Section 1300.67.2 of Title 10 of the California Code of Regulations.

(f) The plan shall employ and utilize allied health manpower for the furnishing of services to the extent permitted by law and consistent with good medical practice.

(g) The plan shall have the organizational and administrative capacity to provide services to subscribers and enrollees. The plan shall be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management.

(h) All contracts with subscribers and enrollees, including group contracts, and all contracts with providers, and other persons furnishing services, equipment, or facilities to or in connection with

the plan, shall be fair, reasonable, and consistent with the objectives of this chapter. All contracts with providers shall contain provisions requiring a dispute resolution mechanism under which providers may submit disputes to the plan, and requiring the plan to inform its providers upon contracting with the plan, or upon change to these provisions, of the procedures for processing and resolving disputes, including the location and telephone number where information regarding disputes may be submitted.

(i) Each health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included in subdivision (b) of Section 1345, except that the commissioner may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from that requirement. The commissioner shall by rule define the scope of each basic health care service which health care service plans shall be required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

Nothing in this section shall be construed to permit the commissioner to establish the rates charged subscribers and enrollees for contractual health care services.

The commissioner's enforcement of Article 3.1 (commencing with Section 1357) shall not be deemed to establish the rates charged subscribers and enrollees for contractual health care services.

SEC. 6. Section 1374.13 is added to the Health and Safety Code, to read:

1374.13. (a) It is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider.

(b) For the purposes of this section, the meaning of "telemedicine" is as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code.

(c) On and after January 1, 1997, no health care service plan contract that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient for services appropriately provided through telemedicine, subject to all terms and conditions of the contract agreed upon between the enrollee or subscriber and the plan. The requirement of this subdivision shall be operative for health care service plan contracts with the Medi-Cal managed care program only to the extent that both of the following apply:



(1) Telemedicine services are covered by, and reimbursed under, the Medi-Cal fee-for-service program, as provided in subdivision (c) of Section 14132.72.

(2) Medi-Cal contracts with health care service plans are amended to add coverage of telemedicine services and make any appropriate capitation rate adjustments.

(d) Health care service plans shall not be required to pay for consultation provided by the health care provider by telephone or facsimile machines.

SEC. 7. Section 1375.1 of the Health and Safety Code is amended to read:

1375.1. (a) Every plan shall have and shall demonstrate to the commissioner that it has all of the following:

(1) A fiscally sound operation and adequate provision against the risk of insolvency.

(2) Assumed full financial risk on a prospective basis for the provision of covered health care services, except that a plan may obtain insurance or make other arrangements for the cost of providing to any subscriber or enrollee covered health care services, the aggregate value of which exceeds five thousand dollars (\$5,000) in any year, for the cost of covered health care services provided to its members other than through the plan because medical necessity required their provision before they could be secured through the plan, and for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for that fiscal year.

(3) A procedure for prompt payment or denial of provider and subscriber or enrollee claims, including those telemedicine services, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, covered by the plan. Except as provided in Section 1371, a procedure meeting the requirements of Subchapter G of the regulations (29 C.F.R. Part 2560) under Public Law 93-406 (88 Stats. 829-1035, 29 U.S.C. Secs. 1001 et seq.) shall satisfy this requirement.

(b) In determining whether the conditions of this section have been met, the commissioner shall consider, but not be limited to, the following:

(1) The financial soundness of the plan's arrangements for health care services and the schedule of rates and charges used by the plan.

(2) The adequacy of working capital.

(3) Agreements with providers for the provision of health care services.

(c) For the purposes of this section, "covered health care services" means health care services provided under all plan contracts.

SEC. 8. Section 123149.5 is added to the Health and Safety Code, to read:

123149.5. (a) It is the intent of the Legislature that all medical information transmitted during the delivery of health care via

telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patient's medical record maintained by the licensed health care provider.

(b) This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

SEC. 9. Section 10123.13 of the Insurance Code is amended to read:

10123.13. Every insurer issuing group or individual policies of disability insurance that covers hospital, medical, or surgical expenses, including those telemedicine services covered by the insurer as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses, as soon as practical, but no later than 30 working days after receipt of the claim by the insurer unless the claim or portion thereof is contested by the insurer in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt of the claim by the insurer. The notice that a claim is being contested shall identify the portion of the claim that is contested and the specific reasons for contesting the claim.

If an uncontested claim is not reimbursed by delivery to the claimants' address of record within 30 working days after receipt, interest shall accrue at the rate of 10 percent per annum beginning with the first calendar day after the 30 working day period.

For purposes of this section, a claim, or portion thereof, is reasonably contested where the insurer has not received a completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine liability for the claims includes, but is not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the insurer to determine the medical necessity for the health care services provided to the claimant.

SEC. 9.5. Section 10123.13 of the Insurance Code is amended to read:

10123.13. Every insurer issuing group or individual policies of disability insurance that covers hospital, medical, or surgical expenses, including those telemedicine services covered by the insurer as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses, as soon as practical, but no later than 30 working days after receipt of the claim by the insurer unless the claim or portion thereof is contested by the insurer in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt

of the claim by the insurer. The notice that a claim is being contested shall identify the portion of the claim that is contested and the specific reasons for contesting the claim.

If an uncontested claim is not reimbursed by delivery to the claimants' address of record within 30 working days after receipt, interest shall accrue at the rate of 10 percent per annum beginning with the first calendar day after the 30-working-day period.

For purposes of this section, a claim, or portion thereof, is reasonably contested where the insurer has not received a completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine liability for the claims includes, but is not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the insurer to determine the medical necessity for the health care services provided to the claimant.

The obligation of the insurer to comply with this section shall not be deemed to be waived when the insurer requires its contracting entities to pay claims for covered services.

SEC. 10. Section 10123.85 is added to the Insurance Code, to read:

10123.85. (a) It is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider.

(b) For the purposes of this section, the meaning of "telemedicine" is as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code.

(c) On and after January 1, 1997, no disability insurance contract that is issued, amended, or renewed for hospital, medical, or surgical coverage shall require face-to-face contact between a health care provider and a patient for services appropriately provided through telemedicine, subject to all terms and conditions of the contract agreed upon between the policyholder or contractholder and the insurer.

(d) Disability insurers shall not be required to pay for consultation provided by the health care provider by telephone or facsimile machines.

SEC. 11. Section 14132.72 is added to the Welfare and Institutions Code, to read:

14132.72. (a) It is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider.

(b) For the purposes of this section, the meaning of "telemedicine" is as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code.



(c) Commencing July 1, 1997, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telemedicine, subject to reimbursement policies developed by the Medi-Cal program to compensate licensed health care providers who provide health care services, that are otherwise covered by the Medi-Cal program, through telemedicine.

(d) The Medi-Cal program shall not be required to pay for consultation provided by the health care provider by telephone or facsimile machines.

(e) The Medi-Cal program shall pursue private or federal funding to conduct an evaluation of the cost-effectiveness and quality of health care provided through telemedicine by those providers who are reimbursed for telemedicine services by the program.

(f) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 13. Section 9.5 of this bill incorporates amendments to Section 10123.13 of the Insurance Code proposed by both this bill and SB 1478. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1997, (2) each bill amends Section 10123.13 of the Insurance Code, and (3) this bill is enacted after SB 1478, in which case Section 9 of this bill shall not become operative.



MEMORANDUM

DATE	April 14, 2021
TO	Telepsychology Committee
FROM	Jonathan Burke Assistant Executive Officer
SUBJECT	Agenda Item 7. Review of and Possible Action on PSYPACT Model Legislation for a Report to the Full Board on November 18- 19, 2021

Background:

The Board formed a Telepsychology Committee (Committee) at its meeting on November 21, 2014 to discuss and analyze the content and requirements of the proposed Interjurisdictional Compact (PSYPACT). Six areas of concerns were raised by the Committee, and these concerns were reported to ASPPB by the Board in a letter dated January 22, 2015. The areas of concern were;

- The make up and financing of the Commission;
- The ability of the Commission to promulgate regulations that would have the force of law in California;
- The extraordinary regulatory authority ceded to the Commission by the Compact States;
- The Coordinated Licensure Information Exchange which would be owned and operated by a nongovernmental agency.
- The lack of continuing education requirements for home state licensees. Licensees from certain jurisdictions could practice on California consumers with only three hours of CE per year in the area of technology and psychological practice.
- That the Compact would also place responsibilities on the Board to report information regarding our licensees and possibly even complainants which may currently be classified as confidential under our existing statutory and regulatory scheme.

These historical concerns are discussed in the analysis of the PSYPACT.

Action Requested:

Board staff recommends the Telepsychology Committee recommend the Board not participate in PSYPACT.

Attachments:

- PSYPACT Model Legislation Language
- PSYPACT Bylaws
- PSYPACT Analysis
- Letters in Support and Opposition from Stakeholders

California State Board of Psychology

Association of State and Provincial Psychology Boards (ASPPB) Interjurisdictional Telepsychology Compact Analysis

The mission of the Board of Psychology (Board) is to protect consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession. As such, the Board supports strategies that encourage innovation and access to care.

The COVID-19 Pandemic has changed the way healthcare professionals have had to adapt to using technological means to treat their patients. The inability to see a patient in person has led to the widespread use of computer-based methods of providing healthcare services.

Notwithstanding the COVID-19 Pandemic, the advent of telemedicine, or telehealth, has made it possible for doctors and medical professionals to provide medical services to their regular patients and to those who may have had difficulty in reaching a medical office.

Psychological Interjurisdictional Compact (PSYPACT)

Analysis

The U.S. Constitution (Art. 1, Sec. 10, Clause 3) grants states the right to enter into multistate agreements for their common benefit. Congress must approve any compact that would increase the states' political power in a manner that would encroach upon the federal government's power. When entering compacts, states must adhere to state constitutional requirements, particularly regarding separation of powers, delegation of power, and debt limitations. In 1951, the Supreme Court affirmed in *West Virginia v. Sims* that states have the authority to enter compacts and to delegate authority to an interstate agency.

There are more than 200 active interstate compacts. Twenty-two of them are national in scope, including several with 35 or more member states and an independent commission to administer the agreement. More than 30 compacts are regional, with eight or more member states. For information about existing compacts, visit www.csg.org (keyword: interstate compacts).

Currently, there are several professions utilizing interstate compacts to address regulatory matters and each profession has taken a different approach when writing its compact language. Two examples involve the professions of medicine and nursing. Medicine chose to construct its compact to address expedited licensure; while nursing's compact creates a multistate license.

Like most healthcare professions in the U.S., licensure in psychology is based on state licensing laws and systems for identifying and credentialing competent psychologists and regulating their professional conduct once licensed. Because licensure requirements for psychologists vary significantly across the various states and territories, and change within a state over time, obtaining a license to practice in multiple states or in subsequent states years after graduate training has ended, can be a complicated, tedious, and cumbersome process for a psychologist.

The Association of State and Provincial Psychology Boards (ASPPB) realized early on the need for a mechanism for expedited licensure. ASPPB is the consortium or alliance of the statutorily created state psychology licensing boards of all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, as well as all 10 Canadian provinces.

At this time, one must be licensed in each state in order to offer psychological services in that state. This requirement makes the possibility of offering psychological services via telepsychology across state lines impractical. Requiring psychologists to obtain licensure in every state where a client and psychologist may make contact, represents a significant barrier to the feasibility of telepsychology and temporary in-person, face-to-face practice and increases the complications and redundancies of the licensure process for qualified psychologists.

ASPPB's Arguments for PSYPACT

The Psychology Interjurisdictional Compact (PSYPACT) seeks to address the following issues:

- **State Licensure Eligibility Inconsistencies:** Different states use different criteria for licensure eligibility particularly in the areas of academic education and supervised work experience. These inconsistencies in criteria restrict licensure by endorsement between the states, in that states often do not accept each other's licensees when psychologists seek licensure in a state with differing requirements from where they first became licensed.
- **Differences in State Licensure Evaluation Procedures:** Each state psychology licensing board, as part of its duty to protect the public, has traditionally found it necessary to review and accept candidates for licensure based only on its own evaluation of credentials. These evaluations may result in different outcomes of similar applications based on different legislative or regulatory requirements or different understandings of acceptable criteria.
- **Differences in State Licensure Application Processes:** Each psychology licensing board has its own unique licensure application and procedures. Each time a psychologist applies for licensure to a state they must complete a different application. This inefficient licensure application method can result in the unnecessary drain of scarce resources and duplicative efforts in the licensure process.
- **Issues in Disciplining Psychologists:** Disciplinary procedures and rules vary from state to state. The current solution is to require psychologists to be licensed in all states where they and the client are located no matter the delivery method. This is untenable to both psychologists and the public.
- **Differences in State Disciplinary Processes:** To protect the public from harm, state psychology licensing boards are empowered to utilize disciplinary processes and procedures to investigate public complaints against psychologists. Since licensing laws are state specific, the laws enabling those powers vary from state to state. Due to these differences, a mechanism is needed to give the state psychology licensing boards power to discipline, where none currently exists, in order to ensure public protection.

- Differences in State Statutes and Regulations: As seen with both licensure requirements and disciplinary procedures, state psychology licensing boards' statutes and regulations pertaining to the practice of psychology also vary from state to state. These differences make it very difficult for psychologist to know what standard to apply when practicing telepsychology and make the practice of telepsychology across jurisdiction boundaries complicated to negotiate.

