

Policy and Advocacy Committee Meeting Notice and Agenda

Department of Consumer Affairs
1625 N. Market Blvd., Trinity Room (Third Floor, Room 307)
Sacramento, CA 95834
(916) 574-7720

Committee Members

Seyron Foo, Chairperson
Sheryll Casuga, PsyD
Nicole J. Jones
Stephen Phillips, JD, PsyD

Legal Counsel

Norine Marks

Board Staff

Antonette Sorrick, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
Cherise Burns, Central Services Manager
Stephanie Cheung, Licensing Manager
Sandra Monterrubio, Enforcement Program Manager
Jason Glasspiegel, Central Services Coordinator

Links to agenda items with attachments are available at www.psychology.ca.gov, prior to the meeting date.

Monday, March 18, 2019

10:00 a.m. to 4:00 p.m., or until completion of business

The Committee welcomes and encourages public participation in its meetings. The public may take appropriate opportunities to comment on any issue before the Committee 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
2. Welcome from the Chair
3. Public Comment(s) for Items not on the Agenda. Note: The Committee 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. Review and Consideration of Revisions to the Goal of the Policy and Advocacy Committee – Recommendations to the Board
5. Approval of Committee Minutes: April 19, 2018

6. Board Sponsored Legislation for the 2019 Legislative Session: Review and Potential Action, Recommendations to the Board
 - a. SB 275 (Pan) – Amendments to Section 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact
 - b. Update on Amendments to Sections 2912, 2940-2944 of the Business and Professions Code Regarding Examinations, and New Section to the Business and Professions Code Regarding Voluntary Surrender

7. Review and Consideration of Proposed Legislation: Potential Action to Recommend Positions to the Board
 - a. Newly Introduced Bills –Potential Action to Recommend Active Positions to the Board
 - 1) AB 744 (Aguiar-Curry) Healthcare coverage: telehealth.
 - 2) SB 66 (Atkins) Medi-Cal: federally qualified health center and rural health clinic services.
 - 3) SB 163 (Portantino) Healthcare coverage: pervasive developmental disorder or autism.

 - b. Newly Introduced Bills –Potential Action to Recommend the Committee Watch Bills
 - 1) Recommendations for Committee to Watch Bills
 - A. AB 8 (Chu) Pupil health: mental health professionals.
 - B. AB 71 (Melendez) Employment standards: independent contractors and employees.
 - C. AB 184 (Mathis) Board of Behavioral Sciences: registrants and licensees.
 - D. AB 189 (Kamlager-Dove) Child abuse or neglect: mandated reporters: autism service personnel.
 - E. AB 193 (Patterson) Professions and vocations.
 - F. AB 312 (Cooley) State government: administrative regulations: review.
 - G. AB 396 (Eggman) School employees: School Social Worker Pilot Program.
 - H. AB 469 (Petrie-Norris) State records management: records management coordinator.
 - I. AB 476 (Rubio, Blanca) Department of Consumer Affairs: task force: foreign-trained professionals.
 - J. AB 496 (Low) Business and professions.
 - K. AB 512 (Ting) Medi-Cal: specialty mental health services.
 - L. AB 536 (Frazier) Developmental services.
 - M. AB 565 (Maienschein) Mental health workforce planning: loan forgiveness, loan repayment, and scholarship programs.
 - N. AB 577 (Eggman) Medi-Cal: maternal mental health.
 - O. AB 613 (Low) Professions and vocations: regulatory fees.
 - P. AB 630 (Arambula) Board of Behavioral Sciences: marriage and family therapists: clinical social workers: educational psychologists: professional clinical counselors: required notice.

- Q. AB 669 (Holden) Attorney General: assurance of voluntary compliance.
- R. AB 768 (Brough) Professions and vocations.
- S. AB 770 (Garcia, Eduardo) Medi-Cal: federally qualified health clinics: rural health clinics.
- T. AB 895 (Muratsuchi) School-based early mental health intervention and prevention services.
- U. AB 1055 (Levine) Mental health: involuntary commitment.
- V. AB 1271 (Diep) Licensing examinations: report.
- W. AB 1601 (Ramos) Office of Emergency Services: behavioral health response.
- X. SB 201 (Wiener) Medical procedures: treatment or intervention: sex characteristics of a minor.
- Y. SB 331 (Hurtado) Suicide-prevention: strategic plans.
- Z. SB 601 (Morrell) State agencies: licenses: fee waiver.
- AA. SB 639 (Mitchell) Medical services: credit or loan.

2) Recommendations for Committee to Watch Spot Bills

- A. AB 5 (Gonzalez) Worker status: independent contractors.
- B. AB 166 (Gabriel) Medi-Cal: violence prevention counseling services.
- C. AB 241 (Kamlager-Dove) Implicit bias.
- D. AB 289 (Fong) Public records appeals: ombudsman.
- E. AB 862 (Kiley) Professional licenses.
- F. AB 994 (Mathis) Health care practitioner identification.
- G. AB 1058 (Salas) Medi-Cal: specialty mental health services and substance use disorder treatment.
- H. AB 1132 (Gabriel) The Information Practices Act of 1977.
- I. AB 1184 (Gloria) Public records.
- J. AB 1201 (Boerner Horvath) Unfair Practices Act.
- K. AB 1264 (Petrie-Norris) Department of Consumer Affairs.
- L. AB 1474 (Wicks) Mental Health Master Plan.
- M. AB 1752 (Kalra) Consumers.
- N. SB 144 (Mitchell) Fees: criminal administrative fees.
- O. SB 180 (Chang) Health care professionals.
- P. SB 181 (Chang) Healing arts boards.
- Q. SB 342 (Hertzberg) Consumer complaints.
- R. SB 546 (Hueso) Unlicensed activity.
- S. SB 700 (Roth) Business and professions: noncompliance with support orders and tax delinquencies.
- T. SB 749 (Durazo) California Public Records Act.

8. Regulatory Update, Review, and Consideration of Additional Changes

- a. 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants
- b. 16 CCR Section 1396.8 – Standards of Practice for Telehealth
- 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 Section 1395.2 – Disciplinary Guidelines
 - f. 16 CCR Sections 1394 – Substantial Relationship Criteria; Section 1395 – Rehabilitation Criteria for Denials and Reinstatements; Section 1395.1 – Rehabilitation Criteria for Denials Suspensions or Revocations; Section 1395.2 – Disciplinary Guidelines
9. Update on California Psychological Association Legislative Proposal Regarding New Registration Category for Psychological Testing Technicians
 10. Recommendations for Agenda Items for Future Committee Meetings. Note: the Committee 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)]

ADJOURNMENT


Except where noticed for a time certain, all times are approximate and subject to change. The meeting may be canceled or changed without notice. For verification, please check the Board's Web site at www.psychology.ca.gov, or call (916) 574-7720. Action may be taken on any item on the agenda. Items may be taken out of order, tabled or held over to a subsequent meeting for convenience, to accommodate speakers, or to maintain a quorum.

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 Committee at the time the item is heard, but the Chair may, at his discretion, apportion available time among those who wish to speak. Board members who are present who are not members of the Committee may observe, but may not participate or vote.

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 goal of the Policy and Advocacy Committee is to advocate and promote legislation that advances the ethical and competent practice of psychology in order to protect consumers of psychological services. The committee reviews and tracks legislation and regulations that affect the Board, consumers, and the profession of psychology, and recommends positions on legislation for consideration by the Board

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #4 – Review and Consideration of Revisions to the Goal of the Policy and Advocacy Committee – Recommendations to the Board

Background:

Considering the recent Strategic Planning process completed by the Board of Psychology (Board), each Board committee will be reviewing their committee's Goal and recommend any changes to their Goal to the full Board at its next Board Meeting.

The Policy and Advocacy Committee's (Committee's) current Goal is as follows:

The goal of this committee is to advocate and promote legislation that advances the ethical and competent practice of psychology in order to protect consumers of psychological services. The committee reviews and tracks legislation and regulations that affect the Board, consumers, and the profession of psychology, and recommends positions on legislation for consideration by the Board.

Action Requested:

Review the Policy and Advocacy Committee Goal and recommend any changes to the full Board at its next meeting.

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #5 – Approval of Committee Minutes: April 19, 2018

Background:

Attached is the draft minutes for the April 19, 2018 Policy and Advocacy Committee Meeting.

Action Requested:

Approve the attached minutes for the April 19, 2018 Policy and Advocacy Committee Meeting.

Attachment: Draft minutes of the April 19, 2018 Policy and Advocacy Committee Meeting.

1 **Policy and Advocacy Committee Meeting Minutes**
2 **Department of Consumer Affairs**
3 **1625 N. Market Blvd., Trinity Room (Third Floor, Room 307)**
4 **Sacramento, CA 95834**
5 **(916) 574-7720**

6
7 **Thursday, April 19, 2018**

8
9 Nicole Jones, Chairperson, called the meeting to order at 10:07 a.m. A quorum was present and
10 due notice had been sent to all interested parties.

11
12 **Members Present**

13 Nicole J. Jones, Chairperson
14 Sheryll Casuga, PsyD
15 Michael Erickson, PhD

16
17 **Others Present**

18 Antonette Sorrick, Executive Officer
19 Cherise Burns, Central Services Manager
20 Stephanie Cheung, Licensing Manager
21 Sandra Monterrubio, Enforcement Program Manager
22 Norine Marks, DCA Legal Counsel
23 Liesel McCockran, Continuing Education and Renewals Coordinator

24
25 **Agenda Item #2: Welcome from the Chair**

26 Ms. Jones welcomed those in attendance and read the mission statement of the
27 Committee.

28
29 **Agenda Item #3: Public Comment(s) for Items not on the Agenda**

30 No public comment received.

31
32 **Agenda Item #4: Approval of Committee Minutes: May 15, 2017**

33 Ms. Jones provided her edits.

34
35 It was M(Erickson)/S(Casuga)C to approve the minutes as amended.

36
37 Vote: 3 aye (Casuga, Erickson, Jones), 0 no

38
39 **Agenda Item #5: Summary of Legislative Visits on Wednesday, February 14,**
40 **2018**

41 Ms. Burns gave a recap of the Board's process for legislative visits at the beginning of
42 each legislative session. During this visit, the Board members and staff spoke to the
43 Legislative members and their staff about the Board's 2018 legislative proposal and
44 2017 legislative accomplishments. She stated that the packet given to legislators and
45 their staff contained the information presented by the Board members.

46
47 Ms. Jones asked Dr. Erickson to share his experience. Dr. Erickson stated it was quite
48 valuable to talk with the legislators and their aids. He indicated that it was a good use of
49 time.

50
51 Discussion ensued regarding future legislative visits. Ms. Jones asked if there were
52 other ways that we could maximize Board participation. Ms. Sorrick stated that we can
53 survey the Board to see if they would prefer to come up before a Board Meeting or for a
54 separate half day in January.

55
56 **Agenda item #6: Sponsored Legislation for the 2018 Legislative Session: Review**
57 **and Potential Action, Recommendations to the Full Board**

- 58
59 a. **AB 2968 (Levine) – Amend Sections 337 and 728 of the Business and Professions**
60 **Code Regarding the Brochure Addressing Sexual Contact Between a**
61 **Psychotherapist and a Patient.**

62
63 Ms. Burns advised that on Tuesday, April 24, 2018, AB 2968 (Levine) will be heard in
64 the Assembly Committee on Business and Professions.

65
66 Dr. Erickson asked to discuss the bifurcation of the language as discussed in the Board
67 meeting. Ms. Burns provided a summary of the language.

68
69 Ms. Jones expressed her thanks to Dr. Erickson for going to testify at the Capitol on
70 behalf of the Board.

71
72 Catherine Campbell, Executive Director, California Protective Parents Association,
73 noticed that language was changed from patient to client, and asked why the language
74 was changed. She also asked if the patient is a minor, is the client the parent and
75 patient the child.

76
77 Ms. Burns stated that the word “client” was a broader term that includes all
78 psychological services and that in her example, the patient would still be the child and
79 not the parent.

80
81 **Agenda item #7: Review and Consideration of Legislation: Review of Bill**
82 **Analyses and Potential Action to Recommend Positions to the Full Board,**
83 **Recommendations to the Full Board**

- 84
85 a. **Newly Introduced Bills – Review of Bill Analyses and Potential Action to**
86 **Recommend Positions to the Full Board**

87 **1) Recommendations for Active Positions on Bills**

- 88 **A. AB 282 (Jones-Sawyer) – Aiding, Advising, or Encouraging Suicide: Exemption**
89 **from Prosecution**

90 Ms. Burns provided an overview of the bill.

91

92 It was M(Erickson)/S(Casuga)/C to recommend a support position to the full Board.

93

94 Vote: 3 aye (Casuga, Erickson, Jones), 0 no

95

96 **B. AB 1779 (Nazarian) – Sexual Orientation: Change Efforts**

97 Ms. Burns provided an overview of the bill.

98

99 Discussion ensued regarding the list of support for the bill.

100

101 Kathleen Russell, Executive Director, Center for Judicial Excellence, asked how this bill
102 is different from AB 2943.

103

104 Ms. Burns explained how this bill extends the ban on sexual orientation change efforts
105 to dependent adults as well as children. AB 2943 would make sexual orientation change
106 efforts an unlawful business practice under the Civil Code.

107

108 It was M(Erickson)/S(Casuga)/C to recommend a support position to the full Board.

109

110 Vote: 3 aye (Casuga, Erickson, Jones), 0 no

111

112 **C. AB 2044 (Stone) – Child Custody: Safety of the Child**

113 Ms. Burns provided an overview of the bill. She advised that staff recommends the
114 Committee discuss and consider whether or not to take a formal position on the bill. Ms.
115 Burns spoke about the bill analysis. She stated that staff reached out to one of our
116 enforcement experts who advised there are positives of the bill regarding training for
117 judicial council, but that there could be unintended consequences from other provisions
118 in the bill that are outside of the Board's purview.

119

120 Dr. Erickson stated he has a positive sense about this bill, but has concerns regarding
121 unintended consequences.

122

123 Discussion ensued regarding unintended consequences of the bill. The Committee also
124 discussed alternate options the Committee can recommend to the Board including a
125 letter of support in concept to the author.

126

127 Ms. Sorrick stated that the Committee may want to bring this bill to the full Board with a
128 watch recommendation.

129

130 Discussion ensued regarding whether watching the bill was appropriate. Ms. Jones
131 recommended that the Committee watch the bill but also to reach out to the author
132 regarding the Committee's concerns about unintended consequences with specific
133 provisions of the bill.

134
135 Catherine Campbell, stated that her organization supports this bill because it goes
136 towards child safety. Perpetrators of domestic violence are getting custody of children
137 and evaluators are missing the abuse and giving perpetrators custody. She stated that
138 we are living the unintended consequences and that children are still in the custody of
139 abusive parents. In the past 10 years, we have had over 600 murders of children,
140 including one that happened in Yolo county where the abusive parent killed the children.

141
142 Kathleen Russell, expressed appreciation to Dr. Erickson in expressing the importance
143 of this legislation. She thought she had previously made it clear to the Board that this bill
144 directly relates to psychologists in California and is in the purview of the Board. She
145 stated there have been 53 children murdered by a divorcing parent in the last decade in
146 California, and the reality now is worse than any unintended consequences of the bill.

147
148 It was M/(Erickson)/S(Casuga)/C to watch the bill and delegate to staff and an available
149 Committee member to have a phone call with the author's office to relate the
150 Committee's concerns regarding unintended consequences and report back to the full
151 Board.

152
153 Vote: 3 aye (Casuga, Erickson, Jones), 0 no

154
155 **D. AB 2138 (Chiu) – Licensing Boards: Denial of Application: Criminal Conviction**

156 Ms. Burns provided an overview of the bill. She stated that the bill was amended on
157 April 2, 2018, and provided the amendments to the Committee.

158
159 Ms. Monterrubio explained the current process for the denial of licenses and the appeal
160 process.

161
162 Ms. Jones asked if we can put some of the enforcement information that was just heard
163 into the analysis.

164
165 Ms. Marks stated this bill would prohibit you from denying a license in certain categories
166 that you might otherwise want to have your eye on.

167
168 It was M(Casuga)/S(Erickson)/C to recommend the Board to take an Oppose position.

169
170 Vote: 3 aye (Casuga, Erickson, Jones), 0 no

171
172 **E. AB 2943 (Low) – Unlawful Business Practices: Sexual Orientation Change
173 Efforts**

174 Ms. Burns provided an overview of the bill. She advised this bill would categorize sexual
175 orientation change efforts as an unlawful business practice throughout this state. Ms.
176 Burns also listed the organizations that have taken a support or oppose position on the
177 bill.

178

179 Ms. Sorrick stated that there was a brief discussion with Assembly Member Low during
180 the Board's legislative visit so we knew this bill was coming.

181

182 Dr. Jo Linder-Crow, Chief Executive Officer, California Psychological Association (CPA),
183 stated they are in strong support of this bill.

184

185 It was M/(Erickson)/S(Casuga)/C to recommend the Board take a Support position.

186

187 Vote: 3 aye (Casuga, Erickson, Jones), 0 no

188

189 **F. SB 1125 (Atkins) – Federally Qualified Health Center and Rural Health Clinic**
190 **Services**

191 Ms. Burns provided an overview of the bill.

192

193 It was M/(Casuga)/S(Erickson)/C to recommend the Board take a Support position.

194

195 Vote: 3 aye (Casuga, Erickson, Jones), 0 no

196

197 **2) Recommendations for Committee to Watch Bills**

198

199 **A. AB 1436 (Berman) – Board of Behavioral Sciences: Licensees: suicide**
200 **prevention training**

201 Ms. Burns provided an overview of the bill.

202

203 The Committee agreed with staff's recommendation to watch the bill.

204

205 **B. AB 1659 (Low) – Healing Arts Boards: Inactive Licenses**

206 Ms. Burns provided an overview of the bill.

207

208 The Committee agreed with staff's recommendation to watch the bill.

209

210 **C. AB 1893 (Maienschein) – Maternal Mental Health: Federal Funding**

211 Ms. Burns provided an overview of the bill.

212

213 The Committee agreed with staff's recommendation to watch the bill.

214

215 **D. AB 1896 (Cervantes) – Sexual Assault Counselor-Victim Privilege –**

216 Ms. Burns provided an overview of the bill.

217

218 The Committee agreed with staff's recommendation to watch the bill.

219

220 **E. AB 1968 (Low) – Mental Health: Firearms**

221 Ms. Burns provided an overview of the bill.

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The Committee agreed with staff's recommendation to watch the bill.

F. AB 2018 (Maienschein) – Mental Health Workforce Planning: Loan Forgiveness, Loan Repayment, and Scholarship Programs

Ms. Burns provided an overview of the bill.

The Committee agreed with staff's recommendation to watch the bill.

G. AB 2022 (Chu) – Pupil Health: On-Campus Mental Health Professionals

Ms. Burns provided an overview of the bill.

Amanda Levy, CPA's Director of Government Affairs, stated that she believes the bill has been amended since and encouraged the Committee to look at recent amendments.

The Committee agreed with staff's recommendation to watch the bill.

H. AB 2117 (Arambula) – Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors

Ms. Burns provided an overview of the bill.

The Committee agreed with staff's recommendation to watch the bill.

I. AB 2119 (Gloria) – Foster Care: Gender Affirming Health Care and Behavioral Health Services

Ms. Burns provided an overview of the bill.

The Committee agreed with staff's recommendation to watch the bill.

J. AB 2143 (Caballero) – Licensed Mental Health Service Provider Education Program: Providers

Ms. Burns provided an overview of the bill.

The Committee agreed with staff's recommendation to watch the bill.

K. AB 2156 (Chen) – Mental Health Services: Gravely Disabled

Ms. Burns provided an overview of the bill.

Amanda Levy, CPA, advised this bill will not be moving but similar language to this bill will be included in AB 1971.

Dr. Casuga stated changes to access will make it even harder for individuals who have an intellectual disability to receive services. She stated that sometimes the current law

266 is applied to individuals who do not have an intellectual disability, such as autism, and
267 some centers will deny providing services to them.

268
269 Ms. Sorrick advised that staff can add the bill to the May meeting for the Board to
270 discuss.

271
272 The Committee agreed with staff's recommendation to watch the bill.

273
274 **L. AB 2193 (Maienschein) – Maternal Mental Health**

275 Ms. Burns provided an overview of the bill.

276
277 The Committee agreed with staff's recommendation to watch the bill.

278
279 **M. AB 2483 (Voepel) – Department of Consumer Affairs: Office of Supervision of**
280 **Occupational Boards**

281 Ms. Burns provided an overview of the bill.

282
283 Dr. Erickson asked if this bill relates to the Supreme Court decision involving the North
284 Carolina Dental Board. Ms. Burns advised she is not sure but will look into it.

285
286 Ms. Sorrick asked if CPA took a position on the bill.

287
288 Ms. Levy was not sure but will look into it.

289
290 The Committee agreed with staff's recommendation to watch the bill.

291
292 **N. AB 2539 (Mathis) – California Physician Corps Program: Practice Setting**

293 Ms. Burns provided an overview of the bill.

294
295 The Committee agreed with staff's recommendation to watch the bill.

296
297 **O. AB 2619 (Allen) – Severely Mentally Ill Children**

298 Ms. Burns provided an overview of the bill.

299
300 The Committee agreed with staff's recommendation to watch the bill.

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302 **P. AB 2780 (Bloom) – Family Law: Support Orders and Child Custody**

303 Ms. Burns provided an overview of the bill.

304
305 The Committee agreed with staff's recommendation to watch the bill.

306
307 **Q. AB 2861 (Salas) – Medi-Cal: Telehealth: Substance Use Disorder Services**

308 Ms. Burns provided an overview of the bill.

309

310 The Committee agreed with staff's recommendation to watch the bill.

311

312 **R. SB 1371 (Morrell) – Occupational Licensing: List**

313 Ms. Burns provided an overview of the bill.

314

315 The Committee agreed with staff's recommendation to watch the bill.

316

317 **3) Recommendations for Committee to Watch Spot Bills**

318

319 **A. AB 2442 (Santiago) – Mental Health**

320 Ms. Burns provided an overview of the bill.

321

322 The Committee agreed with staff's recommendation to watch the bill.

323

324 **B. SB 1134 (Newman) – Mental Health Services Fund**

325 Ms. Burns provided an overview of the bill.

326

327 The Committee agreed with staff's recommendation to watch the bill.

328

329 **b. Review of 2-Year Bills with Watch Position**

330 Ms. Burns asked the Committee if they wanted a review of each bill in this agenda item.

331 Ms. Jones asked if the Committee had any questions regarding the bills in this agenda
332 item. No questions were received from the Committee or public. The Committee agreed
333 with staff's recommendation to continue watching these bills.

334

335 **Agenda Item #8: Review and Consideration of Statutory Revisions to Section**
336 **2960.1 of the Business and Professions Code Regarding Denial, Suspension and**
337 **Revocation for Acts of Sexual Contact**

338

339 Ms. Burns reminded the Committee of the decision made at the February Board
340 meeting to bifurcate the legislative proposal which would have modified the Board's
341 requirement for when to disseminate the Board's "Professional Therapy Never Includes
342 Sex" brochure, and modify the Board's provisions relating to discipline for acts of sexual
343 contact with a client or former client. She advised the Board voted to move forward with
344 modifying the brochure, but asked the Policy and Advocacy Committee to review the
345 proposal to modify the provisions in 2960.1 of the Business and Professions Code. She
346 advised the language provided in the memo is for the Committee's discussion.

347

348 Ms. Jones asked Ms. Monterrubio her thoughts on whether this language is sufficient for
349 enforcements needs.

350

351 Ms. Monterrubio advised she agrees with the language provided. She believes this
352 language will help the Office of the Attorney General and Administrative Law Judges

353 during the hearings and proposed decisions, but allows the Board to maintain its ability
354 to modify the proposed decision of an Administrative Law Judge.

355
356 Discussion ensued regarding the need for the definition for sexual behavior to be broad
357 enough to be useful to the Enforcement Unit and the prosecution of these types of
358 cases.

359
360 Dr. Casuga stated that cultural differences aren't considered in this law, and is
361 wondering how we can account for cultural variations.

362
363 Discussion ensued regarding the relevance of certain behaviors that may be considered
364 culturally appropriate within the therapeutic environment. Some discussion was had
365 regarding whether holding the hand of a crying patient or a similar act would be
366 appropriate based on the changes presented in 2960.1 and how these would be
367 handled in the complaint process.

368
369 Ms. Monterrubio advised if a complaint were received regarding hand holding, it would
370 be sent to a Subject Matter Expert for review, but the Enforcement Unit is usually
371 looking at a complaint with multiple incidents that occurred over a period of time.

372
373 Dr. Erickson asked how the changes to 2960.1 would change the range of discipline
374 that an Administrative Law Judge could recommend. Ms. Monterrubio stated that the
375 Administrative Law Judge could recommend under current law that the license be
376 subject to revocation or probation, and under the proposed language, the Administrative
377 Law Judge could only recommend revocation of the license, but reminded the
378 Committee that the Board retains full authority to modify the decision of the
379 Administrative Law Judge.

380
381 Ms. Jones asked if the intent of the language is to say that it is inappropriate contact
382 because there was a pattern or context to the behaviors, or specifically because it was a
383 boundary violation. Ms. Burns stated that we are seeing patterns of inappropriate
384 behaviors and it creates a nexus that usually leads to sexual contact.

385
386 Ms. Sorrick talked about the pros and cons to having a broad definition and asked if we
387 can tackle some of the concerns of what we mean by sexual behaviors in intent
388 language. She specified that we are not talking about a kiss on the cheek but seriously
389 egregious behaviors.

390
391 Discussion ensued regarding how and where to incorporate the examples of egregious
392 behaviors, and in what situations behaviors like hand holding might be appropriate.
393 Additionally, discussion ensued regarding what types of communications might qualify
394 as inappropriate and of a sexual nature.

395

396 Ms. Burns asked if using the language for sexual contact might help in clarifying this
397 issue where it would require that the behavior or communication was for the purpose of
398 sexual arousal, gratification, exploitation or abuse.

399
400 Discussion ensued regarding whether this additional language would effectively narrow
401 the definition of sexual behavior and communication for the Board's purposes.

402
403 Dr. Elizabeth Winkelman, CPA's Director of Professional Affairs, asked if it was possible
404 to revoke a license if the psychologist did not have sex with a patient. Ms. Monterrubio
405 stated that it is possible, and Ms. Marks clarified that a boundary violation doesn't hold
406 the same weight with an Administrative Law Judge as if it was sexual contact. Dr.
407 Winkelman stated it would be good to explain this issue in the stakeholder meeting, and
408 how this affects enforcement. She also stated that the Board should make sure that the
409 language regarding abuse and exploitation is consistent with other uses of this
410 language in the code.

411
412 It was M/(Erickson)S/(Casuga)/C to present the language as amended to the
413 stakeholder group meeting.

414
415 Vote: 3 aye (Casuga, Erickson, Jones), 0 no

416
417 **Agenda Item #9: Regulatory Update**

- 418
419 **a. 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11,**
420 **1391.12, 1392.1 – Psychological Assistants**
421 **b. 16 CCR Section 1396.8 – Standards of Practice for Telehealth**
422 **c. 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of**
423 **Expired License, Psychologist Fees**
424 **d. 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing**
425 **Professional Development**

426 Ms. Burns reviewed the status of the Boards regulatory packages.

427
428 Ms. Jones asked if staff could create a visual aid to assist with showing the status and
429 progression of the Board's regulatory packages.

430
431 Ms. Burns advised this can be created.

432
433 **Agenda Item #10: Update Regarding the California Child Abuse and Neglect**
434 **Reporting Act (CANRA) and Mandated Reporting – Penal Code Sections 261.5, 288,**
435 **and 11165.1.**

436 Ms. Burns advised there has been no change since last reported.

437
438 **Agenda Item #11: Recommendations for Agenda Items for Future Committee**
439 **Meetings.**

440 None received

441

442 The Committee adjourned at 2:44 pm.

443

444


445

446

Chairperson

Date

MEMORANDUM

DATE	March 10, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #6(a) – SB 275 (Pan) – Amendments to Section 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact

Background:

The Board of Psychology (Board) proposed adding sexual behavior to the offenses in Business and Professions Code (BPC) section 2960.1 that require a proposed decision to contain an order of revocation when the finding of facts prove that there were acts of sexual behavior between a psychologist and their client or former client (see Attachment A for the proposed language). This change to section 2960.1 would require revocation to be in the proposed decision and not allow an administrative law judge to propose an alternate decision. The proposed language would also clarify that the Board would retain the final adjudicatory discretion to apply a lower level of discipline if the circumstances of the case warranted such a reduction.

