

**BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

HEARING DATE: No hearing planned unless requested

SUBJECT MATTER OF PROPOSED REGULATIONS: Psychological Associate Registration

SECTION(S) AFFECTED: Title 16, California Code of Regulations (CCR), Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, and 1392.1

BACKGROUND:

The Board of Psychology regulates psychologists and registered psychological associates (psychological associates). Licensed psychologists may practice independently in any private or public setting. Registered psychological associates must possess a qualifying master's degree and are registered to a licensed psychologist; they may provide limited psychological services to the public under the direct supervision of the psychologist. As of 2020, the Board of Psychology has 23,441 licensees and registrants.

Governor Brown signed Senate Bill 1193 (SB 1193) (Hill, Chapter 484, Statutes of 2016) on September 22, 2016, and Senate Bill 547 (SB 547) (Hill, Chapter 429, Statutes of 2017), on October 2, 2017. These bills made changes to the psychological assistant registration, which necessitates these regulatory changes. In addition, Senate Bill 801 (SB 801) (Archuleta, Chapter 647, Statutes of 2021), was signed October 7, 2021, which changed the name “psychological assistant” to “registered psychological associates” and made further changes to the psychological associate registration, which necessitates further regulatory changes.

SB 1193 amended Business and Professions Code (BPC) section 2913. First, prior law specified employment settings where a psychological assistant was permitted to perform psychological services, under supervision, and limited the number of psychological assistants that could be employed in these settings. The amendments deleted the referenced settings where employment is permitted, as a psychological assistant, and deleted the limitation on psychological assistants that could be employed in these settings. Second, prior law required the employer of the psychological assistant to submit, to the Board of Psychology (Board), an application to employ the psychological assistant and to renew the psychological assistant registration. These

amendments require the psychological assistant to apply to the Board, directly, for the psychological assistant's registration and to renew the registration annually. Lastly, prior law specified the number of psychological assistants a supervisor could supervise, limiting the number to three

SB 547 amended BPC section 2987, effective January 1, 2018, removed the supervisor as the person responsible for the renewal of the psychological assistant registration.

SB 801 amended BPC section 2913, effective January 1, 2022, which modified the name "psychological assistant" to "registered psychological associate." The Board promulgated a rulemaking without regulatory effect (1 CCR 100), which became effective concurrent with the SB 801 changes, to correct much of this non-discretionary language usage.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:

The purpose of the proposed regulatory language is to conform the applicable regulations to the statutory changes, implementing the requirement that the person responsible for the initial registration, the registration renewal, and any changes in the registration status, is the psychological associate, and not the employer and/or primary supervisor.

The problems to be addressed:

Current regulatory language conflicts with the amended statutes. While the law now specifies that the person seeking to be a psychological associate is responsible to apply for, and renew, the registration and pay the applicable fees, current regulations still place that responsibility on the supervisor / employer. This is confusing to applicants for a psychological associate registration, registered psychological associates, supervisors, and/or employers, as to whom is responsible for applying for registration, renewing a registration, paying the applicable fees, and reporting changes to the status of a registration.

The statutory changes also removed the requirement that the psychological associate be employed by specified individuals and/or organizations, However, the current regulations still reference employer and employment settings. References to employer and employment organizations are, thus, confusing to applicants, registrants, supervisors, and employers, as the application and registration are no longer location and/or employer-based, per the statutes.

The proposed regulatory amendments seek to resolve the forgoing issues.

Anticipated Benefits:

These proposed regulations will implement, interpret, and make specific the provisions of BPC sections 2913 and 2987. The Board proposes amendments to its current regulations to clarify responsibilities of the supervisor and the psychological associate relating to application for registration, renewal, and reporting changes to the status of a registration. These amendments will also clarify the requirements of delegated supervisors and make clarifying changes relating to the registration and renewal process. Additionally, the proposed amendments will provide a clear and streamlined administrative process for applicants, registrants, and supervisors, consistent with the statutes, eliminate conflict, and resolve the current confusion. Finally, punctuation and grammar choices are updated for clarity and consistency.

Incorporation of Documents by Reference:

The Board seeks to incorporate by reference PSB 100, entitled “Application For Registration As A Psychological Associate” (New. 2021) and PSB 101, entitled “Notification To Add Or Change Supervisor Or Service Location For A Psychological Associate” (New 2021). The incorporation by reference method is being used because it would be impractical and cumbersome to publish these formatted documents into the California Code of Regulations. The rationale for inclusion of these forms in this regulation may be found under each form’s respective heading under section 1391.1, below.

Specifically, the Board is proposing the following changes:

Amend 16 CCR Section 1391.1.

Section 1391.1, subsection (a)

Factual Basis / Rationale

Amendments to subsection (a) change the person responsible for submitting the application for a psychological associate registration from the psychological associate’s employer to the psychological associate applicant. This change is necessary to conform to statutory changes to BPC section 2913, as enacted by SB 1193.

To obtain a registration, an application must first be submitted to the Board. This section requires the applicant to submit the application on form PSB 100 (New 2021), incorporated by reference, which specifies information that the applicant is required to disclose in the application. The form and all of the information collected, thereon, are required to ensure that the Board can adequately evaluate an applicant’s qualifications for registration in a consistent manner. The data points are discussed below:

Form PSB 100 “Application For Registration As A Psychological Associate” (New 2021)

Instructions and Section I: Personal Information

The form begins with instructions to guide applicants and supervisors, as well as provides reference information.