PSYPACT will also address compact administration and enforcement, data sharing, and finances. PSYPACT establishes an independent operating authority, the Psychology Interjurisdictional Compact Commission, to administer and enforce the compact and to address future issues surrounding telepsychology and temporary in-person, face-to-face practice as needed.

Creating consistencies among temporary in-person, face-to-face practice requirements and practice time allowances are needed to relieve the confusion around all variations among the states. PSYPACT not only addresses telepsychology, it addresses the inconsistencies regarding temporary in-person, face-to-face practice by further developing the Interjurisdictional Practice Certificate.

PSYPACT seeks to reduce existing licensure barriers to psychologists using advanced telecommunication technologies to deliver psychological services across state lines and to create consistency around the requirements regarding temporary in-person, face-to-face practice while maintaining state sovereignty over licensure matters.

Status of PSYPACT:

PSYPACT became fully operational in July 2020. Psychologists can now apply for the Authorization to Practice Telepsychology (APIT) and Temporary Authorization to Practice (TAP), which are required to practice telepsychology and/or temporary in-person, face-to-face practice in PSYPACT states.

States that have enacted PSYPACT Legislation include: Arizona, Colorado, Delaware, District of Columbia, Georgia, Illinois, Missouri, Nebraska, Nevada, New Hampshire, North Carolina, Oklahoma, Pennsylvania, Texas, Utah and Virginia. Alabama and Kentucky will become effective in June 2021.

States that have pending PSYPACT legislation: Connecticut, Indiana, Iowa, Kansas, Maryland, Minnesota, New Jersey, New Mexico, Ohio, Rhode Island, South Carolina, Tennessee, Washington.

States that currently have Telehealth/ Telepsychology statutes and/or regulations include: Arizona, California, Delaware, Georgia, Idaho, Kentucky, New Hampshire, Ohio, Oklahoma, Texas, and Vermont.

States that currently specifically include telepsychology in the definition of the "Practice of Psychology" include: California, Florida, Georgia, Kansas, Kentucky, Mississippi, Montana, New Hampshire, North Dakota, Ohio, South Carolina, Utah, Vermont, and Wisconsin.

States that currently have Telehealth Coverage Mandate include: Arizona, California, Colorado, Georgia, Hawaii, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota (only for Medicaid), Mississippi, Missouri, Montana, Nebraska (only for Medicaid), New Hampshire, New Mexico, Oklahoma, Oregon, Texas, Vermont, and Virginia.

States that currently provide a Temporary/Guest Practice Provision include all states EXCEPT Arkansas and Connecticut.

Model Legislation:

Article I: Purpose and Objectives of the Compact.

1. Increase public access to professional psychological services by allowing for tele-psychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;
2. Enhance the states' ability to protect the public's health and safety, especially client/patient safety;
3. Encourage the cooperation of Compact States in the areas of psychology licensure and regulation;
4. Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions and disciplinary history;
5. Promote compliance with the laws governing psychological practice in each Compact State; and
6. Invest all Compact States with the authority to hold licensed psychologists accountable through the mutual recognition of Compact State licenses.

Article II: Definitions of terms used in the Compact. Items of note include:

Association of State and Provincial Psychology Boards (ASPPB): the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities responsible for the licensure and registration of psychologists throughout the United States and Canada

Compact State: a state, the District of Columbia, or United States territory that has enacted this Compact legislation and which has not withdrawn pursuant to Article XIII, Section C or been terminated pursuant to Article XII, Section B

Coordinated Licensure Information System also referred to as "Coordinated Database": an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities

Distant State: The Compact State where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services

Home State: A Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the tele-psychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed

Identity History Summary: a summary of information retained by the FBI, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service

Executive Board: a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission

Interjurisdictional Practice Certificate (IPC): a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily, and verification of one's qualifications for such practice

Receiving State: A Compact State where the client/patient is physically located when the tele-psychological services are delivered

Rule: a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Section XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a Compact State, and includes the amendment, repeal or suspension of an existing rule

State Psychology Regulatory Authority: The Board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

Temporary Authorization to Practice: a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State

Temporary In-Person, Face-to-Face Practice: where a psychologist is physically present (not through the use of telecommunications technologies), in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State

Article III: Home State Licensure.

The Home State is the state in which the Psychologist is physically located and where the services are delivered as authorized by the Authority to Practice Interjurisdictional Psychology.

A Home State's license authorizes a psychologist to practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:

1. Currently requires the psychologist to hold an active E.Passport;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation FBI, or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the Bylaws and Rules of the Commission.

A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State abides by the aforementioned criteria.

Article IV: Compact Privilege to Practice Telepsychology.

This section lists the requirements necessary for a psychologist to practice in a Compact State. These requirements include a graduate degree in psychology from an accredited institution, possession of a current, full, unrestricted license to practice psychology in a Home State that is a Compact State, have no history of adverse action, have no criminal record, possess a current, active E.Passport, and provide attestations certifying area of intended practice, and knowledge and adherence to legal requirements in the home and receiving states.

Article V: Compact Temporary Authorization to Practice requirements.

These are the same as those listed in Article IV.

Article VI: Conditions of Telepsychology Practice in a Receiving State.

A psychologist may practice in a Receiving State only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority. The psychologist must initiate a client/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State.

Article VII: Adverse Actions

In the event an adverse action must be taken against a psychologist, a Home State has the discretion to impose an action against a psychologist from that Home State. As it pertains to a Distant State, it can take adverse action on a psychologist's Temporary Authorization to Practice within that Distant State. Additionally, a Receiving State has the authority to take an adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State's Psychology Regulatory Authority, such as the Board of Psychology, will be responsible for investigating and taking appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a Receiving State as

it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law will determine any adverse action against a psychologist's license.

Article VIII: Additional Authorities Invested in a Compact State's Psychology Regulatory Authority.

Under the PSYPACT, a Compact State's Psychology Regulatory Authority will be able to issue subpoenas for hearings and investigations which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact State's Psychology Regulatory Authority for attendance and testimony of witnesses, and/or the production of evidence from another Compact State shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing State Psychology Regulatory Authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located. This is an expense we do not currently have listed in our budget and would be difficult to quantify. The Compact State's Psychology Regulatory Authority can also issue cease and desist and/or injunctive relief orders to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice. While an investigation is underway, a psychologist may not change their Home State Licensure. A Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. Once the investigation is complete, the Home State Psychology Regulatory Authority shall promptly report the conclusions of the investigations to the Commission. The psychologist may change his/her Home State licensure once an investigation has been completed. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters.

Article IX: Coordinated Licensure Information System.

The Coordinated Database, or PSYPACT Directory, has been created and is live. PSYPACT language notes that the states will provide a uniform data set. Currently, in order to meet this requirement, the Commission will need access to state's licensure data (which is already available on the California Board of Psychology website) and for disciplinary data to be entered into the ASPPB Disciplinary Data System, which is currently being done by Board staff. The goal of this section is to ensure that any information needed regarding the application processes associated with the issuance of authorizations under PSYPACT is shared among the compact states. The data in the system includes the following: identifying information; licensure data; significant investigatory information; adverse actions against a psychologist's license; an indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked; non-confidential information related to alternative program participation information; any denial of application for licensure, and the reasons for such denial; and other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission. Compact States reporting information

to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

Article X: Establishment of the Psychology Interjurisdictional Compact Commission

In order to administer the PSYPACT, the Compact States created and established a joint public agency known as the Psychology Interjurisdictional Compact Commission. The Commission serves to provide a mechanism for solving interstate matters and meets once a year. Each Compact State has one vote. The voting member serves as the state's Commissioner. The State Psychology Regulatory Authority appoints its delegate, who can act on behalf of its Compact State. The delegate must be the Executive Director or Executive Secretary; a current member of the State Psychology Regulatory Authority of a Compact State; or a designee empowered with the appropriate delegate authority to act on behalf of the Compact State. Each Commissioner is entitled to one (1) vote.

All meetings are open to the public and should be noticed accordingly. Rules and bylaws are created and voted upon by the Commission. The bylaws must be published and provided to each Compact State. The Commission has a number of powers; they include: to purchase and maintain insurance and bonds; to borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State; to establish a budget and make expenditures; to borrow money; to provide and receive information from, and to cooperate with, law enforcement agencies.

The Executive Board is comprised of six (6) members. Five voting members are elected from the current membership of the Commission; and one member who is an ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities. The Executive Board meets annually and has a number of duties. They recommend changes to the Rules or Bylaws, changes to Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees. They also prepare and recommend the budget and maintain financial records for the Commission.

The Commission is financed through an annual assessment paid by each Compact State. Based upon the Revenue Assumptions in the PSYPACT 2021 Annual Budget and Narrative Report, if California were to join PSYPACT, the Board would be expected to pay an annual assessment of approximately \$3,765.92. This is based on the following formula: total number of licensees (23,537) multiplied by 1%; this number (235.37) is then multiplied by \$40.00; this figure (\$9,414.80) is then multiplied by 40%. The result is the aforementioned \$3,765.92.

Additionally, The Commission and ASPPB have entered into a Memorandum of Understanding (MOU). This MOU covers the costs associated with staffing, professional fees such as the contract with the Council of State Governments (CSG), Directors & Officers (D & O) Insurance, travel costs for the Commission, office space and utilities, use of computers, telephone, internet, and other office equipment and services.

Article XI: Rulemaking

Commission rules are limited to Compact administration and do not constitute new rules for the State Regulatory Authority as to its state responsibilities. The rules of PSYPACT would only supersede any state law pertaining to the interjurisdictional practice of telepsychology and temporary in-person, face-to-face practice pursuant to the compact.

Article XII: Oversight, Dispute Resolution and Enforcement

Oversight of the Compact is provided by the Executive, Legislative and Judicial branches of each Compact State as the rules and provisions of the Compact are in statute. Disputes between Compact and non-Compact states are handled by the Commission.

Article XIII: Date of Implementation and Associated Rules, Withdrawal and Amendments

The Compact became fully operational in July 2020. States that join after the adoption of the rules shall be subject to the rules as they exist on the date which the compact becomes law in that state.

Article XIV: Construction and Severability

This compact shall be liberally construed to effectuate the purposes thereof. If this Compact is found to be contrary to the constitution of any state member, the compact will remain in full force and effect for the remaining compact states.

Items for Consideration:

1. Since Board staff last reviewed the PSYPACT (2015), much has changed. When staff first reviewed the PSYPACT, much of it was conceptual and many of the details had not been determined. Since then, the Compact has been finalized and became effective in July of 2020. The Board previously expressed concerns regarding the following issues: (a) payment of fees for operations of the PSYPACT; (b) the promulgation of regulations by the Commission which would have the force of law in Compact States; (c) the coordinated national licensure database; (d) the lack of continuing education requirements; and (e) confidentiality issues. Most of the concerns listed in the initial analysis of the Compact have been addressed in some fashion, however, concerns remain.
 - a. The formula for fees to be paid has been determined, as outlined previously, and assessments will be calculated in December of 2021 and invoiced in January 2022. This year, 2021, will be the first full year of PSYPACT program implementation. Per the MOU between ASPPB and the commission, ASPPB will continue to assume most of the operating expenses and will thus receive 40% of the fees collected for providing services per the agreement. Payment of assessment fees will commence in early 2022. The formula to determine the assessment for each member state is based on the number of licensees within a state. For California the assessment fee would be approximately \$3,765.92.

- b. The promulgation of regulations by the Commission would occur based on a vote made by the Commission and its member states. If California were to join PSYPACT, it would get one vote regardless of the number of licensees.
 - c. The coordinated national licensure database is live. PSYPACT staff currently pulls data from the state Board of Psychology websites however Board staff would be expected to enter any disciplinary data into the ASPPB Disciplinary Data System. PSYPACT Commission staff functions as the administrator of the coordinated licensure database.
 - d. The lack of continuing education requirements remains a concern. In order to obtain an E.Passport to practice telepsychology under the authority of PSYPACT, a licensee only needs three (3) hours of continuing education training in technology. Per PSYPACT Staff, all continuing education must be directly relevant to the practice of telepsychology and would include, but not be restricted to any one or more of the following areas as defined in the APA/ASPPB/APAIT Telepsychology Guidelines: i. Competence of the Psychologist ii. Standards of Care in the Delivery of Telepsychology Services iii. Informed Consent v. Confidentiality of Data and Information v. Security and Transmission of Data and Information vi. Disposal of Data and Information and Technologies vii. Testing and Assessment when Providing Telepsychology Services viii. Interjurisdictional Practice. When staff and the Board first reviewed the PSYPACT in 2015, the E.Passport had a 6-hour continuing education requirement (technology and psychological practice) once a renewal cycle (2 years).
 - e. Per Article VIII, Section 3 of the Model Legislation, a Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters.
2. Per Article IV, a graduate degree in psychology is required in order to practice under PSYPACT. In order to be licensed in California, a psychologist must hold a doctoral degree.
 3. Per ASPPB, PSYPACT does not impact a state's right or ability to issue a license. It is applicable to the interjurisdictional practice of telepsychology and temporary in-person, face-to-face practice and only takes precedence over state laws regarding this type of interjurisdictional practice. For example, any licensed psychologist must obtain an E.Passport to practice telepsychology under the authority of PSYPACT and must have three (3) hours of continuing education training in technology as required by the

E.Passport. Should a PSYPACT state not require continuing education, this requirement of PSYPACT would supersede the State's authority.

