

**BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

HEARING DATE: No hearing has been scheduled for the proposed action.

SUBJECT MATTER OF PROPOSED REGULATIONS: Inactive Status of Psychological Associate Registration

SECTION(S) ADDED: Title 16, Division 13.1, Article 5.1, Sections 1391.13 and 1391.14, California Code of Regulations (CCR)¹

INTRODUCTION:

Business and Professions Code (BPC) section 2913, allows a registered psychological associate to perform psychological functions in preparation for licensure if the psychological associate is at all times under the immediate supervision of a licensed psychologist or a board-certified psychiatrist, among other requirements. Senate Bill (SB) 1193 (Hill) (Chapter 484, Statutes of 2016) was signed by Governor Brown on September 22, 2016, and it amended BPC section 2913. The bill required the psychological associate, instead of the employer or primary supervisor, to apply to the Board for the psychological associate registration and to renew the registration annually. The psychological associate now bears the responsibility to maintain their registration. However, when a psychological associate does not have a primary supervisor while holding a valid registration, there is not an available status that accurately reflects that the psychological associate cannot perform psychological functions relating to the practice of psychology during the period of time during which there is no approved primary supervisor associated with the registration.

CCR section 1391.1 limits the amount of time an individual can hold a psychological associate registration to a cumulative total of six years (72 months). Time is counted towards the six-year limitation as long as the psychological associate is holding a current registration. Since 2014, the Board has conducted a review of regulations pertinent to licensure and plans to amend this registration time limitation to five years (60 months). During the discussion at the Board's Licensing Committee meeting in April 2018, the public raised concerns relating to the proposed shorter registration period. To address the concern, the Board determined it would promulgate regulations to create an inactive status for the psychological associate registration. This inactive status for

¹ All CCR references are to title 16 unless otherwise noted.

registered psychological associates would be similar to the inactive status currently available for a psychologist licensee who is not engaging in the practice of psychology.

The Problems to be Addressed and Anticipated Benefits:

The Board can reasonably modify the time limitation of a psychological associate registration pursuant to CCR section 1391.1. However, the regulations do not provide a mechanism for the psychological associate to accurately reflect their registration status when the associate becomes ineligible or unable to perform psychological functions. The purpose of the proposed regulatory language is to specify the process for maintaining the psychological associate registration during the time a registrant is unable to perform psychological functions relating to the practice of psychology, and to ensure that the time during which the registration is inactive is not counted against the six year (72 month) limit.

Currently, a psychological associate who is unable to perform psychological functions must cancel their current registration in order to stop the time clock counting towards the cumulative total registration limitation of six years (72 months), or continue their registration, with that time counting against the registration limitation total while the registrant is not able to accrue hours toward licensure. At present, there is no alternative for a psychological associate to request a registration status that would clearly indicate the psychological associate is not legally allowed to, and is not performing any psychological functions. Once the psychological associate registration is cancelled, the individual must apply for a new registration to be able to perform psychological functions and accrue required supervised professional experience towards licensure.

These proposed regulations allow a psychological associate to request the Board place their active registration in an inactive status. In addition, the proposed regulations would allow the Board to place a registration in an inactive status when the registrant has no primary supervisor. While a registration is in an inactive status, it will stop the time clock counting towards the cumulative total of six years registration limitation. The Board is also proposing adopting a process for reactivating an inactive psychological associate registration. This regulatory proposal provides a mechanism for a registrant to maintain a registration and preserve the time under the total time limitation in a proactive manner.

Most importantly, this proposal solves the present problem that, there is no status to explicitly define a registration category in which a registered psychological associate is still in good standing but ineligible to practice. This proposal provides the Board the ability to enhance consumer protection by clearly indicating to the public when a registered psychological associate cannot perform psychological functions due to holding an inactive registration.

Specifically, the Board is proposing the following changes:

Adopt 16 CCR section 1391.13

Section 1391.13, subdivision (a)

Specific Purpose: Subdivision (a) allows a registered psychological associate to request their registration be placed on an inactive status.