- The requirement to answer each question fully and truthfully is designed to ensure that the Board receives accurate information and complies with the Information Practices Act requirement discussed below.
- The requirement to attach additional sheets of paper to the application when instructed or when space provided is not sufficient is necessary to ensure the Board receives complete information without unnecessarily lengthening the form.
- The Fee of \$40, set in 16 CCR 1292.1, is listed as a convenience.
- The requirement to mail the original application to the principal address is necessary to ensure the Board receives the version with the applicant’s signature (wet). The principal address is noted in 16 CCR section 1380.1 and is reprinted on the form for convenience.
- Fingerprint Submission is detailed. Fingerprint information is necessary to establish the identity of the applicant and to be able to match the applicant’s identity to any criminal offender record information provided by Department of Justice/Federal Bureau of Investigation (DOJ/FBI), as required by BPC section 144. Criminal offender record information is critical to the Board’s ability to determine whether there are any bases upon which registration can and should be denied.
- The notification to add or change supervisor is added for the applicant’s convenience, pursuant to 16 CCR section 1387 *et seq.*

Collection of the information in Section I: Personal Information, on form PSB 100, is necessary for the Board to:

- Determine whether the applicant intends to use the hours of experience accrued under the supervision of the referenced primary supervisor toward the supervised professional experience requirements for licensure as a psychologist. This is required to alert the applicant and staff to the requirement that the applicant must additionally complete and attach, to the application, a Supervision Agreement that meets the requirements of 16 CCR 1387(b)(10).
- Determine whether the applicant is or has previously served in the military. The applicant may voluntarily disclose personal military service for the Board to consider whether the applicant qualifies for expedited review pursuant to BPC sections 114.5 and 115.4. Business and Professions Code 114.5 requires boards to inquire

regarding military service. SB 1226 (Correa, Chapter 657, Statutes of 2014), effective January 1, 2016, added BPC section 115.4, which requires boards and bureaus under the Department of Consumer Affairs on and after July 1, 2016, to expedite the initial licensure process for an applicant that has served as an active duty member of the United States Armed Forces and was honorably discharged.

- Identify the applicant by obtaining the legal name, any aliases, date of birth, Social Security Number or individual Taxpayer Identification Number (in accordance with BPC section 30, which is listed in the footnote).
- Establish an address of record for Board communication and public posting on the Board's website, as well as an alternative physical business or residential address for the Board's internal administrative use. This information is required by law (BPC section 27) and regulation (16 CCR 1380.5).
- Contact the applicant during the application process regarding any discrepancies in and the status of the application, by requiring the applicant to disclose current contact information, such as a phone number and email address, if any.

Section II: Education Qualification

Collection of the information in Section II: Education Qualification, on form PSB 100 is necessary for the Board to:

- Ensure that the applicant meets the educational requirements set forth in BPC section 2913(b), by obtaining the information that demonstrates the applicant is eligible, including the name of the educational institution, type and description of degree, status as a doctoral candidate, and date the degree was awarded or the date applicant was admitted to a doctoral degree program.
- The notation that qualifying transcripts must be mailed from the graduate institution directly to the Board is necessary to show accuracy and validity of the applicant's education. The degree date provides verification of the completion of a qualifying degree as applicants are required to have a completed degree (either a Master's or a Doctoral degree) pursuant to BPC section 2913(b).

Section III: Supervisor

Collection of the information in Section III: Supervisor, on form PSB 100 is necessary for the Board to:

- Identify and verify eligibility of the primary supervisor by obtaining the name, license type, and license number of the primary supervisor, and obtain a current telephone

number, and email address to contact the primary supervisor regarding questions and the status of the application.

Section IV: Location of Services

Collection of the information in Section IV: Location of Services, on form PSB 100, is necessary for the Board to:

- Ensure supervision of psychological associates is being provided at each location where the applicant will provide services to the public, pursuant to BPC section 2913, and 16 CCR 1391.5, by requiring the applicant to identify all locations where the applicant will be providing psychological services as a psychological associate, including the name of the location and the complete address of the location.

Section V: Psychological Associate Questionnaire

Section V is to be completed by the psychological associate applicant.

The first 3 questions on form PSB 100 are necessary for the Board to:

- Review the applicant's registration history with the Board to determine whether the applicant has exceeded the cumulative 72-month maximum allowance for registration, as a psychological associate, pursuant to 16 CCR 1391.1, by requiring disclosure of any current or prior registrations with the Board. This information will also allow the Board to determine if there were any instances of disciplinary or enforcement actions taken against the applicant that would preclude the applicant from registration as a psychological associate pursuant to BPC, section 2960, or that must apply to the instant registration because they carry over from an earlier registration by the terms of an earlier decision.

The next three questions (4-6), in Section V, on form PSB 100 are derived from restrictions in the supervision relationship in 16 CCR 1387.1, 1391.8, and asks if the applicant:

- Has any proprietary interests in the supervisor's business or properties, which are prohibited by 16 CCR 1391.8(b);
- Rents, leases, subleases or lease-purchases office space, which is prohibited by 16 CCR 1391.8(c); and
- Has any familial and/or interpersonal relationships with the employer and/or supervisor, which are prohibited by 16 CCR 1387.1, subsection (j).