4. Article V, P. 20-21 of the Compact would potentially deprive some California psychologists of the ability to perform interjurisdictional telepsychology if they graduated from a California "approved school". Article V of the Compact reads in part;

Hold a graduate degree in psychology from an institute of higher education that was, at the time of the degree was awarded:

A. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial statute or Royal Charter to grant doctoral degrees (Article V, p. 20);

Section 2914 of the Business and Professions Code requires each applicant for licensure to possess an earned doctorate degree in psychology, in educational psychology, or in education with the field of specialization in counseling psychology or educational psychology from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education.

5. The model presumes and requires the Board to recognize the E. Passport (see below).
6. Joining PSYPACT requires legislative involvement and concurrence by each state whenever a change in compact language is necessary. (Article IX, P. 26)
7. Similar compacts have been initiated in other practice areas such as nursing (BRN). California is not part of the 33 participating states in the compact for boards of registered nursing. In 2020, Senator Moorlach introduced legislation (SB 1053) to enact the Nursing Licensure Compact under the BRN. The Board of Nursing along with the CA Nurses Association opposed that bill. This year, Assemblymember Fong introduced AB 410 and it is currently going through the legislative committee process. The language of this bill is the same as SB 1053. Board staff has spoken with BRN staff to gather information regarding the Nursing Compact and their concerns. CNA cited the following reasons for opposing SB 1053: joining the NLC would inhibit the State's ability to protect consumers from harm, it would decrease pathways to licensure, and it would diminish the State's ability to set high standards for safety and care.
8. The Psychology Interjurisdictional Compact Commission – the governing body for PSYPACT is composed of one representative from each Compact state. The Commission provides oversight of PSYPACT as well as creates and enforces rules governing the operation of PSYPACT. Each Compact State has one vote. The Commission will serve to provide a mechanism to solve interstate matters.

9. Currently, our Board's Enforcement Division receives, processes and investigates all disciplinary complaints. Joining the PSYPACT could potentially increase Enforcement's workload as out of state licensees who hold an E.Passport could potentially provide psychological services to California consumers, thus increasing the number of licensees the Enforcement Division would have to monitor. As it pertains to fiscal considerations, the Board would be expected to pay an annual assessment to the PSYPACT Commission. Given the Board's current fiscal condition, paying an annual assessment could prove unwise.

E.Passport

The Compact will only be possible between states that recognize the E.Passport. The E.Passport will allow licensees who are eligible to qualify to practice telepsychology on patients in other states that recognize the E.Passport.

"E.Passport" means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

"E.Passport" is the credential vetted and issued by ASPPB granting authorization to practice interjurisdictional telepsychology in a "Receiving State" where the psychologist with this credential is not currently licensed.

A psychologist must be licensed at the doctoral level to qualify for the E.Passport.

Staff Recommendation:

Given the considerations listed above, Board Staff recommends the Board not join PSYPACT at this time.

MODEL LEGISLATION

Model Legislation

ARTICLE I PURPOSE

Whereas, states license psychologists, in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

Whereas, this Compact is intended to regulate the day to day practice of telepsychology (i.e. the provision of psychological services using telecommunication technologies) by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

Whereas, this Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

Whereas, this Compact is intended to authorize State Psychology Regulatory Authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state;

Whereas, this Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety;

Whereas, this Compact does not apply when a psychologist is licensed in both the Home and Receiving States; and

Whereas, this Compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

Consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

1. Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;
2. Enhance the states' ability to protect the public's health and safety, especially client/patient safety;
3. Encourage the cooperation of Compact States in the areas of psychology licensure and regulation;
4. Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions and disciplinary history;
5. Promote compliance with the laws governing psychological practice in each Compact State; and
6. Invest all Compact States with the authority to hold licensed psychologists accountable through the mutual recognition of Compact State licenses.

MODEL LEGISLATION

ARTICLE II DEFINITIONS

- A. “Adverse Action” means: Any action taken by a State Psychology Regulatory Authority which finds a violation of a statute or regulation that is identified by the State Psychology Regulatory Authority as discipline and is a matter of public record.
- B. “Association of State and Provincial Psychology Boards (ASPPB)” means: the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.
- C. “Authority to Practice Interjurisdictional Telepsychology” means: a licensed psychologist’s authority to practice telepsychology, within the limits authorized under this Compact, in another Compact State.
- D. “Bylaws” means: those Bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Section X for its governance, or for directing and controlling its actions and conduct.
- E. “Client/Patient” means: the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, and/or consulting services.
- F. “Commissioner” means: the voting representative appointed by each State Psychology Regulatory Authority pursuant to Section X.
- G. “Compact State” means: a state, the District of Columbia, or United States territory that has enacted this Compact legislation and which has not withdrawn pursuant to Article XIII, Section C or been terminated pursuant to Article XII, Section B.
- H. “Coordinated Licensure Information System” also referred to as “Coordinated Database” means: an integrated process for collecting, storing, and sharing information on psychologists’ licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.
- I. “Confidentiality” means: the principle that data or information is not made available or disclosed to unauthorized persons and/or processes.
- J. “Day” means: any part of a day in which psychological work is performed.

MODEL LEGISLATION

- K. “Distant State” means: the Compact State where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services.
- L. “E.Passport” means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.
- M. “Executive Board” means: a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.
- N. “Home State” means: a Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed.
- O. “Identity History Summary” means: a summary of information retained by the FBI, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.
- P. “In-Person, Face-to-Face” means: interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.
- Q. “Interjurisdictional Practice Certificate (IPC)” means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily, and verification of one’s qualifications for such practice.
- R. “License” means: authorization by a State Psychology Regulatory Authority to engage in the independent practice of psychology, which would be unlawful without the authorization.
- S. “Non-Compact State” means: any State which is not at the time a Compact State.
- T. “Psychologist” means: an individual licensed for the independent practice of psychology.

MODEL LEGISLATION

- U. “Psychology Interjurisdictional Compact Commission” also referred to as “Commission” means: the national administration of which all Compact States are members.
- V. “Receiving State” means: a Compact State where the client/patient is physically located when the telepsychological services are delivered.
- W. “Rule” means: a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Section XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a Compact State, and includes the amendment, repeal or suspension of an existing rule.
- X. “Significant Investigatory Information” means:
 - 1. investigative information that a State Psychology Regulatory Authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or
 - 2. investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified and/or had an opportunity to respond.
- Y. “State” means: a state, commonwealth, territory, or possession of the United States, the District of Columbia.
- Z. “State Psychology Regulatory Authority” means: the Board, office or other agency with the legislative mandate to license and regulate the practice of psychology.
- AA. “Telepsychology” means: the provision of psychological services using telecommunication technologies.
- BB. “Temporary Authorization to Practice” means: a licensed psychologist’s authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State.
- CC. “Temporary In-Person, Face-to-Face Practice” means: where a psychologist is physically present (not through the use of telecommunications technologies), in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State.

MODEL LEGISLATION

ARTICLE III HOME STATE LICENSURE

- A. The Home State shall be a Compact State where a psychologist is licensed to practice psychology.
- B. A psychologist may hold one or more Compact State licenses at a time. If the psychologist is licensed in more than one Compact State, the Home State is the Compact State where the psychologist is physically present when the services are delivered as authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.
- C. Any Compact State may require a psychologist not previously licensed in a Compact State to obtain and retain a license to be authorized to practice in the Compact State under circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.
- D. Any Compact State may require a psychologist to obtain and retain a license to be authorized to practice in a Compact State under circumstances not authorized by Temporary Authorization to Practice under the terms of this Compact.
- E. A Home State's license authorizes a psychologist to practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:
 - 1. Currently requires the psychologist to hold an active E.Passport;
 - 2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
 - 3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
 - 4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation FBI, or other designee with similar authority, no later than ten years after activation of the Compact; and
 - 5. Complies with the Bylaws and Rules of the Commission.
- F. A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State:
 - 1. Currently requires the psychologist to hold an active IPC;
 - 2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;

MODEL LEGISLATION

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation FBI, or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the Bylaws and Rules of the Commission.

MODEL LEGISLATION

ARTICLE IV COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

- A. Compact States shall recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice telepsychology in other Compact States (Receiving States) in which the psychologist is not licensed, under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact.
- B. To exercise the Authority to Practice Interjurisdictional Telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:
 - 1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:
 - a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; OR
 - b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; AND
 - 2. Hold a graduate degree in psychology that meets the following criteria:
 - a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;
 - b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;
 - c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;
 - d. The program must consist of an integrated, organized sequence of study;
 - e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;
 - f. The designated director of the program must be a psychologist and a member of the core faculty;

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- g. The program must have an identifiable body of students who are matriculated in that program for a degree;
 - h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;
 - i. The curriculum shall encompass a minimum of three academic years of full- time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for master's degree;
 - j. The program includes an acceptable residency as defined by the Rules of the Commission.
- 3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;
- 4. Have no history of adverse action that violate the Rules of the Commission;
- 5. Have no criminal record history reported on an Identity History Summary that violates the Rules of the Commission;
- 6. Possess a current, active E.Passport;
- 7. Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and
- 8. Meet other criteria as defined by the Rules of the Commission.
- C. The Home State maintains authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.
- D. A psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A Receiving State may, in accordance with that state's due process law, limit or revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State and may take any other necessary actions under the Receiving State's applicable law to protect the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state shall promptly notify the Home State and the Commission.

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- E. If a psychologist's license in any Home State, another Compact State, or any Authority to Practice Interjurisdictional Telepsychology in any Receiving State, is restricted, suspended or otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a Compact State under the Authority to Practice Interjurisdictional Telepsychology.

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ARTICLE V COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

- A. Compact States shall also recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice temporarily in other Compact States (Distant States) in which the psychologist is not licensed, as provided in the Compact.
- B. To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:
 - 1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:
 - a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; OR
 - b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; AND
 - 2. Hold a graduate degree in psychology that meets the following criteria:
 - a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;
 - b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;
 - c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;
 - d. The program must consist of an integrated, organized sequence of study;
 - e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;
 - f. The designated director of the program must be a psychologist and a member of the core faculty;
 - g. The program must have an identifiable body of students who are matriculated in that program for a degree;

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- h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;
 - i. The curriculum shall encompass a minimum of three academic years of full- time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degree;
 - j. The program includes an acceptable residency as defined by the Rules of the Commission.
- 3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;
- 4. No history of adverse action that violate the Rules of the Commission;
- 5. No criminal record history that violates the Rules of the Commission;
- 6. Possess a current, active IPC;
- 7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and
- 8. Meet other criteria as defined by the Rules of the Commission.
- C. A psychologist practicing into a Distant State under the Temporary Authorization to Practice shall practice within the scope of practice authorized by the Distant State.
- D. A psychologist practicing into a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a Distant State takes action, the state shall promptly notify the Home State and the Commission.
- E. If a psychologist's license in any Home State, another Compact State, or any Temporary Authorization to Practice in any Distant State, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact State under the Temporary Authorization to Practice.

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ARTICLE VI CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

- A. A psychologist may practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in the Rules of the Commission, and under the following circumstances:
1. The psychologist initiates a client/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State;
 2. Other conditions regarding telepsychology as determined by Rules promulgated by the Commission.

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ARTICLE VII ADVERSE ACTIONS

- A. A Home State shall have the power to impose adverse action against a psychologist's license issued by the Home State. A Distant State shall have the power to take adverse action on a psychologist's Temporary Authorization to Practice within that Distant State.
- B. A Receiving State may take adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse action against a psychologist based on an adverse action taken by a Distant State regarding temporary in-person, face-to-face practice.
- C. If a Home State takes adverse action against a psychologist's license, that psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is terminated and the IPC is revoked.
 - 1. All Home State disciplinary orders which impose adverse action shall be reported to the Commission in accordance with the Rules promulgated by the Commission. A Compact State shall report adverse actions in accordance with the Rules of the Commission.
 - 2. In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the Rules of the Commission.
 - 3. Other actions may be imposed as determined by the Rules promulgated by the Commission.
- D. A Home State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a Receiving State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law shall control in determining any adverse action against a psychologist's license.
- E. A Distant State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under Temporary Authorization Practice which occurred in that Distant State as it would if such conduct had occurred by a licensee within the Home State. In such cases, Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.
- F. Nothing in this Compact shall override a Compact State's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the Compact State's law. Compact States must require psychologists who enter any alternative programs to not provide telepsychology services under the Authority to Practice

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Interjurisdictional Telepsychology or provide temporary psychological services under the Temporary Authorization to Practice in any other Compact State during the term of the alternative program.

- G. No other judicial or administrative remedies shall be available to a psychologist in the event a Compact State imposes an adverse action pursuant to subsection C, above.

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ARTICLE VIII ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY

- A. In addition to any other powers granted under state law, a Compact State's Psychology Regulatory Authority shall have the authority under this Compact to:
1. Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact State's Psychology Regulatory Authority for the attendance and testimony of witnesses, and/or the production of evidence from another Compact State shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing State Psychology Regulatory Authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and
 2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice.
 3. During the course of any investigation, a psychologist may not change his/her Home State licensure. A Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by Compact States.