The impetus to add inappropriate sexual behavior to the statutory provisions requiring revocation in the proposed decision for cases involving inappropriate sexual behaviors that did not rise to the definition of sexual contact was due to the Board's experiences prosecuting cases with clearly inappropriate sexual behavior but being unable to achieve disciplinary terms that matched the egregiousness of the acts in the case. In other cases, clients did not complain to the Board or know that the behavior was inappropriate until sexual contact was initiated, but there were clear sexual grooming behaviors exhibited by the psychologist before sexual contact was initiated. Some examples of inappropriate sexual behaviors that the Board has seen in a variety of cases include:

- kissing a client,
- touching or exposing oneself inappropriately,
- sending flirtatious, sexually suggestive or sexually explicit texts (sexting), messages or emails to a client,
- sending clients photos that include nudity, genitals, or sexually suggestive poses, and
- buying romantic/sexual gifts for a client.

Regarding the proposed changes to BPC Section 2960.1, the Policy and Advocacy Committee (Committee) began discussions and policy activities at its April 19, 2018

meeting, where it reviewed and revised the proposed language. During this discussion, the Committee members expressed support for a broader definition of sexual behavior, as the violation could be a series or pattern of lesser behaviors or one extremely egregious behavior, and specific behaviors would change over time with advances in technology and communication mediums. In December 2018, the Committee held a teleconference stakeholder meeting to obtain stakeholder input on the proposed changes to BPC Section 2960.1. Board staff invited a diverse group of stakeholders to attend the teleconference as well as posted the meeting to social media sites and through the Board's email listserv. During the December teleconference meeting, the Committee listened to stakeholder comments and Board staff and Ms. Marks provided clarification on how the proposed language would operate within the disciplinary process and how that process has built-in protections to ensure that allegations of sexual behavior would be reviewed by subject matter experts and sworn peace-officers, thus ensuring that those allegations prosecuted as sexual behavior were serious violations that were not part of appropriate therapeutic interventions relating to sexual issues. The Committee also voted to add language to BPC 2960.1 to provide additional clarity to the public and licensees regarding the Board's ability to stay the revocation if the Board determined that the allegations did not warrant revocation.

At the Board's February meeting, the Board approved the language and for staff to seek an author. The week after the Board meeting, Senator Richard Pan agreed to author the bill for the Board. The next step for the bill will be a hearing in the Senate Committee on Business, Professions and Economic Development in April.

Location: 2/21/19 Senate Committee on Business, Professions and Economic Development

Status: 2/21/19 Referred to Senate Committee on Business, Professions and Economic Development

Action Requested:

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

Attachment: SB 275 (Pan) Bill Text

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SB-275 Psychologist: prohibition against sexual behavior. (2019-2020)

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Date Published: 02/13/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 275**

Introduced by Senator Pan

February 13, 2019

An act to amend Section 2960.1 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 275, as introduced, Pan. Psychologist: prohibition against sexual behavior.

Existing law, the Psychology Licensing Law, requires the Board of Psychology to license and regulate the practice of psychology. The Psychology Licensing Law authorizes the board to refuse to issue a registration or license, to issue a registration or license with terms and conditions, or to revoke the registration or license if the applicant, registrant, or licensee has been guilty of unprofessional conduct, which includes an act of sexual abuse, or sexual relations with a patient or former patient within 2 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. The Psychology Licensing Law, as an exception to this authorizing provision, requires that an order of revocation of a registration or license be included in a specified administrative adjudication decision or proposed decision that contains a finding of fact that the licensee or registrant engaged in an act of sexual contact, as defined, with a patient, or with a former patient within 2 years following termination of therapy. The Psychology Licensing Law prohibits the administrative law judge from staying the revocation.

This bill additionally would require an order of revocation of a registration or license to be included in a specified decision or proposed decision that contains a finding of fact that the licensee or registrant engaged in sexual behavior, as defined, with a client, or with a former client within 2 years following termination of therapy. The bill would authorize the board to stay the revocation required pursuant to the existing law provision or the provision proposed by the bill.


Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 2960.1 of the Business and Professions Code is amended to read:

2960.1. (a) 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 728, *or sexual behavior, as defined in subdivision (b)*, when that act is with a ~~patient,~~ *client*, or with a former ~~patient~~ *client* within two years following termination of therapy, shall contain an order of revocation. The revocation shall not be stayed by the administrative law ~~judge-~~ *judge, but may be stayed by the board.*

(b) For purposes of this section, "sexual behavior" means 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.

MEMORANDUM

DATE	March 10, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #6(b) – Update on Amendments to Sections 2912, 2940-2944 of the Business and Professions Code Regarding Examinations, and New Section to the Business and Professions Code Regarding Voluntary Surrender

Background:

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

Board staff submitted the Board's proposals prior to the deadline and Board staff will update the Board on the Committee's decision on inclusion of our Examination and Voluntary Surrender provisions in the Committee Bill at the April Board Meeting.

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

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

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

At its February 2019 Board Meeting, the Board approved language to clarify the temporary practice provisions in BPC Section 2912. These amendments would clarify that temporary practice is allowed for 30 non-consecutive days in a calendar year, and that practice for any portion of a day counts for a full day.

After the February Board meeting, staff approached the Senate BPED to see if these provisions could be added to our proposal for the Committee Bill. Staff is still waiting to hear back from Senate BPED on inclusion of Section 2912 in our proposal and for the Committee's decision on the Examination and Voluntary Surrender amendments.

Action Requested:

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

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(a)(1) – AB 744 (Aguiar-Curry) Healthcare coverage: telehealth

Background:

Under current law, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for teleophthalmology, teledermatology, and teledentistry by store and forward. Current law requires a Medi-Cal patient receiving teleophthalmology, teledermatology, or teledentistry by store and forward to be notified of the right to receive interactive communication with a distant specialist physician, optometrist, or dentist, and authorizes a patient to request that interactive communication. AB 744 (Aguiar-Curry) would delete those interactive communication provisions.

For the purposes of the Board’s telepsychology regulations, Board staff recommend requesting that Assembly Member Aguiar-Curry add psychology interns to Business and Professions Code (BPC) Section 2290.5 as these interns work in various mental health hotlines and should be covered, to the extent applicable, under these provisions and the Board’s proposed regulations.

Location: 2/28/2019 Assembly Committee on Health.

Status: 2/28/2019 Referred to Assembly Committee on Health.

Action Requested:

Staff recommends the Policy and Advocacy Committee **Support if Amended** AB 744 and request that Assembly Member Aguiar-Curry add psychology interns to the provisions in BPC Section 2290.5 regarding telehealth.

Attachment A: AB 744 (Aguiar-Curry) Bill Analysis (Hand Carry)

Attachment B: AB 744 (Aguiar-Curry) Bill Text

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AB-744 Healthcare coverage: telehealth. (2019-2020)

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Date Published: 02/19/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 744**

Introduced by Assembly Member Aguiar-Curry

February 19, 2019

An act to amend Section 2290.5 of the Business and Professions Code, to amend Section 1374.13 of, and to add Sections 1341.46 and 1374.14 to, the Health and Safety Code, to amend Section 10123.85 of, and to add Section 10123.855 to, the Insurance Code, and to amend Section 14132.725 of the Welfare and Institutions Code, relating to healthcare coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 744, as introduced, Aguiar-Curry. Healthcare coverage: telehealth.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive healthcare services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Under existing law, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for teleophthalmology, teledermatology, and teledentistry by store and forward. Existing law requires a Medi-Cal patient receiving teleophthalmology, teledermatology, or teledentistry by store and forward to be notified of the right to receive interactive communication with a distant specialist physician, optometrist, or dentist, and authorizes a patient to request that interactive communication.

This bill would delete those interactive communication provisions.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a health care service plan or health insurer from requiring that in-person contact occur between a healthcare provider and a patient, and from limiting the type of setting where services are provided, before payment is made for covered services provided appropriately through telehealth services.

This bill would require a contract issued, amended, or renewed on or after January 1, 2020, between a health care service plan and a healthcare provider for the provision of healthcare services to an enrollee or subscriber, or a contract issued, amended, or renewed on or after January 1, 2020, between a health insurer and a

healthcare provider for an alternative rate of payment to specify that the health care service plan or health insurer reimburse a healthcare provider for the diagnosis, consultation, or treatment of an enrollee, subscriber, insured, or policyholder delivered through telehealth services on the same basis and to the same extent that the health care service plan or health insurer is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment. The bill would authorize a health care service plan or health insurer to offer a contract or policy containing a deductible, copayment, or coinsurance requirement for a healthcare service delivered through telehealth services, subject to specified limitations. The bill would prohibit a health care service plan contract or policy or health insurance issued, amended, or renewed on or after January 1, 2020, from imposing an annual or lifetime dollar maximum for telehealth services, and would prohibit those contracts and policies from imposing a deductible, copayment, or coinsurance, or a plan year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services that is not equally imposed on all terms and services covered under the contract.

This bill would authorize the Director of the Department of Managed Health Care or the Insurance Commissioner to assess an administrative penalty by order, after appropriate notice and opportunity for hearing, if the director or commissioner determines that a health care service plan or health insurer has failed to comply with those provisions. The bill would create the Managed Care Penalty Account, within the Managed Care Administrative Fines and Penalties Fund, subject to appropriation by the Legislature, into which administrative penalties for a health care service plan's violations of those provisions would be deposited. The bill would specify that administrative penalties assessed against a health insurer be deposited into the Insurance Fund. Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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)~~

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

~~(3) "Health care~~

(2) "*Healthcare* provider" means either 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.

~~(4)~~

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

(4) "*Store and forward*" means the transmission of a patient's medical information from an originating site to the *healthcare* provider at a distant site.

(5) "Synchronous interaction" means a real-time interaction between a patient and a ~~health care~~ *healthcare* provider located at a distant site.

(6) "Telehealth" means the mode of delivering ~~health care~~ *healthcare* 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.~~ *healthcare*. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) ~~Prior to~~ *Before* the delivery of ~~health care~~ *healthcare* via telehealth, the ~~health care~~ *healthcare* 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~~ *healthcare* services and public health. The consent shall be documented.

(c) ~~Nothing in this section shall~~ *This section does not* preclude a patient from receiving in-person ~~health care~~ *healthcare* delivery services during a specified course of ~~health care~~ *healthcare* and treatment after agreeing to receive services via telehealth.

(d) The failure of a ~~health care~~ *healthcare* 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~~ *a healthcare* provider or authorize the delivery of ~~health care~~ *healthcare* services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of ~~health care~~ *healthcare* information and a patient's rights to ~~his or her~~ *the patient's* 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. Section 1341.46 is added to the Health and Safety Code, to read:

1341.46. (a) There is hereby created the Managed Care Penalty Account within the Managed Care Administrative Fines and Penalties Fund.

(b) Moneys in the Managed Care Penalty Account shall be subject to appropriation by the Legislature.

(c) Notwithstanding Section 1341.45, fines and administrative penalties collected pursuant to this chapter shall be deposited into the Managed Care Penalty Account.

SEC. 3. Section 1374.13 of the Health and Safety Code is amended 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~~ *healthcare* services from a ~~health care~~ *healthcare* provider without in-person contact with the ~~health care~~ *healthcare* provider.

(c) ~~No~~ *A* health care service plan shall *not* require that in-person contact occur between a ~~health care~~ *healthcare* 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.~~ *groups, and pursuant to Section 1374.14.*

(d) ~~No~~A health care service plan shall *not* limit the type of setting where services are provided for the patient or by the ~~health care~~ *healthcare* 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~~ *groups, and pursuant to Section 1374.14.*

(e) ~~The requirements of this~~ *This* section shall also apply to health care service plan and Medi-Cal managed care plan contracts 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.

(f) Notwithstanding any other ~~provision, law,~~ this section ~~shall not be interpreted to~~ *does not* authorize a health care service plan to require the use of telehealth ~~when if~~ the ~~health care~~ *healthcare* provider has determined that it is not appropriate.

SEC. 4. Section 1374.14 is added to the Health and Safety Code, to read:

1374.14. (a) A contract issued, amended, or renewed on or after January 1, 2020, between a health care service plan and a healthcare provider for the provision of healthcare services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting healthcare provider for the diagnosis, consultation, or treatment of an enrollee or subscriber 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.

(b) (1) A health care service plan contract issued, amended, or renewed on or after January 1, 2020, shall specify that the health care service plan shall provide coverage for the cost of healthcare services 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) A health care service plan contract issued, amended, or renewed on or after January 1, 2020, shall not exclude coverage for a healthcare service solely because the service is delivered through telehealth services and not through in-person consultation or contact between a physician and a patient, if the service is appropriately delivered through telehealth services.

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

(d) (1) A health care service plan contract issued, amended, or renewed on or after January 1, 2020, shall not impose an annual or lifetime dollar maximum for telehealth services, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the contract.

(2) A health care service plan contract issued, amended, or renewed on or after January 1, 2020, shall not impose a deductible, copayment, or coinsurance, or a plan year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services that is not equally imposed on all terms and services covered under the contract.

(e) (1) The director shall, after appropriate notice and opportunity for hearing in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), assess an administrative penalty by order if the director determines that a health care service plan has failed to comply with this section.

(2) Notwithstanding Section 1341.45, an administrative penalty collected pursuant to paragraph (1) shall be deposited into the Managed Care Penalty Account.

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

SEC. 5. Section 10123.85 of the Insurance Code is amended 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~~ *healthcare* services from a ~~health care~~ *healthcare* provider without in-person contact with the ~~health care~~ *healthcare* provider.

(c) ~~No~~ *A* health insurer shall *not* require that in-person contact occur between a ~~health care~~ *healthcare* 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~~ *groups, and pursuant to Section 10123.855.*

(d) ~~No~~ *A* health insurer shall *not* limit the type of setting where services are provided for the patient or by the ~~health care~~ *healthcare* 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~~ *groups, and pursuant to Section 10123.855.*

(e) Notwithstanding any other ~~provision, law~~, this section ~~shall not be interpreted to~~ *does not* authorize a health insurer to require the use of telehealth ~~when if~~ the ~~health care~~ *healthcare* provider has determined that it is not appropriate.

SEC. 6. Section 10123.855 is added to the Insurance Code, to read:

10123.855. (a) A contract issued, amended, or renewed on or after January 1, 2020, between a health insurer and a healthcare provider for an alternative rate of payment pursuant to Section 10133 shall specify that the health insurer shall reimburse the treating or consulting healthcare provider for the diagnosis, consultation, or treatment of an insured or policyholder 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.

(b) (1) A policy of health insurance issued, amended, or renewed on or after January 1, 2020, that provides benefits through contracts with providers at alternative rates of payment shall specify that the health insurer shall provide coverage for the cost of healthcare services 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) A policy of health insurance issued, amended, or renewed on or after January 1, 2020, that provides benefits through contracts with providers at alternative rates of payment shall not exclude coverage for a healthcare service solely because the service is delivered through telehealth services and not through in-person consultation or contact between a physician and a patient, if the service is appropriately delivered through telehealth services.

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

(d) (1) A policy of health insurance issued, amended, or renewed on or after January 1, 2020, shall not impose an annual or lifetime dollar maximum for telehealth services, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy.

(2) A policy of health insurance issued, amended, or renewed on or after January 1, 2020, shall not impose a deductible, copayment, or coinsurance, or a policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services that is not equally imposed on all terms and services covered under the policy.

(e) (1) The commissioner shall, after appropriate notice and opportunity for hearing in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), assess an administrative penalty by order if the commissioner determines that a health insurer has failed to comply with this section.

(2) An administrative penalty collected pursuant to paragraph (1) shall be deposited into the Insurance Fund.

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

SEC. 7. Section 14132.725 of the Welfare and Institutions Code is amended to read:

14132.725. (a) To the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for teleophthalmology, teledermatology, and teledentistry 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, teledermatology, and teledentistry by store and forward" means ~~an asynchronous~~ transmission of medical or dental 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, or a dentist, where the physician, optometrist, or dentist at the distant site reviews the medical or dental ~~information without the patient being present in real time. A patient receiving teleophthalmology, teledermatology, or teledentistry by store and forward shall be notified of the right to receive interactive communication with the distant specialist physician, optometrist, or dentist and shall receive an interactive communication with the distant specialist physician, optometrist, or dentist, upon request. If requested, communication with the distant specialist physician, optometrist, or dentist 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.~~ *information.*

(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.

SEC. 8. 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	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #7(a)(2) – SB 66 (Atkins) Medi-Cal: federally qualified health center and rural health clinic services

Background:

This bill would allow Medi-Cal reimbursement for a patient receiving both medical and mental health services at a federally qualified health center (FQHC) or rural health clinic (RHC) on the same day.

Location: 1/16/2019 Senate Committee on Health

Status: 2/21/2019 Set for hearing March 20, 2019

Action Requested:

Staff recommends the Policy and Advocacy Committee **Support** SB 66 as this bill would increase access to mental health care for these consumers.

Attachment A: SB 66 (Atkins) Bill Analysis

Attachment B: SB 66 (Atkins) Bill Text

2019 Bill Analysis

Author: Atkins and McGuire	Bill Number: SB 66	Related Bills:
Sponsor: California Health+ Advocates (cosponsors) Steinberg Institute (cosponsors) California Association of Public Hospitals and Health Systems (cosponsors) Local Health Plans of California (cosponsor)	Version: Introduced	
Subject: Medi-Cal: federally qualified health center and rural health clinic services.		

SUMMARY

This bill would allow Medi-Cal reimbursement for a patient receiving both medical and mental health services at a federally qualified health center (FQHC) or rural health clinic (RHC) on the same day.

RECOMMENDATION

SUPPORT – This bill would allow Medi-Cal patients receiving services at FQHCs and RHCs to receive mental health services on the same day as they get other health care services, which would increase access to mental health care for these consumers. For this reason, staff recommends the Policy and Advocacy Committee take a Support position on SB 66 (Atkins).

REASON FOR THE BILL

According to the author, in California, if a patient receives treatment through Medi-Cal at a community health center from both a medical provider and a mental health specialist on the same day, the State Department of Health Care Services will only reimburse the center for one “visit”, meaning both providers can’t be adequately reimbursed for their

Other Boards/Departments that may be affected:	
<input type="checkbox"/> Change in Fee(s) <input type="checkbox"/> Affects Licensing Processes <input type="checkbox"/> Affects Enforcement Processes	
<input type="checkbox"/> Urgency Clause <input type="checkbox"/> Regulations Required <input type="checkbox"/> Legislative Reporting <input type="checkbox"/> New Appointment Required	
Policy & Advocacy Committee Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____	Full Board Position: <input type="checkbox"/> Support <input type="checkbox"/> Support if Amended <input type="checkbox"/> Oppose <input type="checkbox"/> Oppose Unless Amended <input type="checkbox"/> Neutral <input type="checkbox"/> Watch Date: _____ Vote: _____

time and expertise. A patient must seek mental health treatment on a subsequent day in order for that treatment to be reimbursed as a second “visit.”

This statute creates an undue financial barrier for community health centers, known as Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs), preventing them from treating their patients in a comprehensive manner in the same day.

The author notes that this barrier doesn’t exist for similar health services. The federal Medicare program allows for same-day billing of behavioral health and medical services and California allows FQHC and RHCs to bill for two separate Medi-Cal “visits” if a patient sees both a primary care provider and a dental provider on the same day. In addition, the federal government encourages states to allow FQHCs and RHCs to bill for care provided by a primary care specialist and mental health specialist in the same day as two separate visits in recognition of the value comprehensive care generates.

The author believes it is inexplicable that California has refused to change its Medi-Cal billing statute to align with federal policy and its own state policy regarding dental care. Emergency rooms are too often a costly point of entry for mental health services, and we see the fallout of untreated mental illness on our streets, our jails, and our communities.

ANALYSIS

Access to care

Currently, a patient of an FQHC or RHC can only see one healthcare practitioner (aside from a dentist) in a day. This creates unnecessary barriers to treatment for these low-income patients that have work, families, sometimes have to take public transportation, and have to travel long distances for services.

This bill will allow an FQHC or RHC to be reimbursed by Medi-Cal if a patient has a “medical visit” (a face-to-face encounter between a patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, visiting nurse, or a comprehensive perinatal practitioner, as defined in Title 22 of the California Code of Regulations (CCR) Section 51179.7, or providing comprehensive perinatal services) and “another health visit” (face-to-face encounter between a patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, visiting nurse, or a comprehensive perinatal practitioner, as defined in 22 CCR 51179.7, or providing comprehensive perinatal services) in the same day. A maximum of two visits in one day can be reimbursed. Currently, only dental visits and medical visits can be completed in the same day.

Allowing patients of FQHC’s and RHC’s to see a mental health provider and a medical provider on the same day, will increase the likelihood that patients can start or continue receiving mental health services at these clinics.

LEGISLATIVE HISTORY

SB 1125 (Atkins of 2018) would have allowed FQHCs and RHCs to bill separately for same day medical and mental health visits. SB 1125 was vetoed by Governor.

SB 323 (Mitchell, Chapter 540, Statutes of 2017) authorizes FQHCs and RHCs to provide Drug Medi-Cal services pursuant to the terms of a mutually agreed upon contract entered into between the FQHC or RHC and the county or county designee, or DHCS, as specified, and would set forth the reimbursement requirements for these services. Authorizes an FQHC or RHC to provide specialty mental health services to Medi-Cal beneficiaries as part of a mental health plan's provider network pursuant to the terms of a mutually agreed upon contract entered into between the FQHC or RHC and one or more mental health plans. Prohibits the costs associated with providing Drug Medi-Cal services or specialty mental health services from being included in the FQHC's or RHC's per-visit PPS rate, and would require the costs associated with providing Drug Medi-Cal services or specialty mental health services to be adjusted out of the FQHC's or RHC's clinic base PPS rate as a scope-of-service change if the costs associated with providing Drug Medi-Cal services or specialty mental health services are within the FQHC's or RHC's clinic base PPS rate, as specified.

SB 1150 (Hueso and Correa of 2014) would have required Medi-Cal reimbursement to FQHC and RHCs for two visits taking place on the same day at a single location when the patient suffers illness or injury requiring additional diagnosis or treatment after the first visit, or when the patient has a medical visit and another health visit with a mental health provider or dental provider. SB 1150 was held on the Senate Appropriations suspense file.

AB 1445 (Chesbro of 2010) was substantially similar to SB 1150. AB 1445 was held on the Senate Appropriations suspense file.

SB 260 (Steinberg of 2007) would have allowed FQHCs and RHCs to bill separately for same day medical and mental health visits. SB 260 was vetoed by Governor Schwarzenegger. In his veto message, Governor Schwarzenegger stated that SB 260 would increase General Fund pressure at a time of continuing budget challenges, and that allowing separate billing for mental health services would lead to increased costs that our state could not afford.

OTHER STATES' INFORMATION

Not Applicable

PROGRAM BACKGROUND

The Board advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the practice. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

This bill would have no impact on the Board of Psychology's operations or programs.

FISCAL IMPACT

Not Applicable

ECONOMIC IMPACT

This bill could result in additional funding for FQHC's and RHC's which could create additional opportunities for mental health providers to serve these communities.

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support:

California Health+ Advocates (cosponsor)

The Steinberg Institute (cosponsor)

California Association of Public Hospitals and Health Systems (cosponsors)

Local Health Plans of California (cosponsor)

National Union of Healthcare Workers

Opposition:

None on File

ARGUMENTS

Proponents: None on File

Opponents: None on File

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SB-66 Medi-Cal: federally qualified health center and rural health clinic services. (2019-2020)

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Date Published: 01/08/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 66**

Introduced by Senators Atkins and McGuire

January 08, 2019

An act to amend Section 14132.100 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 66, as introduced, Atkins. Medi-Cal: federally qualified health center and rural health clinic services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides that federally qualified health center (FQHC) services and rural health clinic (RHC) services, as defined, are covered benefits under the Medi-Cal program, to be reimbursed, to the extent that federal financial participation is obtained, to providers on a per-visit basis. "Visit" is defined as a face-to-face encounter between a patient of an FQHC or RHC and specified health care professionals, including a physician. Under existing law, "physician," for these purposes, includes, but is not limited to, a physician and surgeon, an osteopath, and a podiatrist.

This bill would authorize reimbursement for a maximum of 2 visits taking place on the same day at a single location if after the first visit the patient suffers illness or injury requiring additional diagnosis or treatment, or if the patient has a medical visit and a mental health visit or a dental visit, as defined. The bill would authorize an FQHC or RHC that currently includes the cost of a medical visit and a mental health visit that take place on the same day at a single location as a single visit for purposes of establishing the FQHC's or RHC's rate to apply for an adjustment to its per-visit rate, and after the department has approved that rate adjustment, to bill a medical visit and a mental health visit that take place on the same day at a single location as separate visits, in accordance with the bill.

This bill would also make an FQHC or RHC visit to a licensed acupuncturist reimbursable on a per-visit basis. The bill would require the department, by July 1, 2020, to submit a state plan amendment to the federal Centers for Medicare and Medicaid Services to reflect certain changes described in the bill, and to seek necessary federal approvals. The bill would also make conforming and technical changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14132.100 of the Welfare and Institutions Code is amended to read:

14132.100. (a) The federally qualified health center services described in Section 1396d(a)(2)(C) of Title 42 of the United States Code are covered benefits.

(b) The rural health clinic services described in Section 1396d(a)(2)(B) of Title 42 of the United States Code are covered benefits.

(c) Federally qualified health center services and rural health clinic services shall be reimbursed on a per-visit basis in accordance with the definition of "visit" set forth in subdivision (g).

(d) Effective October 1, 2004, and on each October 1 thereafter, until no longer required by federal law, federally qualified health center (FQHC) and rural health clinic (RHC) per-visit rates shall be increased by the Medicare Economic Index applicable to primary care services in the manner provided for in Section 1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to January 1, 2004, FQHC and RHC per-visit rates shall be adjusted by the Medicare Economic Index in accordance with the methodology set forth in the state plan in effect on October 1, 2001.

(e) (1) An FQHC or RHC may apply for an adjustment to its per-visit rate based on a change in the scope of ~~services~~ *service* provided by the FQHC or RHC. Rate changes based on a change in the scope of ~~services~~ *service* provided by an FQHC or RHC shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.

(2) Subject to the conditions set forth in subparagraphs (A) to (D), inclusive, of paragraph (3), a change in scope of service means any of the following:

(A) The addition of a new FQHC or RHC service that is not incorporated in the baseline prospective payment system (PPS) rate, or a deletion of an FQHC or RHC service that is incorporated in the baseline PPS rate.

(B) A change in service due to amended regulatory requirements or rules.

(C) A change in service resulting from relocating or remodeling an FQHC or RHC.

(D) A change in types of services due to a change in applicable technology and medical practice utilized by the center or clinic.

(E) An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations.

(F) Any changes in any of the services described in subdivision (a) or (b), or in the provider mix of an FQHC or RHC or one of its sites.

(G) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the services described in subdivision (a) or (b), including new or expanded service facilities, regulatory compliance, or changes in technology or medical practices at the center or clinic.

(H) Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents.

(I) Any changes in the scope of a project approved by the federal Health Resources and Services Administration (HRSA).

(3) ~~A~~ *No* change in costs ~~is not, shall,~~ in and of itself, ~~a scope of service change,~~ *be considered a scope of service change* unless all of the following apply:

(A) The increase or decrease in cost is attributable to an increase or decrease in the scope of ~~services~~ *service* defined in subdivisions (a) and (b), as applicable.

(B) The cost is allowable under Medicare reasonable cost principles set forth in Part 413 (commencing with Section 413) of Subchapter B of Chapter 4 of Title 42 of the Code of Federal Regulations, or its successor.

(C) The change in the scope of ~~services~~ *service* is a change in the type, intensity, duration, or amount of services, or any combination thereof.

(D) The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For FQHCs and RHCs that filed consolidated cost reports for multiple sites to establish the initial prospective payment reimbursement rate, the 1.75-percent threshold shall be applied to the average per-visit rate of all sites for the purposes of calculating the cost associated with a ~~scope-of-service~~ *scope of service* change. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal year.

(4) An FQHC or RHC may submit requests for ~~scope-of-service~~ *scope of service* changes once per fiscal year, only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.

(5) An FQHC or RHC shall submit a ~~scope-of-service~~ *scope of service* rate change request within 90 days of the beginning of any FQHC or RHC fiscal year occurring after the effective date of this section, if, during the FQHC's or RHC's prior fiscal year, the FQHC or RHC experienced a decrease in the scope of ~~services~~ *service* provided that the FQHC or RHC either knew or should have known would have resulted in a significantly lower per-visit rate. If an FQHC or RHC discontinues providing onsite pharmacy or dental services, it shall submit a ~~scope-of-service~~ *scope of service* rate change request within 90 days of the beginning of the following fiscal year. The rate change shall be effective as provided for in paragraph (4). As used in this paragraph, "significantly lower" means an average per-visit rate decrease in excess of 2.5 percent.