The regulations place these restrictions on the relationship to assure that a professional, unbiased, supervision relationship is maintained, and that there are no financial or ethical interests between the supervisor and trainee that could create conflicts of

interests that interfere with appropriate supervision. Accordingly, these questions are included on the form so the Board can determine if there are impediments to a professional, unbiased supervision relationship. If those conflicting relationships are disclosed, the Board will notify the applicant regarding the non-qualifying supervision relationship and will allow the applicant to provide information for a new primary supervisor to be reviewed by the Board.

Questions 7-13, in Section V, on form PSB 100, are derived from the grounds for denial specified in BPC sections 141, 480, 2960, 2960.5, 2960.6, and 2964.3, and asks if the applicant has:

- Any licensure discipline or denial by any government agency in the United States or its territories, military court, foreign government, or other disciplinary body, to determine whether grounds for denial of the application exist pursuant to BPC sections 141 and 2960.6;
- Any denial of a license, registration or credential to practice psychology or any other profession in any state or country to determine whether grounds for denial of the application exist, pursuant to BPC section 2960.6(a)
- Any voluntary surrender of a license, registration or credential to practice psychology or any other profession in the United States or its territories or foreign government, to determine whether grounds for denial of the application exist pursuant to BPC sections 141 and 2960.6(b);
- Any ethical committee review or action by any professional organization in any state or country, to determine whether grounds for denial of the application exist pursuant to BPC section 2960;
- Any requirements to register as a sex offender to determine whether grounds for denial of the application exist pursuant to BPC section 2964.3;
- Any mental illness or chemical dependency that would impair or limit the applicant's ability to practice psychology safely, to determine whether grounds for denial of the application exist, pursuant to BPC section 2960.5; and
- Any illegal use of controlled dangerous substances that would have an ongoing impact on the applicant's ability to function as a psychological assistant, to determine whether grounds for denial of the application exist, pursuant to BPC 2960(b).

It is necessary to obtain an explanation from the applicant if "Yes" was marked for any of the above questions for the Board to better determine the applicant's qualifications for registration and whether grounds for denial of the application exist. The Board provides, but does not require, the Conviction/License Disciplinary Action Form as a courtesy to assist the applicant in organizing a complete response.

Section VI: Supervisor Questionnaire

Section VI: Supervisor Questionnaire, on form PSB 100, is to be completed by the prospective primary supervisor of the applicant. Although the statute now makes the psychological associate complete the application for registration, the applicant must provide services under the immediate supervision of a licensee. Accordingly, the form requires input from the prospective supervisor to determine whether the requirements in 16 CCR 1387.1, related to the training of and the relationship with the applicant, are met.

Questions 1-10, in Section VI, on form PSB 100, identify requirements and prohibitions specified in 16 CCR sections 1387, 1387.1, 1391.6, and 1391.8, and asks the prospective primary supervisor:

- Whether the supervisor has had denials, discipline, voluntary surrenders, or ethics reviews, related to their profession;
- Whether the supervisor has completed the required six (6) hour supervision course required by 16 CCR 1387.1(b);
- Whether the supervisor rents, leases, subleases, or lease-purchases office space to the psychological associate, which is prohibited by 16 CCR 1391.8;
- Whether the supervisor has a familial and/or interpersonal relationship with the psychological associate, which is prohibited by 16 CCR 1387.1(j-k);
- Whether the supervisor will provide the minimum one-hour of face-to-face weekly supervision, required by 16 CCR 1387(b)(4);
- Whether the supervisor will ensure that clients are informed that the psychological associate is unlicensed and under the supervisor's supervision as required by 16 CCR sections 1387.1(g) and 1391.6(b);
- Whether the supervisor will be providing direction and supervision in the same work setting as the psychological associate as required by 16 CCR 1391.5(a); and
- Whether the primary supervisor will be available to the psychological associate 100% of the time the psychological associate is providing psychological services as required by 16 CCR 1391.6(c).

It is necessary to ask the prospective primary supervisor the above questions so the Board can determine if the prospective primary supervisor meets the requirements and responsibilities of being a primary supervisor.

Section VII: Acknowledgements

Section VII: Acknowledgements, on form PSB 100, are to be completed by both the prospective psychological associate and the prospective primary supervisor, unless otherwise noted. The acknowledgements identify requirements and prohibitions that are related to supervision, the primary supervisor's responsibilities, and the psychological associate's responsibilities, as specified in BPC sections 651, 2913, and 17500 and 16 CCR sections 1380.6, 1387.1, 1391.1, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1396.4, and 1397. The requirements and prohibitions are as follows:

- That individual supervision is non-delegable;
- That clients must be informed prior to rendering services that any fees paid for the service of the psychological associate must be paid directly to the primary supervisor or employer, as required by 16 CCR 1387.1(g);
- That the psychological associate shall at all times and under all circumstances identify themselves to clients as a psychological associate of his or her employer or responsible supervisor when engaged in any psychological activity, as required by 16 CCR 1396.4(b);
- That every supervisor of a psychological associate shall have the education, training and experience in the areas of psychological practice for which they will supervise, and shall be responsible for supervising the psychological functions performed by the psychological associate and ensuring the psychological associate complies with the provisions of the Business and Professions Code, the Board's regulations, and the ethical standards established by the American Psychological Association, as required by 16 CCR 1391.6(a);
- That a psychological associate shall be under the direction and supervision of a licensed psychologist in the same setting in which the psychological associate performs psychological functions, as required by 16 CCR 1391.5(a);
- That no psychological associate may pay a fee, monetary or otherwise, in consideration for supervision provided, and the supervisor must supply all the provisions necessary for the psychological associate, as provided in 16 CCR 1391.8(a);
- That within 30 days after the termination of the supervision between a primary supervisor and a psychological associate, or any change or addition of the location where services are being rendered by a psychological associate with the same supervisor, the psychological associate shall notify the Board of such termination or change, on form PSB 101(New 2021), as required by 16 CCR 1391.11(b);