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ARTICLE IX COORDINATED LICENSURE INFORMATION SYSTEM

- A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this Compact is applicable in all Compact States as defined by the Rules of the Commission.
- B. Notwithstanding any other provision of state law to the contrary, a Compact State shall submit a uniform data set to the Coordinated Database on all licensees as required by the Rules of the Commission, including:
 - 1. Identifying information;
 - 2. Licensure data;
 - 3. Significant investigatory information;
 - 4. Adverse actions against a psychologist's license;
 - 5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;
 - 6. Non-confidential information related to alternative program participation information;
 - 7. Any denial of application for licensure, and the reasons for such denial; and
 - 8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.
- C. The Coordinated Database administrator shall promptly notify all Compact States of any adverse action taken against, or significant investigative information on, any licensee in a Compact State.
- D. Compact States reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information.
- E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

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ARTICLE X ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

A. The Compact States hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

1. The Commission is a body politic and an instrumentality of the Compact States.
2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. The Commission shall consist of one voting representative appointed by each Compact State who shall serve as that state's Commissioner. The State Psychology Regulatory Authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the Compact State. This delegate shall be limited to:
 - a. Executive Director, Executive Secretary or similar executive;
 - b. Current member of the State Psychology Regulatory Authority of a Compact State; OR
 - c. Designee empowered with the appropriate delegate authority to act on behalf of the Compact State.
2. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compact State in which the vacancy exists.
3. Each Commissioner shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.
4. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

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5. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI.
6. The Commission may convene in a closed, non-public meeting if the Commission must discuss:
 - a. Non-compliance of a Compact State with its obligations under the Compact;
 - b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
 - c. Current, threatened, or reasonably anticipated litigation against the Commission;
 - d. Negotiation of contracts for the purchase or sale of goods, services or real estate;
 - e. Accusation against any person of a crime or formally censuring any person;
 - f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;
 - g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - h. Disclosure of investigatory records compiled for law enforcement purposes;
 - i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or
 - j. Matters specifically exempted from disclosure by federal and state statute.
7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

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- C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:
1. Establishing the fiscal year of the Commission;
 2. Providing reasonable standards and procedures:
 - a. for the establishment and meetings of other committees; and
 - b. governing any general or specific delegation of any authority or function of the Commission;
 3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;
 4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;
 5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any Compact State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;
 6. Promulgating a Code of Ethics to address permissible and prohibited activities of Commission members and employees;
 7. Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;
 8. The Commission shall publish its Bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compact States;
 9. The Commission shall maintain its financial records in accordance with the Bylaws; and

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10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact States;
2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Psychology Regulatory Authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;
3. To purchase and maintain insurance and bonds;
4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State;
5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;
7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;
8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;
9. To establish a budget and make expenditures;
10. To borrow money;

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11. To appoint committees, including advisory committees comprised of Members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the Bylaws;
12. To provide and receive information from, and to cooperate with, law enforcement agencies;
13. To adopt and use an official seal; and
14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

E. The Executive Board

The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be comprised of six members:
 - a. Five voting members who are elected from the current membership of the Commission by the Commission;
 - b. One ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.
2. The ex-officio member must have served as staff or member on a State Psychology Regulatory Authority and will be selected by its respective organization.
3. The Commission may remove any member of the Executive Board as provided in Bylaws.
4. The Executive Board shall meet at least annually.
5. The Executive Board shall have the following duties and responsibilities:
 - a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to this Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees;
 - b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
 - c. Prepare and recommend the budget;
 - d. Maintain financial records on behalf of the Commission;
 - e. Monitor Compact compliance of member states and provide compliance reports to the Commission;
 - f. Establish additional committees as necessary; and
 - g. Other duties as provided in Rules or Bylaws.

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F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.
2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.
3. The Commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all Compact States.
4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Compact States, except by and with the authority of the Compact State.
5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, Executive Director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.
2. The Commission shall defend any member, officer, Executive Director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or

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responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

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ARTICLE XI RULEMAKING

- A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.
- B. If a majority of the legislatures of the Compact States rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any Compact State.
- C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.
- D. Prior to promulgation and adoption of a final rule or Rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:
 - 1. On the website of the Commission; and
 - 2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules.
- E. The Notice of Proposed Rulemaking shall include:
 - 1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
 - 2. The text of the proposed rule or amendment and the reason for the proposed rule;
 - 3. A request for comments on the proposed rule from any interested person; and
 - 4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
- F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:
 - 1. At least twenty-five (25) persons who submit comments independently of each other;

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2. A governmental subdivision or agency; or
 3. A duly appointed person in an association that has having at least twenty-five (25) members.
- H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.
1. All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.
 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
 3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.
 4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.
- I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.
- J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.
- L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
1. Meet an imminent threat to public health, safety, or welfare;

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2. Prevent a loss of Commission or Compact State funds;
 3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
 4. Protect public health and safety
- M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

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ARTICLE XIII OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

A. Oversight

1. The Executive, Legislative and Judicial branches of state government in each Compact State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.
2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.
3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Compact State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:
 - a. Provide written notice to the defaulting state and other Compact States of the nature of the default, the proposed means of remedying the default and/or any other action to be taken by the Commission; and
 - b. Provide remedial training and specific technical assistance regarding the default.
2. If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the Compact States, and all rights, privileges and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the

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Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the Compact States.

4. A Compact State which has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.
5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.
6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the state of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a Compact State, the Commission shall attempt to resolve disputes related to the Compact which arise among Compact States and between Compact and Non-Compact States.
2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.
2. By majority vote, the Commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices against a Compact State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and Bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.
3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

MODEL LEGISLATION

ARTICLE XIII DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

- A. The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh Compact State. The provisions which become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.
- B. Any state which joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule which has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.
- C. Any Compact State may withdraw from this Compact by enacting a statute repealing the same.
 - 1. A Compact State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.
 - 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Psychology Regulatory Authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.
- D. Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a Compact State and a Non-Compact State which does not conflict with the provisions of this Compact.
- E. This Compact may be amended by the Compact States. No amendment to this Compact shall become effective and binding upon any Compact State until it is enacted into the law of all Compact States.

ARTICLE XIV CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining Compact States.

PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)
BYLAWS
(Adopted July 22, 2019;
Revised February 27, 2020 and November 19, 2020)

ARTICLE I

NAME

The name of this organization is the Psychology Interjurisdictional Compact (PSYPACT) Commission, hereinafter referred to as the Commission.

ARTICLE II

COMMISSION PURPOSE

Pursuant to the terms of the Psychology Interjurisdictional Compact (“the Compact”), the Commission is established to fulfill the objectives of the Compact through a means of joint cooperative action among the Member States. The purpose of the Compact is to facilitate the interstate practice of telepsychology and the temporary in-person, face-to-face practice of psychology with the goal of improving access to mental health services in a manner that preserves the regulatory authority of each Member State to protect the public health and safety.

ARTICLE III

FUNCTIONS

In pursuit of the fundamental objectives set forth in the Compact, the Commission shall, as necessary or required, exercise all of the powers and fulfill all of the duties delegated to it by the Member States. The Commission’s activities shall include, but are not limited to, the following:

- A. Promulgation of binding rules and operating policies and procedures;
- B. Equitable distribution of the costs, benefits, and obligations of the Compact among the Member States;
- C. Enforcement of Commission Bylaws, Rules, and other Operating Policies and Procedures as established;
- D. Provision of dispute resolution;
- E. Coordination of training and education as it relates to the Compact; and
- F. Collection and dissemination of information concerning the activities of the Compact, as provided by the Compact, or as determined by the Commission to be warranted by, and consistent with, the objectives and provisions of the Compact.

ARTICLE IV

BYLAWS

As required by the Compact, these Bylaws shall govern the management and operations of the Commission. As adopted and subsequently amended, these Bylaws shall remain at all times subject to, and limited by, the terms of the Compact.

ARTICLE V

MEMBERSHIP

Section 1. Member State Representation

- A. The Commission Membership shall be comprised as provided by the Compact. Each Member State shall have and be limited to one (1) voting representative, selected by the State Psychology Regulatory Authority (Member Board) in the Member State, who shall be the Commissioner of the Member State.
- B. Each Member State shall appoint its Commissioner no later than 90 days after the effective date of the legislation.
- C. Each Member State shall forward the name of its Commissioner to the Commission staff within ten (10) business days of selecting a Commissioner. Member States should consider whether any real or potential conflict of interest exists when selecting their Commissioner.
- D. The Member Board of the member state shall provide notice to the Commission staff within ten (10) business days whenever a vacancy occurs.
- E. Commission staff shall promptly advise the Member Board of the Member State of the need to appoint a new Commissioner whenever a vacancy occurs.

Section 2. Non-Voting, Ex Officio Representation

- A. In addition to the Commissioner identified in Section 1.A. of this Article, the Commission Membership shall also be comprised of one representative appointed by the organization identified in Article X of the Compact. This individual shall be appointed by his/her respective organization and serve as an ex officio non-voting member.
- B. The organization identified in Article X of the compact shall forward the name of his/her appointed representative to the Commission staff within ten (10) business days of the appointment. The organization identified in Article X should consider whether any real or potential conflict of interest exists when selecting their appointed representative.
- C. The organization identified in Article X of the Compact shall provide reasonable notice to the Commission staff whenever a vacancy occurs.
- D. Commission staff shall promptly advise the appropriate staff of this organization identified in Article X of the need to appoint a new representative whenever vacancy occurs.

Section 3. Withdrawal of Membership in the Compact

A Member State may withdraw from the Commission by enacting legislation repealing the Compact language. As provided in the Compact, the withdrawal will not take effect until six (6) months after the enactment of the legislation repealing the Compact language.

ARTICLE VI

COMPACT COMMISSION, OFFICERS, AND EXECUTIVE BOARD

Section 1. Officers

The Officers of the Commission shall be the Chair, Vice Chair, and Treasurer. The officers shall be duly appointed Commissioners from Member States.

Section 2. Executive Board

The Executive Board will consist of the Officers of the Commission, two At Large Members, one ex officio non-voting member selected by and representing the organization listed in Article X of the Compact, as identified in Rules. The At Large Members shall be duly appointed Commissioners from Member States.

A majority of the voting members of the Executive Board will constitute a quorum. The Executive Board has the power to act on behalf of the Commission according to the terms of the Compact.

Section 3. Election and Succession of the Executive Board

- A. Members of the Executive Board will be elected for a term of two (2) years or until their successors are elected and assume office.
- B. Members of the Executive Board cannot serve more than two (2) consecutive full terms in the same office.
- C. Elections for the Chair, Treasurer, and 1 At Large Member positions shall occur at the annual meeting in odd-numbered years.
- D. Elections for the Vice Chair and 1 At Large member positions shall occur at the annual meeting in even-numbered years. The individuals elected to these positions at the first annual meeting in November 2020 shall serve until the annual meeting in November 2022.
- E. Members of the Executive Board will assume office at the close of the annual meeting at which the individuals are elected.
- F. Members of the Executive Board so elected shall serve without compensation or remuneration, except as provided by the Compact.

Section 4. Duties of the Officers and At Large Members of the Executive Board

The Commission's officers shall perform all duties of their respective offices as the compact and these Bylaws provide. Their duties shall include but are not limited to the following:

A. Chair

The Chair shall call and preside at Commission and Executive Director meetings; prepare agendas for the meetings; act on Commission's behalf between Commission meetings; review minutes from meetings.

B. Vice Chair

The Vice Chair shall perform the Chair duties in their absence or at the Chair's direction. In the event of a vacancy in the Chair's office, the Vice Chair shall serve until the Commission elects a new Chair.

C. Treasurer

The Treasurer, with the assistance of the Executive Director of the Compact, shall monitor the Commission's fiscal policies and procedures. If the Commission does not have an Executive Director of the Compact, the Treasurer will also serve as secretary and perform the duties of the secretary.

The Executive Board shall:

Administer the affairs of the Commission in a manner consistent with the Bylaws and purpose of the Commission:

1. Propose budgets, provide fiscal oversight and provide for an annual fiscal review;
2. Propose policies and procedures for consideration by the Commission;
3. Contract for services and monitor contract compliance;
4. Monitor and enforce member compliance with the Compact;
5. Propose standing and ad hoc committees.
6. Approve and maintain its minutes;
7. Perform such other functions as are necessary or appropriate to carry out the purpose of the Commission.

Section 5. Removal from Office

A. Member of the Executive Board

1. The Executive Board may, by a vote of two-thirds (2/3rds) of the membership of the Executive Board, decide that a member of the Executive Board: has a conflict of interest; has become incapacitated and unable to fulfill his/her duties; or has engaged in conduct constituting cause. In that event, the Executive Board member will be removed or, in the case of conflict of interest, resolve the conflict of interest to the satisfaction of the Executive Board. The affected Executive Board member will not vote on, and may be excluded from the discussion of, the issues. The decision of the Executive Board is final.
2. A member of the Executive Board may be removed from office for cause by a two-thirds (2/3rds) vote of the Commissioners voting at any meeting of the Commission. Cause is defined as conduct that is or could be detrimental to the good name of the organization, potentially or actually disturbs its wellbeing or potentially or actually hampers its work.
3. The removal of a member of the Executive Board in accordance with this section of the Bylaws does not impact that individual's status as the Commissioner from the

Member State or as the ex officio non-voting member appointed by one of the organizations identified Article X of the Compact.