(6) Notwithstanding paragraph (4), if the approved ~~scope-of-service~~ *scope of service* change or changes were initially implemented on or after the first day of an FQHC's or RHC's fiscal year ending in calendar year 2001, but before the adoption and issuance of written instructions for applying for a ~~scope-of-service~~ *scope of service* change, the adjusted reimbursement rate for that ~~scope-of-service~~ *scope of service* change shall be made retroactive to the date the ~~scope-of-service~~ *scope of service* change was initially implemented. ~~Scope-of-service~~ *Scope of service* changes under this paragraph shall be required to be submitted within the later of 150 days after the adoption and issuance of the written instructions by the department, or 150 days after the end of the FQHC's or RHC's fiscal year ending in 2003.

(7) All references in this subdivision to "fiscal year" shall be construed to be references to the fiscal year of the individual FQHC or RHC, as the case may be.

(f) (1) An FQHC or RHC may request a supplemental payment if extraordinary circumstances beyond the control of the FQHC or RHC occur after December 31, 2001, and PPS payments are insufficient due to these extraordinary circumstances. Supplemental payments arising from extraordinary circumstances under this subdivision shall be solely and exclusively within the discretion of the department and shall not be subject to subdivision (l). These supplemental payments shall be determined separately from the ~~scope-of-service~~ *scope of service* adjustments described in subdivision (e). Extraordinary circumstances include, but are not limited to, acts of nature, changes in applicable requirements in the Health and Safety Code, changes in applicable licensure requirements, and changes in applicable rules or regulations. Mere inflation of costs alone, absent extraordinary circumstances, shall not be grounds for supplemental payment. If an FQHC's or RHC's PPS rate is sufficient to cover its overall costs, including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

(2) The department shall accept requests for supplemental payment at any time throughout the prospective payment rate year.

(3) Requests for supplemental payments shall be submitted in writing to the department and shall set forth the reasons for the request. Each request shall be accompanied by sufficient documentation to enable the department to act upon the request. Documentation shall include the data necessary to demonstrate that the circumstances for which supplemental payment is requested meet the requirements set forth in this section. Documentation shall include both of the following:

(A) A presentation of data to demonstrate reasons for the FQHC's or RHC's request for a supplemental payment.

(B) Documentation showing the cost implications. The cost impact shall be material and significant, two hundred thousand dollars (\$200,000) or 1 percent of a facility's total costs, whichever is less.

(4) A request shall be submitted for each affected year.

(5) Amounts granted for supplemental payment requests shall be paid as lump-sum amounts for those years and not as revised PPS rates, and shall be repaid by the FQHC or RHC to the extent that it is not expended for the specified purposes.

(6) The department shall notify the provider of the department's discretionary decision in writing.

(g) (1) An FQHC or RHC "visit" means 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. For purposes of this section, "physician" shall be interpreted in a manner consistent with the federal Centers for Medicare and Medicaid Services' Medicare Rural Health Clinic and Federally Qualified Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include ~~a physician and surgeon,~~ *medical doctor*, osteopath, podiatrist, *licensed acupuncturist*, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan's definition of an FQHC or RHC visit.

(2) (A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist.

(B) Notwithstanding subdivision (e), if an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice, or a marriage and family therapist for the purposes of establishing its FQHC or RHC rate chooses to bill these services as a separate visit, the FQHC or RHC shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals or marriage and family therapists that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC's or RHC's rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist has been approved. Any approved increase or decrease in the provider's rate shall be made within six months after the date of receipt of the department's rate adjustment forms pursuant to this subparagraph and shall be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but in no case shall the effective date be earlier than January 1, 2008.

(C) An FQHC or RHC that does not provide dental hygienist, dental hygienist in alternative practice, or marriage and family therapist services, and later elects to add these services and bill these services as a separate visit, shall process the addition of these services as a change in scope of service pursuant to subdivision (e).

(3) Notwithstanding any other provision of this section, ~~no later than~~ *by* July 1, 2018, a visit shall include a marriage and family therapist.

(h) If FQHC or RHC services are partially reimbursed by a third-party payer, such as a managed care entity, as defined in Section 1396u-2(a)(1)(B) of Title 42 of the United States Code, the Medicare Program, or the Child Health and Disability Prevention (CHDP) Program, the department shall reimburse an FQHC or RHC for the difference between its per-visit PPS rate and receipts from other plans or programs on a contract-by-contract basis and not in the aggregate, and may not include managed care financial incentive payments that are required by federal law to be excluded from the calculation.

(i) (1) Provided that the following entities are not operating as intermittent clinics, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, each entity shall have its reimbursement rate established in accordance with one of the methods outlined in paragraph (2) or (3), as selected by the FQHC or RHC:

(A) An entity that first qualifies as an FQHC or RHC in 2001 or later.

(B) A newly licensed facility at a new location added to an existing FQHC or RHC.

(C) An entity that is an existing FQHC or RHC that is relocated to a new site.

(2) (A) An FQHC or RHC that adds a new licensed location to its existing primary care license under paragraph (1) of subdivision (b) of Section 1212 of the Health and Safety Code may elect to have the reimbursement rate for the new location established in accordance with paragraph (3), or notwithstanding subdivision (e), an FQHC or RHC may choose to have one PPS rate for all locations that appear on its primary care license determined by submitting a change in scope of service request if both of the following requirements are met:

(i) The change in scope of service request includes the costs and visits for those locations for the first full fiscal year immediately following the date the new location is added to the FQHC's or RHC's existing licensee.

(ii) The FQHC or RHC submits the change in scope of service request within 90 days after the FQHC's or RHC's first full fiscal year.

(B) The FQHC's or RHC's single PPS rate for those locations shall be calculated based on the total costs and total visits of those locations and shall be determined based on the following:

(i) An audit in accordance with Section 14170.

(ii) Rate changes based on a change in scope of service request shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successors.

(iii) Any approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.

(C) Except as specified in subdivision (j), this paragraph does not apply to a location that was added to an existing primary care clinic license by the State Department of Public Health, whether by a regional district office or the centralized application unit, prior to January 1, 2017.

(3) If an FQHC or RHC does not elect to have the PPS rate determined by a change in scope of service request, the FQHC or RHC shall have the reimbursement rate established for any of the entities identified in paragraph (1) or (2) in accordance with one of the following methods at the election of the FQHC or RHC:

(A) The rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or adjacent area with a similar caseload.

(B) In the absence of three comparable FQHCs or RHCs with a similar caseload, the rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or an adjacent service area, or in a reasonably similar geographic area with respect to relevant social, ~~health care~~, *healthcare* and economic characteristics.

(C) At a new entity's one-time election, the department shall establish a reimbursement rate, calculated on a per-visit basis, that is equal to 100 percent of the projected allowable costs to the FQHC or RHC of furnishing FQHC or RHC services during the first 12 months of operation as an FQHC or RHC. After the first 12-month period, the projected per-visit rate shall be increased by the Medicare Economic Index then in effect. The projected allowable costs for the first 12 months shall be cost settled and the prospective payment reimbursement rate shall be adjusted based on actual and allowable cost per visit.

(D) The department may adopt any further and additional methods of setting reimbursement rates for newly qualified FQHCs or RHCs as are consistent with Section 1396a(bb)(4) of Title 42 of the United States Code.

(4) In order for an FQHC or RHC to establish the comparability of its caseload for purposes of subparagraph (A) or (B) of paragraph (1), the department shall require that the FQHC or RHC submit its most recent annual utilization report as submitted to the Office of Statewide Health Planning and Development, unless the FQHC or RHC was not required to file an annual utilization report. FQHCs or RHCs that have experienced changes in their services or caseload subsequent to the filing of the annual utilization report may submit to the department a completed report in the format applicable to the prior calendar year. FQHCs or RHCs that have not previously submitted an annual utilization report shall submit to the department a completed report in the format applicable to the prior calendar year. The FQHC or RHC shall not be required to submit the annual utilization report for the comparable FQHCs or RHCs to the department, but shall be required to identify the comparable FQHCs or RHCs.

(5) The rate for any newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered

benefits on a fee-for-service basis under its existing provider number until it is informed of its *new* FQHC or RHC ~~enrollment approval, provider number~~, and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

(j) (1) Visits occurring at an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, of an existing FQHC or RHC, in a mobile unit as defined by paragraph (2) of subdivision (b) of Section 1765.105 of the Health and Safety Code, or at the election of the FQHC or RHC and subject to paragraph (2), a location added to an existing primary care clinic license by the State Department of Public Health prior to January 1, 2017, shall be billed by and reimbursed at the same rate as the FQHC or RHC that either established the intermittent clinic site or mobile unit, or that held the clinic license to which the location was added prior to January 1, 2017.

(2) If an FQHC or RHC with at least one additional location on its primary care clinic license that was added by the State Department of Public Health prior to January 1, 2017, applies for an adjustment to its per-visit rate based on a change in the scope of ~~services~~ *service* provided by the FQHC or RHC as described in subdivision (e), all locations on the FQHC or RHC's primary care clinic license shall be subject to a ~~scope of service~~ *scope of service* adjustment in accordance with either paragraph (2) or (3) of subdivision (i), as selected by the FQHC or RHC.

(3) Nothing in this subdivision precludes or otherwise limits the right of the FQHC or RHC to request a ~~scope of service~~ *scope of service* adjustment to the rate.

(k) An FQHC or RHC may elect to have pharmacy or dental services reimbursed on a fee-for-service basis, utilizing the current fee schedules established for those services. These costs shall be adjusted out of the FQHC's or RHC's clinic base rate as ~~scope of service~~ *scope of service* changes. An FQHC or RHC that reverses its election under this subdivision shall revert to its prior rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with applicable ~~scope of service~~ *scope of service* adjustments as provided in subdivision (e).

(l) (1) For purposes of this subdivision, the following definitions apply:

(A) A "mental health visit" means a face-to-face encounter between an FQHC or RHC patient and a psychiatrist, clinical psychologist, licensed clinical social worker, or marriage and family therapist.

(B) A "dental visit" means a face-to-face encounter between an FQHC or RHC patient and a dentist, dental hygienist, or registered dental hygienist in alternative practice.

(C) "Medical visit" means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, visiting nurse, or a comprehensive perinatal practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services.

(2) A maximum of two visits, as defined in subdivision (g), taking place on the same day at a single location shall be reimbursed when one or both of the following conditions exists:

(A) After the first visit the patient suffers illness or injury requiring additional diagnosis or treatment.

(B) The patient has a medical visit and a mental health visit or a dental visit.

(3) (A) Notwithstanding subdivision (e), an FQHC or RHC that currently includes the cost of a medical visit and a mental health visit that take place on the same day at a single location as constituting a single visit for purposes of establishing its FQHC or RHC rate may elect to apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, the FQHC or RHC shall bill a medical visit and a mental health visit that take place on the same day at a single location as separate visits.

(B) The department shall develop and adjust all appropriate forms to determine which FQHC's or RHC's rates shall be adjusted and to facilitate the calculation of the adjusted rates.

(C) An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this paragraph shall not constitute a change in scope of service within the meaning of subdivision (e).

(D) An FQHC or RHC that applies for an adjustment to its rate pursuant to this paragraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment has been approved.

(4) The department, by July 1, 2020, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services reflecting the changes described in this subdivision.

~~(t)~~

(m) Reimbursement for Drug Medi-Cal services shall be provided pursuant to this subdivision.

(1) An FQHC or RHC may elect to have Drug Medi-Cal services reimbursed directly from a county or the department under contract with the FQHC or RHC pursuant to paragraph (4).

(2) (A) For an FQHC or RHC to receive reimbursement for Drug Medi-Cal services directly from the county or the department under contract with the FQHC or RHC pursuant to paragraph (4), costs associated with providing Drug Medi-Cal services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing Drug Medi-Cal services shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering Drug Medi-Cal services the clinic uses different clinical staff at a different location.

(B) If the FQHC or RHC does not use different clinical staff at a different location to deliver Drug Medi-Cal services, the FQHC or RHC shall submit documentation, in a manner determined by the department, that the current per-visit PPS rate does not include any costs related to rendering Drug Medi-Cal services, including costs related to utilizing space in part of the FQHC's or RHC's building, that are or were previously calculated as part of the clinic's base PPS rate.

(3) If the costs associated with providing Drug Medi-Cal services are within the FQHC's or RHC's clinic base PPS rate, as determined by the department, the Drug Medi-Cal services costs shall be adjusted out of the FQHC's or RHC's per-visit PPS rate as a change in scope of service.

(A) An FQHC or RHC shall submit to the department a ~~scope of service~~ *scope of service* change request to adjust the FQHC's or RHC's clinic base PPS rate after the first full fiscal year of rendering Drug Medi-Cal services outside of the PPS rate. Notwithstanding subdivision (e), the ~~scope of service~~ *scope of service* change request shall include a full fiscal year of activity that does not include Drug Medi-Cal services costs.

(B) An FQHC or RHC may submit requests for ~~scope of service~~ *scope of service* change under this subdivision only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any ~~scope of service~~ *scope of service* change request under this subdivision approved by the department shall be retroactive to the first day that Drug Medi-Cal services were rendered and reimbursement for Drug Medi-Cal services was received outside of the PPS rate, but in no case shall the effective date be earlier than January 1, 2018.

(C) The FQHC or RHC may bill for Drug Medi-Cal services outside of the PPS rate when the FQHC or RHC obtains approval as a Drug Medi-Cal provider and enters into a contract with a county or the department to provide these services pursuant to paragraph (4).

(D) Within 90 days of receipt of the request for a ~~scope of service~~ *scope of service* change under this subdivision, the department shall issue the FQHC or RHC an interim rate equal to 90 percent of the FQHC's or RHC's projected allowable cost, as determined by the department. An audit to determine the final rate shall be performed in accordance with Section 14170.

(E) Rate changes based on a request for ~~scope of service~~ *scope of service* change under this subdivision shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.

(F) For purposes of recalculating the PPS rate, the FQHC or RHC shall provide upon request to the department verifiable documentation as to which employees spent time, and the actual time spent, providing federally qualified health center services or rural health center services and Drug Medi-Cal services.

(G) After the department approves the adjustment to the FQHC's or RHC's clinic base PPS rate and the FQHC or RHC is approved as a Drug Medi-Cal provider, an FQHC or RHC shall not bill the PPS rate for any Drug Medi-Cal services provided pursuant to a contract entered into with a county or the department pursuant to paragraph (4).

(H) An FQHC or RHC that reverses its election under this subdivision shall revert to its prior PPS rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with the applicable ~~scope of service~~ *scope of service* adjustments as provided for in subdivision (e).

(4) Reimbursement for Drug Medi-Cal services shall be determined according to subparagraph (A) or (B), depending on whether the services are provided in a county that participates in the Drug Medi-Cal organized delivery system (DMC-ODS).

(A) In a county that participates in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county or county designee and the FQHC or RHC. If the county or county designee refuses to contract with the FQHC or RHC, the FQHC or RHC may follow the contract denial process set forth in the Special Terms and Conditions.

(B) In a county that does not participate in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county and the FQHC or RHC. If the county refuses to contract with the FQHC or RHC, the FQHC or RHC may request to contract directly with the department and shall be reimbursed for those services at the Drug Medi-Cal fee-for-service rate.

(5) The department shall not reimburse an FQHC or RHC pursuant to subdivision (h) for the difference between its per-visit PPS rate and any payments for Drug Medi-Cal services made pursuant to this subdivision.

(6) For purposes of this subdivision, the following definitions shall apply:

(A) "Drug Medi-Cal organized delivery system" or "DMC-ODS" means the Drug Medi-Cal organized delivery system authorized under the California Medi-Cal 2020 Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services and described in the Special Terms and Conditions.

(B) "Special Terms and Conditions" shall have the same meaning as set forth in subdivision (o) of Section 14184.10.

~~(m)~~

(n) Reimbursement for specialty mental health services shall be provided pursuant to this subdivision.

(1) An FQHC or RHC and one or more mental health plans that contract with the department pursuant to Section 14712 may mutually elect to enter into a contract to have the FQHC or RHC provide specialty mental health services to Medi-Cal beneficiaries as part of the mental health plan's network.

(2) (A) For an FQHC or RHC to receive reimbursement for specialty mental health services pursuant to a contract entered into with the mental health plan under paragraph (1), the costs associated with providing specialty mental health services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing specialty mental health services shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering specialty mental health services the clinic uses different clinical staff at a different location.

(B) If the FQHC or RHC does not use different clinical staff at a different location to deliver specialty mental health services, the FQHC or RHC shall submit documentation, in a manner determined by the department, that the current per-visit PPS rate does not include any costs related to rendering specialty mental health services, including costs related to utilizing space in part of the FQHC's or RHC's building, that are or were previously calculated as part of the clinic's base PPS rate.

(3) If the costs associated with providing specialty mental health services are within the FQHC's or RHC's clinic base PPS rate, as determined by the department, the specialty mental health services costs shall be adjusted out of the FQHC's or RHC's per-visit PPS rate as a change in scope of service.

(A) An FQHC or RHC shall submit to the department a ~~scope of service~~ *scope of service* change request to adjust the FQHC's or RHC's clinic base PPS rate after the first full fiscal year of rendering specialty mental health services outside of the PPS rate. Notwithstanding subdivision (e), the ~~scope of service~~ *scope of service* change request shall include a full fiscal year of activity that does not include specialty mental health costs.

(B) An FQHC or RHC may submit requests for a ~~scope of service~~ *scope of service* change under this subdivision only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any ~~scope of service~~ *scope of service* change request under this subdivision approved by the department shall be retroactive to the first day that specialty mental health services were rendered and reimbursement for specialty mental health services was received outside of the PPS rate, but in no case shall the effective date be earlier than January 1, 2018.

(C) The FQHC or RHC may bill for specialty mental health services outside of the PPS rate when the FQHC or RHC contracts with a mental health plan to provide these services pursuant to paragraph (1).

(D) Within 90 days of receipt of the request for a ~~scope-in-service~~ *scope of service* change under this subdivision, the department shall issue the FQHC or RHC an interim rate equal to 90 percent of the FQHC's or RHC's projected allowable cost, as determined by the department. An audit to determine the final rate shall be performed in accordance with Section 14170.

(E) Rate changes based on a request for ~~scope-of-service~~ *scope of service* change under this subdivision shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.

(F) For the purpose of recalculating the PPS rate, the FQHC or RHC shall provide upon request to the department verifiable documentation as to which employees spent time, and the actual time spent, providing federally qualified health center services or rural health center services and specialty mental health services.

(G) After the department approves the adjustment to the FQHC's or RHC's clinic base PPS rate, an FQHC or RHC shall not bill the PPS rate for any specialty mental health services that are provided pursuant to a contract entered into with a mental health plan pursuant to paragraph (1).

(H) An FQHC or RHC that reverses its election under this subdivision shall revert to its prior PPS rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with the applicable ~~scope-of-service~~ *scope of service* adjustments as provided for in subdivision (e).

(4) The department shall not reimburse an FQHC or RHC pursuant to subdivision (h) for the difference between its per-visit PPS rate and any payments made for specialty mental health services under this subdivision.

~~(n)~~

(o) FQHCs and RHCs may appeal a grievance or complaint concerning ratesetting, ~~scope-of-service~~ *scope of service* changes, and settlement of cost report audits, in the manner prescribed by Section 14171. The rights and remedies provided under this subdivision are cumulative to the rights and remedies available under all other provisions of law of this state.

~~(e)~~

(p) The department shall promptly seek all necessary federal approvals in order to implement this section, including any amendments to the state plan. To the extent that any element or requirement of this section is not approved, the department shall submit a request to the federal Centers for Medicare and Medicaid Services for any waivers that would be necessary to implement this section.

~~(p)~~

(q) The department shall implement this section only to the extent that federal financial participation is available.

~~(e)~~

(r) Notwithstanding any other law, the director may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific subdivisions ~~(l) and (m)~~ *(m) and (n)* by means of a provider bulletin or similar instruction. The department shall notify and consult with interested parties and appropriate stakeholders in implementing, interpreting, or making specific the provisions of subdivisions ~~(l) and (m)~~; *(m) and (n)*, including all of the following:

(1) Notifying provider representatives in writing of the proposed action or change. The notice shall occur, and the applicable draft provider bulletin or similar instruction, shall be made available at least 10 business days prior to the meeting described in paragraph (2).

(2) Scheduling at least one meeting with interested parties and appropriate stakeholders to discuss the proposed action or change.

(3) Allowing for written input regarding the proposed action or change, to which the department shall provide summary written responses in conjunction with the issuance of the applicable final written provider bulletin or similar instruction.

(4) Providing at least 60 days advance notice of the effective date of the proposed action or change.

MEMORANDUM

DATE	March 11, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(a)(3) – SB 163 (Portantino) Healthcare coverage: pervasive developmental disorder or autism

Background:

Current law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law defines developmental disability for these purposes to include, among other things, autism. SB 163 (Portantino) would revise the definition of behavioral health treatment to require the services and treatment programs provided to be based on behavioral, developmental, behavior-based, or other evidence-based models. The bill would also remove the exception for health care service plans and health insurance policies in the Medi-Cal program, consistent with the Mental Health Parity and Addiction Equity Act of 2008.

For the purposes of the Board of Psychology (Board), staff had concerns with the bill's provisions allowing Psychological Assistants and Registered Psychologists who have obtained at least 500 hours of experience in designing or implementing behavioral health treatment to supervise qualified autism service paraprofessionals (QASPs). Board staff is unaware of the prevalence of Psychological Assistants and Registered Psychologists serving as supervisors for QASPs in the field and has concerns about registrants as trainees who are not allowed to practice independently supervising entry level individuals implementing behavior health treatment plans in consumers' homes. Further, supervision is not defined and the qualifications and responsibilities as a supervisor remain unclear.

Location: 2/6/2019 Senate Committee on Health

Status: 2/6/2019 Referred to Senate Committees on Health and Human Services.

Action Requested:

Staff recommends the Policy and Advocacy Committee discuss SB 163 (Portantino), specifically the provisions related to Psychological Assistants and Registered Psychologist supervising qualified autism service paraprofessionals, and consider taking a position.

Attachment A: AB 744 (Aguiar-Curry) Bill Analysis (Hand Carry)
Attachment B: AB 744 (Aguiar-Curry) Bill Text

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SB-163 Healthcare coverage: pervasive developmental disorder or autism. (2019-2020)

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Date Published: 01/24/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 163**

Introduced by Senator Portantino

January 24, 2019

An act to amend Section 1374.73 of the Health and Safety Code, and to amend Section 10144.51 of the Insurance Code, relating to healthcare coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 163, as introduced, Portantino. Healthcare coverage: pervasive developmental disorder or autism.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law defines developmental disability for these purposes to include, among other things, autism.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism, and defines "behavioral health treatment" to mean specified services and treatment programs, including treatment provided pursuant to a treatment plan that is prescribed by a qualified autism service provider and administered either by a qualified autism service provider or by a qualified autism service professional or qualified autism service paraprofessional who is supervised as specified. Existing law defines a "qualified autism service provider" to refer to a person who is certified or licensed and a "qualified autism service professional" to refer to a person who meets specified educational, training, and other requirements and is supervised and employed by a qualified autism service provider. Existing law defines a "qualified autism service paraprofessional" to mean an unlicensed and uncertified individual who meets specified educational, training, and other criteria, is supervised by a qualified autism service provider or a qualified autism service professional, and is employed by the qualified autism service provider. Existing law also requires a qualified autism service provider to design, in connection with the treatment plan, an intervention plan that describes, among other information, the parent participation needed to achieve the plan's goals and objectives, as specified. Under existing law, these coverage requirements provide an exception for specialized health care service plans or health insurance policies that do not cover mental health or behavioral health services, accident

only, specified disease, hospital indemnity, or Medicare supplement health insurance policies, and health care service plans and health insurance policies in the Medi-Cal program.

Existing federal law, the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), requires group health plans and health insurance issuers that provide both medical and surgical benefits and mental health or substance use disorder benefits to ensure that financial requirements and treatment limitations applicable to mental health or substance use disorder benefits are no more restrictive than the predominant requirements or limitations applied to substantially all medical and surgical benefits. Existing state law subjects nongrandfathered individual and small group health care service plan contracts and health insurance policies that provide coverage for essential health benefits to those provisions of the MHPAEA.

This bill would revise the definition of behavioral health treatment to require the services and treatment programs provided to be based on behavioral, developmental, behavior-based, or other evidence-based models. The bill would remove the exception for health care service plans and health insurance policies in the Medi-Cal program, consistent with the MHPAEA.

This bill also would expand the definition of a "qualified autism service professional" to include behavioral service providers who meet specified educational and professional or work experience qualifications. The bill would revise the definition of a "qualified autism service paraprofessional" by deleting the reference to an unlicensed and uncertified individual and by requiring the individual to comply with revised educational and training, or professional, requirements. The bill would also revise the definitions of both a qualified autism service professional and a qualified autism service paraprofessional to include the requirement that these individuals complete a background check.

This bill would require the intervention plan designed by the qualified autism service provider, when clinically appropriate, to include parent or caregiver participation that is individualized to the patient and takes into account the ability of the parent or caregiver to participate in therapy sessions and other recommended activities. The bill would specify that the lack of parent or caregiver participation shall not be used to deny or reduce medically necessary services and that the setting, location, or time of treatment not be used as the only reason to deny medically necessary services. Because a willful violation of the bill's provisions by a health care service plan would be a crime, it 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1374.73 of the Health and Safety Code, as amended by Chapter 385 of the Statutes of 2017, is amended to read:

1374.73. (a) (1) Every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 1374.72.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health plans will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Every health care service plan subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise or employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. A health care service plan is not prevented from selectively contracting with providers within these requirements.

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

(1) "Behavioral health treatment" means professional services and treatment ~~programs~~, *programs based on behavioral, developmental, behavior-based, or other evidence-based models*, including applied behavior analysis and *other* evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised by a qualified autism service provider or qualified autism service professional.

(C) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments or developmental challenges that are to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent ~~participation~~ *participation, when clinically appropriate*, needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported. *When clinically appropriate, the plan shall include parent or caregiver participation that is individualized to the patient and that takes into account the ability of the parent or caregiver to participate in therapy sessions and other recommended activities.*

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism. *"Evidence-based practice" means a decisionmaking process that integrates the best available scientifically rigorous research, clinical expertise, and individuals' characteristics. Evidence-based practice is an approach to treatment rather than a specific treatment. Evidence-based practice promotes the collection, interpretation, integration, and continuous evaluation of valued, important, and applicable individual- or family-reported, clinically observed, and research-supported evidence. The best available evidence, matched to consumer circumstances and preferences, is applied to ensure the quality of clinical judgment and facilitate the most cost-effective care.*

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, ~~day care~~, *daycare*, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the health care service plan upon request.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 1374.72.

(3) "Qualified autism service provider" means either of the following:

(A) A person who is certified by a national entity, such as the Behavior Analyst Certification Board, with a certification that is accredited by the National Commission for Certifying ~~Agencies~~, *Agencies or the American National Standards Institute*, and who designs, supervises, or provides treatment for pervasive developmental

disorder or autism, provided the services are within the experience and competence of the person who is nationally certified.

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment, which may include clinical case management and case supervision under the direction and supervision of a qualified autism service provider. *However, the services shall be consistent with the experience, training, or education of the professional.*

(B) Is supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service provider.

~~(D) Is a behavioral service provider who meets~~

(D) Is a behavioral service provider who meets one of the following criteria:

(i) Meets the education and experience qualifications described in Section 54342 of Title 17 of the California Code of Regulations for an ~~Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant,~~ associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or ~~Behavior Management Program.~~ behavior management program.

(ii) Possesses a bachelor of arts or science degree and meets one of the following qualifications:

(I) One year of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider and 12 semester units from an accredited institution of higher learning in either applied behavioral analysis or clinical coursework in behavioral health.

(II) Two years of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider.

~~(E) Has training and experience in providing services for pervasive developmental disorder~~

(III) The person is a registered psychological assistant or ~~autism~~ registered psychologist pursuant to ~~Division 4.5 Chapter 6.6~~ (commencing with Section ~~4500~~ 2900) of ~~the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.~~ Division 2 of the Business and Professions Code. A registered psychological assistant or registered psychologist may not supervise a qualified autism service paraprofessional until the registered psychological assistant or registered psychologist has obtained at least 500 hours of experience in designing or implementing behavioral health treatment.

(IV) The person is an associate clinical social worker registered with the Board of Behavioral Sciences pursuant to Section 4996.18 of the Business and Professions Code. An associate clinical social worker may not supervise a qualified autism service paraprofessional until the associate clinical social worker has obtained at least 500 hours of experience in designing or implementing behavioral health treatment.