- That upon a change or addition of a primary supervisor, a psychological associate shall notify the Board in writing of such change on form PSB 101 (New 2021) and seek Board approval prior to rendering psychological services under the supervision of the new primary supervisor, as required by 16 CCR 1391.11(a);
- That upon a change or addition of primary supervisor, a new supervision agreement is required to be completed with the primary supervisor if the psychological associate intends to accrue the hours for supervised professional experience towards licensure, as required by 16 CCR 1391.11(a);
- That a psychological associate may only advertise services as being under the supervision of his or her supervisor. Any advertisement for the services provided by the psychological associate must state that they are a psychological associate and must include the supervisor's name and license number. A supervisor may advertise the psychological associate services performed under the supervisor's supervision. These are required by 16 CCR sections 1380.6, 1396.4(b), and 1397, and BPC sections 651 and 17500;
- That no psychological services may be provided by the psychological associate prior to the approval of the application by the Board, in accordance with BPC section 2913.
- That registration as a psychological associate shall be limited to a cumulative total of six years (72 months), as provided in 16 CCR 1391.1(b);
- That the registration of a psychological associate expires one year after date of issuance and that the registration shall be renewed by that date. A psychological associate whose registration has not been renewed shall not function as a psychological associate. Registrations not renewed within 60 days of the expiration date are canceled and a new application must be submitted. Also, that a psychological associate may not practice or accrue hours of supervised professional experience during any period of registration delinquency or supervisor's license delinquency. These requirements are provided in 16 CCR sections 1387.1(a), 1391.12; and
- Finally, pursuant to 16 CCR 1391.10, that annual reporting is required to renew the registration.

Requiring the applicant and prospective primary supervisor (where appropriate) to read and acknowledge their respective understanding of the applicable laws and regulations ensures that both parties indicate that they are aware of the responsibilities for and prohibitions in the relationship necessary to maintain compliance with these laws and regulations, and understand that they exist to maintain a supervisor/trainee relationship devoid of inherent conflicts. The responsibilities for understanding any laws and

regulations that govern the practice of psychology remain with the supervisor and applicant.

Section VIII: Signatures

The application requires that the applicant and the prospective primary supervisor sign the application, under penalty of perjury, declaring that the information provided is true and correct. The Board requires the signature be signed, under penalty of perjury, to ensure the application contains a truthful representation of those facts that support the qualifications for registration by the applicant and the primary supervisor and underscores the importance of the veracity of the responses provided. Certification under penalty of perjury helps to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications].) The Board relies upon applicants' self-reported information in evaluating applications. The certification requirement protects consumers because it helps ensure that only applicants who meet requirements, as demonstrated by their application materials, will be eligible to become psychological assistants, and that only qualified applicants are approved to practice.

Finally, to comply with the Information Practices Act, various disclosures are listed on the form. Civil Code section 1798(a) requires the name of the agency and the division within the agency that is requesting the information. This requirement is met with the portion of the Notice on Collection stating "the Department of Consumer Affairs and the California Board of Psychology collect."

Civil Code section 1798(f) requires the form to include "the principal purpose or purposes within the agency for which the information is to be used." This is satisfied by the statement under the first subheading "Collection and Use of Personal Information" indicating "The Board uses this information principally to identify and evaluate applicants for permit or licensure, issue and renew licenses, and enforce licensing standards set by law and regulation."

Civil Code section 1798(c) requires "the authority, whether granted by statute, regulation, or executive order which authorizes the maintenance of the information." The authority to collect information is provided as follows: BPC section 30 outlines the collection and use of Taxpayer Identification Numbers and Social Security Numbers, pursuant to Section 17520 of the Family Code and 42 U.S.C.A. § 405(c)(2)(C)). Other pieces of personally identifying information are collected under the authority of Business and Professions Code sections 325 and 326 and Labor Code section 432.7,

for purposes of investigating complaints and conducting required background checks for licensure.

Civil Code section 1798(d) requires “With respect to each item of information, whether submission of such information is mandatory or voluntary.” The form satisfies this requirement with the second subheading reading “Mandatory Submission” with a further statement that the information is both mandatory and the form may not be processed without the provision of all requested information.

Civil Code section 1798(h) requires the form to state “the individual’s right of access to records containing personal information which are maintained by the agency.” The form satisfies this requirement with the third subheading titled “Access to Personal Information.” The form states “You may review the records maintained by the Board that contain your personal information, as permitted by the Information Practices Act. See below for contact information.”

Civil Code section 1798(g) requires a statement of “Any known or foreseeable disclosures which may be made of the information pursuant to subdivision (e) or (f) of Section 1798.24.” The form satisfies this requirement with the fourth subheading titled “Possible Disclosure of Personal Information.” This is stated via the text in the form reading:

Possible Disclosure of Personal Information

However, we may need to share the information you give us with other government agencies. This may include sharing any personal information you gave us.