B. Member State Commissioner

The Commissioner from a Member State may be removed or suspended from office as provided by the law in that Member State.

Section 6. Vacancies in Office

A. Chair

The Vice Chair will fill a vacancy occurring in the office of Chair for the remainder of the unexpired term.

B. Vice Chair or Treasurer

A vacancy occurring in the position of Vice Chair or Treasurer between meetings of the Commission may be filled by appointment by the Executive Board. The appointee will serve for the remainder of the unexpired term.

C. At Large Members

A vacancy occurring in the position of At Large Member between meetings of the Commission may be filled by appointment by the Executive Board. The appointee will serve for the remainder of the unexpired term.

D. Vacancy Due to Election

If a vacancy occurs on the Executive Board as a result of an election, a second election shall be required. All candidates who were slated for any position on the Executive Board and were not elected in the first election will be slated in the second election unless they have indicated otherwise.

Section 7. Conduct of Business of the Executive Board

A. Public Notice of Meetings

1. The Executive Board shall meet at least once each calendar year at a time and place to be determined by the Executive Board.
2. Additional meetings may be scheduled at the discretion of the Chair, or may be called upon the request of a majority of the Executive Board.
3. Notice of meetings shall be made at least thirty (30) days before the scheduled meeting date. The meeting notice shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States.
4. The meeting agenda, including meeting start time and telecommunications information, shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States no later than seven (7) days before the meeting date. Additional agenda items requiring Executive Board action may not be added to the final agenda, except by an affirmative vote of a majority of the Executive Board.
5. If a special meeting is called, the notice shall be made at least twenty-four (24) hours before the scheduled meeting. The notice shall include the topic(s) that will be discussed at the special meeting. No additional agenda items may be added to the agenda. The notice of a special meeting shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States.

B. Closed Session and Up for Discussion

1. Except as provided for in the Compact, all meetings of the Executive Board are open to the public. The Executive Board may meet in closed session only after a majority of the Executive Board votes to convene in a closed, non-public meeting. The vote to convene in a closed session must be done by a roll call vote that reveals the vote of each member of the Executive Board.
2. As authorized in Article X.B.6 of the Compact the Executive Board may convene in a closed, non-public meeting for ten (10) reasons. The Commission's legal counsel or designee will certify which of the ten (10) reasons for which the meeting, or portions of the meeting, is being closed.

Section 8. Compact Commission

The Psychology Interjurisdictional Compact Commission is a joint public agency created and established by the Member States. A majority of the Commission will constitute a quorum.

Section 9. Duties of the Compact Commission Commissioners

- A. Represent their Member State in all meetings of the Commission.
- B. Attend the annual meeting of the Commission and any other meetings of the Commission.
- C. Participate in the business and affairs of the Commission.
- D. Vote on the promulgation of Rules and creation of Bylaws.

Section 10. Conduct of Business of the Compact Commission

A. Public Notice of Meetings

1. The Commission shall meet at least once each calendar year at a time and place to be determined by the Commission.
2. Additional meetings may be scheduled at the discretion of the Chair and must be called upon the request of a majority of the Commission.
3. Notice of meetings shall be made at least thirty (30) days before the scheduled meeting date. The meeting notice shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States.
4. The meeting agenda, including meeting start time and telecommunications information, shall be published on the Commission's website and sent to the Board administrator of the Member Board in all Member States no later than seven (7) days before the meeting date. Additional agenda items requiring Commission action may not be added to the final agenda, except by an affirmative vote of a majority of the Commission.
5. If a special meeting is called, the notice shall be made at least twenty-four (24) hours before the scheduled meeting. The notice shall include the topic(s) that will be discussed at the special meeting. No additional agenda items may be added to the agenda. The notice of a special meeting shall be published on the Commission's website and sent to the board administrator of the Member Board in all Member States.

B. Notice of Proposed Rulemaking

1. Notice of Proposed Rulemaking shall be made at least sixty (60) days before a meeting at which the Commission reviews and plans to adopt, amend, or rescind a rule.

2. The meeting notice shall be published on the Commission's website and sent to the Member Board in all Member States for publishing on the board's website.
3. The meeting notice shall include information about the meeting time and location, the text of the proposed changes, and the mechanism and timeframe in which interested parties may indicate intention to attend the public meeting and/or submit written comments on the proposed changes.
4. The Commission may proceed with the proposed changes without a public hearing if no written notice of intent to attend by interested parties is timely received.
5. The Commission must hold a public hearing if it is requested in the manner outlined in Article XI of the Compact.

C. Closed Session

1. Except as provided for in the Compact, all meetings of the Commission are open to the public.
2. As authorized in as authorized in Article X.B.6 of the Compact, a closed, non-public meeting may be convened. The Commission's legal counsel or designee will certify which of the ten (10) reasons for which the meeting is being closed.
3. The Commission may meet in closed session only after a majority of the Commission votes to convene in a closed, non-public meeting.

D. Rights and Privileges of Individuals Other than Commissioners and Non-Commissioners

1. Adding Item to the Agenda
Upon written request to the Commission at least ten (10) business days prior to the meeting date, any person who desires to add an item to the agenda and present a statement shall be afforded an opportunity to present an oral statement to the Commission at an open meeting. If the request is not made at least ten (10) business days prior to the meeting date, the Chair will determine whether to add the item to the agenda.
2. Speaking During a Public Meeting
Non-Commissioners may attend Commission meetings and speak during the public comment period.
3. At the discretion of the Chair, consultants, staff, resource individuals, or other guests may speak to address an issue on the agenda, other than the situations identified in Article X of this Article of the Bylaws.
4. The Chair may limit the time and manner of any statements from non-commissioners at any open meeting.
5. Nothing in this Section of the Bylaws shall apply to public rules hearings held in accordance with Article X of the Compact.

E. Conduct of Business by Mail or Electronically

1. When business is conducted by telecommunications, all members must be notified in advance. Commission staff will establish an electronic mechanism for Commissioners to participate in the meeting.
2. If a Commissioner is unable to attend an in-person meeting of the Commission, the Member States must notify Commission staff at least ten (10) business days prior to the date of the meeting to allow sufficient time for Commission staff to establish an electronic mechanism for the Commissioner to participate in the meeting.

3. For ballot votes, the Commissioner will electronically submit his or her vote to Commission staff. For voice votes, the Commissioner will vote via phone.

F. Duties of the Commission

1. Adopt changes to the Rules or Bylaws.
2. Adopt in rule the fees/dues to be paid by Member States.
3. Adopt the budget based on the recommendation from the Executive Board.
4. Enter into contracts for the provision of personnel and other administrative services.
5. Enforce Member State compliance with the terms of the Compact, including these Bylaws and Rules adopted by the Commission.
6. Perform any other necessary or appropriate duties authorized by the Compact.

Section 11. Conflict of Interest

The Commission shall adopt a conflict of interest policy that addresses how to resolve potential conflicts of interest.

ARTICLE VII

COMMITTEES AND TASK FORCES

Section 1. Standing Committees of the Commission

The Commission shall establish committees, as it deems necessary, to carry out its objective which shall include, but not be limited, to:

A. Executive Board

An Executive Board shall be established as a standing committee which shall be comprised of the officers of the Commission as well as those members specified in Article X of the Compact.

B. Rules Committee

A Rules Committee shall be established as a standing committee to develop uniform Compact rules for consideration by the Commission and subsequent implementation by the states and to review existing rules and recommend necessary changes to the Commission for consideration.

C. Compliance Committee

The Compliance Committee shall be established as a standing committee responsible for administering the provisions of the Compact related to compliance and enforcement.

D. Finance Committee

The Finance Committee shall be established as a standing committee to audit needs, finances, develop state-specific materials, etc.

E. Training and Public Relations Committee

The Training and Public Relations Committee shall be established as a standing committee to administer training and public relations on behalf of the Commission.

F. Elections Committee

An Elections Committee shall be established as a standing committee to:

1. Inform the Commission on the responsibilities of the office;
2. Encourage participation by the Commissioners in the elections process;

3. Announce nominations deadline and anticipated vacancies of the Executive Director of the Commission;
4. Communicate with incumbents to determine if they wish to run for re-election;
5. Accept qualified nominees and prepare a slate of candidates for the election of the officers or members at large of the Executive Director;
6. Present a list of candidates to the Commission including the terms of office expiration dates; and
7. Tally/verify the election results and report to the Commission.

G. Requirements Review Committee

A Requirements Review Committee shall be established as a standing committee to review of denials for authorization, review ongoing standards for reasonableness and interface with Association and Provincial Psychology Boards regarding E.Passport and Interjurisdictional Practice Certificate Requirements as needed.

The composition, procedures, duties, budget and tenure of all committees shall be determined by the Commission. The Commission may dissolve any committee it determines is no longer needed.

ARTICLE VIII

COMMISSION PERSONNEL

Section 1. Commission Staff

The Executive Board may engage in services provided by an Executive Director, who shall serve at the pleasure of the Executive Board. The Executive Director shall hire and supervise such other staff as may be needed.

Section 2. Duties of the Executive Director

As the Commission's principal administrator, the Executive Director shall also perform such other duties as may be delegated by the Commission or required by the Compact and the Bylaws, including, but not limited to, the following:

- A. Serve at its discretion and act as Secretary to the Commission, but shall not be a Member of the Commission;
- B. Establish and manage the Commission's office or offices as determined by the Commission;
- C. Recommend general policies and program initiatives for the Commission's consideration;
- D. Recommend for the Commission's consideration administrative personnel policies governing the recruitment, hiring, management, compensation, and dismissal of Commission staff;
- E. Implement and monitor administration of all policies, programs, and initiatives adopted by the Commission;
- F. Prepare draft annual budgets for the Commission's consideration;
- G. Monitor the Commission's financial performance for compliance with approved budgets and policies, and maintain accurate records of the Commission's financial account(s);
- H. Execute contracts on behalf of the Commission as directed;

- I. Receive service of process on behalf of the Commission;
- J. Prepare and disseminate all required reports and notices directed by the Commission;
- K. Assist the members of the Executive Director in the performance of its duties;
- L. Speak on behalf and represent the Commission;
- M. In collaboration with legal counsel, ensure the legal integrity of the Commission and
- N. Report about policy, regulatory, political, legal or other developments of relevance to the Commission's operation.

ARTICLE IX

QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION

Section 1. Immunity

The Commission, its Members, officers, Executive Director, and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability, or both, for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

Section 2. Defense

Subject to the provisions of the Compact and Rules promulgated thereunder, the Commission shall defend the Commissioner of a Member State, his or her representatives or employees, or the Commission, and its representatives or employees in any civil action seeking to impose liability against such person arising out of or relating to any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

Section 3. Indemnification

The Commission shall indemnify and hold the Commissioner of a Member State, his or her representatives or employees, or the Commission, and its representatives or employees, harmless in the amount of any settlement or judgement obtained against such person arising out of or relating to any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part if such person.

ARTICLE X

FINANCE

Section 1. Fiscal Year

The Fiscal Year of the Commission shall be January 1 through December 31.

Section 2. Budget

The Commission shall operate on an annual budget cycle and shall, in any given year, adopt budgets for the following fiscal year or years only after notice and comment as provided by the Compact.

Section 3. Dues

Each Member State shall pay an annual assessment in accordance with Article X of the Compact. The amount of the annual assessment will be specified in the Rules adopted by the Commission and shall be sent timely to be received no later than ninety (90) days after the start of the fiscal year. A Member State will be ineligible to vote on any matter that come before the Commission if the annual assessment is not received within the 90-day timeframe. Voting rights will be restored once the Member State pays the annual assessment. If the assessment is not paid within six (6) months after the start of the fiscal year, the Commission will take appropriate enforcement action in accordance with the Rules adopted by the Commission.

Section 4. Authority to Expend and Disperse Money

No Commissioner or employee of the Commission will have the right or authority to expend any money of the Commission, to incur any liability in its behalf, or to make any commitment which binds the Commission to any expense or financial liability, unless such expenditure, liability, or commitment has been incorporated in the budget or the Executive board has made an appropriation or has approved a policy to pay same. The Commission may assume debt as a means of financing operations, including credit facilities such as a line of credit. The Commission shall monitor its own and its committees' affairs for compliance with all provisions of the Compact, its Rules, and these Bylaws governing the incursion of debt and the pledging of credit.

Section 5. Accounting and Audit

The financial records of the Commission will be audited annually by an independent certified public accountant. The audit report will be presented to the Executive Board when the report is received and to the full Commission at the Commission's annual meeting. The report shall also be made available to the public and shall be included in and become part of the annual report to the Governors, legislatures, and judiciary of the Member States.

The Commission's internal accounts, any workpapers related to any internal audit, and any workpapers related the independent audit shall be confidential; provided, that such materials shall be available: (1) in compliance with the order of any court of competent jurisdiction; (2) pursuant to such reasonable Rules as the Commission shall promulgate; and (3) to any Commissioner of a Member State, or their duty authorized representatives.

Section 6. Travel Reimbursements.