(V) The person is a registered associate marriage and family therapist with the Board of Behavioral Sciences pursuant to Section 4980.44 of the Business and Professions Code. A registered associate marriage and family therapist may not supervise a qualified autism service paraprofessional until the registered associate marriage and family therapist has obtained at least 500 hours of experience in designing or implementing behavioral health treatment.

(VI) The person is a registered associate professional clinical counselor with the Board of Behavioral Sciences pursuant to Section 4999.42 of the Business and Professions Code. A registered associate professional clinical counselor may not supervise a qualified autism service paraprofessional until the registered associate professional clinical counselor has obtained at least 500 hours of experience in designing or implementing behavioral health treatment.

(VII) The person is credentialed or certified by a national entity, including, but not limited to, the Behavior Analyst Certification Board, which is accredited by the National Commission for Certifying Agencies or the American National Standards Institute to provide applied behavior analysis or behavioral health treatment, which may include case management and case supervision under the direction and supervision of a qualified autism service provider.

(E) Has training and experience in providing services for pervasive developmental disorder or autism.

(F) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.

(G) Has completed a background check performed by a Department of Justice approved agency, with subsequent notification to the person's employer pursuant to Section 11105.2 of the Penal Code.

(5) "Qualified autism service paraprofessional" means an ~~unlicensed and uncertified~~ individual who meets all of the following criteria:

(A) Is supervised by a qualified autism service provider or qualified autism service professional at a level of clinical supervision that meets professionally recognized standards of practice.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

~~(C) Meets~~

(C) Meets one of the following:

(i) For applied behavioral analysis, the education and training qualifications described in Section 54342 of Title 17 of the California Code of Regulations.

(ii) For other evidence-based behavioral health treatments, all of the following qualifications:

(I) Possesses an associate's degree or has completed two years of study from an accredited college or university with coursework in a related field of study.

(II) Has 40 hours of training in the specific form of behavioral health treatment developed by a qualified autism service provider and administered by a qualified autism service provider or qualified autism service professional competent in the form of behavioral health treatment to be practiced by the paraprofessional.

(III) Has adequate education, training, and experience, as certified by a qualified autism service provider.

(iii) Is credentialed or certified in applied behavior analysis or behavioral health treatment for paraprofessionals or technicians by a national entity that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

However, upon successful completion of the training and education necessary for certification or a credential described in this clause, if the applicant is otherwise qualified under this section, the applicant may provide treatment and implement services for up to 180 days while in the process of obtaining the certification or credential.

(D) Has adequate education, training, and experience, as certified by a qualified autism service provider or an entity or group that employs qualified autism service providers.

(E) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.

(F) Has completed a background check performed by a Department of Justice approved agency, with subsequent notification to the person's employer pursuant to Section 11105.2 of the Penal Code.

(d) This section shall not apply to ~~the following:~~ *a specialized health care service plan that does not deliver mental health or behavioral health services to enrollees.*

~~(1) A specialized health care service plan that does not deliver mental health or behavioral health services to enrollees.~~

~~(2) A health care service plan contract in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).~~

(e) This section does not limit the obligation to provide services under Section 1374.72.

(f) As provided in Section 1374.72 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health care service plan may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

(g) (1) The setting, location, or time of treatment recommended by the qualified autism service provider shall not be used as the only reason to deny or reduce coverage for medically necessary services. The setting shall be consistent with the standard of care for behavioral health treatment. This subdivision does not require a health care service plan to provide reimbursement for services delivered by school personnel pursuant to an enrollee's individualized educational program for the purpose of accessing educational services, unless otherwise required or permitted by federal and state law. This subdivision does not require a health care service plan to cover services rendered outside of the plan's service area unless the services are urgently needed services, as described in subdivision (h) of Section 1345, or emergency services, as defined in Section 1317.1, or unless the benefit plan expressly covers out-of-area services.

(2) Parent or caregiver participation may be associated with greater improvements in functioning and should be encouraged. However, the lack of parent or caregiver participation shall not be used as a basis for denying or reducing coverage of medically necessary services.

SEC. 2. Section 10144.51 of the Insurance Code, as amended by Chapter 385 of the Statutes of 2017, is amended to read:

10144.51. (a) (1) Every health insurance policy shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 10144.5.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health insurers will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Pursuant to Article 6 (commencing with Section 2240) of Subchapter 2 of Chapter 5 of Title 10 of the California Code of Regulations, every health insurer subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise or employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. A health insurer is not prevented from selectively contracting with providers within these requirements.

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

(1) "Behavioral health treatment" means professional services and treatment ~~programs,~~ *programs based on behavioral, developmental, behavior-based, or other evidence-based practice models*, including applied behavior analysis and *other* evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised by a qualified autism service provider or qualified autism service professional.

(C) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments or developmental challenges that are to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent ~~participation~~ *participation, when clinically appropriate*, needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported. *When clinically appropriate, the plan shall include parent or caregiver participation that is individualized to the patient and that takes into account the ability of the parent or caregiver to participate in therapy sessions and other recommended activities.*

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism. *"Evidence-based practice" means a decisionmaking process that integrates the best available scientifically rigorous research, clinical expertise, and individuals' characteristics. Evidence-based practice is an approach to treatment rather than a specific treatment. Evidence-based practice promotes the collection, interpretation, integration, and continuous evaluation of valued, important, and applicable individual- or family-reported, clinically observed, and research-supported evidence. The best available evidence, matched to consumer circumstances and preferences, is applied to ensure the quality of clinical judgment and facilitate the most cost-effective care.*

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, ~~day care,~~ *daycare*, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the insurer upon request.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 10144.5.

(3) "Qualified autism service provider" means either of the following:

(A) A person who is certified by a national entity, such as the Behavior Analyst Certification Board, with a certification that is accredited by the National Commission for Certifying ~~Agencies,~~ *Agencies or the American National Standards Institute*, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person who is nationally certified.

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment, which may include clinical case management and case supervision under the direction and supervision of a qualified autism service provider. *However, the services shall be consistent with the experience, training, or education of the professional.*

(B) Is supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service provider.

~~(D) Is a behavioral service provider who meets~~

(D) Is a behavioral service provider who meets one of the following criteria:

(i) Meets the education and experience qualifications described in Section 54342 of Title 17 of the California Code of Regulations for an ~~Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant,~~ associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or ~~Behavior Management Program.~~ behavior management program.

(ii) Possesses a bachelor of arts or science degree and meets one of the following qualifications:

(I) One year of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider and 12 semester units from an accredited institution of higher learning in either applied behavioral analysis or clinical coursework in behavioral health.

(II) Two years of experience in designing or implementing behavioral health treatment supervised by a qualified autism service provider.

~~*(E) Has training and experience in providing services for pervasive developmental disorder*~~

(III) The person is a registered psychological assistant or ~~autism~~ registered psychologist pursuant to ~~Division 4.5 Chapter 6.6 (commencing with Section 4500) 2900~~ of ~~the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.~~ Division 2 of the Business and Professions Code. A registered psychological assistant or registered psychologist may not supervise a qualified autism service paraprofessional until the registered psychological assistant or registered psychologist has obtained at least 500 hours of experience in designing or implementing behavioral health treatment.

(IV) The person is an associate clinical social worker registered with the Board of Behavioral Sciences pursuant to Section 4996.18 of the Business and Professions Code. An associate clinical social worker may not supervise a qualified autism service paraprofessional until the associate clinical social worker has obtained at least 500 hours of experience in designing or implementing behavioral health treatment.

(V) The person is a registered associate marriage and family therapist with the Board of Behavioral Sciences pursuant to Section 4980.44 of the Business and Professions Code. A registered associate marriage and family therapist may not supervise a qualified autism service paraprofessional until the registered associate marriage and family therapist has obtained at least 500 hours of experience in designing or implementing behavioral health treatment.

(VI) The person is a registered associate professional clinical counselor with the Board of Behavioral Sciences pursuant to Section 4999.42 of the Business and Professions Code. A registered associate professional clinical counselor may not supervise a qualified autism service paraprofessional until the registered associate professional clinical counselor has obtained at least 500 hours of experience in designing or implementing behavioral health treatment.

(VII) The person is credentialed or certified by a national entity, including, but not limited to, the Behavior Analyst Certification Board, which is accredited by the National Commission for Certifying Agencies or the American National Standards Institute to provide applied behavior analysis or behavioral health treatment, which may include case management and case supervision under the direction and supervision of a qualified autism service provider.

(E) Has training and experience in providing services for pervasive developmental disorder or autism.

(F) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.

(G) Has completed a background check performed by a Department of Justice approved agency, with subsequent notification to the person's employer pursuant to Section 11105.2 of the Penal Code.

(5) "Qualified autism service paraprofessional" means an ~~unlicensed and uncertified~~ individual who meets all of the following criteria:

(A) Is supervised by a qualified autism service provider or qualified autism service professional at a level of clinical supervision that meets professionally recognized standards of practice.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

~~(C) Meets~~

(C) Meets one of the following:

(i) For applied behavioral analysis, the education and training qualifications described in Section 54342 of Title 17 of the California Code of Regulations.

(ii) For other evidence-based behavioral health treatments, all of the following qualifications:

(I) Possesses an associate's degree or has completed two years of study from an accredited college or university with coursework in a related field of study.

(II) Has 40 hours of training in the specific form of behavioral health treatment developed by a qualified autism service provider and administered by a qualified autism service provider or qualified autism service professional competent in the form of behavioral health treatment to be practiced by the paraprofessional.

(III) Has adequate education, training, and experience, as certified by a qualified autism service provider.

(iii) Is credentialed or certified in applied behavior analysis or behavioral health treatment for paraprofessionals or technicians by a national entity that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

However, upon successful completion of the training and education necessary for certification or a credential described in this clause, if the applicant is otherwise qualified under this section, the applicant may provide treatment and implement services for up to 180 days while in the process of obtaining the certification or credential.

(D) Has adequate education, training, and experience, as certified by a qualified autism service provider or an entity or group that employs qualified autism service providers.

(E) Is employed by the qualified autism service provider or an entity or group that employs qualified autism service providers responsible for the autism treatment plan.

(F) Has completed a background check performed by a Department of Justice approved agency, with subsequent notification to the person's employer pursuant to Section 11105.2 of the Penal Code.

(d) This section shall not apply to ~~the following:~~ a specialized health insurance policy that does not cover mental health or behavioral health services or an accident only, specified disease, hospital indemnity, or Medicare supplement policy.

~~*(1) A specialized health insurance policy that does not cover mental health or behavioral health services or an accident only, specified disease, hospital indemnity, or Medicare supplement policy.*~~

~~*(2) A health insurance policy in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).*~~

(e) This section does not limit the obligation to provide services under Section 10144.5.

(f) As provided in Section 10144.5 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health insurer may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

(g) (1) The setting, location, or time of treatment recommended by the qualified autism service provider shall not be used as the only reason to deny or reduce coverage for medically necessary services. The setting shall be consistent with the standard of care for behavioral health treatment. This subdivision does not require a health insurer to provide reimbursement for services delivered by school personnel pursuant to an enrollee's individualized educational program for the purpose of accessing educational services, unless otherwise required or permitted by federal and state law. This subdivision does not require a health insurer to cover services rendered outside of the health insurer's service area unless the services are urgently needed services to prevent serious deterioration of a covered person's health resulting from unforeseen illness or injury for which treatment cannot be delayed until the covered person returns to the insurer's service area, or emergency services, as defined in Section 1317.1 of the Health and Safety Code, or unless the benefit plan expressly covers out-of-area services.

(2) Parent or caregiver participation may be associated with greater improvements in functioning and should be encouraged. However, the lack of parent or caregiver participation shall not be used as a basis for denying or reducing coverage of medically necessary services.

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 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	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(A) – AB 8 (Chu) Pupil health: mental health professionals

Background:

AB 8 (Chu) would require, on or before December 31, 2022, each school of a school district, county office of education, or charter school to have at least one mental health professional, as defined, for every 400 pupils generally accessible to pupils on campus during school hours. The bill would require, on or before December 31, 2022, a school of a school district or county office of education and a charter school with fewer than 400 pupils to have at least one mental health professional generally accessible to pupils on campus during school hours, to employ at least one mental health professional to serve multiple schools, or to enter into a memorandum of understanding with a county agency or community-based organization for at least one mental health professional employed by the agency or organization to provide services to pupils.

This bill would define mental health professionals for the purposes of this bill to include:

- Individuals with a services credential with a specialization in pupil personnel services performing school counseling, school psychology, or school social work
- Individuals with a services credential with a specialization in health for a school nurse

The following licensed professionals: psychologists, marriage and family therapists, and clinical counselors

The following Intern and trainee categories: marriage and family therapist intern, marriage and family therapist trainee, clinical counselor intern, clinical counselor trainee.

Location: Assembly Committee on Education

Status: Re-referred to Assembly Committee on Education.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 8 for potential impacts on access to mental health services to students.

Attachment: AB 8 (Chu) Bill Text

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-8 Pupil health: mental health professionals.** (2019-2020)**SECTION 1.** *The Legislature finds and declares all of the following:*

(a) In 2014, an estimated 22.5 million Americans 12 years of age or older reported needing treatment for a substance use disorder, and 11.8 million adults reported needing mental health treatment.

(b) Mental health disorders and substance use disorders share some underlying causes, including changes in brain composition, genetic vulnerabilities, and early exposure to stress or trauma.

(c) Fifty-seven percent of Californian children have experienced trauma.

(d) Research shows that people with mental health issues are at a higher risk of a substance use disorder.

(e) Early intervention and prevention of mental health and substance use disorders are critical to Californians' behavioral and physical health.

(f) Three hundred thousand Californian children 4 to 11 years of age, inclusive, have mental health needs, but over 70 percent never receive treatment.

(g) For youth in poverty or with non-English-speaking parents, over 80 percent never receive treatment for their mental health needs.

(h) Both mental health issues and substance use disorders in pupils can lead to absenteeism, suspensions, and dropping out of school at an early age.

(i) Schools have been identified as the optimal place to provide mental health services and improve access to mental health services for pupils, especially pupils of color and pupils in historically underserved communities.

(j) Reflecting on incidents of violence on school campuses, national educator and school professional organizations recommend in published best practices for creating safe and successful schools improving access to school-based mental health supports by ensuring adequate staffing levels of school-employed mental health professionals.

(k) The State of California ranks last or near last in the country for pupil access to mental health care at school. Currently, California has one school nurse for every 2,240 pupils, ranking 39th in the country, and one school counselor for every 792 pupils, ranking last in the country. Additionally, the state has only one school psychologist for every 1,265 pupils and one school social worker for every 12,870 pupils.

SEC. 2. *Section 49429.5 is added to the Education Code, to read:*

49429.5. *(a) On or before December 31, 2022, a school of a school district or county office of education and a charter school shall have at least one mental health professional for every 400 pupils generally accessible to pupils on campus during school hours. On or before December 31, 2022, a school of a school district or county office of education and a charter school with fewer than 400 pupils shall do one of the following:*

(1) Have at least one mental health professional generally accessible to pupils on campus during school hours.

(2) Employ at least one mental health professional to provide services to pupils at multiple schools.

(3) Enter into a memorandum of understanding with a county agency or community-based organization for at least one mental health professional employed by the agency or organization to provide services to pupils.

(b) The role of a mental health professional required pursuant to this section shall include, but is not limited to, all of the following:

(1) Providing individual and small group counseling supports to individual pupils as well as pupil groups to address social-emotional and mental health concerns.

(2) Facilitating collaboration and coordination between school and community providers to support pupils and their families by assisting families in identifying and accessing additional mental health services within the community as needed.

(3) Promoting school climate and culture through evidence-informed strategies and programs by collaborating with school staff to develop best practices for behavioral health management and classroom climate.

(4) Providing professional development to staff in diverse areas, including, but not limited to, behavior management strategies, mental health support training, trauma-informed practices, and professional self-care.

(c) A mental health professional required pursuant to this section who does not hold a services credential with a specialization in pupil personnel services as described in Section 44266 or a services credential with a specialization in health for a school nurse as described in Section 44267.5 shall work with pupils only under the supervision of an individual who holds a services credential with a specialization in pupil personnel services as described in Section 44266 or a services credential with a specialization in administrative services as described in Section 44270.2.

(d) A school of a school district or county office of education and a charter school may employ community mental health workers, cultural brokers, or peer providers to supplement the services provided by mental health professionals if they have a current certificate of clearance from the Commission on Teacher Credentialing and are supervised in their school-based activities by an individual who holds a services credential with a specialization in pupil personnel services as described in Section 44266 or a services credential with a specialization in administrative services as described in Section 44270.2.

(e) A school of a school district or county office of education and a charter school with pupils who are eligible to receive Medi-Cal benefits shall do both of the following:

(1) Seek reimbursement, to the extent applicable, through the Local Educational Agency Medi-Cal Billing Option for services provided pursuant to this section.

(2) Seek reimbursement, to the extent applicable, through the School-Based Medi-Cal Administrative Activities program for administrative costs related to providing services pursuant to this section.

(f) (1) This section does not alter the scope of practice for any mental health professional in a manner that is not authorized pursuant to existing law.

(2) This section does not authorize the delivery of mental health services in a setting or in a manner that is not authorized pursuant to existing law.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Community mental health worker" or "cultural broker" means a frontline public health worker with behavioral health training who works for pay or as a volunteer in association with the local health care systems and usually shares ethnicity, language, socioeconomic status, or life experiences with the pupils served. A community mental health worker sometimes offers interpretation and translation services and culturally appropriate health education and information, assists pupils and family members in receiving the care they need, and gives, to the extent permitted by law, informal counseling and guidance.

(2) "Mental health professional" includes any of the following:

(A) An individual who holds a services credential with a specialization in pupil personnel services as described in Section 44266 that authorizes the individual to perform school counseling, school psychology, or school social work.

(B) An individual who holds a services credential with a specialization in health for a school nurse as described in Section 44267.5.

(C) A professional licensed by the State of California to provide mental health services, including, but not limited to, psychologists, marriage and family therapists, and clinical counselors.

(D) A marriage and family therapist intern as described in subdivision (b) of Section 4980.03 of the Business and Professions Code.

(E) A marriage and family therapist trainee as described in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(F) A clinical counselor intern as described in subdivision (f) of Section 4999.12 of the Business and Professions Code.

(G) A clinical counselor trainee as described in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(3) "Peer provider" means a person who draws on lived experience with mental illness or a substance use disorder and recovery, bolstered by specialized training, to deliver valuable support services in a mental health setting. Peer providers may include people who have lived experience as clients, family members, or caretakers of individuals living with mental illness. Peer providers offer culturally competent services that promote engagement, socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services. Services provided by peer providers include, but are not limited to, support, coaching, facilitation, or education that is individualized to the pupil.

SEC. 3. *If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(B) – AB 71 (Melendez) Employment standards: independent contractors and employees

Background:

Current case law establishes a three-part test, known as the “ABC” test, for determining whether a worker is considered an independent contractor for purposes of specified wage orders. Under this test, a worker is properly considered an independent contractor only if the hiring entity establishes; 1) that the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for performance of the work and in fact; 2) that the worker performs work outside the usual course of the hiring entity’s business; and 3) that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

AB 71 (Melendez) would, instead, require a determination of whether a person is an employee or an independent contractor to be based on a specific multifactor test, including whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired, and other identified factors.

Location: 1/17/2019 Assembly Committee on Labor and Employment

Status: 2/26/2019 Re-referred to Assembly Committee on Labor and Employment

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 71 for potential impacts on the employment relationship the bill could have on Psychological Assistants.

Attachment: AB 71 (Melendez) Bill Text


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AB-71 Employment standards: independent contractors and employees. (2019-2020)

SECTION 1. Section 2750.5 of the Labor Code is amended to read:

2750.5. There is a rebuttable presumption affecting the burden of proof that a worker performing services for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, or who is performing ~~such~~ *those* services for a person who is required to obtain such a license is an employee rather than an independent contractor. ~~Proof of independent contractor status includes satisfactory proof of these factors:~~

~~(a) That the individual has the right to control and discretion as to the manner of performance of the contract for services in that the result of the work and not the means by which it is accomplished is the primary factor bargained for.~~

~~(b) That the individual is customarily engaged in an independently established business.~~

~~(c) That the individual's independent contractor status is bona fide and not a subterfuge to avoid employee status. A bona fide independent contractor status is further evidenced by the presence of cumulative factors such as substantial investment other than personal services in the business, holding out to be in business for oneself, bargaining for a contract to complete a specific project for compensation by project rather than by time, control over the time and place the work is performed, supplying the tools or instrumentalities used in the work other than tools and instrumentalities normally and customarily provided by employees, hiring employees, performing work that is not ordinarily in the course of the principal's work, performing work that requires a particular skill, holding a license pursuant to the Business and Professions Code, the intent by the parties that the work relationship is of an independent contractor status, or that the relationship is not severable or terminable at will by the principal but gives rise to an action for breach of contract.~~

In addition to the factors contained in ~~subdivisions (a), (b), and (c).~~ *Section 2750.7*, any person performing any function or activity for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall hold a valid contractors' license as a condition of having independent contractor status.

For purposes of workers' compensation law, this presumption is a supplement to the existing statutory definitions of employee and independent contractor, and is not intended to lessen the coverage of employees under Division 4 and Division 5.

SEC. 2. *Section 2750.7 is added to the Labor Code, to read:*

2750.7. *(a) Notwithstanding any other law, a determination of whether a person is an employee or an independent contractor for the purposes of this division shall be based on the multifactor test set forth in S.G. Borello & Sons, Inc. v. Department of Industrial Relations.*

(b) These factors include, but are not limited to, the following:

(1) Whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired, which is the principal factor.

(2) Whether the one performing services is engaged in a distinct occupation or business.

(3) The kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of the principal or by a specialist without supervision.

(4) The skill required in the particular occupation.

(5) Whether the principal or the worker supplies the instrumentalities, tools, and the place of work for the person doing the work.

(6) The length of time for which the services are to be performed.

(7) The method of payment, whether by the time or by the job.

(8) The right to discharge at will, without cause.

(9) Whether or not the work is part of the regular business of the principal.

(10) Whether or not the parties believe they are creating the relationship of employer-employee.

(c) The individual factors set forth in subdivision (b) above shall not be applied mechanically as separate tests, but shall be intertwined.

(d) The test set forth in this section shall apply to any determinations before an administrative agency or court.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(C) – AB 184 (Mathis) Board of Behavioral Sciences: registrants and licensees

Background:

AB 184 (Mathis) would require the Board of Behavioral Sciences to offer every applicant for an initial registration number or license and every applicant for renewal of a registration number or license under the board's jurisdiction the option to elect to have the applicant's home address be kept confidential.

Location: 1/24/2019 Assembly Committee on Business and Professions

Status: 1/24/2019 Referred to Assembly Committee on Business and Professions

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 184 for potential impacts on the Board's ability to obtain similar authority in the future related to its applicants and licensees.

Attachment: AB 184 (Mathis) Bill Text

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AB-184 Board of Behavioral Sciences: registrants and licensees. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 184**

Introduced by Assembly Member Mathis

January 10, 2019

An act to add Section 4990.11 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 184, as introduced, Mathis. Board of Behavioral Sciences: registrants and licensees.

Existing law establishes the Board of Behavioral Sciences within the Department of Consumer Affairs, and requires the board to regulate various registrants and licensees under the Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act.

This bill would require the board to offer every applicant for an initial registration number or license and every applicant for renewal of a registration number or license under the board's jurisdiction the option to elect to have the applicant's home address be kept confidential.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 4990.11 is added to the Business and Professions Code, to read:

4990.11. The board shall offer every applicant for an initial registration number or license and every applicant for renewal of a registration number or license under the board's jurisdiction the option to elect to have the applicant's home address be kept confidential.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(D) – AB 189 (Kamlager-Dove) Child abuse or neglect: mandated reporters: autism service personnel

Background:

The Child Abuse and Neglect Reporting Act (CANRA) requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. AB 189 (Kamlager-Dove) would add qualified autism service providers, qualified autism service professionals, and qualified autism service paraprofessionals, as defined, to the list of individuals who are mandated reporters.

Location: 1/10/2019 Assembly Committee on Appropriations

Status: 2/26/2019 Coauthors Revised. From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar.

Votes: 2/26/2019 Assembly Committee on Public Safety (8-0-0)

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 189 for potential impacts to licensees that supervise and/or employ qualified autism service professionals or qualified autism service paraprofessionals.

Attachment: AB 189 Bill Text

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AB-189 Child abuse or neglect: mandated reporters: autism service personnel. (2019-2020)

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Date Published: 01/10/2019 09:00 PM

REVISED FEBRUARY 26, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 189**

Introduced by Assembly Member Kamlager-Dove
(Coauthor: [Assembly Member Lackey](#))

January 10, 2019

An act to amend Section 11165.7 of the Penal Code, relating to child abuse or neglect.

LEGISLATIVE COUNSEL'S DIGEST

AB 189, as introduced, Kamlager-Dove. Child abuse or neglect: mandated reporters: autism service personnel.

Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure by a mandated reporter to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor punishable by up to 6 months of confinement in a county jail, by a fine of \$1,000, or by both that imprisonment and fine.

This bill would add qualified autism service providers, qualified autism service professionals, and qualified autism service paraprofessionals, as defined, to the list of individuals who are mandated reporters. By imposing the reporting requirements on a new class of persons, for whom failure to report specified conduct is a crime, 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by a public or private school.
- (4) A classified employee of a public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator, board member, or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.
- (9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed associate marriage and family therapist registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner or other person who performs autopsies.

(29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.

(30) A child visitation monitor. As used in this article, "child visitation monitor" means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) "Animal control officer" means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) "Humane society officer" means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) An employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.

(36) A custodial officer, as defined in Section 831.5.

(37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) An associate professional clinical counselor registered under Section 4999.42 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary educational institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43) (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary educational institutions.

(45) An individual certified by a licensed foster family agency as a certified family home, as defined in Section 1506 of the Health and Safety Code.

(46) An individual approved as a resource family, as defined in Section 1517 of the Health and Safety Code and Section 16519.5 of the Welfare and Institutions Code.

(47) A qualified autism service provider, a qualified autism service professional, or a qualified autism service paraprofessional, as defined in Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Except as provided in subdivision (d), employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

(e) (1) On and after January 1, 2018, pursuant to Section 1596.8662 of the Health and Safety Code, a child care licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a child care administrator or an employee of a licensed child day care facility shall take training in the duties of mandated reporters during the first 90 days when he or she is employed by the facility.

(2) A person specified in paragraph (1) who becomes a licensee, administrator, or employee of a licensed child day care facility shall take renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

(f) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.


(g) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

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.

REVISIONS:

Heading—Line 2.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(E) – AB 193 (Patterson) Professions and vocations

Background:

AB 193 (Patterson) would require the Department of Consumer Affairs, beginning on January 1, 2021, to conduct a comprehensive review of all licensing requirements for each profession regulated by a board within the department and identify unnecessary licensing requirements, as defined by the bill. The bill would require the department to report to the Legislature on January 1, 2023, and every 2 years thereafter, on the department's progress, and would require the department to issue a final report to the Legislature no later than January 1, 2033

Location: 2/4/2019 Assembly Committee on Business and Professions

Status: 3/6/2019 Re-referred to Assembly Committee on Business and Professions

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 193 for potential impacts on Board and Staff workload required for participation in such a DCA review of the Board's licensing requirements.

Attachment: AB 193 (Patterson) Bill Text

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AB-193 Professions and vocations. (2019-2020)

SECTION 1. *The Legislature finds and declares all of the following:*

(a) Many entities, including the Federal Trade Commission, the United States Department of Labor, and the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, have acknowledged the unnecessary burdens that occupational licensing places on otherwise qualified workers.

(b) Unnecessary licensing increases costs for consumers and restricts opportunities for workers.

(c) Researchers show that occupational licensing restrictions can result in almost three million fewer jobs and a cost of over \$200,000,000,000 to consumers.

(d) The Institute for Justice estimates that burdensome licensing in California results in a loss of 195,917 jobs and \$22,000,000,000 in misallocated resources.

(e) California is the most broadly and onerously licensed state in the nation and has been identified as the nation's worst licensing environment for workers in lower-income occupations.

(f) Licensing is also believed to disproportionately affect minorities and exacerbate income inequality.

SEC. 2. *Section 101.5 is added to the Business and Professions Code, to read:*

101.5. *(a) The department shall apply for federal funds that have been made available specifically for the purposes of reviewing, updating, and eliminating overly burdensome licensing requirements.*

(b) Beginning on January 1, 2021, the department shall conduct a comprehensive review of all licensing requirements for each profession and shall identify unnecessary licensing requirements. The department shall conduct the review whether or not the state receives federal funds pursuant to subdivision (a).