The information you provide may also be disclosed in the following circumstances:

- In response to a Public Records Act request (Government Code Section 6250 and following), as allowed by the Information Practices Act (Civil Code Section 1798 and following).
- To another government agency as required by state or federal law.
- In response to a court or administrative order, a subpoena, or a search warrant.

Finally, Civil Code section 1798(b) requires “the title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.” This requirement is met with the final paragraph of the form, entitled “Contact Information,” which sets out not only the contact information for questions about the form and to

access records, but also the address and contact information of the Board for issues regarding the Public Records Act requests, the Department’s Privacy Policy, the Information Practices Act. This disclosure covers the strict requirements of the Information Practices Act but also provides the public with a variety of options for obtaining information from the Board and the Department of Consumer Affairs on issues directly related to the collection of the data, or of broader concerns related to records requests and public inquiries.

Section 1391.1, subsection (c)

Factual Basis / Rationale

An additional amendment incorporates the effective date, of October 23, 2011, as the date the 72-month limitation to be a registered psychological associate began pursuant to prior rulemaking. This is the date the licensing system was able to establish as the necessary starting point to calculate 72-months of registration. This clarifies the date when the limitation began.

Section 1391.1, subsection (d)

Factual Basis / Rationale

The word “modified” is corrected to “extended” because time limitations are only extended and not otherwise modified by the Board. This is a grammar change for specific clarity.

Amend 16 C.C.R. section 1391.2

Factual Basis / Rationale

Amendments to section 1391.2 make grammatical changes for clarity by changing the reference to the withdrawal of an application from plural to singular since there will only be one registration for each psychological associate. Statutory authority and reference citations are added as they were omitted previously.

Amend 16 C.C.R. section 1391.5

Factual Basis / Rationale

Amendments to section 1391.5, subsection (a), delete the reference to the psychological associate being employed by a supervisor to be consistent with the statute, and clarify that a psychological associate is to be supervised by a primary supervisor who works in the same setting.

Amendments to subsection (c), delete language referring to organizations that can employ a registered psychological associate. Since the amendments to BPC section

2913 delete the limitations on which organizations or settings can employ a registered psychological associate, this change is necessary to be consistent with the statute.

Amendments to subsection (c) also clarify that if delegated supervision of the psychological associate is elected, all parties must be employed at the same work setting. This change is due to the removal of the requirement that these individuals be employed at the same organization, per BPC section 2913 changes through SB 1193 (Chapter 484, Statutes of 2016). By having the supervisor and the psychological associate practice in the same setting, this allows the supervisor to achieve adequate supervision without violating any rules of confidentiality.

16 C.C.R. section 1391.6

Factual Basis / Rationale

Amendments to section 1391.6, subsection (a), clarify that a supervisor must possess the “education, training, and experience” in the areas of psychological practice that they will supervise. Currently, the language requires that the supervisor ensure the “extent, kind and quality of the psychological functions,” performed by the psychological associate are consistent with the supervisor’s own training, which the Board believes lacks clarity and is not in plain language. These changes are necessary to ensure the requirements are written in plain language to be easily understood by the psychological associates and their supervisors. “Ethical” is added to clarify that the standards are contained within the document titled “Ethical Principles of Psychologists and Code of Conduct” referenced in BPC 2936.

Current language in subsection (b), requires that the supervisor notify the patient or client that the psychological associate is unlicensed and under supervision and that the supervisor will have access to the patient or client’s chart as part of the supervisor’s duties. The amendment changes from a requirement that the supervisor provide such notification to the patient or client to a requirement that the supervisor ensure the notification is provided. This amendment allows the psychological associate to inform the client or patient, providing for a more streamlined practice of notification from the psychological service providers to the client and patient.

Amendments to subsection (c), clarify that the referenced associate is a “psychological” associate, consistent with regulatory language in Article 5.1.

Amendments to subsection (d) change references to “patient” to include “clients,” since psychological associates may work in a non-clinical setting where they provide services to clients, not patients. This aligns with the industry terminology.

Amend 16 C.C.R. section 1391.8

Factual Basis / Rationale

Amendments to section 1391.8, subsection (a), prohibit the psychological associate from paying a fee for supervision, rather than prohibiting a supervisor/employer from charging a fee in consideration for supervision/employment. This change is necessary as the onus for the registration will now be with the psychological associate, and the psychological associate will be under supervision regardless of their employment status. The prohibition is necessary to ensure that the supervisor of the psychological associate is unbiased and not dependent upon payment to the person with the responsibility to train and attest to competency.

Repeal 16 C.C.R. section 1391.10

Factual Basis / Rationale

Repeal of 16 CCR 1391.10, will eliminate the annual reporting of information from the primary supervisor(s) that can now be reported directly from the psychological associate through filing form PSB 101 (New 2021).

Prior to the Department of Consumer Affairs implementing the BreEZe database system, the Board relied on the annual report to ensure the psychological associate's employment and supervision information was updated. BreEZe allows psychological associates to make some changes and updates, electronically, through the applicant's individual BreEZe account. Additionally, adoption of form PSB 101 (Rev. New 2021) will ensure that updates are reported timely rather than annually.