Subject to the availability of budgeted funds and unless otherwise provided by the Commission, Commissioners may be reimbursed for any actual and necessary expenses incurred pursuant to their attendance at all duly convened meetings of the Commission, its committees as provided by the Compact, or the Executive Board.

ARTICLE XI**WITHDRAWAL, DEFAULT, AND TERMINATION**

Member States may withdraw from the Compact only as provided by the Compact. The Commission may suspend and/or terminate a Member State as provided by the Compact.

ARTICLE XII**PARLIAMENTARY AUTHORITY**

Matters of parliamentary procedure not covered by these Bylaws shall be governed by the current edition of Robert's Rules of Order.

ARTICLE XIII**ADOPTION AND AMENDMENT OF BYLAWS**

Any Bylaws may be adopted, amended, or repealed by a majority vote of the Commission, provided that written notice and the full text of the proposed action is provided to all Commissioners of member States at least thirty (30) days prior to the meeting at which the action is to be considered. Failing the required notice, a two-third (2/3rds) vote of the Commissioners of Member States shall be required for such action.

ARTICLE XIV**DISSOLUTION OF THE COMPACT**

The Compact shall dissolve effective upon the date of the withdrawal or the termination by default of a Member State which reduces Membership in the Compact to one Member State as provided by the Compact.

Upon dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be concluded in an orderly manner and according to applicable law.

ARTICLE XV**AFFILIATION WITH THE ASSOCIATION OF STATE AND PROVINCIAL
PSYCHOLOGY BOARDS**

The Commission shall be affiliated with and supported by the Association of State and Provincial Psychology Boards (ASPPB). The Commission shall negotiate payment for secretariat services by the ASPPB. Payment for the secretariat services shall be made from the funds collected by the Commission.

April 16, 2021

State of California Board of Psychology

To the Board of Psychology,

Regarding the recent proposal for the Psychology Inter-jurisdictional Compact (PSYPACT), I wish to submit this written comment.

PSYPACT does not currently require all member states to impose a criminal history background check as a licensure requirement. As criminal history background checks will not be required for 10 years from the activation date for PSYPACT, it appears that such checks will not be a requirement until 2028.

The Board should therefore oppose attempts to enter into the PSYPACT compact as criminal history background checks are necessary to protect the health, safety, and welfare of clients who receive psychological services.

Sincerely yours,

A handwritten signature in black ink, reading "Joseph D. Salerno". The signature is fluid and cursive, with the first name "Joseph" and last name "Salerno" clearly legible, and "D." as a middle initial.

Joseph D. Salerno, PsyD

From: [Sorrick, Antonette@DCA](mailto:Sorrick.Antonette@DCA)
To: [Burke, Jonathan@DCA](mailto:Burke.Jonathan@DCA)
Subject: FW: tele psychology meeting opinion
Date: Friday, April 16, 2021 2:15:09 PM

From: bopmail@DCA <bopmail@dca.ca.gov>
Sent: Friday, April 16, 2021 1:37 PM
To: Sorrick, Antonette@DCA <Antonette.Sorrick@dca.ca.gov>
Cc: Glasspiegel, Jason@DCA <Jason.Glasspiegel@dca.ca.gov>
Subject: FW: tele psychology meeting opinion

From: Hillary Wright <hwrightpsych@gmail.com>
Sent: Friday, April 16, 2021 1:28 PM
To: bopmail@DCA <bopmail@dca.ca.gov>
Subject: tele psychology meeting opinion

[EXTERNAL]: hwrightpsych@gmail.com

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DO NOT: click links or open attachments unless you know the content is safe.
NEVER: provide credentials on websites via a clicked link in an Email.

To Whom It May Concern,

Before Covid, I was very against doing psychotherapy via video. However, over this year, I have learned all of the benefits and pitfalls of doing telemedicine. And while there are some important downfalls, I believe the benefits outweigh the shortcomings. I believe PSYPACT is an important way for us to be moving into the future with tele psychology and hope that the board can move towards participation in it.

Hillary Wright
310-633-1295
Clinical Psychologist
pronouns: she/her

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ANDREW HARLEM, PH.D.

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April 21, 2021

Stephen Phillips, JD, PsyD
Chair, Board of Psychology Telepsychology Committee
1625 North Market Blvd., Suite N-215
Sacramento, CA 95834

Dear Dr. Phillips,

I am writing in regard to the Board of Psychology's potential adoption of the Psychology Interjurisdictional Compact (PSYPACT).

I understand that a Telepsychology Committee has been convened to review the PSYPACT's potential benefits to the citizens of California, including licensed psychologists within the State, as well as identify outstanding issues, conflicts or negative impacts that adoption of the PSYPACT may present. My purpose is to alert the Committee to one such devastating impact for thousands of California licensees and hundreds of students who are currently earning their credentials to practice in the State.

Stated succinctly, adoption of the PSYPACT would introduce profound marketplace discrimination against the thousands of us who earned our doctoral degrees from regionally accredited institutions. It effectively excludes thousands of psychologists, many of whom work in community mental health, from the most important emerging practice area of our generation. And it does so by means of a *de facto* licensing standard enacted not by yourselves, appointees of California elected officials to serve Californians, but by a private organization that has no direct responsibility to the public, let alone the consumers and psychologists of our state.

Approximately 23% of the psychologists in this country reside in California. Our practitioners and our regulatory bodies have always been at the forefront – the forefront of social justice in psychology education and practice; the recognition that the public is best served by multiple voices and multiple psychological approaches; and the confidence in our ability to create new methods, innovate into new forms. Beginning with the Governors and State Senators who appoint, we have a history on the Board of Psychology of valuing and protecting educational models that integrate, reach into new areas, and orient themselves to the specific needs of California consumers. These commitments have been strong enough to resist the pressures exerted by professional guilds and organizations. This sensibility is, in fact, enshrined in our state law (see bolded section):

§ 2914. Applicant's requirements Each applicant for licensure shall comply with all of the following requirements: (a) Is not subject to denial

of licensure under Division 1.5 (commencing with Section 475). (b)(1) Possess an earned doctorate degree (A) in psychology, (B) in educational psychology, or (C) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (g), this degree or training shall be obtained from an accredited university, college, or professional school. The board shall make the final determination as to whether a degree meets the requirements of this section. **(2) No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists,** and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology (bolding added).

Regionally-accredited institutions span the State: Antioch University (Santa Barbara), the California Institute of Integral Studies, Pacifica Graduate Institute, Saybrook University, Sophia University, The Chicago School of Professional Psychology (Applied Clinical Psychology), The Chicago School of Professional Psychology (Clinical Forensic Psychology), and California Southern University. Together they produce hundreds of graduates every year and provide tens of thousands of clinical hours serving disadvantaged and disenfranchised Californians through the public mental health system. Their value to our consumers is enormous. Unlike students in APA-accredited programs, most of whom leave the State for internship, students from regionally-accredited institutions serve us; CAPIC, the internship placement system recognized in California law and now abandoned by APA programs, is now largely directed and financed by regionally-accredited schools and their faculty.

This year of pandemic has taught all of us many lessons; indeed, our worlds have been turned upside down. Amidst all of that suffering, only now are we beginning to imagine the future again and take account of the changes that have been set in motion. One of those changes is the disruption to how health services are delivered. It now seems inevitable that a significant portion of psychological service provision is going to happen through electronic means. It is likely that psychologists are going to depend increasingly upon telehealth to earn a living. Furthermore, it is not difficult to imagine, should the Board sign on, that the PSYPACT credential may eventually come to serve as an employment requirement in California.

It makes sense, of course, to revisit the issue of interjurisdictional telepsychology practice at this time. However, it is essential to recognize that the potential benefits of interjurisdictional practice afforded by a mechanism like the PSYPACT *need not entail the adoption of a de facto licensing law that discriminates against such a large number of California psychologists, essentially superseding the priorities expressed in California law and regulation.* The fact that the PSYPACT ties the ability to practice in this emerging marketplace to an educational standard we have clearly and repeatedly rejected in this state should alert the Board to its obligations, the importance of consistency in law and, perhaps, to the efforts by non-governmental organizations to supersede, through indirect measure, the position the Board has always taken on its role in determining the educational requirements that enable California psychologists to practice.

This responsibility was, indeed, a motivating force behind the Board's 2015 firm decision to decline adoption of the PSYPACT. Written following a process of lengthy

and comprehensive review, the Board's January 22, 2015, letter to the ASPPB concludes with a statement of the determining factor in the Board's decision: "[I]t is the Board's opinion that the Compact unnecessarily cedes too much regulatory control and licensee information to non-governmental out-of-state entities."

While the pandemic has certainly altered how we go about our daily lives and led to many changes in how we relate to one another, I believe the trust invested in the California Board of Psychology to protect the interests of its citizens, including its licensees and the educational institutions that serve its public, remains steadfast and unchanged. Signing on to an agreement that so clearly discriminates against thousands of psychologists in the State, while it may provide benefit to some in the short run, lays the groundwork for a system that is unfairly restrictive in both principle and impact.

The future of telepsychology is being built now. I urge the Board to refrain from entering into an interjurisdictional agreement that effectively delegates to a non-governmental organization the authority to establish educational standards for its own licensees, and thereby cedes regulatory control of this emerging area of practice. Let's ensure, instead, that the Board acts in accordance with its primary mission, in lockstep with its established commitments, and in recognition of the need to ensure fairness and equity among its licensees and the State's educational institutions. Let's get this right.

Thank you for this opportunity to address the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Harlem, PhD".

Andrew Harlem, PhD
California Psychologist #19482
Professor, California Institute of Integral Studies
San Francisco, CA

cc: Lea Tate, PsyD
Julie Nystrom

ANGEL ENRIQUE PACHECO, PH.D., C.PSYCH.
CLINICAL PSYCHOLOGIST[REDACTED]
CANADA**SENT VIA FAX**

11 August 2021

Taja S. Slaughter, MPA
Director of Credentialing
ASPPB Mobility Committee
PO Box 849, Tyrone, GA 30290
Office: 678-216-1186
Fax: 678-216-1184
E-Mail: tslaughter@asppb.org
Web: www.asppb.org

Dear Madam or Sir:

I am in receipt of your e-mail communication dated 23 March 2021, in which you inform me that the ASPPB Mobility Committee has placed my ASPPB e.Passport application under PSYPACT in *Denied* status.

I have patiently waited the ninety (90) days you gave me to submit an appeal, as I do not wish this document to be construed as such. Again, this is not an appeal to your decision, but an appeal to the common sense and sense of justice of the ASPPB authorities. My kind request to you is that you present this document to the proper ASPPB authorities.

The intent of this communication is to point out, most respectfully, that the ASPPB Mobility Committee, by applying its current requirement criteria, is *actively and blatantly discriminating* against *bona fide* graduates of doctoral programs accredited in the United States and Canada, while concurrently offering foreign graduates the opportunity of proving such requirement criteria equivalency, regardless of their provenance or quality of educational systems.

Had my degree-granting program been from an international institution, I would have had the recourse to have its equivalency established, but not so for a degree from a USA institution.

I have already submitted to you, with my application, a letter from the authorities at my *Alma Mater* indicating that my CSPP-SF doctoral program of studies was equivalent at the time of graduation (1976) to a program from an institution accredited by APA. This request was to satisfy the requirements for my ASPPB e.Passport application under PSYPACT. Part of my endeavors also included informing you of my current application for licensure as psychologist in the State of Pennsylvania (in process), in addition to being licensed as Psychologist in California and registered as such in Ontario, Canada.

However, although I have a proven and positive history of over forty-five (45) years of doctoral-level engagement in my profession as a Clinical Psychologist, credentialed by the California Board of Psychology and the College of Psychologists of Ontario, as well as by

Taja S. Slaughter, MPA
Director of Credentialing
ASPPB Mobility Committee
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Web: www.asppb.org

11 August 2021

SENT VIA FAX

the NRHSP and CRHSP, my application was deemed as *not qualifying* for approval by your Program.

Graduate students in psychology have to endure a myriad of requirements prior to graduation, only to have to prove, by successfully passing the EPPP, that their academic education was indeed a solid one based on nationally recognized standards. This all not being enough, the satisfactory completion of multiple requirements and the passing of a Laws and Ethics Examination and an Oral Exam in the State or Province for which licensure or registration is sought, is also generally required.

Nevertheless, this denial of an opportunity for professional growth feels like having been branded with a *Scarlet Letter* that I cannot ever escape regardless of my efforts. If I had not passed any of my independently qualifying exams, even the EPPP or Board/College exams, I could have remedied the situation and be made whole again. Not in my case. By believing in a dream, I received a sentence for life from you. Fair?

This situation is unjust and discriminates against all the hard-working faculty and students who believed in an idea and are now barred for life for following a dream, even though they have amply proven their worth as psychologists by all other accepted measurable standards.

Having chosen CSPP-SF as the place I wanted to receive my doctoral degree from, because I believed—and still do—in the ideals espoused by the institution, has branded me for life, and there is *nothing* I can do.

I feel and I am *actively* discriminated against by your program requirements. This is, in my view, an elitist and discriminatory position that is not consonant with my human rights and my rights as a professional psychologist who has fulfilled all legal and professional requirements. I believe that a challenge is in order, but it has to come from within the ASPPB.

I have now done my part by positing to you a minority perspective you may have not considered. I trust that you will receive this document and its contents with good will, and with an open mind to consider the need to make changes. That is my hope.