(c) The department shall report to the Legislature on January 1, 2023, and every two years thereafter until the department has completed its review, on the department's progress in conducting the review. The department shall issue a final report to the Legislature no later than January 1, 2033. Each biennial report shall be organized by board and shall include all of the following:

(1) The professions reviewed by the department in the preceding two years.

(2) Unnecessary licensing requirements identified by the department for each profession reviewed.

(3) For each unnecessary licensing requirement, the department's recommendation to the Legislature to keep, modify, or eliminate the unnecessary licensing requirement.

(4) For each unnecessary licensing requirement that the department recommends to keep, facts supporting the department's recommendation.

(d) The department may use national licensing standards, where applicable, as a baseline for evaluating the necessity of licensing requirements.

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

(1) "Profession" means a profession or vocation regulated by a board identified in Section 101.

(2) "Unnecessary licensing requirement" means a licensing requirement that does not satisfy either of the following criteria:

(A) Protects the health and safety of the public or a licensee.

(B) Satisfies a national licensing or certification requirement.

(f) A report to be submitted pursuant to subdivision (c) shall be submitted in compliance with Section 9795 of the Government Code.

(g) Notwithstanding Section 10231.5 of the Government Code, this section is repealed on January 1, 2034.

SEC. 3. *Section 7316 of the Business and Professions Code is amended to read:*

7316. (a) The practice of barbering is all or any combination of the following practices:

- (1) Shaving or trimming the beard or cutting the hair.
- (2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
- (3) Singeing, ~~shampooing,~~ arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.
- (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.
- (5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

- (1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, ~~shampooing,~~ relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.
- (2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.
- (5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.
- (6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

- (A) Giving facials, ~~applying makeup,~~ giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.
- (B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

- (1) The mere sale, fitting, or styling of wigs or hairpieces.
- (2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the

service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(4) Shampooing hair. However, before a person who does not hold a barbering or cosmetology license shampoos the hair of another person, the unlicensed person shall disclose verbally or in writing to the other person that they do not hold a barbering or cosmetology license.

(5) Applying makeup. However, before a person who does not hold a barbering or cosmetology license applies makeup to another person, the unlicensed person shall disclose verbally or in writing to the other person that they do not hold a barbering or cosmetology license.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

SEC. 12. SEC. 4. Section 19010.1 of the Business and Professions Code is repealed.

~~19010.1. "Custom upholsterer" means a person who, either by himself or herself or through employees or agents, repairs, reupholsters, re-covers, restores, or renews upholstered furniture, or who makes to order and specification of the user any article of upholstered furniture, using either new materials or owner's materials.~~

SEC. 13. SEC. 5. Section 19011 of the Business and Professions Code is amended to read:

19011. "Manufacturer" means a person who, either by **himself themselves** or ~~herself or~~ through employees or agents, makes any article of upholstered furniture or bedding in whole or in part, ~~or who does the upholstery or covering of any unit thereof,~~ using either new or secondhand material. ~~"Manufacturer" does not, however, include a "custom upholsterer," as defined in Section 19010.1.~~

SEC. 14. SEC. 6. Section 19017 of the Business and Professions Code is amended to read:

19017. "Owner's material" means any article or material belonging to a person for ~~his or her~~ **their** own, or **their** tenant's use, that is sent to any ~~manufacturer, bedding renovator, or custom upholsterer to be repaired or renovated, or~~ **manufacturer or bedding renovator or** used in repairing or renovating.

SEC. 15. SEC. 7. Section 19051 of the Business and Professions Code is amended to read:

19051. Every upholstered-furniture retailer, unless ~~he or she~~ **the person** holds an importer's license, a furniture and bedding manufacturer's license, a wholesale furniture and bedding dealer's license, ~~a custom upholsterer's license,~~ or a retail furniture and bedding dealer's ~~license~~ **license**, shall hold a retail furniture dealer's license.

(a) This section does not apply to a person whose sole business is designing and specifying for interior spaces, and who purchases specific amenable upholstered furniture items on behalf of a client, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer. This section does not apply to a person who sells "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2.

(b) This section does not apply to a person who is licensed as a home medical device retail facility by the State Department of Health Services, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer.

SEC. 16. SEC. 8. Section 19052 of the Business and Professions Code is repealed.

~~19052. Every custom upholsterer, unless he or she holds a furniture and bedding manufacturer's license, shall hold a custom upholsterer's license.~~

~~SEC. 17.~~ **SEC. 9.** Section 19059.5 of the Business and Professions Code is amended to read:

19059.5. Every sanitizer shall hold a sanitizer's license unless ~~he or she~~ *the person* is licensed as a home medical device retail facility by the State Department of Health Services or as an upholstered furniture and bedding manufacturer, retail furniture and bedding dealer, *or* retail bedding ~~dealer, or custom upholsterer.~~ *dealer.*

~~SEC. 18.~~ **SEC. 10.** Section 19060.6 of the Business and Professions Code is amended to read:

19060.6. ~~(a) Every~~ ~~Except as provided in subdivision (b), every~~ person who, on ~~his or her~~ *their* own account, advertises, ~~solicits~~ *solicits*, or contracts to ~~manufacture, repair or renovate~~ *manufacture* upholstered furniture or bedding, and who either does the work ~~himself~~ *themselves* or ~~herself or~~ has others do ~~it for him or her,~~ *it*, shall obtain the particular license required by this chapter for the particular type of work that ~~he or she~~ *the person* solicits or advertises that ~~he or she~~ *the person* will do, regardless of whether ~~he or she~~ *the person* has a shop or factory.

~~(b) Every person who, on his or her own account, advertises, solicits or contracts to repair or renovate upholstered furniture and who does not do the work himself or herself nor have employees do it for him or her but does have the work done by a licensed custom upholsterer need not obtain a license as a custom upholsterer but shall obtain a license as a retail furniture dealer. However, nothing in this section shall exempt a retail furniture dealer from complying with Sections 19162 and 19163.~~

~~SEC. 19.~~ **SEC. 11.** Section 19170 of the Business and Professions Code is amended to read:

19170. (a) The fee imposed for the issuance and for the biennial renewal of each license granted under this chapter shall be set by the chief, with the approval of the director, at a sum not more nor less than that shown in the following table:

	Maximum fee	Minimum fee
Importer's license	\$940	\$120
Furniture and bedding manufacturer's license	940	120
Wholesale furniture and bedding dealer's license	675	120
Supply dealer's license	675	120
Custom upholsterer's license	450	80
Sanitizer's license	450	80
Retail furniture and bedding dealer's license	300	40
Retail furniture dealer's license	150	20
Retail bedding dealer's license	150	20

(b) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, these individuals shall comply with all other provisions of this chapter.

(c) Retailers who only sell "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2 are exempt from the fee requirements imposed by subdivision (a). Those retailers are also exempt from the other provisions of this chapter.

(d) A person who makes, sells, or advertises upholstered furniture and bedding as defined in Sections 19006 and 19007, and who also makes, sells, or advertises furniture used exclusively for the purpose of physical fitness and exercise, shall comply with the fee requirements imposed by subdivision (a).

(e) A person who has paid the required fee and who is licensed ~~either~~ as an upholstered furniture and bedding manufacturer ~~or a custom upholsterer~~ under this chapter shall not be required to additionally pay the fee for a sanitizer's license.

~~SEC. 20.~~ **SEC. 12.** Section 110371 of the Health and Safety Code is amended to read:

110371. (a) A professional cosmetic manufactured on or after July 1, 2020, for sale in this state shall have a label affixed on the container that satisfies all of the labeling requirements for any other cosmetic pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301, et seq.), and the federal Fair Packaging and Labeling Act (15 U.S.C. Sec. 1451, et seq.).


(b) The following definitions shall apply to this section:

(1) "Ingredient" has the same meaning as in Section 111791.5.

(2) "Professional" means a person that has been granted a license by the State Board of Barbering and Cosmetology to practice in the field of cosmetology, ~~nail care~~, barbering, or esthetics.

(3) "Professional cosmetic" means a cosmetic product as it is defined in Section 109900 that is intended or marketed to be used only by a professional on account of a specific ingredient, increased concentration of an ingredient, or other quality that requires safe handling, or is otherwise used by a professional.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(F) – AB 312 (Cooley) State government: administrative regulations: review

Background:

AB 312 (Cooley) would require each state agency to, on or before January 1, 2022, review its regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, revise those identified regulations, as provided, and report its findings and actions taken to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2023.

Location: 2/7/2019 Assembly Committee on Accountability and Administrative Review

Status: 2/7/2019 Referred to Assembly Committee on Accountability and Administrative Review

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 312 for potential impacts on Board operations and staff workload.

Attachment: AB 312 Bill Text

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AB-312 State government: administrative regulations: review. (2019-2020)

SHARE THIS:



Date Published: 01/29/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 312**

Introduced by Assembly Member Cooley
(Coauthor: Assembly Member Frazier)

January 29, 2019

An act to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 312, as introduced, Cooley. State government: administrative regulations: review.

Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would require each state agency to, on or before January 1, 2022, review its regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, revise those identified regulations, as provided, and report its findings and actions taken to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2023.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 3.6 (commencing with Section 11366) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.6. Regulatory Reform
Article 1. Findings and Declarations

11366. The Legislature finds and declares all of the following:

(a) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500)) requires agencies and the Office of Administrative Law to review regulations to ensure their consistency with law and to consider impacts on the state's economy and businesses, including small businesses.

(b) However, the act does not require agencies to individually review their regulations to identify overlapping, inconsistent, duplicative, or out-of-date regulations that may exist.

(c) At a time when the state's economy is slowly recovering, unemployment and underemployment continue to affect all Californians, especially older workers and younger workers who received college degrees in recent years but are still awaiting their first great job, and with state government improving but in need of continued fiscal discipline, it is important that state agencies systematically undertake to identify, publicly review, and eliminate overlapping, inconsistent, duplicative, or out-of-date regulations, both to ensure they more efficiently implement and enforce laws and to reduce unnecessary and outdated rules and regulations.

Article 2. Definitions

11366.1. For the purposes of this chapter, the following definitions shall apply:

(a) "State agency" means a state agency, as defined in Section 11000, except those state agencies or activities described in Section 11340.9.

(b) "Regulation" has the same meaning as provided in Section 11342.600.

Article 3. State Agency Duties

11366.2. On or before January 1, 2022, each state agency shall do all of the following:

(a) Review all provisions of the California Code of Regulations adopted by that state agency.

(b) Identify any regulations that are duplicative, overlapping, inconsistent, or out of date.

(c) Adopt, amend, or repeal regulations to reconcile or eliminate any duplication, overlap, inconsistencies, or out-of-date provisions, and shall comply with the process specified in Article 5 (commencing with Section 11346) of Chapter 3.5, unless the addition, revision, or deletion is without regulatory effect and may be done pursuant to Section 100 of Title 1 of the California Code of Regulations.

(d) Hold at least one noticed public hearing, which shall be noticed on the internet website of the state agency, for the purposes of accepting public comment on proposed revisions to its regulations.

(e) Notify the appropriate policy and fiscal committees of each house of the Legislature of the revisions to regulations that the state agency proposes to make at least 30 days prior to initiating the process under Article 5 (commencing with Section 11346) of Chapter 3.5 or Section 100 of Title 1 of the California Code of Regulations.

(g) (1) Report to the Governor and the Legislature on the state agency's compliance with this chapter, including the number and content of regulations the state agency identifies as duplicative, overlapping, inconsistent, or out of date, and the state agency's actions to address those regulations.

(2) The report shall be submitted in compliance with Section 9795 of the Government Code.

11366.3. (a) On or before January 1, 2022, each agency listed in Section 12800 shall notify a department, board, or other unit within that agency of any existing regulations adopted by that department, board, or other unit that the agency has determined may be duplicative, overlapping, or inconsistent with a regulation adopted by another department, board, or other unit within that agency.

(b) A department, board, or other unit within an agency shall notify that agency of revisions to regulations that it proposes to make at least 90 days prior to a noticed public hearing pursuant to subdivision (d) of Section 11366.2 and at least 90 days prior to adoption, amendment, or repeal of the regulations pursuant to subdivision (c) of Section 11366.2. The agency shall review the proposed regulations and make recommendations to the department, board, or other unit within 30 days of receiving the notification regarding any duplicative, overlapping, or inconsistent regulation of another department, board, or other unit within the agency.


11366.4. An agency listed in Section 12800 shall notify a state agency of any existing regulations adopted by that agency that may duplicate, overlap, or be inconsistent with the state agency's regulations.

11366.45. This chapter shall not be construed to weaken or undermine in any manner any human health, public or worker rights, public welfare, environmental, or other protection established under statute. This chapter shall not be construed to affect the authority or requirement for an agency to adopt regulations as provided by statute. Rather, it is the intent of the Legislature to ensure that state agencies focus more efficiently and directly on their duties as prescribed by law so as to use scarce public dollars more efficiently to implement the law, while achieving equal or improved economic and public benefits.

Article 4. Repeal

11366.5. This chapter shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(G) – AB 396 (Eggman) School employees: School Social Worker Pilot Program

Background:

AB 396 (Eggman) would, subject to an appropriation of funds by the Legislature, establish the School Social Worker Pilot Program, under the administration of the State Department of Education, to provide a multiyear grant award to one school district or the governing body of a charter school in each of the Counties of Alameda, Riverside, San Benito, San Joaquin, and Shasta to fund a social worker at each eligible school, as defined, within the school district or charter school, as applicable, for the 2021–22 fiscal year to the 2025–26 fiscal year, inclusive. The bill would require the Department of Education to develop an application process and criteria for determining grant recipients on a competitive basis, as provided.

Location: 2/15/2019 Assembly Committee on Education

Status: 3/4/2019 From committee chair, with author's amendments: Amend, and re-refer to Assembly Committee on Education. Read second time and amended. Re-referred to Assembly Committee on Education.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 396 for its potential impact on access to mental health services for students and potential for future programs that include Board licensees.

Attachment: AB 396 (Eggman) Bill Text

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AB-396 School employees: School Social Worker Pilot Program. (2019-2020)

SECTION 1. Article 14 (commencing with Section 33480) is added to Chapter 3 of Part 20 of Division 2 of Title 2 of the Education Code, to read:

Article 14. School Social Worker Pilot Program

33480. (a) Subject to moneys appropriated by the Legislature for purposes of this section, the department shall administer the School Social Worker Pilot Program. Under the pilot program, the department shall provide a multiyear grant award to one school district or the governing body of a charter school in each of the Counties of Alameda, Riverside, San Benito, San Joaquin, and Shasta to fund a social worker at each eligible school within the school district or charter school, as applicable, for the 2021–22 fiscal year to the 2025–26 fiscal year, inclusive.

(b) A school district or the governing body of a charter school within the Counties of Alameda, Riverside, San Benito, San Joaquin, and Shasta may apply for the grant pursuant to subdivision (c).

(c) The department shall develop an application process and criteria for determining grant recipients on a competitive basis, including that priority should be given to school districts and charter schools with higher pupil dropout and absenteeism rates and a higher percentage of socioeconomically disadvantaged pupils.

(d) For purposes of this section, the following terms have the following meanings:

(1) "Eligible school" means a school offering instruction in kindergarten or any of grades 1 to 8, inclusive, that meets both of the following:

(A) The school has higher pupil dropout and absenteeism rates than the state average, as determined by the department.

(B) The school has a higher percentage of socioeconomically disadvantaged pupils than the state average, as determined by the department.

(2) "Social worker" means a person holding a services credential with a specialization in pupil personnel services specializing in social work, as defined by the Commission on Teacher Credentialing pursuant to Section 44266, or a state-licensed social worker supervised in their school-based activities by an individual holding a services credential with a specialization in pupil personnel services or a professional services credential with a specialization in administrative services.

(3) "Socioeconomically disadvantaged pupil" means a pupil who meets at least one of the following conditions:

(A) Neither of the pupil's parents have received a high school diploma.

(B) The pupil is eligible for free or reduced-price meals or has a direct certification for a free or reduced-price meal program.

(C) (i) The pupil is a migrant child, homeless child or youth, or foster youth.

(ii) For purposes of this subparagraph, "migrant child" means a "currently migratory child," as defined in subdivision (a) of Section 54441.


(e) Each governing board of a school district and governing body of a charter school receiving a grant award under this section shall report to the department, and, on or before January 1, 2027, the department shall report to the Legislature, consistent with Section 9795 of the Government Code, changes in pupil outcomes at the schools participating in the pilot program, including, but not limited to, both of the following:

(1) Changes in chronic absenteeism.

(2) Changes in rates of suspension and expulsion.

33481. *This article shall become inoperative on July 1, 2027, and, as of January 1, 2028, is repealed.*

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(H) – AB 469 (Petrie-Norris) State records management: records management coordinator

Background:

The State Records Management Act requires the Secretary of State to establish and administer a records management program that will apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of state records. The act requires the Secretary of State, as part of those duties, to obtain from agencies the reports required for administration of the records management program. AB 469 (Petrie-Norris) would require the Secretary of State to obtain those reports from agencies on a biennial basis, and would require the Secretary of State to report statewide compliance with the act to the Department of Finance on an annual basis.

Location: 2/21/2019 Assembly Committee on Accountability and Administrative Review

Status: 2/21/2019-Referred to Assembly Committee on Accountability and Administrative Review

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 469 for potential impacts on Board operations and staff workload.

Attachment: AB 469 (Petrie-Norris) Bill Text

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AB-469 State records management: records management coordinator. (2019-2020)

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Date Published: 02/11/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 469**

Introduced by Assembly Member Petrie-Norris

February 11, 2019

An act to amend Sections 12272 and 12274 of, and to add Section 12274.5 to, the Government Code, relating to state records management.

LEGISLATIVE COUNSEL'S DIGEST

AB 469, as introduced, Petrie-Norris. State records management: records management coordinator.

Existing law, the State Records Management Act, requires the Secretary of State to establish and administer a records management program that will apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of state records. The act requires the Secretary of State, as part of those duties, to obtain from agencies the reports required for administration of the records management program.

This bill would require the Secretary of State to obtain those reports from agencies on a biennial basis, and would require the Secretary of State to report statewide compliance with the act to the Department of Finance on an annual basis.

Existing law requires the head of a state agency to establish and maintain an active, continuing program for the economical and efficient management of the records and information collection practices of the agency. Existing administrative law requires the head of the agency to assign a Records Management Coordinator to work with the Secretary of State's California Records and Information Management Program, the State Records Center, and the State Records Appraisal Program staff. Existing law requires the head of a state agency to transfer a record deemed to have archival value to the State Archives.

This bill would similarly require the head of a state agency to appoint a representative from that agency to serve as the Records Management Coordinator and to notify the Secretary of State's California Records and Information Management Program within 30 days of the appointment. The bill would require the Records Management Coordinator to, among other duties, coordinate the agency's records management program and to attend records management training classes, as specified. The bill would require the head of the state agency to notify the Secretary of State when records are stored with a 3rd-party vendor or digitized by a 3rd-party vendor. The bill would require the head of the state agency to notify the Secretary of State if a record contains information that is

not subject to public disclosure or is restricted from public disclosure for a period of time, as specified, upon transfer of the record of archival value to the State Archives.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12272 of the Government Code is amended to read:

12272. (a) The Secretary of State shall establish and administer a records management program that will apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of state records.

(b) The duties of the Secretary of State shall include, but shall not be limited to:

(1) Establishing standards, procedures, and techniques for effective management of records.

(2) Obtaining from agencies *biennial* reports required for the administration of the program.

(3) Reporting statewide compliance with this article to the Department of Finance on an annual basis.

SEC. 2. Section 12274 of the Government Code is amended to read:

12274. The head of a state agency shall do all of the following:

(a) Establish and maintain an active, continuing program for the economical and efficient management of the records and information collection practices of the agency. The program shall ensure that the information needed by the agency may be obtained with a minimum burden upon individuals and businesses, especially small business enterprises and others required to furnish the information. Unnecessary duplication of efforts in obtaining information shall be eliminated as rapidly as practical. Information collected by the agency shall, as far as is expedient, be collected and tabulated in a manner that maximizes the usefulness of the information to other state agencies and the public.

(b) Determine, with the concurrence of the Secretary of State, records essential to the functioning of state government in the event of a major disaster.

(c) When requested by the Secretary of State, provide a written justification for storage or extension of scheduled retention of a record in the State Records Center for a period of 50 years or more. The Secretary of State shall review and approve any scheduled retention of a record in the State Records Center for a period of 50 years or more. A record deemed to have archival value shall be transferred to the State Archives. *Upon transfer of a record of archival value to the State Archives, the head of the state agency shall notify the Secretary of State if the record contains information that is not subject to public disclosure or is restricted from disclosure for a period of time pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), 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), or other applicable federal or state law.*

(d) Comply with the rules, regulations, standards, and procedures issued by the Secretary of State.

(e) Appoint a representative from the agency to serve as the Records Management Coordinator and notify the Secretary of State's California Records and Information Management Program within 30 days of such appointment.

(f) Notify the Secretary of State when recv>

(e) Schedule CalRIM and SRAP training for agency staff who have records management duties.

(f) Review and approve agency records retention schedules before submission to CalRIM.

(g) Review and approve records retention schedules before submission to CalRIM.

(h) Review and approve agency destruction of records stored at the SRC.


(i) Facilitate annual disposition of agency records not stored at the SRC, including transfer of records to the SRC as well as destruction of records at the Document Destruction Center.

(j) Review and approve purchase or rental of filing equipment or shredders.

(k) Provide all requested reports, written justifications, requests for offsite storage approval, or any other retention schedule documentation to CalRIM or SRAP.

(l) Distribute announcements of records management activities.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(I) – AB 476 (Rubio, Blanca) Department of Consumer Affairs: task force: foreign-trained professionals

Background:

AB 476 (Rubio, Blanca), known as the California Opportunity Act of 2019, would require the Department of Consumer Affairs to create a task force, as specified, to study and write a report of its findings and recommendations regarding the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce, as specified. The bill would authorize the task force to hold hearings and invite testimony from experts and the public to gather information. The bill would require the task force to submit the report to the Legislature no later than January 1, 2021, as specified.

Location: 2/21/2019 Assembly Committee on Business and Professions

Status: 2/21/2019 Referred to Assembly Committee on Business and Professions

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 476 for potential impacts on Board and Staff workload required for participation in such a DCA review of the Board's licensing requirements related to foreign-trained professionals.

Attachment: AB 476 (Rubio, Blanca) Bill Text

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AB-476 Department of Consumer Affairs: task force: foreign-trained professionals. (2019-2020)

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Date Published: 02/12/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 476**

Introduced by Assembly Member Blanca Rubio

February 12, 2019

An act to add Section 110.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 476, as introduced, Blanca Rubio. Department of Consumer Affairs: task force: foreign-trained professionals.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law establishes the Bagley-Keene Open Meeting Act, which requires state boards, commissions, and similar state-created multimember bodies to give public notice of meetings and conduct their meetings in public unless authorized to meet in closed session.

This bill, the California Opportunity Act of 2019, would require the Department of Consumer Affairs to create a task force, as specified, to study and write a report of its findings and recommendations regarding the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce, as specified. The bill would authorize the task force to hold hearings and invite testimony from experts and the public to gather information. The bill would require the task force to submit the report to the Legislature no later than January 1, 2021, as specified.

The bill also would require the task force to meet at least once each calendar quarter, as specified, and to hold its meetings in accordance with the Bagley-Keene Open Meeting Act. The bill would require each member of the task force to receive per diem and reimbursement for expenses incurred, as specified, and would require the task force to solicit input from a variety of government agencies, stakeholders, and the public, including, among others, the Little Hoover Commission and the California Workforce Development Board.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known as the California Opportunity Act of 2019.


SEC. 2. Section 110.5 is added to the Business and Professions Code, to read:

- 110.5.** (a) The Department of Consumer Affairs shall create a task force to study, and write the report described in subdivision (c) regarding, the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce.
- (b) The task force shall consist of the following 15 members:
- (1) The Director of Consumer Affairs, or the director's designee, who shall serve as the chair of the task force.
 - (2) One member appointed by the Governor.
 - (3) One member appointed by the President pro Tempore of the Senate.
 - (4) One member appointed by the Speaker of the Assembly.
 - (5) One member of the Regents of the University of California.
 - (6) One member of the Trustees of the California State University.
 - (7) One member of the Board of Governors of the California Community Colleges.
 - (8) Four members appointed by the Governor who are representatives of the private sector from diverse regions in the state.
 - (9) Four members appointed by the Governor who are representatives of nonprofit organizations that serve the immigrant community from diverse regions in the state.
- (c) (1) The task force shall write a report of its findings and recommendations regarding the licensing of foreign-trained professionals, that include, but are not limited to, the following:
- (A) Strategies to integrate foreign-trained professionals and methods of implementing those strategies, including those recommended by the Little Hoover Commission in its October 2016 report entitled Jobs for Californians: Strategies to Ease Occupational Licensing Barriers (Report #234).
 - (B) Identification of state and national licensing regulations that potentially pose unnecessary barriers to practice for foreign-trained professionals, corresponding changes to state licensing requirements, and opportunities to advocate for corresponding changes to national licensing requirements.
 - (C) Identification of best practices learned from similar efforts to integrate foreign-trained professionals into the workforce in other states.
- (2) The task force may include in the report guidelines for full licensure and conditional licensing of foreign-trained professionals.
- (3) The task force may hold hearings and invite testimony from experts and the public to gather information.
- (d) The task force shall submit the report described in subdivision (c) to the Legislature no later than January 1, 2021, and in compliance with Section 9795 of the Government Code.
- (e) The following shall also apply:
- (1) The task force shall meet at least once each calendar quarter. The task force shall meet at least once in northern California, once in central California, and once in southern California to facilitate participation by the public.
 - (2) A majority of the appointed task force shall constitute a quorum. Task force meetings shall be held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).
 - (3) (A) Each member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.
(B) Notwithstanding any other law, a public officer or employee shall not receive per diem salary compensation for serving on the task force on any day when the officer or employee also received compensation for their regular public employment.

(4) The task force shall solicit input from a variety of government agencies, stakeholders, and the public, including, but not limited to, the following:

- (A) The Little Hoover Commission.
- (B) The California Workforce Development Board.
- (C) The Department of Industrial Relations.
- (D) In- and out-of-state licensing entities.
- (E) Professional associations.
- (F) Labor and workforce organizations.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(J) – AB 496 (Low) Business and professions

Background:

Under current law, the Department of Consumer Affairs, which is under the control of the director of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations. AB 496 (Low) would replace gendered terms with nongendered terms and make various other nonsubstantive changes.

Location: 2/21/2019 Assembly Committee on Business and Professions

Status: 2/21/2019 Referred to Assembly Committee on Business and Professions

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 496 for potential impacts on Board operations and future Board statutory and regulatory revisions.

Attachment: AB 496 (Low) Bill Text

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AB-496 Business and professions. (2019-2020)

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Date Published: 02/12/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 496**

Introduced by Assembly Member Low

February 12, 2019

An act to amend Sections 23.8, 23.9, 25, 27, 28, 30, 31, 101, 101.7, 102.3, 103, 105.5, 106, 107, 108.5, 111, 114, 114.3, 115.5, 115.6, 116, 119, 120, 121, 124, 125, 125.3, 125.6, 125.9, 127, 129, 130, 132, 136, 137, 138, and 144 of the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as introduced, Low. Business and professions.

Under existing law, the Department of Consumer Affairs, which is under the control of the director of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations.

This bill would replace gendered terms with nongendered terms and make various other nonsubstantive changes.

Existing law authorizes the director to audit and review, upon the director's own initiative or upon the request of a consumer or licensee, inquiries and complaints regarding, among other things, dismissals of disciplinary cases of specified licensees and requires the director to report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually regarding any findings from such an audit or review.

This bill would instead require the director to report to the Chairpersons of the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee.

Existing law defines the term "licentiate" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified.

This bill would instead define "licensee" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified, and would provide that any reference to licentiate be deemed to refer to licensee.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 23.8 of the Business and Professions Code is amended to read:

23.8. ~~“Licentiate”~~ *“Licensee”* means any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Sections 1000 and 3600.

Any reference to licentiate in this code shall be deemed to refer to licensee.

SEC. 2. Section 23.9 of the Business and Professions Code is amended to read:

23.9. Notwithstanding any other provision of this code, any individual who, while imprisoned in a state prison or other correctional institution, is trained, in the course of a rehabilitation program approved by the particular licensing agency concerned and provided by the prison or other correctional institution, in a particular skill, occupation, or profession for which a state license, certificate, or other evidence of proficiency is required by this code shall not, when released from the prison or institution, be denied the right to take the next regularly scheduled state examination or any examination thereafter required to obtain the license, certificate, or other evidence of proficiency and shall not be denied such license, certificate, or other evidence of proficiency, because of ~~his~~ *that individual’s* imprisonment or the conviction from which the imprisonment resulted, or because ~~he~~ *the individual* obtained ~~his~~ *the individual’s* training in prison or in the correctional institution, if the licensing agency, upon recommendation of the Adult Authority or the Department of the Youth Authority, as the case may be, finds that ~~he~~ *the individual* is a fit person to be licensed.