Amend 16 C.C.R. section 1391.11

Factual Basis / Rationale

Existing language (new subsection (b)) requires that the employer of the psychological associate notify the Board of the termination of employment within 30 days of that termination. A new subsection (a) is added to mandate that the psychological associate notify the Board of any changes to his or her supervisor(s) or location where services are provided, using form PSB 101 (New 2021), incorporated in 1391.1 (see discussion above). Previously, each new supervisor who wanted to employ a psychological associate had to file a new registration with the Board. Now that the psychological associate is responsible for the registration, upon a change in supervisors, the new language requires Board approval prior to rendering psychological services under the new supervisor and mandates that a new supervision agreement be completed when a registered psychological assistant is accruing supervised professional experience. The application must be completed, including the supervisory questions, in order for the

Board to ensure that supervision will be appropriate pursuant to the requirements. Further, the Board will check to make sure that the proposed supervisor is *qualified*, that is, that the proposed supervisor's license is current, active, and that there are no restrictions or prohibitions on the license to prevent or forbid supervision. If the application is complete and there are no issues with the supervisor qualification, then the Board will approve the application.

The original language of this section is renumbered to subsection (b). Amendments to that subsection of 1391.11, change the requirement that a supervisor notify the Board in cases of termination of employment of the psychological associate to be the responsibility of the psychological associate. In addition, the psychological associate must notify the Board of changes in location where their services are rendered.

In all cases where the psychological associate requests approval for the change of or addition of primary supervisor(s) or notifies the Board of a termination and/or change of a service location to an existing registration, the psychological associate shall submit the required information on form PSB 101 (New 2021). It is necessary for the psychological associate to complete this form with the primary supervisor.

This new language conforms to changes where the psychological associate is responsible for the applicant's one personal registration, including the applicant's responsibility to keep the Board apprised of any changes in supervision. By requiring prior approval of a change to or addition of a primary supervisor, the Board verifies the eligibility of any primary supervisor, while also maintaining current information of the psychological associate's status while performing psychological services for which the registration is required.

Form PSB 101 "Notification To Add Or Change Supervisor Or Service Location For A Psychological Associate" (New 2021)

16 CCR 1391.1 will incorporate by reference Form PSB 101 (New 2021), which is required when an applicant or registrant wants to add or change a primary supervisor or service location. This form is a multi-use notification form.

The form begins with instructions to guide applicants and supervisors, as well as provides reference information.

- The requirement to answer each question fully and truthfully is designed to ensure that the Board receives accurate information and complies with the Information Practices Act requirements discussed below.

- The requirement to attach additional sheets of paper to the application when instructed or when space provided is not sufficient is necessary to ensure the Board receives complete information without unnecessarily lengthening the form.
- The Fee of \$40, set in 16 CCR 1292.1, is listed as a convenience.
- The requirement to mail the original application to the principal address is necessary to ensure the Board receives the version with the applicant's signature (wet). The principal address is noted in 16 CCR section 1380.1 and is reprinted on the form for convenience.
- Fingerprint Submission is detailed. Fingerprint information is necessary to establish the identity of the applicant and to be able to match the applicant's identity to any criminal offender record information provided by Department of Justice/Federal Bureau of Investigation (DOJ/FBI), as required by BPC section 144. Criminal offender record information is critical to the Board's ability to determine whether there are any bases upon which registration can and should be denied.
- The notification to add or change supervisor is added for the applicant's convenience, pursuant to 16 CCR section 1387 *et seq.*

Section I: Personal information

Collection of the information in Section I: Personal Information, on form PSB 101, is necessary for the Board to:

- Identify the applicant by obtaining the name and registration number of the individual.
- Contact the applicant during the application process regarding any deficiencies and the status of the applicant's notification, by requiring applicants to disclose a current phone number, if any.

Section II: Former Primary Supervisor or Service Location Information

Collection of the information in Section II: Former Primary Supervisor or Service Location Information, on form PSB 101, is necessary for the Board to:

- Identify the type of change being reported by checking a box to remove the supervisor and/or the service location to ensure the Board is updating the records according to the psychological associate's changes; or
- Identify the supervisor and/or service location to be removed by requesting the supervisor's name, license number, phone number, email, as well as the name and/or address of the service location to be removed, and the time-period of supervision received, to ensure the registration record of the psychological associate

is current and accurate, and to obtain current contact information in the event of a deficiency with the notification and/or to acknowledge the record was updated.

Section III: New Primary Supervisor or Service Location Information

Collection of the information in Section III: New Primary Supervisor or Service Location Information on form PSB101 is necessary for the Board to:

- Identify and verify eligibility of the additional primary supervisor by obtaining the name and license number of the additional primary supervisor.
- Contact the additional primary supervisor regarding questions, any deficiencies, and the status of the notification by obtaining the supervisor's phone number and email address, if any.
- Verify compliance and ensure adequate supervision requirements are met for psychological associates at each location where they provide services to the public, pursuant to BPC section 2913(c) and 16 CCR sections 1387.1 and 1391.5, by obtaining the name and the complete address of the location where psychological services will be provided.

Section IV: Supervisor Questionnaire

Section IV: Supervisor Questionnaire, on form PSB 101, is to be completed by the prospective primary supervisor of the psychological associate. The form requires input from the prospective supervisor to determine whether the qualifications and responsibilities of a primary supervisor, as specified in 16 CCR 1387.1, related to the training of and the relationship with the psychological associate, are being met.