My plea to you, in the name of all alumni of CSPP and all the thousands of graduates of other recognized and duly-accredited programs in Psychology in the United States and Canada that do not meet your program criteria, is to revise and revert your requirements to an inclusive set of criteria that does not foster discrimination. Please allow us to prove to you that we are indeed qualified under the eyes of your Program.

Yours respectfully,



Angel Enrique Pacheco, Ph.D., C.Psych.

cc: The California Board of Psychology, the College of Psychologists of Ontario, and CSPP-SF





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ATTENTION TO:

Seyron Foo, President

Lea Tate, PsyD, Vice President

Dear Mr. Foo and Dr. Tate,

I am writing to express my strong support for the adoption of the Psychology Interjurisdictional Compact (PSYPACT) legislation in California. I am a psychologist licensed and living in CA. I trained and then served as staff at the San Francisco VA

Medical Center/UCSF, taught at the Wright Institute in Berkeley, and am currently the program director of a national pilot program to expand psychological care for traumatized journalists based at Columbia University. I also maintain my private practice in CA. My experience providing services through the COVID-19 pandemic convinced me that it is time for PSYPACT in CA.

Like many of my colleagues, during COVID I sought temporary licensure in a third state in order to provide continuity of care to an existing client and to support populations within my areas of competence at a time of great consumer need. I spoke to numerous colleagues who did the same -- in order to continue care with an adolescent whose college shut down, to continue supporting a family who left CA due to loss of employment, or to provide care in a region severely lacking in their area of expertise. I will give one example from my own experience:

“Sarah” is a celebrated journalist at a major news outlet who, after years of fearless crisis reporting, experienced an overwhelming occupational trauma and feared she could not continue working. She was referred to me because of my unique specialization in journalist mental health, my willingness to treat her for a low fee during a time of professional crisis, and my license in her state of employment. But due to COVID restrictions and family obligations, Sarah was now working from her family home across the border in another state. That state granted me a temporary license under COVID emergency orders, and we were given several months to work together, during which time Sarah stabilized and was able to adapt to a new “beat” without missing work.

Sarah often tells me how lucky she feels to have connected with an expert in journalist mental health at such a crucial time, and I am honored to support her wellbeing and contributions to society through her reporting. We have both experienced the benefit of relaxed interjurisdictional regulations; but the emotional “whiplash” of the looming expiration of this privilege, while Sarah is still healing and negotiating family and work stressors, has itself necessitated processing in therapy. Seeking full licensure in Sarah’s now semi-permanent state of residence is out of the question due to time constraints. It is truly a shame that we must end treatment soon due to lack of reciprocity among the states.

I have educated myself about PSYPACT, and I work with several psychologists through my current job that live in PSYPACT states and have their E-Passports, who attest to the benefits of this program for them and their respective states. The arguments for adopting PSYPACT legislation are compelling: even in the years preceding Covid, among the 51 million U.S. adults with mental illness, only about [45% received treatment](#); we now have an explosion of need secondary to the ravages of COVID and recent political upheaval; continuity of care with our current patients is seriously compromised by inter-state restrictions; the excellent specialized training we receive in CA could benefit many more clients currently out of reach of this care (e.g., those with autism spectrum disorder, ADHD, posttraumatic stress disorder, and opioid addiction); and there is already a strong national movement in the direction of interstate reciprocity: [26 states have already enacted PSYPACT](#) and more are pending legislation.

Importantly, MANY CA psychologists want PSYPACT. In late May this year I felt that the California Psychological Association was not responsive enough to member requests for information and discussion about PSYPACT, so I started an online [petition](#) to alert CPA to the CA psychologists who want PSYPACT. I only circulated the petition on the few professional psychology listservs of which I am a member - yet it was signed by over 400 California residents. CPA subsequently held an informational Town Hall about PSYPACT, which was attended by over 200 CA psychologists.

I have also looked into the arguments against adopting PSYPACT in CA.

The first objection often cited is that PSYPACT restricts participation to psychologists who graduated from APA or CPA-accredited programs. As you know, psychologists who did not graduate from such programs would not *lose* any of their current telehealth privileges in CA or across state lines, but they could not participate in the additional interstate privileges afforded by PSYPACT. (CPA has been unable to offer an estimate of how many psychologists would be affected by this rule. The most relevant data I have been able to find is the roster of new CA licenses in 2018, of which approximately 6% of licensees came from excluded programs.)

This is indeed a problem. Psychologists licensed in previous generations and those from differently-accredited programs are our valued colleagues, and excluding them eliminates many qualified professionals from helping patients outside CA. However, I do not believe this is a good reason not to support PSYPACT legislation, considering the benefits it confers to a large majority of CA psychologists, and the urgent consumer needs it addresses. There is no evidence that refusing to support the legislation will change the policy, and there is nothing to stop psychologists from continuing to advocate for expanding the privileges after PSYPACT is enacted.

The second current objection I am aware of is the fear of market competition: that psychologists with lower cost-of-living in other states could now practice in CA, offering similar services for lower fees. I acknowledge that reciprocity introduces the *possibility* of a more competitive, or at any rate different, marketplace for therapy in California over time. Yet I believe the very real public interest concerns -- the access and continuity problems we are *currently* seeing -- outweigh the hypothetical financial concerns. As of [2018 reporting](#) on mental illness and access to care in California, about $\frac{2}{3}$ of adults with mental illness and $\frac{2}{3}$ of adolescents with major depressive episodes did not get treatment. When full fee means \$200-325 and sliding scale means \$150-200 per session, many Californians are not getting full therapeutic treatments due to inability to pay. For suffering individuals who could never afford a California private practice therapist, why should they not have access to a therapist in Arkansas?

In terms of competition and regulation issues, we must also acknowledge that thousands of therapists without a CA license are *currently* operating in CA, unregulated, through online therapy startups, and the Board has no reliable way of tracking them. Through the E-Passport program, PSYPACT provides the services of vetting out-of-state psychologists to ensure they have no criminal or child abuse

history, have the requisite education and training experience, and are willing to be tracked to ensure legal and ethical conduct.

What's needed to address this country's current mental health crisis is major change, and all changes come with growing pains. For years I have simply explained and apologized for our current system to frustrated consumers. But as our societal problems progress -- climate disasters, pandemic, loss of industry, people being priced out of metropolitan areas -- with the attending population movements, and concurrent advances in telehealth technology, this is becoming harder to justify. And now that there exists a centralized system, which has solved many of the problems of regulation and disciplinary mechanisms, and which has been subject to piloting in many U.S. states, I feel the burden is on us to justify why it doesn't make sense for CA to join this effort.

For all of these reasons, advocating for PSYPACT legislation in CA aligns with the Board's mission and strategic goals of supporting the evolution of the profession, while protecting the health, safety, and welfare of consumers (who are now at increased risk). As a CA psychologist, I believe it is worth contending with some possible struggle in order to vote with what for so many of us amounts to core values: to provide and advocate for appropriate treatment for people in need, in California and beyond.

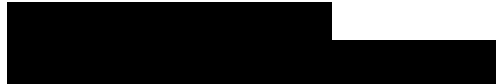
Sincerely,

Emily Sachs, Ph.D.

Licensed Psychologist CA 25721, NY 012598

Program Director, Journalist Trauma Support Network (JTSN), US

Dart Center for Journalism and Trauma, Columbia University



Website: www.jtsn.org



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ATTENTION:

Seyron Foo, President

Lea Tate, Psy.D., Vice President

Dear Mr. Foo, Dr. Tate and members of the California Board of Psychology,

I am writing to express my strong support for the adoption of the Psychology Interjurisdictional Compact (PSYPACT) legislation in California. I am a psychologist licensed and living in Oakland, California. I previously earned my doctorate at The Wright Institute in Berkeley, completed my postdoctoral training at Kaiser Permanente in San Rafael, and then spent 3 years as a supervisor and

staff psychologist at Kaiser before leaving to start my private practice. I believe that PSYPACT would significantly lower the barriers to providing continuity of care to Californians when they move out of state, and I am strongly in favor of California joining the 26 current PSYPACT states.

My specialty is adolescent mental health, so a large percentage of my practice is comprised of teens, many of whom eventually leave California to attend college in other states. Leaving home to attend college is a stressful life event, and many colleges offer limited mental health services to students, so many of my patients request to continue seeing me via teletherapy after they leave California. Many states offered pathways for obtaining temporary licensure during the COVID pandemic, which has enabled me to continue my treatments with many of my college-aged patients, but this is only a temporary solution that will no longer be available once the pandemic ends. PSYPACT would offer a lasting mechanism for providing continuity of care to my California teens who leave the state to attend college (and many of whom eventually return to California to work and raise families).

The broader arguments for adopting PSYPACT legislation are compelling. Even in the years preceding the COVID pandemic, among the 51 million U.S. adults with mental illness, only about 45% received treatment (<https://www.nimh.nih.gov/health/statistics/mental-illness>). We now have an explosion of need secondary to the ravages of COVID and recent political upheaval; continuity of care with our current patients is seriously compromised by inter-state restrictions; and there is already a strong national movement in the direction of interstate reciprocity: 26 states have already enacted PSYPACT (<https://www.apaservices.org/practice/legal/technology/psypact-interstate-practice-telehealth>) and more are considering legislation.

My understanding is that the major objection to adopting PSYPACT in California is that PSYPACT restricts participation to psychologists who graduated from APA or CPA-accredited programs, and that California psychologists who did not attend such programs will be unable to participate. To be sure, psychologists licensed in previous generations and those from differently-accredited programs are our valued colleagues, and excluding them eliminates many qualified professionals from helping patients outside California. However, I do not believe this is a good reason not to support PSYPACT legislation, considering the benefits it confers to a large majority of California psychologists, and the urgent consumer needs it addresses. Were California to join PSYPACT, psychologists who did not graduate from such programs would not lose any of their current telehealth privileges in California or across state lines. Moreover, there is no evidence that refusing to support the legislation will change the policy, and there is nothing to stop psychologists from continuing to advocate for expanding the privileges after PSYPACT is enacted.

I believe that advocating for PSYPACT legislation in California aligns with the Board's mission and strategic goals of supporting the evolution of the profession, while protecting the health, safety, and welfare of consumers. As a California psychologist, I am strongly in favor of providing and advocating for appropriate mental health treatment for people in need, in California and beyond. As the COVID pandemic has reminded us, we are all in this together.

Thank you for your consideration.

Sincerely,

Ian Faerstein, Psy.D.

Licensed Psychologist (PSY 28785)

[REDACTED]
[REDACTED]

www.drianfaerstein.com

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Dear members of the CA Board of Psychology,

I am writing to express my strong support for the adoption of the PSYPACT inter-jurisdictional compact in California. I am a CA licensed psychologist who has practiced here for over two decades, treating children, adults, and families, many of whom are diagnosed with Autism Spectrum Disorder. This population along with many others, is vastly underserved and is particularly negatively impacted by the need to switch therapists if they move out of state.

For people on the autism spectrum, transitions are inherently difficult, and for many older, "high functioning" clients, the need to terminate a close relationship with a therapist and begin a new one is

especially challenging. I work with many young adults who have had to discontinue therapy when facing the already difficult transition of leaving the state for college or a new job. This is often the worst possible time for them to lose that support but gaining access to practice in other states has in the past been expensive, time-consuming, and greatly delayed. As a result, I have typically had to stop therapy when these clients moved - a loss of support that has sometimes played a role in their "failure to launch". PSYCPACT would hopefully alleviate these issues, at least for clients who moved to a member state.

I am deeply concerned as my understanding is that the board is expected to vote against pursuing this compact, a decision that does not seem to square with the board's mandate to protect consumers in our state. Instead, it puts the interests of a tiny minority of psychologists who could not participate above the interests of those who use our services. Clients are genuinely shocked when told that I cannot see them through teletherapy across state lines, a reaction that is even more pronounced since the start of the COVID-19 pandemic when nearly all services have been delivered this way. In addition, in many parts of the country, therapists with expertise in clients on the autism spectrum are sorely lacking, and so many of my clients moving out of state have simply done without therapy. While there is admittedly some risk to having therapists from out of state serve CA clients, it is striking that this legislation is being argued against because CA wants to keep LOWER standards of education and training than that required by PSYPACT. In addition, psychologists have argued that out-of-state practitioners will undercut our fees, but again I cannot see this as anything but a boon to consumers in our state.

I urge you to vote to pursue this legislation and begin the process of having CA join the 26 other PSYPACT states. This move is long overdue and honestly seems inevitable as the expansion of telehealth and the increasingly mobile population requires. Please help CA psychologists and the clients who depend on us move into the 21st century. Please vote to urge adoption of the PSYCPACT legislation.

Thank you,

Kent Grelling PhD
PSY15497

[REDACTED]

Kent Grelling, PhD

Grelling Psychology Associates

[REDACTED]

[REDACTED]

www.DrGrelling.com

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Dear Mr. Foo, Dr. Tate, and members of the California Board of Psychology,

I am writing to express my strong support for the adoption of the Psychology Interjurisdictional Compact (PSYPACT) legislation in California. Quite frankly, California should be LEADING the process to expand services rather than restricting services. I am a psychologist licensed and living in CA. I oversee a

training program serving survivors of intimate partner violence. My clients have experienced trauma and must often relocate in order to escape abusive partners. My experience providing services through the COVID-19 pandemic convinced me that it is time for PSYPACT in CA. It is absolutely in the best interest of clients to maintain mental health services despite arbitrary state boundaries.