SEC. 3. Section 25 of the Business and Professions Code is amended to read:

25. Any person applying for a license, registration, or the first renewal of a license, after the effective date of this section, as a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed professional clinical counselor shall, in addition to any other requirements, show by evidence satisfactory to the agency regulating the business or profession, that ~~he or she has~~ *they have* completed training in human sexuality as a condition of licensure. The training shall be creditable toward continuing education requirements as deemed appropriate by the agency regulating the business or profession, and the course shall not exceed more than 50 contact hours.

The Board of Psychology shall exempt from the requirements of this section any persons whose field of practice is such that they are not likely to have use for this training.

“Human sexuality” as used in this section means the study of a human being as a sexual being and how ~~he or she~~ *a human being* functions with respect thereto.

The content and length of the training shall be determined by the administrative agency regulating the business or profession and the agency shall proceed immediately upon the effective date of this section to determine what training, and the quality of staff to provide the training, is available and shall report its determination to the Legislature on or before July 1, 1977.

If a licensing board or agency proposes to establish a training program in human sexuality, the board or agency shall first consult with other licensing boards or agencies that have established or propose to establish a training program in human sexuality to ensure that the programs are compatible in scope and content.

SEC. 4. 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 ~~his or her~~ *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 ~~his or her~~ *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, ~~and service contract administrators.~~ *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 State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.~~

~~(13)~~

(12) The Acupuncture Board shall disclose information on its licensees.

~~(14)~~

(13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.

~~(15)~~

(14) The Dental Board of California shall disclose information on its licensees.

~~(16)~~

(15) The State Board of Optometry shall disclose information on its licensees and registrants.

~~(17)~~

(16) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

~~(18)~~

(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.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 5. Section 28 of the Business and Professions Code is amended to read:

28. (a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with victims and potential victims of child, elder, and dependent adult abuse, and abusers and potential abusers of children, elders, and dependent adults are provided with adequate and appropriate training regarding the assessment and reporting of child, elder, and dependent adult abuse that will ameliorate, reduce, and eliminate the trauma of abuse and neglect and ensure the reporting of abuse in a timely manner to prevent additional occurrences.

(b) The Board of Psychology and the Board of Behavioral Sciences shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal.

(c) All persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in child abuse assessment and reporting that meets the requirements of this section, including detailed knowledge of the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The training shall meet all of the following requirements:

(1) Be obtained from one of the following sources:

(A) An accredited or approved educational institution, as defined in Sections 2902, 4980.36, 4980.37, 4996.18, and 4999.12, including extension courses offered by those institutions.

(B) A continuing education provider as specified by the responsible board by regulation.

(C) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved or accepted by the responsible board.

(2) Have a minimum of seven contact hours.

(3) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(4) An applicant shall provide the appropriate board with documentation of completion of the required child abuse training.

(d) The Board of Psychology and the Board of Behavioral Sciences shall exempt an applicant who applies for an exemption from this section and who shows to the satisfaction of the board that there would be no need for the training in ~~his or her~~ *the applicant's* practice because of the nature of that practice.

(e) It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist have minimal but appropriate training in the areas of child, elder, and dependent adult abuse assessment and reporting. It is not intended that, by solely complying with this section, a practitioner is fully trained in the subject of treatment of child, elder, and dependent adult abuse victims and abusers.

(f) The Board of Psychology and the Board of Behavioral Sciences are encouraged to include coursework regarding the assessment and reporting of elder and dependent adult abuse in the required training on aging and long-term care issues prior to licensure or license renewal.

SEC. 6. Section 30 of the Business and Professions Code is amended to read:

30. (a) (1) Notwithstanding any other law, any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2) (A) In accordance with Section 135.5, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for a license or certificate, as defined in subparagraph (2) of subdivision (e), and for purposes of this subdivision.

(B) In implementing the requirements of subparagraph (A), a licensing board shall not require an individual to disclose either citizenship status or immigration status for purposes of licensure.

(C) A licensing board shall not deny licensure to an otherwise qualified and eligible individual based solely on his or her citizenship status or immigration status.

(D) The Legislature finds and declares that the requirements of this subdivision are consistent with subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

- (1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
- (2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
- (3) "Licensing board" means any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate.
- (f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.
- (g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.
- (h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.
- (i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of ~~his or her~~ *their* employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section, to the Franchise Tax Board, the Employment Development Department, the Office of the Chancellor of the California Community Colleges, a collections agency contracted to collect funds owed to the State Bar by licensees pursuant to Sections 6086.10 and 6140.5, or as provided in subdivisions (j) and (k).
- (j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges, and for purposes of collecting funds owed to the State Bar by licensees pursuant to Section 6086.10 and Section 6140.5 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.
- (k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.
- (l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar of California, the Department of Real Estate, and the Department of Motor Vehicles.
- (m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:
- (1) Name.
 - (2) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.
 - (3) Date of birth.
 - (4) Type of license.
 - (5) Effective date of license or a renewal.

(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

(1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

(2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

(3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

(4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

(5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(r) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

SEC. 7. Section 31 of the Business and Professions Code is amended to read:

31. (a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the ~~Bureau~~ *Department* of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.

(c) "Compliance with a judgment or order for support" has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.

(d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.

(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the ~~State Board of Equalization~~ *California Department of Tax and Fee Administration* and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay ~~his or her~~ *the licensee's* state tax obligation and that ~~his or her~~ *the licensee's* license may be suspended if the state tax obligation is not paid.

(f) For purposes of this section, "tax obligation" means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

SEC. 8. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of the following:

(a) The Dental Board of California.

- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The State Board of Barbering and Cosmetology.
- (i) The Board for Professional Engineers, Land Surveyors, and Geologists.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Household Goods and Services.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The Bureau of Security and Investigative Services.
- (r) The Court Reporters Board of California.
- (s) The Board of Vocational Nursing and Psychiatric Technicians.
- (t) The Landscape Architects Technical Committee.
- (u) The Division of Investigation.
- (v) The Bureau of Automotive Repair.
- (w) The Respiratory Care Board of California.
- (x) The Acupuncture Board.
- (y) The Board of Psychology.
- (z) The ~~California Board of Podiatric Medicine~~ *Podiatric Medical Board of California*.
- (aa) The Physical Therapy Board of California.
- (ab) The Arbitration Review Program.
- (ac) The Physician Assistant Board.
- (ad) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (ae) The California Board of Occupational Therapy.
- (af) The Osteopathic Medical Board of California.
- (ag) The Naturopathic Medicine Committee.
- (ah) The Dental Hygiene Board of California.
- (ai) The Professional Fiduciaries Bureau.
- (aj) The State Board of Chiropractic Examiners.
- (ak) The Bureau of Real Estate Appraisers.

(al) The Structural Pest Control Board.

(am) The Bureau of Cannabis Control.

(an) Any other boards, offices, or officers subject to its jurisdiction by law.

(ao) This section shall become operative on July 1, 2018.

SEC. 9. Section 101.7 of the Business and Professions Code is amended to read:

101.7. (a) Notwithstanding any other provision of law, boards shall meet at least three times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at ~~his or her~~ *the director's* discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least three times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to Web cast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to Web cast the meeting. An agency may Web cast a meeting even if the agency fails to include that statement of intent in the notice.

SEC. 10. Section 102.3 of the Business and Professions Code is amended to read:

102.3. (a) The director may enter into an interagency agreement with an appropriate entity within the Department of Consumer Affairs as provided for in Section 101 to delegate the duties, powers, purposes, responsibilities, and jurisdiction that have been succeeded and vested with the department, of a board, as defined in Section 477, which became inoperative and was repealed in accordance with Chapter 908 of the Statutes of 1994.

(b) (1) Where, pursuant to subdivision (a), an interagency agreement is entered into between the director and that entity, the entity receiving the delegation of authority may establish a technical committee to regulate, as directed by the entity, the profession subject to the authority that has been delegated. The entity may delegate to the technical committee only those powers that it received pursuant to the interagency agreement with the director. The technical committee shall have only those powers that have been delegated to it by the entity.

(2) Where the entity delegates its authority to adopt, amend, or repeal regulations to the technical committee, all regulations adopted, amended, or repealed by the technical committee shall be subject to the review and approval of the entity.

(3) The entity shall not delegate to a technical committee its authority to discipline a ~~licentiate~~ *licensee* who has violated the provisions of the applicable chapter of the Business and Professions Code that is subject to the director's delegation of authority to the entity.

(c) An interagency agreement entered into, pursuant to subdivision (a), shall continue until such time as the licensing program administered by the technical committee has undergone a review by the ~~Joint Committee on Boards, Commissions, and Consumer Protection~~ *Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development* to evaluate and determine whether the licensing program has demonstrated a public need for its continued existence. Thereafter, at the director's discretion, the interagency agreement may be renewed.

SEC. 11. Section 103 of the Business and Professions Code is amended to read:

103. Each member of a board, commission, or committee created in the various chapters of Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000), and in Chapter 2 (commencing

with Section 18600) and Chapter 3 (commencing with Section 19000) of Division 8, shall receive the moneys specified in this section when authorized by the respective provisions.

Each such member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money.

Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, ~~committees, or the Consumer Advisory Council or committees~~ on any day when the officer or employee also received compensation for ~~his or her~~ *the officer or employee's* regular public employment.

SEC. 12. Section 105.5 of the Business and Professions Code is amended to read:

105.5. Notwithstanding any other provision of this code, each member of a board, commission, examining committee, or other similarly constituted agency within the department shall hold office until the appointment and qualification of ~~his~~ *that member's* successor or until one year shall have elapsed since the expiration of the term for which ~~he~~ *the member* was appointed, whichever first occurs.

SEC. 13. Section 106 of the Business and Professions Code is amended to read:

106. The Governor has power to remove from office at any time, any member of any board appointed by ~~him~~ *the Governor* for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the Governor, conferred on ~~him~~ *the Governor* by any other provision of law, to remove any member of any board.

SEC. 14. Section 107 of the Business and Professions Code is amended to read:

107. Pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution, each board may appoint a person exempt from civil service and may fix ~~his or her~~ *that person's* salary, with the approval of the Department of Human Resources pursuant to Section 19825 of the Government Code, who shall be designated as an executive officer unless the licensing act of the particular board designates the person as a registrar.

SEC. 15. Section 108.5 of the Business and Professions Code is amended to read:

108.5. In any investigation, proceeding or hearing which any board, commission or officer in the department is empowered to institute, conduct, or hold, any witness appearing at such investigation, proceeding or hearing whether upon a subpoena or voluntarily, may be paid the sum of twelve dollars (\$12) per day for every day in actual attendance at such investigation, proceeding or hearing and for ~~his~~ *the witness's* actual, necessary and reasonable expenses and such sums shall be a legal charge against the funds of the respective board, commission or officer; provided further, that no witness appearing other than at the instance of the board, commission or officer may be compensated out of such fund.

The board, ~~commission~~ *commission*, or officer will determine the sums due any such witness and enter the amount on its minutes.

SEC. 16. Section 111 of the Business and Professions Code is amended to read:

111. Unless otherwise expressly provided, any board may, with the approval of the appointing power, appoint qualified persons, who shall be designated as commissioners on examination, to give the whole or any portion of any examination. A commissioner on examination need not be a member of the board but ~~he~~ shall have the same qualifications as one and shall be subject to the same rules.

SEC. 17. Section 114 of the Business and Professions Code is amended to read:

114. (a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission, or bureau within the department 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 ~~his~~

~~or her~~ *their* license or registration without examination or penalty, provided that all of the following requirements are satisfied:

(1) ~~His or her~~ *The licensee or registrant's* license or registration was valid at the time ~~he or she~~ *they* entered the California National Guard or the United States Armed Forces.

(2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.

(3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.

(b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.

(c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of ~~his or her~~ *the applicant's* profession while on active duty, then the licensing agency may require the applicant to pass an examination.

(d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which ~~he or she is~~ *the licensee or registrant is* licensed or registered shall be required to maintain ~~his or her~~ *their* license in good standing even though ~~he or she~~ *the licensee or registrant* is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which ~~he or she~~ *the licensee* is prevented from practicing ~~his or her~~ *the licensee's* profession or vocation shall be excluded from said period of one year.

SEC. 18. Section 114.3 of the Business and Professions Code is amended to read:

114.3. (a) Notwithstanding any other ~~provision of~~ law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:

(1) The licensee or registrant possessed a current and valid license with the board at the time ~~he or she~~ *the licensee or registrant* was called to active duty.

(2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.

(3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.

(b) (1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.

(2) If the licensee or registrant will provide services for which ~~he or she~~ *the licensee or registrant* is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.

(c) In order to engage in any activities for which ~~he or she is~~ *the licensee or registrant is* licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.

(d) After a licensee or registrant receives notice of ~~his or her~~ *the licensee or registrant's* discharge date, the licensee or registrant shall notify the board of ~~his or her~~ *their* discharge from active duty within 60 days of receiving ~~his or her~~ *their* notice of discharge.

(e) A board may adopt regulations to carry out the provisions of this section.

(f) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

SEC. 19. 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 ~~he or she~~ *the applicant* seeks a license from the board.

(b) A board may adopt regulations necessary to administer this section.

SEC. 20. 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 ~~he or she~~ *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 ~~California Board of Podiatric Medicine~~. *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 ~~him or her~~ *the applicant* the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which ~~he or she~~ *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 ~~he or she~~ *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 ~~his or her~~ *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 his or her 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, whichever occurs first.

SEC. 21. Section 116 of the Business and Professions Code is amended to read:

116. (a) The director may audit and review, upon ~~his or her~~ *the director's* own initiative, or upon the request of a consumer or licensee, inquiries and complaints regarding licensees, dismissals of disciplinary cases, the opening, conduct, or closure of investigations, informal conferences, and discipline short of formal accusation by the Medical Board of California, the allied health professional boards, and the ~~California Board of Pediatric Medicine.~~ *Podiatric Medical Board of California.* The director may make recommendations for changes to the disciplinary system to the appropriate board, the Legislature, or both.

(b) The director shall report to the Chairpersons of the Senate ~~Business and~~ *Business*, Professions *and Economic Development* Committee and the Assembly ~~Health~~ *Business and Professions* Committee annually, commencing March 1, 1995, regarding ~~his or her~~ *the director's* findings from any audit, review, or monitoring and evaluation conducted pursuant to this section.

SEC. 22. Section 119 of the Business and Professions Code is amended to read:

119. Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in ~~his or her~~ *the person's* possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

(b) Lends ~~his or her~~ *the person's* license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to ~~him or her~~ *the person* as being ~~his or her~~ *the person's* license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

(e) Knowingly permits any unlawful use of a license issued to ~~him or her.~~ *the person.*

(f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in ~~his or her~~ *the person's* possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, "fraudulent" means containing any misrepresentation of fact.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

SEC. 23. Section 120 of the Business and Professions Code is amended to read:

120. (a) Subdivision (a) of Section 119 shall not apply to a surviving spouse having in ~~his or her~~ *the surviving spouse's* possession or displaying a deceased spouse's canceled certified public accountant certificate or canceled public accountant certificate that has been canceled by official action of the California Board of Accountancy.

(b) Notwithstanding Section 119, any person who has received a certificate of certified public accountant or a certificate of public accountant from the board may possess and may display the certificate received unless the person's certificate, permit, or registration has been suspended or revoked.

SEC. 24. Section 121 of the Business and Professions Code is amended to read:

121. No licensee who has complied with the provisions of this code relating to the renewal of ~~his or her~~ *the licensee's* license prior to expiration of such license shall be deemed to be engaged illegally in the practice of ~~his or her~~ *the licensee's* business or profession during any period between such renewal and receipt of evidence of such renewal which may occur due to delay not the fault of the applicant.

As used in this section, "license" includes "certificate," "permit," "authorization," and "registration," or any other indicia giving authorization, by any agency, board, bureau, commission, committee, or entity within the Department of Consumer Affairs, to engage in a business or profession regulated by this code or by the board referred to in the Chiropractic Act or the Osteopathic Act.

SEC. 25. Section 124 of the Business and Professions Code is amended to read:

124. Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by any board in the department, the notice may be given by regular mail addressed to the last known address of the ~~licentiate licensee~~ *licensee* or by personal service, at the option of the board.

SEC. 26. Section 125 of the Business and Professions Code is amended to read:

125. Any person, licensed under Division 1 (commencing with Section 100), Division 2 (commencing with Section 500), or Division 3 (commencing with Section 5000) is guilty of a misdemeanor and subject to the disciplinary provisions of this code applicable to ~~him or her,~~ *them*, who conspires with a person not so licensed to violate any provision of this code, or who, with intent to aid or assist that person in violating those provisions does either of the following:

(a) Allows ~~his or her~~ *their* license to be used by that person.

(b) Acts as ~~his or her~~ *their* agent or partner.

SEC. 27. Section 125.3 of the Business and Professions Code is amended to read:

125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a ~~licentiate licensee~~ *licensee* found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined ~~licentiate licensee~~ *licensee* that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any ~~licentiate~~ licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any ~~licentiate~~ licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any ~~licentiate~~ licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the ~~licentiate~~ licensee. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

SEC. 28. Section 125.6 of the Business and Professions Code is amended to read:

125.6. (a) (1) With regard to an applicant, every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to that person if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, ~~he or she~~ the person refuses to perform the licensed activity or aids or incites the refusal to perform that licensed activity by another licensee, or if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, ~~he or she makes~~ the person make s any discrimination, or restriction in the performance of the licensed activity.

(2) Nothing in this section shall be interpreted to prevent a physician or health care professional licensed pursuant to Division 2 (commencing with Section 500) from considering any of the characteristics of a patient listed in subdivision (b) or (e) of Section 51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient.

(3) Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy.

(4) The presence of architectural barriers to an individual with physical disabilities that conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

(b) (1) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

(2) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to perform a licensed activity for which he or she is not qualified to perform.

(c) (1) "Applicant," as used in this section, means a person applying for licensed services provided by a person licensed under this code.

(2) "License," as used in this section, includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code.

SEC. 29. 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 ~~board created by the Chiropractic Initiative Act, 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 he or she 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 within 30 days of the date of assessment, 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 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.

SEC. 30. Section 127 of the Business and Professions Code is amended to read:

127. Notwithstanding any other provision of this code, the director may require such reports from any board, commission, examining committee, or other similarly constituted agency within the department as ~~he~~ *the director* deems reasonably necessary on any phase of their operations.

SEC. 31. Section 129 of the Business and Professions Code is amended to read:

129. (a) As used in this section, "board" means every board, bureau, commission, committee, and similarly constituted agency in the department that issues licenses.

(b) Each board shall, upon receipt of any complaint respecting an individual licensed by the board, notify the complainant of the initial administrative action taken on ~~his or her~~ *the complainant's* complaint within 10 days of receipt. Each board shall notify the complainant of the final action taken on ~~his or her~~ *the complainant's* complaint. There shall be a notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means to secure the relief sought. The board shall notify the complainant of this action and of any other means that may be available to the complainant to secure relief.

(c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licensee in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licensee.

(d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to those patterns of complaints to the director and to the Legislature at least once per year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once per year the statutory changes it deems necessary to implement the board's functions and responsibilities under this section.

(e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.

(f) Notwithstanding any other law, upon receipt of a child custody evaluation report submitted to a court pursuant to Chapter 6 (commencing with Section 3110) of Part 2 of Division 8 of the Family Code, the board shall notify the noncomplaining party in the underlying custody dispute, who is a subject of that report, of the pending investigation.

SEC. 32. Section 130 of the Business and Professions Code is amended to read:

130. (a) Notwithstanding any other law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.

(b) Subdivision (a) applies to the following boards or committees:

- (1) The Medical Board of California.
- (2) The ~~California Board of Podiatric Medicine.~~ *Podiatric Medical Board of California.*
- (3) The Physical Therapy Board of California.
- (4) The Board of Registered Nursing, except as provided in subdivision (c) of Section 2703.
- (5) The Board of Vocational Nursing and Psychiatric Technicians.
- (6) The State Board of Optometry.
- (7) The California State Board of Pharmacy.
- (8) The Veterinary Medical Board.
- (9) The California Architects Board.

(10) The Landscape Architect Technical Committee.

(11) The Board for Professional Engineers and Land Surveyors.

(12) The Contractors' State License Board.

~~(13) The State Board of Guide Dogs for the Blind.~~

~~(14)~~

(13) The Board of Behavioral Sciences.

~~(15)~~

(14) The Court Reporters Board of California.

~~(16)~~

(15) The State Athletic Commission.

~~(17)~~

(16) The Osteopathic Medical Board of California.

~~(18)~~

(17) The Respiratory Care Board of California.

~~(19)~~

(18) The Acupuncture Board.

~~(20)~~

(19) The Board of Psychology.

~~(21)~~

(20) The Structural Pest Control Board.

SEC. 33. Section 132 of the Business and Professions Code is amended to read:

132. No board, commission, examining committee, or any other agency within the department may institute or join any legal action against any other agency within the state or federal government without the permission of the director.

Prior to instituting or joining in a legal action against an agency of the state or federal government, a board, commission, examining committee, or any other agency within the department shall present a written request to the director to do so.

Within 30 days of receipt of the request, the director shall communicate ~~his or her~~ *the director's* approval or denial of the request and ~~his or her~~ *the director's* reasons for approval or denial to the requesting agency in writing. If the director does not act within 30 days, the request shall be deemed approved.

A requesting agency within the department may override the director's denial of its request to institute or join a legal action against a state or federal agency by a two-thirds vote of the members of the board, commission, examining committee, or other agency, which vote shall include the vote of at least one public member of that board, commission, examining committee, or other agency.

SEC. 34. Section 136 of the Business and Professions Code is amended to read:

136. (a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in ~~his or her~~ *the person's* mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

(b) Except as otherwise provided by law, failure of a ~~licentiate~~ licensee to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

SEC. 35. Section 137 of the Business and Professions Code is amended to read:

137. Any agency within the department may promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public.

However, nothing in this section shall be construed to authorize regulation of any person not a licensee who engages in advertising, solicitation, or who makes any other presentment to the public on behalf of a licensee. Such a person shall incur no liability pursuant to this section for communicating in any advertising, soliciting, or other presentment to the public a licensee's license number exactly as provided ~~to him~~ by the licensee or for failure to communicate such number if none is provided ~~to him~~ by the licensee.

SEC. 36. Section 138 of the Business and Professions Code is amended to read:

138. Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its ~~licentiates,~~ licensees, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

SEC. 37. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

(1) California Board of Accountancy.

(2) State Athletic Commission.

(3) Board of Behavioral Sciences.

(4) Court Reporters Board of California.

~~(5) State Board of Guide Dogs for the Blind.~~

~~(6)~~

(5) California State Board of Pharmacy.

~~(7)~~

(6) Board of Registered Nursing.

~~(9)~~

(7) Veterinary Medical Board.

~~(9)~~

(8) Board of Vocational Nursing and Psychiatric Technicians.

~~(10)~~

(9) Respiratory Care Board of California.

~~(11)~~

(10) Physical Therapy Board of California.

~~(12)~~

(11) Physician Assistant ~~Committee of the Medical Board of California.~~ *Committee.*

~~(13)~~

(12) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

~~(14)~~

(13) Medical Board of California.

~~(15)~~

(14) State Board of Optometry.

~~(16)~~

(15) Acupuncture Board.

~~(17)~~

(16) Cemetery and Funeral Bureau.

~~(18)~~

(17) Bureau of Security and Investigative Services.

~~(19)~~

(18) Division of Investigation.

~~(20)~~

(19) Board of Psychology.

~~(21)~~

(20) California Board of Occupational Therapy.

~~(22)~~

(21) Structural Pest Control Board.

~~(23)~~

(22) Contractors' State License Board.

~~(24)~~

(23) Naturopathic Medicine Committee.

~~(25)~~

(24) Professional Fiduciaries Bureau.

~~(26)~~

(25) Board for Professional Engineers, Land Surveyors, and Geologists.

~~(27)~~

(26) Bureau of Cannabis Control.

~~(28) California Board of Podiatric Medicine.~~

(27) *Podiatric Medical Board of California.*

~~(29)~~

(28) Osteopathic Medical Board of California.

(c) For purposes of paragraph ~~(26)~~ (25) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(K) – AB 512 (Ting) Medi-Cal: specialty mental health services

Background:

Current law requires the State Department of Health Care Services to implement managed mental healthcare for Medi-Cal beneficiaries through contracts with mental health plans and requires mental health plans to be governed by various guidelines, including a requirement that a mental health plan assess the cultural competency needs of the program. AB 512 (Ting) would require each mental health plan to prepare a cultural competency assessment plan to address, among other things, disparities in access, utilization, and outcomes by race, ethnicity, language, sexual orientation, gender identity, and immigration status.

Location: 2/21/19 Assembly Committee on Health

Status: 2/21/19 Referred to Assembly Committee on Health

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 512 for potential impacts on consumer access to culturally competent mental health services through their health insurance plans.

Attachment: AB 512 (Ting) Bill Text

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AB-512 Medi-Cal: specialty mental health services. (2019-2020)

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Date Published: 02/13/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 512**

Introduced by Assembly Member Ting

February 13, 2019

An act to amend Section 14684 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 512, as introduced, Ting. Medi-Cal: specialty mental health services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive healthcare services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law requires the department to implement managed mental healthcare for Medi-Cal beneficiaries through contracts with mental health plans, and requires mental health plans to be governed by various guidelines, including a requirement that a mental health plan assess the cultural competency needs of the program.

This bill would require each mental health plan to prepare a cultural competency assessment plan to address, among other things, disparities in access, utilization, and outcomes by race, ethnicity, language, sexual orientation, gender identity, and immigration status. The bill would require a mental health plan to convene a committee for the purpose of reviewing and approving the cultural competency assessment plan, as described. The bill would require a mental health plan to submit its cultural competency assessment plan to the department every 3 years for technical assistance and implementation feedback, and would require the department to post the cultural competency assessment plan submitted by each plan to its internet website. The bill would require the department to consult with the Office of Health Equity and the California Surgeon General to review county assessments and statewide performance on disparities reductions. The bill would require the department to direct an external quality review organization to develop a protocol for monitoring performance of each mental health plan, as described, and would require the plan to meet specified disparities reduction targets every 3 years.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** The Legislature finds and declares all of the following:

- (a) Mental health is a vital aspect of an individual's overall well-being.
- (b) Disparities in access to mental health services vary across demographic groups, including race, age, gender, income level, and immigration status.
- (c) Immigrant communities across California have experienced heightened levels of stress and anxiety in light of today's political climate, which has resulted in reduced utilization of state administered assistance programs and reduced incidence of crime reporting by communities of color.
- (d) Disparities in mental health services can be reduced or eliminated by addressing barriers to the mental healthcare system and improving outreach strategies.
- (e) Investing in mental health services that are culturally and linguistically appropriate are crucial in identifying, preventing, and alleviating mental health conditions for historically disenfranchised groups, such as communities of color, the lesbian, gay, bisexual, and transgender community, and the undocumented.
- (f) Early detection and intervention for mental health conditions among vulnerable communities is inherent to overall community wellness and safety.

SEC. 2. Section 14684 of the Welfare and Institutions Code is amended to read:

14684. ~~(a)~~ Notwithstanding any other ~~provision of~~ state law, and to the extent permitted by federal law, *a* mental health ~~plans, plan,~~ whether administered by public or private entities, shall be governed by the following guidelines:

~~(1)~~

(a) State and federal Medi-Cal funds identified for the diagnosis and treatment of mental illness shall be used solely for those purposes. Administrative costs incurred by ~~counties~~ *a county* for activities necessary for the administration of the mental health plan shall be clearly identified and shall be reimbursed in a manner consistent with federal Medicaid requirements and the approved Medicaid state plan and waivers. Administrative requirements shall be based on and limited to federal Medicaid requirements and the approved Medicaid state plan and waivers, and shall not impose costs exceeding funds available for that purpose.

~~(2)~~

(b) The development of ~~the~~ *a* mental health plan shall include a public planning process that includes a significant role for Medi-Cal beneficiaries, family members, mental health advocates, providers, and public and private contract agencies.

~~(3) The~~

(c) *A* mental health plan shall include appropriate standards relating to quality, access, and coordination of services within a managed system of care, and costs established under the plan, and shall provide opportunities for existing Medi-Cal providers to continue to provide services under the mental health plan, as long as the providers meet those standards.