Questions 1-8 in Section IV, on the form PSB101, identify requirements and prohibitions specified in 16 CCR sections 1387, 1387.1, 1391.6, and 1391.8, and asks the prospective primary supervisor:

- Whether the supervisor has had denials, discipline, voluntary surrenders, or ethics reviews, related to their profession;
- Whether the supervisor has completed the required six (6) hour supervision course required by 16 CCR 1387.1(b);
- Whether the supervisor rents, leases, subleases, or lease-purchases office space to the psychological associate, which is prohibited by 16 CCR 1391.8(a);
- Whether the supervisor has a familial, business, or interpersonal relationship with the psychological associate, as prohibited by 16 CCR 1387.1(j);
- Whether the supervisor will provide the minimum one hour of face-to-face supervision required by 16 CCR 1387(b)(4);

- Whether the supervisor will ensure that clients are informed that the psychological associate is unlicensed and under their supervision, as required by 16 CCR sections 1387.1(g) and 1391.6(b);
- Whether the supervisor will be providing direction and supervision in the same work setting as the psychological associate, as required by 16 CCR 1391.5(a);
- Whether the primary supervisor will be available to the psychological associate 100% of the time the psychological associate is provide psychological services, as required by 16 CCR 1391.6(c);

It is necessary to ask the prospective primary supervisor the above questions for the Board to determine if the prospective primary supervisor meets the requirements and responsibilities of being a primary supervisor.

Section V: Acknowledgements

Section V: Acknowledgements, on form PSB 101, is to be completed by both the prospective registered psychological associate and the prospective primary supervisor, unless otherwise noted. The acknowledgements identify requirements and prohibitions that are related to supervision, primary supervisor's responsibilities, and psychological associate's responsibilities, as specified in BPC sections 651, 2913, and 17500, and 16 CCR sections 1380.6, 1387.1, 1391.1, 1391.5, 1391.6, 1391.8, 1391.11, 1391.12, 1396.4, and 1397.

The requirements and prohibitions are as follows:

- That supervision is non-delegable, pursuant to 16 CCR 1387.1(c)(1);
- That clients must be informed prior to rendering services that any fees paid for the service of the psychological associate must be paid directly to the primary supervisor or employer, as required by 16 CCR 1387.1(g);
- That the psychological associate shall at all times and under all circumstances identify them self to clients as a psychological associate of the employer or responsible supervisor when engaged in any psychological activity, as required by 16 CCR 1396.4(b);
- That every supervisor of a psychological associate shall have the education, training and experience in the areas of psychological practice for which they will supervise, and shall be responsible for supervising the psychological functions performed by the psychological associate and ensuring the registered psychological associate complies with the provisions of the Business and Professions Code, the Board's regulations, and the ethical standards established by the American Psychological Association, as required by 16 CCR 1391.6(a);

- That the psychological associate shall be under the direction and supervision of a licensed psychologist or in the same setting in which the psychological associate performs psychological functions, as required by 16 CCR 1391.5(a);
- That no psychological associate may pay a fee, monetary or otherwise, in consideration for supervision provided, as outlined in 16 CCR 1391.8(a);
- That within 30 days after the termination of the supervision between a primary supervisor and a psychological associate, or any change or addition of the location where services are being rendered by a psychological associate with the same supervisor, the psychological associate shall notify the Board of such termination or change, on form PSB 101(New 2021), as required by 16 CCR 1391.11(b).
- That upon a change or addition of a primary supervisor, a registered psychological associate shall notify the Board in writing of such change on form PSB 101 (New 2021) and seek Board approval prior to rendering psychological services under the supervision of the new primary supervisor, as required by 16 CCR 1391.11(a);
- That a psychological associate may only advertise services as being under the supervision of his or her supervisor. Any advertisement for the services provided by the psychological associate must state that they are a psychological associate and must include the supervisor's name and license number. A supervisor may advertise the psychological associate services performed under the supervisor's supervision. These provisions are set out in 16 CCR sections 1380.6, 1396.4(b), and 1397, and BPC sections 651 and 17500;
- That no psychological services may be provided by the psychological associate prior to the approval of the application by the Board, in accordance with BPC section 2913;
- That registration as a psychological associate shall be limited to a cumulative total of six years, as provided in 16 CCR 1391.1(b);
- That the registration of a psychological associate expires one year after date of issuance and that the registration shall be renewed by that date. A psychological associate whose registration has not been renewed shall not function as a psychological associate. Registrations not renewed within 60 days of the expiration date become canceled and cannot be reinstated and a new application must be submitted. Also, that a psychological associate may not practice or accrue hours of supervised professional experience during any period of registration delinquency or supervisor's license delinquency. These provisions are set out in 16 CCR 1391.12; and
- Finally, that annual reporting is required, as required in 16 CCR 1391.10.

Requiring the applicant and prospective primary supervisor (where appropriate) to read and acknowledge their respective understanding of the applicable laws and regulations ensures that both parties are aware of the responsibilities for and prohibitions in the relationship to maintain compliance with these laws and regulations, and understand that they exist to maintain a supervisor/trainee relationship devoid of inherent conflicts. The responsibilities of understanding of any laws and regulations that govern the practice of psychology remains with the supervisor and registered psychological associate.