Factual Basis / Rationale: Subdivision (a) is necessary to provide a psychological associate the option to request that the Board place a registration on an inactive status. The creation of an inactive status for registrations is necessary to allow the registered psychological associate to update their registration status when there is a temporary disruption to their registration due to unforeseen circumstances or an inability to obtain a primary supervisor. It is also necessary to facilitate the Board accurately reflecting and updating the registration status for license verification purposes on the Department of Consumer Affairs' License Search website, which benefits the public's interest.

BPC section 2913 limits a primary supervisor to supervising no more than three registered psychological associates at any given time. Allowing the Board to disassociate all primary supervisors associated with the psychological associate registration at the time a request is made to place the registration on inactive status ensures the primary supervisor(s), previously associated with the now-inactive psychological associate registration, will be able to supervise another psychological associate who holds an active registration. This increases the opportunities for registered psychological associates to obtain supervision and earn hours towards licensure, ultimately increasing the number of licensed psychologists, which benefits all Californians.

Section 1391.13, subdivision (b)

Specific Purpose: Subdivision (b) provides that a psychological associate registration will be placed in an inactive status when the registrant does not have a qualified primary supervisor.

Factual Basis / Rationale: Subdivision (b) is necessary to provide the Board with the authority to place a psychological associate registration in an inactive status when it has information that the registrant does not have a primary supervisor for any reason, whether due to an inability to obtain one, or due to other circumstances. The Board needs this authority because the registered psychological associate no longer meets the requirements to perform psychological functions relating to the practice of psychology without a primary supervisor pursuant to BPC section 2913 and CCR

section 1391.5. Placing a psychological associate registration in an inactive status also allows the Board to document the inactive period and ensures that time does not count towards the six-year time limitation of the registration, benefitting registered psychological associates.

In addition, the Board is obligated to accurately reflect and update the registration status for license verification purpose on the Department of Consumer Affairs' License Search website for the protection of the public. The proposed subdivision will allow the Board to clearly reflect the fact that the registered psychological associate cannot practice.

Section 1391.13, subdivision (c)

Specific Purpose: Subdivision (c) requires a registered psychological associate to renew the registration annually and the annual renewal date stays the same. The registered psychological associate on inactive status will not be charged the annual renewal fee.

Factual Basis / Rationale: Subdivision (c) is necessary to ensure the registered psychological associate continues to maintain and renew the registration annually to prevent the registration from being canceled due to non-renewal while in an inactive status. Specifying the annual renewal date remains the same despite a status change of the registration is necessary to make clear when a psychological associate must renew their registration. The renewal fee will not be charged since the Board anticipates the inactive period would most likely be less than year, since the inactive status is for registrants who are faced with a temporary disruption to their registration due to unforeseen circumstances or an inability to obtain a primary supervisor. This is similar to a psychologist's license, for which the renewal date does not change when it is in an inactive status.

Section 1391.13, subdivision (d)

Specific Purpose: Subdivision (d) prohibits a registered psychological associate from providing psychological services while their registration is in an inactive status.

Factual Basis / Rationale: BPC 2913 requires a registered psychological associate to have a primary supervisor, as described in section 1387.1, to provide psychological services. With new section 1391.13, subsection (a), a psychological associate whose registration is placed in an inactive status will now have any associated primary supervisor(s) disassociated. In addition, where there is a disassociation that leaves the registered psychological associate without a primary supervisor, their registration will be placed in an inactive status by the Board. Accordingly, this section clarifies that placing the registration on an inactive status will result in a prohibition on practice by the registered psychological associate.

Section 1391.13, subdivision (e)

Specific Purpose: Subdivision (e) specifies that the time during which a psychological associate registration is in an inactive status does not count towards the time limitations set forth in section 1391.1(b). It also reminds the registrant that the time limitations regarding accruing supervised professional experience for the purpose of licensure as a psychologist set forth in section 1387(a) still apply.

Factual Basis / Rationale: Subdivision (e) is necessary for clarity. It makes clear that the period of time when a psychological associate registration is in the newly created inactive status, the time while the registration is inactive does not count against limitations about supervised professional experience set forth in CCR section 1391.1(b).