~~(4)~~

(d) Continuity of care for current recipients of services shall be ensured in the transition to managed mental ~~health care.~~ *healthcare.*

~~(5)~~

(e) Medi-Cal covered specialty mental health services shall be provided in the beneficiary's home community, or as close as possible to the beneficiary's home community. Pursuant to the objectives of the rehabilitation option described in subdivision (a) of Section 14021.4, mental health services may be provided in a facility, a home, or other community-based site.

~~(6)~~

(f) Medi-Cal beneficiaries whose mental or emotional condition results or has resulted in functional impairment, as defined by the department, shall be eligible for covered specialty mental health services. Emphasis shall be placed on adults with serious and persistent mental illness and children with serious emotional disturbances, as defined by the department.

~~(7)Mental health plans~~

(g) A mental health plan shall provide specialty mental health services to eligible Medi-Cal beneficiaries, including both adults and children. Specialty mental health services include Early and Periodic Screening, Diagnosis, and Treatment Services to eligible Medi-Cal beneficiaries under the age of 21 pursuant to 42 U.S.C. Section 1396d(a)(4)(B) of Title 42 of the United States Code.

~~(8)Each~~

(h) A mental health plan shall include a mechanism for monitoring the effectiveness of, and evaluating accessibility and quality of, services available. The plan shall utilize and be based upon state-adopted performance outcome measures and shall include review of individual service plan procedures and practices, a beneficiary satisfaction component, and a grievance system for beneficiaries and providers.

~~(9)Each~~

(i) A mental health plan shall provide for culturally competent and age-appropriate services, to the extent feasible. ~~The A mental health plan shall assess the cultural competency needs of the program. The program, and prepare a cultural competency assessment plan, as specified in this paragraph.~~ A mental health plan shall include, as part of the quality assurance program required by Section 14725, a process to accommodate the significant needs with reasonable timeliness. The department shall provide demographic data and technical assistance. Performance outcome measures shall include a reliable method of measuring and reporting the extent to which services are culturally competent and age-appropriate.

~~(b)This section shall become operative on July 1, 2012.~~

(1) The cultural competency assessment plan shall address, but not be limited to, all of the following:

(A) Disparities in access, utilization, and outcomes by race, ethnicity, language, sexual orientation, gender identity, and immigration status, to the extent data is available.

(B) Annual performance targets for reducing disparities in access, utilization, and outcomes.

(C) Designated strategies for reaching performance targets, including the mental health plan's rationale for each strategy.

(D) The mental health plan's performance on prior performance targets.

(E) The mental health plan's strategies for addressing trauma and developing trauma-informing services.

(F) The process for community input, including a list of community entities participating.

(2) A mental health plan shall convene a committee, through open invitation to relevant stakeholders, including, but not limited to, agency and department representatives, consumer advocates, consumers, disparities reduction experts, and providers, for the purpose of reviewing and approving the cultural competency assessment plan. The committee shall convene monthly either in person or through electronic means, and meetings shall be open and accessible to the public.

(3) A mental health plan shall annually update its cultural competency assessment plan, in coordination with the committee, to reflect population changes.

(4) A mental health plan shall submit the cultural competency assessment plan to the department every three years for technical assistance and implementation feedback. The department shall post the cultural competency assessment plan submitted by each plan to its internet website for public review.

(5) (A) The department shall consult with the Office of Health Equity and the California Surgeon General to review county assessments and statewide performance on disparities reduction.

(B) The review specified in subparagraph (A) shall include an assessment about the extent to which strategies utilize both evidence-based and community-defined best practices, and shall address documented disparities, including progress about performance targets.

(6) The department shall direct an external quality review organization, as described in Section 14717.5, to develop a protocol for monitoring performance on established disparities reduction targets for each mental health plan. In creating this protocol, the department shall consult with consumer advocates, consumers, experts in disparities reduction, and providers.

(7) The department shall require each mental health plan to meet specified disparities reduction targets every three years.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(L) – AB 536 (Frazier) Developmental services

Background:

Under current law, the Lanterman Developmental Disabilities Services Act defines a “developmental disability” as a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for the individual. AB 536 (Frazier) would modify that definition to mean a disability that originates before an individual attains 22 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for the individual. The bill would also make various technical and nonsubstantive changes.

Location: 2/25/2019 Assembly Committee on Human Services

Status: 2/25/2019 Referred to Assembly Committee on Human Services

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 536 for potential changes to the definition of “developmental disability” and any impact that might have on assessments performed or determinations made by Board licensees.

Attachment: AB 536 (Frazier) Bill Text


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AB-536 Developmental services. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 536

Introduced by Assembly Member Frazier
(Coauthor: Senator Wilk)

February 13, 2019

An act to amend Section 4512 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 536, as introduced, Frazier. Developmental services.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families, and requires regional centers to identify and pursue all possible sources of funding for consumers receiving those services. Existing law defines a “developmental disability” as a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for the individual.

This bill would modify that definition to mean a disability that originates before an individual attains 22 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for the individual. The bill would make various technical and nonsubstantive changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4512 of the Welfare and Institutions Code is amended to read:

4512. As used in this division:

(a) “Developmental disability” means a disability that originates before an individual attains ~~18~~ 22 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to

that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

(b) "Services and supports for persons with developmental disabilities" means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, and normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services, recreation, counseling of the individual with a developmental disability and of ~~his or her~~ *the individual's* family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies, advocacy assistance, including self-advocacy training, facilitation and peer advocates, assessment, assistance in locating a home, child care, behavior training and behavior modification programs, camping, community integration services, community support, daily living skills training, emergency and crisis intervention, facilitating circles of support, habilitation, homemaker services, infant stimulation programs, paid roommates, paid neighbors, respite, short-term out-of-home care, social skills training, specialized medical and dental care, telehealth services and supports, as ~~defined~~ *described* in Section 2290.5 of the Business and Professions Code, supported living arrangements, technical and financial assistance, travel training, training for parents of children with developmental disabilities, training for parents with developmental disabilities, vouchers, and transportation services necessary to ensure delivery of services to persons with developmental disabilities. ~~Nothing in this subdivision is intended to~~ *This subdivision does not* expand or authorize a new or different service or support for any consumer unless that service or support is contained in ~~his or her~~ *the consumer's* individual program plan.

(c) Notwithstanding subdivisions (a) and (b), for any organization or agency receiving federal financial participation under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, as amended, "developmental disability" and "services for persons with developmental disabilities" mean the terms as defined in the federal act to the extent required by federal law.

(d) "Consumer" means a person who has a disability that meets the definition of developmental disability set forth in subdivision (a).

(e) "Natural supports" means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships, friendships reflecting the diversity of the neighborhood and the community, associations with fellow students or employees in regular classrooms and workplaces, and associations developed through participation in clubs, organizations, and other civic activities.

(f) "Circle of support" means a committed group of community members, who may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy and community involvement, and assist the individual in establishing and maintaining natural supports. A circle of support generally includes a plurality of members who neither provide nor receive services or supports for persons with developmental disabilities and who do not receive payment for participation in the circle of support.

(g) "Facilitation" means the use of modified or adapted materials, special instructions, equipment, or personal assistance by an individual, such as assistance with communications, that will enable a consumer to understand and participate to the maximum extent possible in the decisions and choices that affect ~~his or her~~ *the individual's* life.

(h) "Family support services" means services and supports that are provided to a child with developmental disabilities or ~~his or her~~ *the child's* family and that contribute to the ability of the family to reside together.

(i) "Voucher" means any authorized alternative form of service delivery in which the consumer or family member is provided with a payment, coupon, chit, or other form of authorization that enables the consumer or family member to choose ~~his or her own~~ *a particular* service provider.

(j) "Planning team" means the individual with developmental disabilities, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, the authorized representative, including those appointed pursuant to subdivision ~~(d) of Section 4548~~ (a) of Section 4541 and subdivision (e) of Section 4705, one or more regional center representatives, including the designated regional center service coordinator pursuant to subdivision (b) of Section 4640.7, any individual, including a service provider, invited by the consumer, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, or the authorized representative, including those appointed pursuant to subdivision ~~(d) of Section 4548~~ (a) of Section 4541 and subdivision (e) of Section 4705, and including a minor's, dependent's, or ward's court-appointed developmental services decisionmaker appointed pursuant to Section 319, 361, or 726.

(k) "Stakeholder organizations" means statewide organizations representing the interests of consumers, family members, service providers, and statewide advocacy organizations.

(l) (1) "Substantial disability" means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.


(F) Capacity for independent living.

(G) Economic self-sufficiency.

(2) A reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

(m) "Native language" means the language normally used or the preferred language identified by the individual and, when appropriate, ~~his or her~~ the individual's parent, legal guardian or conservator, or authorized representative.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(M) – AB 565 (Maienschein) Mental health workforce planning: loan forgiveness, loan repayment, and scholarship programs

Background:

Current law establishes the Steven M. Thompson Physician Corps Loan Repayment Program (program) in the California Physician Corps Program within the Health Professions Education Foundation, which provides financial incentives, including repayment of educational loans, to a physician and surgeon who practices in a medically underserved area, as defined. Existing law establishes the Medically Underserved Account for Physicians, a continuously appropriated account, within the Health Professions Education Fund, to primarily provide funding for the ongoing operations of the program. Current law defines “practice setting,” for these purposes. AB 565 (Maienschein) would define “practice setting” to include a program or facility operated by, or contracted to, a county mental health plan.

Location: 2/25/2019 Assembly Committee on Health

Status: 2/25/2019 Referred to Assembly Committee on Health

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 565 for potential impacts on consumer access to mental health services and future opportunities to enhance the loan repayment program that the Board’s licensees participate in.

Attachment: AB 565 (Maienschein) Bill Text

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AB-565 Mental health workforce planning: loan forgiveness, loan repayment, and scholarship programs. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 565**

Introduced by Assembly Member Maienschein
(Coauthors: Assembly Members Boerner Horvath and Cristina Garcia)

February 13, 2019

An act to amend Section 128552 of the Health and Safety Code, and to amend Section 5822 of the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 565, as introduced, Maienschein. Mental health workforce planning: loan forgiveness, loan repayment, and scholarship programs.

Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program (program) in the California Physician Corps Program within the Health Professions Education Foundation, which provides financial incentives, including repayment of educational loans, to a physician and surgeon who practices in a medically underserved area, as defined. Existing law establishes the Medically Underserved Account for Physicians, a continuously appropriated account, within the Health Professions Education Fund, to primarily provide funding for the ongoing operations of the program.

Existing law defines "practice setting," for these purposes, to include a community clinic, as defined, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role to serve its indigent population, that is located in a medically underserved area and at least 50% of whose patients are from a medically underserved population. Existing law also defines "practice setting," for these purposes, to include a physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50% of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250% of the federal poverty level.

This bill also would define "practice setting" to include a program or facility operated by, or contracted to, a county mental health plan. By expanding the group of persons eligible for financial incentives payable from a continuously appropriated fund, this bill would make an appropriation.

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, requires the Office of Statewide Health Planning and Development (OSHPD), in coordination with the California Behavioral Health Planning Council, to identify the total statewide needs for each professional and other occupational category utilizing county needs assessment information and develop a 5-year education and training development plan. Existing law requires OSHPD to include specified components in the 5-year plan, including expansion plans for the forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and making loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

This bill would clarify that OSHPD needs to include in the 5-year plan both expansion plans for loan forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and expansion plans for making loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees. The bill would also make specified findings and declarations.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Despite escalating tuition costs, medical students across the nation are willing to take on more and more loan debt. This has led to a median indebtedness of \$190,000 in 2016; compared with \$32,000 in 1986 (\$70,000 in 2017 dollars), according to a survey published in the Journal of the American Medical Association, Internal Medicine on September 5, 2017.

(b) It is not unusual in California to find psychiatric residents in training with debt loads that exceed \$200,000.

(c) Student indebtedness solutions are a high priority issue for many medical students, driving career choices towards higher paying specialties or practice settings and away from practice settings in underserved and community mental health systems.

(d) California's 58 counties consistently have one psychiatrist vacancy for every four psychiatrist positions in county-operated community mental health systems.

(e) Effective debt relief options are part of a comprehensive strategy to recruit medical students to a career in psychiatry, and steering psychiatric residents into training as community psychiatry specialists.

(f) An effective loan repayment or forgiveness strategy acts as an incentive to attract medical students to specialize in psychiatry, and psychiatric residents in training to further specialize in community psychiatry. This will help increase access to psychiatric care in community mental health systems.

(g) One innovative practice is to provide access to early loan repayment during the pendency of training to trainees in psychiatry who are committed to working in the community mental health system.

(h) The Legislature intends the changes made by this act to clarify that the Office of Statewide Health Planning and Development is authorized to provide for early loan repayment under current law and to emphasize the importance of this option.

SEC. 2. Section 128552 of the Health and Safety Code is amended to read:

128552. For purposes of this article, the following definitions shall apply:

(a) "Account" means the Medically Underserved Account for Physicians established within the Health Professions Education Fund pursuant to this article.

(b) "Foundation" means the Health Professions Education Foundation.

(c) "Fund" means the Health Professions Education Fund.

(d) "Medi-Cal threshold languages" means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000, eligible LEP Medi-Cal beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal beneficiaries residing in two contiguous ZIP Codes.

(e) "Medically underserved area" means an area defined as a health professional shortage area in Part 5 of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the California Healthcare Workforce Policy Commission pursuant to Section 128225.

(f) "Medically underserved population" means the Medi-Cal program, Healthy Families Program, and uninsured populations.

(g) "Office" means the Office of Statewide Health Planning and Development (OSHPD).

(h) "Physician Volunteer Program" means the Physician Volunteer Registry Program established by the Medical Board of California.

(i) "Practice setting," for the purposes of this article only, means ~~either~~ *any* of the following:

(1) A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role pursuant to Section 17000 of the Welfare and Institutions Code, which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(2) A physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50 percent of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(3) A program or facility operated by, or contracted to, a county mental health plan.

(j) "Primary specialty" means family practice, internal medicine, pediatrics, or obstetrics/gynecology.

(k) "Program" means the Steven M. Thompson Physician Corps Loan Repayment Program.

(l) "Selection committee" means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.

SEC. 3. Section 5822 of the Welfare and Institutions Code is amended to read:

5822. The Office of Statewide Health Planning and Development shall include in the five-year plan:

(a) Expansion plans for the capacity of postsecondary education to meet the needs of identified mental health occupational shortages.

(b) Expansion plans for loan forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system.

~~(b)~~

~~(c) Expansion plans for the forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and make~~ *making* loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

~~(c)~~

(d) Creation of a stipend program modeled after the federal Title IV-E program for persons enrolled in academic institutions who want to be employed in the mental health system.

~~(d)~~

(e) Establishment of regional partnerships between the mental health system and the educational system to expand outreach to multicultural communities, increase the diversity of the mental health workforce, to reduce the stigma associated with mental illness, and to promote the use of web-based technologies, Internet Web-based technologies and distance learning techniques.

~~(e)~~

~~(f)~~ Strategies to recruit high school students for mental health occupations, increasing the prevalence of mental health occupations in high school career development programs such as health science academies, adult schools, and regional occupation centers and programs, and increasing the number of human service academies.

~~(f)~~

~~(g)~~ Curriculum to train and retrain staff to provide services in accordance with the provisions and principles of Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section ~~5850~~ of this division. ~~5850~~).

~~(g)~~

~~(h)~~ Promotion of the employment of mental health consumers and family members in the mental health system.

~~(h)~~

~~(i)~~ Promotion of the meaningful inclusion of mental health consumers and family members and incorporating their viewpoint and experiences in the training and education programs in subdivisions (a) through ~~(f)~~. ~~(g)~~.

~~(i)~~

~~(j)~~ Promotion of meaningful inclusion of diverse, racial, and ethnic community members who are underrepresented in the mental health provider network.

~~(j)~~

~~(k)~~ Promotion of the inclusion of cultural competency in the training and education programs in subdivisions (a) through ~~(f)~~. ~~(g)~~.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(N) – AB 577 (Eggman) Medi-Cal: maternal mental health

Background:

AB 577 (Eggman) would extend Medi-Cal postpartum care for up to one year beginning on the last day of the pregnancy for an eligible individual diagnosed with a maternal mental health condition. The bill would define maternal mental health condition as “a mental health condition that occurs during pregnancy or during the postpartum period and, includes, but is not limited to, postpartum depression”.

Location: 2/25/2019 Assembly Committee on Health

Status: 2/25/2019 referred to Assembly Committee on Health

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 577 for potential impacts on consumer access to perinatal mental health services.

Attachment: AB 577 (Eggman) Bill Text


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AB-577 Medi-Cal: maternal mental health. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 577

Introduced by Assembly Member Eggman
(Principal coauthor: Senator Portantino)

February 14, 2019

An act to amend Section 14005.18 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 577, as introduced, Eggman. Medi-Cal: maternal mental health.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive healthcare services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Under existing law, an individual is eligible for Medi-Cal benefits, to the extent required by federal law, as though the individual was pregnant, for all pregnancy-related and postpartum services for a 60-day period beginning on the last day of pregnancy.

This bill would extend Medi-Cal postpartum care for up to one year beginning on the last day of the pregnancy for an eligible individual diagnosed with a maternal mental health condition. The bill would define maternal mental health condition for purposes of the bill.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14005.18 of the Welfare and Institutions Code is amended to read:

14005.18. ~~A woman~~ *(a) (1) An individual* is eligible, to the extent required by federal law, as though ~~she were~~ *the individual was* pregnant, for all pregnancy-related and postpartum services for a 60-day period beginning on the last day of pregnancy.

~~For purposes of this section,~~

(2) For purposes of paragraph (1), "postpartum services" means those services provided after childbirth, child delivery, or miscarriage.

(b) (1) If an individual is eligible pursuant to subdivision (a) and is diagnosed with a maternal mental health condition, the individual shall remain eligible for Medi-Cal postpartum care for up to one year beginning on the last day of the pregnancy.

(2) For purposes of paragraph (1), "maternal mental health condition" means a mental health condition that occurs during pregnancy or during the postpartum period and, includes, but is not limited to, postpartum depression.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(O) – AB 613 (Low) Professions and vocations: regulatory fees

Background:

AB 613 (Low) would authorize each board within the Department of Consumer Affairs to increase every four (4) years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding four (4) years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

Location: 2/25/2019 Assembly Committee on Business and Professions

Status: 2/25/2019 Referred to Assembly Committee on Business and Professions

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 613 for its potential to create new authority for the Board to seek minor increases in the fees it charges applicants and licensees.

Attachment: AB 613 (Low) Bill Text

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AB-613 Professions and vocations: regulatory fees. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 613**

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Existing law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 101.1 is added to the Business and Professions Code, to read:

101.1. (a) Notwithstanding any other law, no more than once every four years, any board listed in Section 101 may increase any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code, for the preceding four years in accordance with the following:

(1) The board shall provide its calculations and proposed fee, rounded to the nearest whole dollar, to the director and the director shall approve the fee increase unless any of the following apply:

(A) The board has unencumbered funds in an amount that is equal to more than the board's operating budget for the next two fiscal years.


(B) The fee would exceed the reasonable regulatory costs to the board in administering the provisions for which the fee is authorized.

(C) The director determines that the fee increase would be injurious to the public health, safety, or welfare.

(2) The adjustment of fees and publication of the adjusted fee list is not 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.

(b) For purposes of this section, "fee" includes any fees authorized to be imposed by a board for regulatory costs. "Fee" does not include administrative fines, civil penalties, or criminal penalties.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(P) – AB 630 (Arambula) Board of Behavioral Sciences: marriage and family therapists: clinical social workers: educational psychologists: professional clinical counselors: required notice

Background:

Under current law, Board of Behavioral Sciences licensees and registrants, prior to initiating specified services, must provide a client with a specified written notice that the board receives and responds to complaints regarding services within the scope of the licensed practice and that the client may contact the board. Current law exempts specified employees and volunteers in certain settings from providing this notification.

AB 630 (Arambula), starting July 1, 2020, would require unlicensed employees or volunteers in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable to provide a client prior to initiating psychotherapy services, a notice written in at least 12-point font that notifies the client where they can file a complaint regarding the unlicensed or unregistered counselor providing services.

Location: 2/25/2019 Assembly Committee on Business and Professions

Status: 2/25/2019 Referred to Assembly Committee on Business and Professions

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 630 for potential impacts on the Board's ability to obtain similar authority in the future related to unlicensed individuals employed in exempt settings.

Attachment: AB 630 (Arambula) Bill Text


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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 630**

Introduced by Assembly Member Arambula

February 15, 2019

An act to amend Sections 4980.01, 4996.14, 4996.15, and 4999.22 of, and to add Sections 4980.32, 4989.17, 4996.75, and 4999.71 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 630, as introduced, Arambula. Board of Behavioral Sciences: marriage and family therapists: clinical social workers: educational psychologists: professional clinical counselors: required notice.

Existing law provides for the licensure and regulation of marriage and family therapists, educational psychologists, clinical social workers, and professional clinical counselors by the Board of Behavioral Sciences, which is within the Department of Consumer Affairs. A violation of these provisions is a crime.

This bill, commencing July 1, 2020, would require those licensees and registrants, prior to initiating specified services, to provide a client with a specified written notice that the board receives and responds to complaints regarding services within the scope of the licensed practice and that the client may contact the board.

Under existing law, an employee or volunteer of a governmental entity, educational facility, or nonprofit charitable institution is exempt from the provisions otherwise pertaining to marriage and family therapists and clinical social workers if the work is performed solely under the employer's supervision. Under the Licensed Professional Clinical Counselor Act, an employee of a governmental entity, educational facility, or nonprofit charitable institution is exempt from the provisions of the act if the work is performed solely under the employer's supervision.

This bill, commencing July 1, 2020, would, for an employee or volunteer who is not licensed or registered with the board, additionally condition these exemptions upon the employee or volunteer providing, prior to initiating psychotherapy services, a specified written notice to a client that provides the name and contact information of the agency that the client may contact to file a complaint regarding that practice of psychotherapy. The bill would also expand the exemptions under the Licensed Professional Clinical Counselor Act to a volunteer of a governmental entity, educational facility, or nonprofit charitable institution.

Existing law, the Clinical Social Worker Practice Act, exempts specified activities and services by graduate students and social work interns pursuing a master's degree in social work, as specified, or working in a recognized training program from the provisions otherwise pertaining to clinical social workers.

This bill would remove the exemption for graduate students and social work interns working in a recognized training program and would prohibit a student from performing clinical social work in a private practice.

Because this bill would specify additional requirements under provisions pertaining to marriage and family therapists, educational psychologists, clinical social workers, and professional clinical counselors, the violation of which would be a crime, it 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. 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 Act.

(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 ~~his or her~~ *their* pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of ~~his or her~~ *their* professional practice.

(c) ~~(1)~~ This chapter shall not apply to an employee *or volunteer* working in ~~any of the following settings if his or her work is performed solely under the supervision of the employer:~~ *a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable if:*

~~(A) A governmental entity.~~

~~(B) A school, college, or university.~~

~~(C) An institution that is both nonprofit and charitable.~~

~~(2) This chapter shall not apply to a volunteer working in any of the settings described in paragraph (1) if his or her work is performed solely under the supervision of the entity, school, or institution.~~

(1) The work of the employee or volunteer is performed solely under the supervision of the entity.

(2) On and after July 1, 2020, the employee or volunteer, if not licensed or registered with the board, provides a client, prior to initiating psychotherapy services, a notice written in at least 12-point font 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 providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, and mailing address of agency).

(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~~ *healthcare* 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. 2. Section 4980.32 is added to the Business and Professions Code, to read:

4980.32. On and after July 1, 2020, a licensee or registrant shall provide a client with a notice written in at least 12-point font prior to initiating psychotherapy services 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.

SEC. 3. Section 4989.17 is added to the Business and Professions Code, to read:

4989.17. On and after July 1, 2020, a licensee shall provide a client with a notice written in at least 12-point font prior to initiating psychological services 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.

SEC. 4. Section 4996.14 of the Business and Professions Code is amended to read:

4996.14. (a) This chapter shall not apply to an employee ~~who is or volunteer~~ working in ~~any of the following settings if his or her work is performed solely under the supervision of the employer:~~ *a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable if:*

~~(1) A governmental entity;~~

~~(2) A school, college, or university;~~

~~(3) An institution that is both nonprofit and charitable.~~

(1) The work of the employee or volunteer is performed solely under the supervision of the entity.

(2) On and after July 1, 2020, the employee or volunteer, if not licensed or registered with the board, provides a client, prior to initiating psychotherapy services, a notice written in at least 12-point font 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 providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, and mailing address of agency).

~~(b) This chapter shall not apply to a volunteer who is working in any of the settings described in subdivision (a) if his or her work is performed solely under the supervision of the entity, school, college, university, or institution.~~

~~(c)~~

(b) This chapter shall not apply to a person using hypnotic techniques by referral from any of the following persons if ~~his or her~~ their practice is performed solely under the supervision of the employer:

(1) A person licensed to practice medicine.

(2) A person licensed to practice dentistry.

(3) A person licensed to practice psychology.

~~(d)~~

(c) 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. 5. Section 4996.15 of the Business and Professions Code is amended to read:

4996.15. (a) Nothing in this article shall restrict or prevent activities of a psychosocial nature on the part of persons employed by accredited academic institutions, public schools, government agencies, or nonprofit institutions engaged in the training of graduate students or social work interns pursuing the course of study leading to a master's degree in social work in an accredited college or university, ~~or working in a recognized training program,~~ provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by such titles as social work interns, social work trainees, or other titles clearly indicating the training status appropriate to their level of training. The term "social work intern," however, shall be reserved for persons enrolled in a master's or doctoral training program in social work in an accredited school or department of social work.

(b) Notwithstanding subdivision (a), a graduate student shall not perform clinical social work in a private practice.

SEC. 6. Section 4996.75 is added to the Business and Professions Code, to read:

4996.75. On and after July 1, 2020, a licensee or registrant shall provide a client with a notice written in at least 12-point font prior to initiating psychotherapy services 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.

SEC. 7. 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 ~~his or her~~ *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 ~~his or her~~ *their* professional practice.

(d) This chapter shall not apply to an employee ~~of or volunteer working in~~ a governmental entity or a school, college, or university, or of an institution *that is* both nonprofit and charitable, ~~if his or her practice is performed solely under the supervision of the entity, school, college, university, or institution by which he or she is employed, and if he or she performs these functions as part of the position for which he or she is employed. if:~~

(1) The work of the employee or volunteer is performed solely under the supervision of the entity.

(2) On and after July 1, 2020, the employee or volunteer, if not licensed or registered with the board, provides a client, prior to initiating psychotherapy services, a notice written in at least 12-point font 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 providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, and mailing address of agency).

(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. 8. Section 4999.71 is added to the Business and Professions Code, to read:

4999.71. Effective July 1, 2020, a licensee or registrant shall provide a client with a notice written in at least 12-point font prior to initiating psychotherapy services 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.

SEC. 9. 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	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(Q) – AB 669 (Holden) Attorney General: assurance of voluntary compliance

Background:

Current law authorizes a court, upon motion, to enter judgment pursuant to the terms of a settlement stipulated by parties to pending litigation. Existing law defines an injunction as a writ or order requiring a person to refrain from a particular act and authorizes a court to grant an injunction in specified cases, including, among others, when pecuniary compensation would not afford adequate relief.

AB 669 (Holden) would specify that the Attorney General (AG) is authorized to accept an assurance of voluntary compliance, in lieu of a stipulated judgment, to resolve an action brought in the name of the people of the state. The bill would require an assurance of voluntary compliance accepted by the AG to be filed with and subject to approval by the court. The bill would require an assurance of voluntary compliance filed with and approved by the court to be enforceable in the same manner, with the same remedies, and to the same extent, as a stipulated judgment or a permanent injunction.

Location: 2/28/2019 Assembly Committee on Judiciary

Status: 2/28/2019 Referred to Assembly Committee on Judiciary

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 669 for potential impacts to the Board's Enforcement Program.

Attachment: AB 669 (Holden) Bill Text

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AB-669 Attorney General: assurance of voluntary compliance. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 669**

Introduced by Assembly Member Holden

February 15, 2019

An act to add Section 12533 of the Government Code, relating to the Attorney General.

LEGISLATIVE COUNSEL'S DIGEST

AB 669, as introduced, Holden. Attorney General: assurance of voluntary compliance.

Existing law authorizes a court, upon motion, to enter judgment pursuant to the terms of a settlement stipulated by parties to pending litigation. Existing law defines an injunction as a writ or order requiring a person to refrain from a particular act, and authorizes a court to grant an injunction in specified cases, including, among others, when pecuniary compensation would not afford adequate relief.

Under existing law, the Attorney General has charge, as attorney, of all legal matters in which the state is interested, except as specified. Existing law, the Supervision of Trustees and Fundraisers for Charitable Purposes Act, authorizes the Attorney General to accept an assurance of voluntary compliance through which a person alleged to be engaged in a method, act, or practice in violation of the act, as specified.