Section VI: Signatures

The application requires the registered psychological associate and the primary supervisor to certify that the relationship as specified on the notification is that of supervisor/registered psychological associate as required by the Laws and Regulations Relating to the Practice of Psychology. The psychological associate and primary supervisor must declare under penalty of perjury under the laws of the State of California that the information provided on the form is true and correct, that the supervisor of the psychological associate is employed by the same work setting as the psychological associate and available to the psychological associate 100 percent of the time the psychological associate is providing psychological services, and that the limited psychological functions performed by the psychological associate were performed at a level satisfactory to ensure safety to the public. As described above (Form 100) with more detail, the Board requires the notification be signed under penalty of perjury to ensure that the notification contains a truthful representation of those facts that support the qualification for supervision by the applicant and the primary supervisor.

Finally, the form concludes with required disclosures mandated by the Information Practices Act, as described above (Form 100).

Amend 16 CCR 1391.12

Factual Basis / Rationale

Amendments to 16 CCR 1391.12(a) change the requirement for each employer to renew psychological associate registrations. This amended language conforms to statutory changes that makes the psychological associate responsible for the applicant's one personal registration, and makes renewal the applicant's responsibility. Amendments to 16 CCR 1391.12(a)(1 – 4), specify that to apply for renewal of a psychological associate registration, the psychological associate shall be required to provide the following information:

- (1) The name and registration number of the psychological associate, registration expiration date and the renewal amount. This information is necessary to ensure the psychological associate has been made aware of the need to renew the registration, when the registration must be renewed, and the fee required to submit for renewal. The information also assists Board staff to ensure the proper renewal fee is applied to the corresponding registration;
- (2) A disclosure of whether the psychological associate has been convicted or has had a license or registration disciplined since the applicant's last renewal. This information is necessary to determine whether grounds exist for any enforcement action pursuant to BPC section 2960 *et seq.*;
- (3) A current telephone number and email address, if any, for the psychological associate. This information is necessary for the Board to ensure contact information on file for the psychological associate is current should the Board have need to contact the psychological associate regarding Board updates and information specific to the individual's registration; and
- (4) A declaration signed, under penalty of perjury, that the information provided on the renewal form is true and correct. The Board requires the form be signed, under penalty of perjury, to ensure the form contains a truthful representation of those facts that support the continued qualifications for registration by the psychological associate.

Amendment to subsection (b) references 1391.12 requires that a psychological associate must pay the annual renewal fee to renew their registration. This change is necessary for clarity and ease of reading to include all the psychological associate renewal requirements in a single section.

Amendment to subsection (c) deletes language referencing the employer's responsibility to renew the registration, as it is now the responsibility of a psychological associate to maintain and renew the singular registration, which is consistent with the statute. Prior subsection (d) is deleted for the same reason.

Amendments to re-lettered subsection (d) recasts an expired registration as becoming "void" upon failure to renew within 60 days after the registration expires, and instead specifies that it shall be "cancelled," which reflects its status and is consistent with the terminology used by the licensing and registration system operated by the Department of Consumer Affairs. Additionally, it specifies that a cancelled registration cannot be renewed, which is consistent with the status of a cancelled license. The addition of "by the registered psychological associate" in the first line is necessary to conform with statute.

Amend 16 CCR 1392.1

Factual Basis / Rationale

Amendments to 16 CCR 1392.1(a), delete the requirement that the supervisor pay the registration fee for the psychological associate application, consistent with the statutory amendment to BPC section 2987. These amendments also correct errors within the authority cited and reference sections, as these references were incorrect.

Underlying Data

- Background Paper for The California Board of Psychology for the Joint Oversight Hearing, March 14, 2016
- Board Meeting Minutes from February 9-10, 2018
- Board meeting Minutes from November 15-16, 2018

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based upon the fact that changes to these regulatory sections will impact businesses positively because it shifts the responsibility for annual reporting requirements to the psychological associate and away from the business(es) employing them.

In addition, since the psychological associate will only have one registration number, rather than a separate registration number for each location which requires a separate application and renewal fee for each registration number, it will reduce the required financial impact on businesses.

Economic Impact Assessment

This regulatory proposal will have the following affects:

- It will not create or eliminate jobs within the State of California because the proposed regulatory changes only simplify the registration process and they do not change or remove the requirements for supervision of psychological associates and reporting to the Board;
- It will not create new business or eliminate existing businesses, within the State of California, because the proposal relates to the number of registrations each psychological associate is required to obtain with the Board;

- It will not affect the expansion of businesses currently doing business within the State of California because the proposal relates to the amount of registrations each psychological associate is required to obtain with the Board;
- This regulatory proposal benefits the health and welfare of California residents, because it does not remove the supervision requirements for psychological associates and allows enhanced portability of the psychological associate registration to multiple supervisors and/or employers;
- This regulatory proposal does not affect worker safety because the proposal relates to the amount of registrations that each psychological associate is required to obtain with the Board;
- This regulatory proposal benefits the state’s environment because it reduces the amount of duplicative registration applications and renewals mailed to and from the Board’ and
- This regulatory proposal does not affect housing costs in California.

Specific Technologies or Equipment

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

Duplication or Conflict with Federal Regulations

None.

Consideration of Alternatives

The Board has initially determined that no reasonable alternative to the regulatory proposal will 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, is the alternative that was considered and the reasons the alternative was rejected:

- Not adopt the amendments. This alternative was rejected because this regulatory proposal will conform the current regulations to be consistent with statutory changes made to Business and Professions Code section 2913, as enacted by SB 1193 (Hill, Chapter 484, Statutes of 2016), SB 547 (Hill, Chapter 429, Statutes of 2017), and SB 801 (Archuleta, Chapter 647, Statutes of 2021).