A psychological associate registration is one of the pathways that allows an individual to accrue the required supervised professional experience towards licensure. There are separate time limitations set forth in regulations regarding the accrual of supervised professional experience. The proposed language clarifies that if a psychological associate accrues the required supervised professional experience towards licensure, despite their psychological associate registration having been in an inactive status during the accrual, the time limitations regarding the accruing supervised professional experience set forth in 1387(b) still apply.

Section 1391.13, subdivision (f)

Specific Purpose: Subdivision (f) specifies the time limitation which a psychological associate registration can remain on an inactive status.

Factual Basis / Rationale: Subdivision (f) is necessary for clarity. It makes clear that a psychological associate registration can remain on an inactive status for cumulatively of 30 months. The time limitation addresses concerns of not having a time limitation on an inactive status. The Board believes the 30-month limitation will grant registrants enough time to address the disruptions in providing psychological functions relating to the practice of psychology. Additionally, by setting the time limitation for an inactive status, allows registrants and board staff to track the total time the inactive status has been in place.

Adopt 16 CCR section 1391.14

Specific Purpose: CCR section 1391.14 is added to specify the requirements for a psychological associate registration that is in an inactive status to be reactivated.

Factual Basis / Rationale: CCR section 1391.11 requires a registered psychological associate to submit Form PSB 101 (07/17) to add a primary supervisor. Board approval of the addition of a potential primary supervisor is required for a registered psychological associate prior to providing psychological services under their new primary supervisor. Having staff reactivate an inactive psychological associate registration upon the approval of the addition of a primary supervisor will provide administrative ease to the registered psychological associate seeking to reactivate their registration. The registered psychological associate would not be required to submit a separate reactivation request beyond submitting the Notification To Add Or Change Supervisor Or Service Location For A Psychological Associate form (Form PSB 101 (07/17)).

Underlying Data

Technical, theoretical, or empirical studies or reports relied upon (if any):

1. Licensing Committee Agenda, relevant Materials, and Minutes from October 13, 2017.
2. Licensing Committee Agenda, relevant Materials, and Minutes from January 22, 2018.
3. Licensing Committee Agenda, relevant Materials, and Minutes from October 25, 2018.
4. Board Meeting Agenda, relevant Materials, and Minutes from November 16-17, 2018.
5. Board Meeting Agenda, relevant Materials, and Minutes from August 18, 2023.

Business Impact

The Board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States. This initial determination is based on the fact that the Board does not charge fees for an individual to place an active psychological associate registration in inactive status or reactivating an inactive psychological associate registration. As a result, there are no costs impacts to individuals or businesses.

Economic Impact Assessment:

The Board has determined this regulatory proposal will have the following effects:

It will not create or eliminate jobs within the State of California because placing an active psychological associate registration in inactive status or reactivating an inactive psychological associate registration at no cost only impacts the registered psychological associate seeking to proactively manage their registration.

It will not create new business or eliminate existing businesses within the State of California because placing an active psychological associate registration in inactive status or reactivating an inactive psychological associate registration at no cost only impacts the registered psychological associate seeking to proactively manage their registration.

It will not affect the expansion of businesses currently doing business within the State of California because placing an active psychological associate registration in inactive status or reactivating an inactive psychological associate registration at no cost only impacts the registered psychological associate seeking to proactively manage their registration.

This regulatory proposal benefits the health and welfare of California residents because it provides the mechanism for a registered psychological associate to switch from active to inactive status without cost when unable to perform psychological functions and not have the inactive time count against the six years registration limitation. Additionally, the regulations will help to improve public protection by facilitating the public being able to determine whether a registered psychological associate is able to perform psychological functions..

This regulatory proposal will not impact worker safety or the state's environment, as it does not involve worker safety or the state's environment.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulations in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

The Board considered not establishing an inactive registration status. This was rejected because without an inactive registration status, registrants would have time counted toward their registration when they are legally unable to accrue hours. Creating an inactive registration status would allow registered psychological associates to effectively maintain their registrations.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Board welcomes comments from the public.