Like many of my colleagues, during COVID I sought temporary licensure in multiple other states including Texas, Washington, Massachusetts and Arizona in order to provide continuity of care to existing clients and to support populations within my areas of competence at a time of great consumer need. I spoke to numerous colleagues who did the same- we are ethically bound not to abandon clients and yet we are forced to do that simply because of an arbitrary decision that limits our services to our state. You have the capacity to change that by joining PsyPact!

The reasons previously stated by the Board to not join PsyPact (market competition, accreditation status of applicants) are simply insufficient given the scope of the need for mental health services across this country. California psychologists want the capacity to serve their clients no matter where they live. No one is forced to join PsyPact- it simply offers the opportunity to expand services to a broader market in the interest of best client care.

There will be growing pains in this process. However, advocating for PSYPACT legislation in CA aligns with the Board's mission and strategic goals of supporting the evolution of the profession, while protecting the health, safety, and welfare of consumers (who are now at increased risk). As a CA psychologist, I believe it is worth contending with some possible struggle in order to vote with what for so many of us amounts to core values: to provide and advocate for appropriate treatment for people in need, in California and beyond.

Thank you.

Respectfully submitted,

Diane Anderson
CA 18142

***Diane Anderson, PhD
Research and Grants Specialist
Director of Clinical Services***

Pronouns: She/Her/Hers ([What is this?](#))



SAVE (Safe Alternatives to Violent Environments)



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To Whom It May Concern:

I am a licensed psychologist practicing in the Bay Area writing in **strong support of PSYPACT** legislation in California. I became licensed shortly before the pandemic and have already experienced the ways that our current licensing restrictions negatively impact continuity of care and mental healthcare access for those who most need it. I believe that interstate licensing is the future for our field and hope that the CA board will not hesitate to do the right thing and join forces with other states.

Over the past two years, I have been offering therapy both to highly resourced families and families

living at or below the poverty line. During the pandemic, I had private practice folks spend time in Truckee or Hawaii, and community clients move to live with family or find work wherever they could. In both cases, there was a strong ethical imperative to maintain continuity of treatment during a uniquely stressful and disruptive time. Being part of PSYPACT would have ensured that I could offer unbroken access to remote treatment, critical for all families, but especially those who relocated to areas with poorer access to quality mental health care.

The issue of mental healthcare access has reached crisis proportions for our country at this time, and it is clear to me that the high density of CA clinicians becoming part of PSYPACT will mean greater access to care for rural areas and communities in the heartland who urgently need care, including specialized care that is most abundant in coastal cities. I strongly believe that a public health mission is at the core of what it means to be an ethical psychologist, and that joining PSYPACT is an obvious way to be in alignment with these values.

On a personal level, I have beloved aging relatives out of state whom I would love to be able to live with and care for as they need more care. Knowing that I could offer remote services across state lines would mean the world to me and my family in this age of greater mobility and a need for greater flexibility to care for one another.

Thank you for your consideration and for making this choice in alignment with our professional values.
Best regards,
Arielle Balbus

--

Arielle Balbus, Psy.D.
Licensed Clinical Psychologist (PSY#32171)



Website: www.ariellebalbus.com

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ATTENTION:

Seyron Foo, President

Lea Tate, Psy.D., Vice President

Dear Mr. Foo, Dr. Tate and members of the CA Board of Psychology,

I'm writing to express my support for the PSYPACT (Psychology Interjurisdictional Compact) legislation here in California.

I support adopting PSYPACT (as 26 other states have) because I see how it would benefit my patients and expand access to those who either cannot afford rates here or who have had to move.

As this pandemic has shown, telehealth is an important way to increase our effectiveness but that effectiveness is limited by the lack of reciprocity we currently have here in our state.

Not only is this good for our clients and ourselves, but I believe that **advocating for PSYPACT legislation in CA aligns with the Board's mission to protect the health, safety, and welfare of consumers while supporting the evolution of this profession.**

It would be wonderful to know that your actions reflect what many of your psychologists want, one that will enhance our ability to provide treatment for those in need.

Please vote to adopt PSYPACT.

Thank you,

--

Warmly,

Dr. Loi C. Medvin (she/her)

PSY#26392

Awaken the Joy of Being

[REDACTED]

[REDACTED]

Video: Google Meet/Zoom

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TO: ASPPB Member Board Offices, ASPPB Member Board Chairs and ASPPB Individual Members

RE: Call for Nominations for ASPPB Board of Directors

Dear ASPPB Member Boards and ASPPB Member Board Chairs:

I am writing to announce that nominations will be accepted from the floor for the offices of President-Elect, 1st-Year Member-at-Large and Secretary-Treasurer on the Association's Board of Directors, with terms beginning January 2022, at the upcoming 61st Annual Meeting of Delegates.

Timeframes and Deadlines

Nominations must be made no later than **Friday, October 15, 2021** at the Call for Nominations from the floor at the Annual Meeting, which is currently scheduled to occur at approximately 3:00 PM Eastern Daylight Time. The Nominations Committee will meet following this time to make its recommendations to the Board of Directors. We hope that you will take the time to read through each area and nominate those individuals who you believe fit any of the following criteria. Elections will be held the following day and candidates will be given time for a three-minute speech to membership.

ASPPB Board Positions

We are seeking nominees for the ASPPB Board with elections to be held at the virtual, 61st ASPPB Annual Meeting of Delegates on Saturday, October 16, 2021. These elections will be held to fill three (3) vacancies caused by the expiration of terms for the offices of President-Elect, 1st Year Member-at-Large and Secretary-Treasurer.

Nominations for Board positions will be accepted from ASPPB member boards, although individuals may submit additional letters in support of a nomination.

The Nominations Committee adheres to the following language in the Bylaws:

"Article VI.

C. Eligibility Requirements - To be eligible for election as a Director of the Association, the Director must, when elected, be either:

1. A current professional or public member, staff or counsel of the board/college that regulates psychology in a member jurisdiction; or

2. *An individual member of the Association who is a current or former professional or public member, staff or counsel of the board/college that regulates psychology in a member jurisdiction;*

AND

1. *Must have no history of disciplinary action that has been reported to any professional disciplinary data bank; and*
2. *Must meet criteria specified in the Association's Policies and Procedures Manual.*

Those criteria are (excerpted from the ASPPB Policies & Procedures Manual):

- *Must ensure that a completed nomination packet has been submitted by a member jurisdiction on behalf of the nominee with a letter of nomination on **official Board/College letterhead**.*
- *For Member-at-Large and Secretary-Treasurer, at the time of nomination, must have:*
 - *Attended at least one ASPPB Annual Meeting of Delegates as a representative of a member board (current professional or public member, staff or counsel of a member jurisdiction) or ASPPB Individual Member, and*
 - *Served in their qualifying capacity with the regulatory board for a minimum of one year.*
- *For President-Elect, President and Past-President, at the time of nomination, must have:*
 - *Attended at least three ASPPB Membership Meetings, one of which must be an Annual Meeting of Delegates as a representative of a Member Board (current professional or public member, staff or counsel of a member jurisdiction) or ASPPB Individual Member, and*
 - *Served in their qualifying capacity with the regulatory board for a minimum of one year.*
 - *Served on a minimum of two ASPPB committees, task forces and/or workgroups.*

d) In addition to the required criteria above, the Nominations Committee has developed the following criteria for evaluating nominees (excerpted from the ASPPB Policies & Procedures Manual):

- a. *The Committee considers prior involvement and interest in ASPPB by the nominee to be a critical factor. Experience of the nominee with ASPPB is evaluated by taking the following into consideration:*
 - i. *Service as a delegate from a member jurisdiction*
 - ii. *Participation in ASPPB meetings and initiatives*
 - iii. *Service on an ASPPB committee, task force and/or workgroup*
 - iv. *A contributor to the profession who has been honored by ASPPB (e.g., Fellow, awardee)*
 - v. *Previously nominated for an office but not chosen for the slate*
 - vi. *A prior candidate for office*

The Nominations Committee adheres to the following language in the Bylaws and the Association's Policies and Procedures Manual:

From the Bylaws: "Article VI.

D. Nominations for positions on the Board of Directors will be accepted:

1. *in advance of the published deadline for nominations, from ASPPB member jurisdictions. Letters from individuals in support of a member jurisdiction's nomination will be accepted as supplemental information; and*
2. *prior to the annual meeting, from the Board of Directors, if there are no qualified nominees received from ASPPB member jurisdictions;*
3. *at the Annual Meeting from the floor, by an official delegate on behalf of their member jurisdiction, as specified in the Association's Policies and Procedures Manual.*

- *From the Association's Policies and Procedures Manual 6, h:*

All established criteria for nomination must be met, including submission of a completed nomination packet, prior to nomination.

Although it is typical for the Third-Year Member-at-Large to seek the nomination for President-Elect, other eligible individuals are not precluded from seeking the nomination for that office and are invited to do so.

Below is a detailed description of each of the Board positions available:

A. President-Elect (Three-year term)

The President-Elect serves in this office starting January 1st of the year following their election at the Annual Meeting, then automatically becomes President on January 1st the year after that, and then serves a third year as Past-President. As a member of the Board of Directors, the President-Elect, President, and Past-President will attend six Board of Directors meetings each year, and the Annual and Midyear Meetings. In addition, and as determined by the Board of Directors (in consultation with the President), the President-Elect serves on other Association committees and task forces as assigned in the *Game Plan*, and may serve as ASPPB liaison or representative to other professional groups. Time spent on committees, task forces and liaison activities will vary during the President-Elect, Presidential and Past-Presidential year, and may be adjusted to the individual needs and interests of the Board member at the discretion of the Board. The members of the Board in the Presidential sequence generally spend approximately 50-70 days a year in meetings and travel for the Association. Additional time is spent preparing for meetings and reviewing documents important to the functioning of the Association.

B. Secretary/Treasurer (Three-year term)

As a member of the Board of Directors, the Secretary-Treasurer will attend six Board of Directors meetings, one Finance and Audit Committee meeting, the Annual and Midyear Meetings. In addition, and as determined by the Board of Directors (in consultation with the President), the Secretary/Treasurer serves on other Association committees and task forces as assigned in the *Game Plan*, as well as serve as ASPPB liaison or representative to other professional groups. The Secretary-Treasurer generally spends a minimum of 45 days a year in Association activities. Additional time for travel is clearly a necessity. The Secretary-Treasurer is further responsible for chairing several committees, and will be primarily responsible for the activities of those committees.

C. Member-at-Large (Three-year term)

As a member of the Board of Directors, the Member-at-Large will attend six Board of Directors meetings each year, the Annual and Midyear Meetings, will serve on other Association committees and task forces as assigned in the *Game Plan*, and may serve as ASPPB liaison or representative to other professional groups. Several years ago, the Board of Directors began a new system whereby each new Member-at-Large will take on certain duties assigned to various tracks. The three tracks are: 1) Mobility Program, 2) Examination Program, and 3) Education and Training. The current vacancy is in the Examination Program. More details about this track system can be found in the accompanying document entitled "Considering a Run for the Association of State and Provincial Psychology Boards (ASPPB) Board of Directors (BOD)". The Member-at-Large generally spends a minimum of 50 days a year in meetings and travel for the Association. Additional time is spent preparing for meetings. A Member-at-Large is elected for a three-year term, but may run for another office prior to completing the term. It is typical, although entirely optional, for the outgoing Member-at-Large to seek and obtain the nomination for President-Elect at the end of their three-year term as Member-at-Large.

★ **To make a nomination for the ASPPB President-Elect, 1st-Year Member-at-Large or Secretary-Treasurer, please send the following items to Leslie Browning at the ASPPB Central Office no later than Friday, October 15, 2021 at 3:00 PM EDT, by email (lbrowning@asppb.org), fax (678-216-1176), or mail (P.O. Box 849, Tyrone, GA 30290). Early submissions are accepted and encouraged.**

1. A cover letter on official Board/College letterhead from the nominator outlining the contributions made by the nominee with as much specificity as possible;
2. Any additional letters of support;

3. The fully completed ASPPB Board Member Nomination Form (copy attached); and
4. The nominee's most recent curriculum vitae/résumé.

Deadline for Nominations

It is important for you to know that the deadlines for nominations are strictly adhered to, as the slates must be completed in time for the Nominations Committee to convene, and for the Board of Directors to vote on the officer slates prior to the ballot being made available to delegates on October 16, 2021. Please send all your nominations and accompanying documents to the attention of **Leslie Browning at the ASPPB Central Office, by email (lbrowning@asppb.org), fax (678-216-1176), or mail (P.O. Box 849, Tyrone, GA 30290), for receipt by Friday, October 15, 2021 at 3:00 PM EDT.**

I am happy to answer any questions you may have about running for office. I can be reached at syoung@asppb.org. The Nominations Committee greatly appreciates your input and looks forward to receiving your nominations.

Sincerely,



Sheila G. Young, PhD
Chair, ASPPB Nominations Committee

Attachments:

1. ASPPB Call for Nominations
 - a. Considering a Run for the ASPPB Board of Directors
2. ASPPB Board Nomination Form