This bill would specify that the Attorney General is authorized to accept an assurance of voluntary compliance, in lieu of a stipulated judgment, to resolve an action brought in the name of the people of the state. The bill would require an assurance of voluntary compliance accepted by the Attorney General to be filed with and subject to approval by the court. The bill would require an assurance of voluntary compliance filed with and approved by the court to be enforceable in the same manner, with the same remedies, and to the same extent, as a stipulated judgment or a permanent injunction.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no


THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 12533 is added to the Government Code, to read:

12533. (a) The Attorney General may accept an assurance of voluntary compliance, in lieu of a stipulated judgment, to resolve an action brought in the name of the people of the State of California.

(b) An assurance of voluntary compliance accepted by the Attorney General shall be filed with and subject to approval by the court.

(c) An assurance of voluntary compliance filed with and approved by the court shall be enforceable in the same manner, with the same remedies, and to the same extent, as a stipulated judgment and permanent injunction.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(R) – AB 768 (Brough) Professions and vocations

Background:

AB 768 (Brough) would authorize the Department of Consumer Affairs and each board in the department to charge a fee not to exceed \$2 for the certification of a copy of any record, document, or paper in its custody. The bill would also require that the delinquency, penalty, or late fee for any licensee within the department to be 50 percent of the renewal fee for that license, but not to exceed \$150.

Location: 2/28/2019 Assembly Committee on Business and Professions

Status: 2/28/2019 Referred to Assembly Committee on Business and Professions

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 768 (Brough) for potential impacts to Board operations relating to licensee File Transfers to other jurisdictions.

Attachment: AB 768 (Brough) Bill Text


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AB-768 Professions and vocations. (2019-2020)

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Date Published: 02/19/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 768

Introduced by Assembly Member Brough

February 19, 2019

An act to amend Sections 163 and 163.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 768, as introduced, Brough. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards, as defined, within the Department of Consumer Affairs. Existing law generally requires the department and each board in the department to charge a fee of \$2 for the certification of a copy of any record, document, or paper in its custody. Existing law generally requires that the delinquency, penalty, or late fee for any licensee within the department to be 50% of the renewal fee for that license, but not less than \$25 nor more than \$150.

This bill would instead authorize the department and each board in the department to charge a fee not to exceed \$2 for the certification of a copy of any record, document, or paper in its custody. The bill would also require that the delinquency, penalty, or late fee for any licensee within the department to be 50% of the renewal fee for that license, but not to exceed \$150.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 163 of the Business and Professions Code is amended to read:

163. Except as otherwise expressly provided by law, the department and each board in the department ~~shall~~ *may* charge a fee ~~of~~ *not to exceed* two dollars (\$2) for the certification of a copy of any record, document, or paper in its custody or for the certification of any document evidencing the content of any such record, ~~document~~ *document*, or paper.


SEC. 2. Section 163.5 of the Business and Professions Code is amended to read:

163.5. Except as otherwise provided by law, the delinquency, penalty, or late fee for any licensee within the Department of Consumer Affairs shall be 50 percent of the renewal fee for ~~such~~ *that* license in effect on the date of the renewal of the license, ~~but not less than twenty-five dollars (\$25) nor more than~~ *but shall not exceed* one hundred fifty dollars (\$150).

A delinquency, penalty, or late fee shall not be assessed until 30 days have elapsed from the date that the licensing agency mailed a notice of renewal to the licensee at the licensee's last known address of record. The notice shall specify the date for timely renewal, and that failure to renew in a timely fashion shall result in the assessment of a delinquency, penalty, or late fee.

In the event a reinstatement or like fee is charged for the reinstatement of a license, the reinstatement fee shall be 150 percent of the renewal fee for such license in effect on the date of the reinstatement of the license, but not more than twenty-five dollars (\$25) in excess of the renewal fee, except that in the event that such a fee is fixed by statute at less than 150 percent of the renewal fee and less than the renewal fee plus twenty-five dollars (\$25), the fee so fixed shall be charged.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(S) – AB 770 (Garcia, Eduardo) Medi-Cal: federally qualified health clinics: rural health clinics

Background:

Current law provides that federally qualified health center (FQHC) services and rural health clinic (RHC) services, as defined, are covered benefits under the Medi-Cal program, to be reimbursed, in accordance with Medicare reasonable cost principles, and to the extent that federal financial participation is obtained, to providers on a per-visit basis that is unique to each facility. Current law prescribes the reimbursement rate methodology for both establishing and adjusting the per-visit rate. AB 770 (Garcia, Eduardo) would require the methodology of the adjusted per-visit rate to exclude, among other things, a per-visit payment limitation, and a provider productivity standard.

Location: 2/28/2019 Assembly Committee on Health

Status: 2/28/2019 Referred to Assembly Committee on Health

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 770 for potential impacts on consumer access to mental health services.

Attachment: AB 770 (Garcia, Eduardo) Bill Text

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AB-770 Medi-Cal: federally qualified health clinics: rural health clinics. (2019-2020)

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Date Published: 02/19/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 770**

Introduced by Assembly Members Eduardo Garcia and Mathis
(Coauthors: Assembly Members Cunningham, Limón, and Robert Rivas)
(Coauthors: Senators Caballero and Nielsen)

February 19, 2019

An act to amend Section 14132.100 of, and to repeal Section 14132.101 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 770, as introduced, Eduardo Garcia. Medi-Cal: federally qualified health clinics: rural health clinics.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides that federally qualified health center (FQHC) services and rural health clinic (RHC) services, as defined, are covered benefits under the Medi-Cal program, to be reimbursed, in accordance with Medicare reasonable cost principles, and to the extent that federal financial participation is obtained, to providers on a per-visit basis that is unique to each facility. Existing law prescribes the reimbursement rate methodology for both establishing and adjusting the per-visit rate. Under existing law, if an FQHC or RHC is partially reimbursed by a 3rd-party payer, such as a managed care entity, the department is required to reimburse the FQHC or RHC for the difference between its per-visit rate programs on a contract-by-contract basis, as specified. Existing law authorizes an FQHC or RHC to apply for an adjustment to its rate based on a change in the scope of service that it provides within 150 days following the beginning of the FQHC's or RHC's fiscal year, and authorizes an FQHC or RHC to appeal a grievance of complaint concerning various matters, including ratesetting and scope of service change, as described. Existing law provides that the department's implementation of FQHC and RHC services is subject to federal approval and the availability of federal financial participation.

This bill would require the methodology of the adjusted per-visit rate to exclude, among other things, a per-visit payment limitation, and a provider productivity standard. The bill would authorize an FQHC or RHC to apply for a rate adjustment for the adoption, implementation, or upgrade of a certified electronic health record system as a change in the scope of service. The bill would clarify, among other terms, the meaning of "scope of service." The bill would expand the meaning of "visit" to include FQHC and RHC services rendered outside of the facility

location, as specified. The bill would modify how the department reimburses an FQHC or RHC that is partially reimbursed by a 3rd-party payer, as described. The bill would repeal the provisions authorizing an FQHC or RHC to apply for an adjustment to its rate based on a change in the scope of service that it provides within 150 days following the beginning of the FQHC's or RHC's fiscal year, and would instead extend the time frame for an FQHC or RHC to file a scope of service rate change to any time during the fiscal year, as specified. The bill would additionally authorize an FQHC or RHC to elect to appeal specified matters either through the departmental appeal process or by filing a petition for a writ of mandate. The bill would require the department to ensure that department staff conducting audits related to FQHC and RHC services receive appropriate training on federal and state laws governing these facilities, as specified. The bill would incorporate federal standards related to FQHCs and RHCs, and would make various conforming and technical changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14132.100 of the Welfare and Institutions Code is amended to read:

14132.100. (a) The federally qualified health center (*FQHC*) services described in Section 1396d(a)(2)(C) of Title 42 of the United States Code are covered benefits.

(b) The rural health clinic (*RHC*) services described in Section 1396d(a)(2)(B) of Title 42 of the United States Code are covered benefits.

(c) ~~Federally qualified health center services and rural health clinic services~~ *FQHC and RHC services* shall be reimbursed on a per-visit basis in accordance with the definition of "visit" set forth in subdivision (g).

(d) Effective October 1, 2004, and on each October 1 thereafter, until no longer required by federal law, ~~federally qualified health center (FQHC) and rural health clinic (RHC)~~ *FQHC and RHC* per-visit rates shall be increased by the Medicare Economic Index applicable to primary care services in the manner provided for in Section 1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to January 1, 2004, FQHC and RHC per-visit rates shall be adjusted by the Medicare Economic Index in accordance with the methodology set forth in the state plan in effect on October 1, 2001.

(e) (1) An FQHC or RHC may apply for an adjustment to its per-visit rate based on a change in the scope of service provided by the FQHC or RHC. Rate changes based on a change in the scope of ~~services~~ *service* provided by an FQHC or RHC shall be evaluated in accordance with ~~Medicare federal~~ reasonable cost *reimbursement* principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 *and Part 75 (commencing with Section 400) of Title 45* of the Code of Federal Regulations, or ~~its any~~ successor. *To the extent there is a conflict between the federal reasonable cost principles, the terms of Part 75 (commencing with Section 400) of Title 45 shall control. To the extent required under federal law, the adjusted per-visit rate shall include direct costs, administrative costs, and costs related to FQHC and RHC services rendered outside of the respective facility, consistent with guidance issued by the federal Centers for Medicare and Medicaid Services and the federal Health Resources and Services Administration. The methodology of the adjusted per-visit rate shall exclude a per-visit payment limitation, provider productivity standard, or any other method that applies cost limitations in the calculation of the per-visit rate that are not based on the reasonable cost of the FQHC or RHC as determined under applicable federal reasonable cost principles.*

(2) Subject to the conditions set forth in subparagraphs (A) to (D), inclusive, of paragraph (3), a change in scope of service means any of the following:

(A) The addition of a new FQHC or RHC service that is not incorporated in the baseline prospective payment system (PPS) rate, or a deletion of an FQHC or RHC service that is incorporated in the baseline PPS rate.

(B) A change in service due to amended regulatory requirements or ~~rules~~ *rules, or a change related to a Medi-Cal managed care plan contracting under this chapter or Chapter 8 (commencing with Section 14200) that either directly or indirectly impacts and FQHC or RHC.*

(C) A change in service resulting from relocating or remodeling an FQHC or RHC.

(D) A change in types of services due to a change in applicable technology and medical practice utilized by the ~~center or clinic~~ *FQHC or RHC.*

(E) An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, *adults*, elderly, migrant, or other special populations.

(F) Any changes in any of the services described in subdivision (a) or (b), or in the provider mix of an FQHC or RHC or one of its sites.

(G) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the services described in subdivision (a) or (b), including new or expanded service facilities, regulatory compliance, or changes in technology or medical ~~practices at the center or clinic.~~ *practices, including the adoption, implementation, or upgrade of a certified electronic health record system, at the FQHC or RHC.*

(H) Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents.

(I) Any changes in the scope of a project approved by the federal Health Resources and Services ~~Administration (HRSA).~~ *Administration, including FQHC or RHC services rendered outside of the respective facility.*

(3) ~~A~~ *No* change in costs ~~is not, shall,~~ in and of itself, ~~a scope of service~~ *be considered a scope of service* change, unless all of the following apply:

(A) The increase or decrease in ~~cost cost, including administrative costs,~~ is attributable to ~~an a change in the FQHC or RHC scope of service service, such as an increase or decrease in the scope of services defined in subdivisions (a) and (b), as applicable.~~ *these services. For purposes of this section, "scope of service" means the type, intensity, duration, or amount of services during an average FQHC or RHC visit as defined in subdivision (g). "Change in the scope of service" and "scope of service change" means any change, such as an increase or decrease, in the type, intensity, duration, or amount of services, or any combination thereof taking place in an average FQHC or RHC visit as defined in subdivision (g).*

(B) The cost is allowable under ~~Medicare federal~~ *reasonable* cost principles set forth in Part 413 (commencing with Section 413) of Subchapter B of Chapter 4 of Title 42 *and Part 75 (commencing with Section 400) of Title 45* of the Code of Federal Regulations, or its successor.

~~(C) The change in the scope of services is a change in the type, intensity, duration, or amount of services, or any combination thereof.~~

~~(D)~~

~~(C)~~ *(C)* The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For ~~FQHCs and RHCs~~ *an FQHC and RHC* that filed consolidated cost reports for multiple sites to establish the initial prospective payment reimbursement rate, the 1.75-percent threshold shall be applied to the average per-visit rate of all sites for the purposes of calculating the cost associated with a ~~scope of service~~ *scope of service* change. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal year.

(4) An FQHC or RHC may submit requests for ~~scope of service changes~~ *a scope of service change* once per fiscal year, ~~only within 90 days~~ *and at any time* following the beginning of the FQHC's or RHC's fiscal year. Any approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.

(5) An FQHC or RHC shall submit a ~~scope of service~~ *scope of service* rate change request ~~within 90 days of the beginning of any~~ *at any time during the* FQHC or RHC fiscal year occurring after the effective date of this section, if, during the FQHC's or RHC's prior fiscal year, the FQHC or RHC experienced a decrease in the ~~scope of services~~ *scope of service* provided that the FQHC or RHC either knew or should have known would have resulted in a significantly lower per-visit rate. If an FQHC or RHC discontinues providing onsite pharmacy or dental services, it shall submit a scope of service rate change request ~~within 90 days of the beginning of the~~ *at any time during the* following fiscal ~~year.~~ *year that the FQHC or RHC discontinued providing the service.* The rate change shall be effective as provided for in paragraph (4). As used in this paragraph, "significantly lower" means an average per-visit rate decrease in excess of 2.5 percent.

(6) Notwithstanding paragraph (4), if the approved ~~scope of service~~ *scope of service* change or changes were initially implemented on or after the first day of an FQHC's or RHC's fiscal year ending in calendar year 2001, but before the adoption and issuance of written instructions for applying for a scope-of-service *scope of service* change, the adjusted reimbursement rate for that ~~scope of service~~ *scope of service* change shall be made

retroactive to the date the ~~scope of service~~ *scope of service* change was initially implemented. ~~Scope of service changes~~ *A scope of service change* under this paragraph shall be required to be submitted within the later of 150 days after the adoption and issuance of the written instructions by the department, or 150 days after the end of the FQHC's or RHC's fiscal year ending in 2003.

(7) All references in this subdivision to "fiscal year" shall be construed to be references to the fiscal year of the individual FQHC or RHC, as the case may be.

(f) (1) An FQHC or RHC may request a supplemental payment if extraordinary circumstances beyond the control of the FQHC or RHC occur after December 31, 2001, and PPS payments are insufficient due to these extraordinary circumstances. Supplemental payments arising from extraordinary circumstances under this subdivision shall be solely and exclusively within the discretion of the department and shall not be subject to subdivision ~~(4)~~ *(m)*. These supplemental payments shall be determined separately from the ~~scope of service~~ *scope of service* adjustments described in subdivision (e). Extraordinary circumstances include, but are not limited to, acts of nature, changes in applicable requirements in the Health and Safety Code, changes in applicable licensure requirements, and changes in applicable rules or regulations. Mere inflation of costs alone, absent extraordinary circumstances, shall not be grounds for supplemental payment. If an FQHC's or RHC's PPS rate is sufficient to cover its overall costs, including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

(2) The department shall accept requests for supplemental payment at any time throughout the prospective payment rate year.

(3) Requests for supplemental payments shall be submitted in writing to the department and shall set forth the reasons for the request. Each request shall be accompanied by sufficient documentation to enable the department to act upon the request. Documentation shall include the data necessary to demonstrate that the circumstances for which supplemental payment is requested meet the requirements set forth in this section. Documentation shall include both of the following:

(A) A presentation of data to demonstrate reasons for the FQHC's or RHC's request for a supplemental payment.

(B) Documentation showing the cost implications. The cost impact shall be material and significant, two hundred thousand dollars (\$200,000) or 1 percent of a facility's total costs, whichever is less.

(4) A request shall be submitted for each affected year.

(5) Amounts granted for supplemental payment requests shall be paid as lump-sum amounts for those years and not as revised PPS rates, and shall be repaid by the FQHC or RHC to the extent that it is not expended for the specified purposes.

(6) The department shall notify the provider of the department's discretionary decision in writing.

(g) (1) An FQHC or RHC "visit" means 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. For purposes of this section, "physician" shall be interpreted in a manner consistent with the federal Centers for Medicare and Medicaid Services' Medicare Rural Health Clinic and Federally Qualified Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a physician and surgeon, osteopath, podiatrist, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan's definition of an FQHC or RHC visit. *FQHC and RHC services rendered to a Medi-Cal beneficiary at a premise such as a temporary shelter, a beneficiary's residence, a location of another provider, or any location other than the location identified on the primary care clinic license or in the provider master file, shall be billed by the FQHC or RHC and reimbursed at the contracted rate when either of the following apply:*

(A) The location where the services are provided is approved by the federal Health Resources and Services Administration as part of the FQHC's or RHC's application for its grant under Section 330 of the Public Health Service Act.

(B) The services are provided at a location requiring payment under Title XIX of the Social Security Act.

(2) (A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist.

(B) Notwithstanding subdivision (e), if an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice, or a marriage and family therapist for the purposes of establishing its FQHC or RHC rate chooses to bill these services as a separate visit, the FQHC or RHC shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals or marriage and family therapists that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC's or RHC's rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist has been approved. Any approved increase or decrease in the provider's rate shall be made within six months after the date of receipt of the department's rate adjustment forms pursuant to this subparagraph and shall be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but in no case shall the effective date be earlier than January 1, 2008.

(C) An FQHC or RHC that does not provide dental hygienist, dental hygienist in alternative practice, or marriage and family therapist services, and later elects to add these services and bill these services as a separate visit, shall process the addition of these services as a change in scope of service pursuant to subdivision (e).

(3) Notwithstanding any other provision of this section, no later than July 1, 2018, a visit shall include a marriage and family therapist.

(h) (1) If FQHC or RHC services are partially reimbursed by a third-party payer, such as a managed care entity, as defined in Section 1396u-2(a)(1)(B) of Title 42 of the United States Code, the Medicare Program, or the Child Health and Disability Prevention (CHDP) Program, the department shall reimburse an FQHC or RHC for the difference between its per-visit PPS rate and receipts from other plans or ~~programs on a contract-by-contract basis and not in the aggregate, and may not include~~ *programs, and* managed care financial incentive payments ~~that are required by federal law to~~ *shall* be excluded from the calculation. *Financial incentive payments shall include, but are not limited to, monetary payments to an FQHC or RHC by a third-party payor for superior contract performance, such as improving health outcomes, reducing overall cost of care, or increasing the quality of care.*

(2) In the case of services furnished by an FQHC or RHC pursuant to a contract between the FQHC or RHC and the managed care entity, the department shall reimburse the FQHC or RHC in accordance with paragraph (1) and Section 1396a(bb)(5) of Title 42 of the United States Code.

(i) (1) Provided that the following entities are not operating as intermittent clinics, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, each entity shall have its reimbursement rate established in accordance with one of the methods outlined in paragraph (2) or (3), as selected by the FQHC or RHC:

(A) An entity that first qualifies as an FQHC or RHC in 2001 or later.

(B) A newly licensed facility at a new location added to an existing FQHC or RHC.

(C) An entity that is an existing FQHC or RHC that is relocated to a new site.

(2) (A) An FQHC or RHC that adds a new licensed location to its existing primary care license under paragraph (1) of subdivision (b) of Section 1212 of the Health and Safety Code may elect to have the reimbursement rate for the new location established in accordance with paragraph (3), or notwithstanding subdivision (e), an FQHC or RHC may choose to have one PPS rate for all locations that appear on its primary care license determined by submitting a change in scope of service request if both of the following requirements are met:

(i) The change in scope of service request includes the costs and visits for those locations for the first full fiscal year immediately following the date the new location is added to the FQHC's or RHC's existing licensee.

(ii) The FQHC or RHC submits the change in scope of service request ~~within 90 days after the~~ *at any time during* the FQHC's or RHC's first full fiscal year.

(B) The FQHC's or RHC's single PPS rate for those locations shall be calculated based on the total costs and total visits of those locations and shall be determined based on the following:

(i) An audit in accordance with Section 14170.

(ii) Rate changes based on a change in scope of service request shall be evaluated in accordance with ~~Medicare Federal~~ reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 *and Part 75 (commencing with Section 400) of Title 45* of the Code of Federal Regulations, or its successors.

(iii) Any approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.

(C) Except as specified in subdivision (j), this paragraph does not apply to a location that was added to an existing primary care clinic license by the State Department of Public Health, whether by a regional district office or the centralized application unit, prior to January 1, 2017.

(3) If an FQHC or RHC does not elect to have the PPS rate determined by a change in scope of service request, the FQHC or RHC shall have the reimbursement rate established for any of the entities identified in paragraph (1) or (2) in accordance with one of the following methods at the election of the FQHC or RHC:

(A) The rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable ~~FQHCs or RHCs~~ *FQHC or RHC sites* located in the same or adjacent area with a similar caseload.

(B) In the absence of three comparable ~~FQHCs or RHCs~~ *FQHC or RHC sites* with a similar caseload, the rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable ~~FQHCs or RHCs~~ *FQHC or RHC sites* located in the same or an adjacent service area, or in a reasonably similar geographic area with respect to relevant social, health care, and economic characteristics.

(C) At a new entity's one-time election, the department shall establish a reimbursement rate, calculated on a per-visit basis, that is equal to 100 percent of the projected allowable costs to the FQHC or RHC of furnishing FQHC or RHC services during the first 12 months of operation as an FQHC or RHC. After the first 12-month period, the projected per-visit rate shall be increased by the Medicare Economic Index then in effect. The projected allowable costs for the first 12 months shall be cost settled and the prospective payment reimbursement rate shall be adjusted based on actual and allowable cost per visit.

(D) The department may adopt any further and additional methods of setting reimbursement rates for *a* newly qualified ~~FQHCs or RHCs~~ *FQHC or RHC* as are consistent with Section 1396a(bb)(4) of Title 42 of the United States Code.

(4) In order for an FQHC or RHC to establish the comparability of its caseload for purposes of subparagraph (A) or (B) of paragraph (1), the department shall require that the FQHC or RHC submit its most recent annual utilization report as submitted to the Office of Statewide Health Planning and Development, unless the FQHC or RHC was not required to file an annual utilization report. ~~FQHCs or RHCs that have~~ *An FQHC or RHC that has* experienced changes in ~~their~~ *its* services or caseload subsequent to the filing of the annual utilization report may submit to the department a completed report in the format applicable to the prior calendar year. ~~FQHCs or RHCs that have~~ *An FQHC or RHC that has* not previously submitted an annual utilization report shall submit to the department a completed report in the format applicable to the prior calendar year. The FQHC or RHC shall not be required to submit the annual utilization report for the comparable ~~FQHCs or RHCs~~ *FQHC or RHC sites* to the department, but shall be required to identify the comparable ~~FQHCs or RHCs~~ *FQHC or RHC sites*.

(5) The rate for any newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered benefits on a fee-for-service basis under its existing provider number until it is informed of its FQHC or RHC enrollment approval, and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

(j) (1) Visits occurring at an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, of an existing FQHC or RHC, in a mobile unit as defined by paragraph (2) of subdivision (b) of Section 1765.105 of the Health and Safety Code, or at the election of the FQHC or RHC and subject to paragraph (2), a location added to an existing primary care clinic license by the State Department of Public Health prior to January 1, 2017, shall be billed by and reimbursed at the same rate as the FQHC or RHC that either established

the intermittent clinic site or mobile unit, or that held the clinic license to which the location was added prior to January 1, 2017.

(2) If an FQHC or RHC with at least one additional location on its primary care clinic license that was added by the State Department of Public Health prior to January 1, 2017, applies for an adjustment to its per-visit rate based on a change in the scope of ~~services~~ *service* provided by the FQHC or RHC as described in subdivision (e), all locations on the FQHC or RHC's primary care clinic license shall be subject to a ~~scope-of-service~~ *scope of service* adjustment in accordance with either paragraph (2) or (3) of subdivision (i), as selected by the FQHC or RHC.

(3) Nothing in this subdivision precludes or otherwise limits the right of the FQHC or RHC to request a ~~scope-of-service~~ *scope of service* adjustment to the rate.

(k) An FQHC or RHC may elect to have ~~pharmacy or~~ dental services reimbursed on a fee-for-service basis, utilizing the current fee schedules established for those services. These costs shall be adjusted out of the FQHC's or RHC's clinic base rate as ~~scope-of-service changes~~ *a scope of service change*. An FQHC or RHC that reverses its election under this subdivision shall revert to its prior rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with applicable ~~scope-of-service~~ *scope of service* adjustments as provided in subdivision (e).

(l) An FQHC or RHC may elect to have pharmacy services reimbursed on a fee-for-service basis as provided in subdivision (k).

~~(j)~~

(m) Reimbursement for Drug Medi-Cal services shall be provided pursuant to this subdivision.

(1) An FQHC or RHC may elect to have Drug Medi-Cal services reimbursed directly from a county or the department under contract with the FQHC or RHC pursuant to paragraph (4).

(2) (A) For an FQHC or RHC to receive reimbursement for Drug Medi-Cal services directly from the county or the department under contract with the FQHC or RHC pursuant to paragraph (4), costs associated with providing Drug Medi-Cal services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing Drug Medi-Cal services shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering Drug Medi-Cal services the clinic uses different clinical staff at a different location.

(B) If the FQHC or RHC does not use different clinical staff at a different location to deliver Drug Medi-Cal services, the FQHC or RHC shall submit documentation, in a manner determined by the department, that the current per-visit PPS rate does not include any costs related to rendering Drug Medi-Cal services, including costs related to utilizing space in part of the FQHC's or RHC's building, that are or were previously calculated as part of the clinic's base PPS rate.

(3) If the costs associated with providing Drug Medi-Cal services are within the FQHC's or RHC's clinic base PPS rate, as determined by the department, the Drug Medi-Cal services costs shall be adjusted out of the FQHC's or RHC's per-visit PPS rate as a change in scope of service.

(A) An FQHC or RHC shall submit to the department a ~~scope-of-service~~ *scope of service* change request to adjust the FQHC's or RHC's clinic base PPS rate after the first full fiscal year of rendering Drug Medi-Cal services outside of the PPS rate. Notwithstanding subdivision (e), the ~~scope-of-service~~ *scope of service* change request shall include a full fiscal year of activity that does not include Drug Medi-Cal services costs.

(B) An FQHC or RHC may submit requests for ~~scope-of-service~~ *scope of service* change under this subdivision ~~only within 90 days following the beginning of~~ *at any time during* the FQHC's or RHC's fiscal year. Any ~~scope-of-service~~ *scope of service* change request under this subdivision approved by the department shall be retroactive to the first day that Drug Medi-Cal services were rendered and reimbursement for Drug Medi-Cal services was received outside of the PPS rate, but in no case shall the effective date be earlier than January 1, 2018.

(C) The FQHC or RHC may bill for Drug Medi-Cal services outside of the PPS rate when the FQHC or RHC obtains approval as a Drug Medi-Cal provider and enters into a contract with a county or the department to provide these services pursuant to paragraph (4).

(D) Within 90 days of receipt of the request for a ~~scope-of-service~~ *scope of service* change under this subdivision, the department shall issue the FQHC or RHC an interim rate equal to 90 percent of the FQHC's or RHC's projected

allowable cost, as determined by the department. An audit to determine the final rate shall be performed in accordance with Section 14170.

(E) Rate changes based on a request for ~~scope of service~~ *scope of service* change under this subdivision shall be evaluated in accordance with ~~Medicare~~ *federal* reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 *and Part 75 (commencing with Section 400) of Title 45* of the Code of Federal Regulations, or its successor.

(F) For purposes of recalculating the PPS rate, the FQHC or RHC shall provide upon request to the department verifiable documentation as to which employees spent time, and the actual time spent, providing ~~federally qualified health center services or rural health center services~~ *FQHC or RHC services* and Drug Medi-Cal services.

(G) After the department approves the adjustment to the FQHC's or RHC's clinic base PPS rate and the FQHC or RHC is approved as a Drug Medi-Cal provider, an FQHC or RHC shall not bill the PPS rate for any Drug Medi-Cal services provided pursuant to a contract entered into with a county or the department pursuant to paragraph (4).

(H) An FQHC or RHC that reverses its election under this subdivision shall revert to its prior PPS rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with the applicable ~~scope of service~~ *scope of service* adjustments as provided for in subdivision (e).

(4) Reimbursement for Drug Medi-Cal services shall be determined according to subparagraph (A) or (B), depending on whether the services are provided in a county that participates in the Drug Medi-Cal organized delivery system (DMC-ODS).

(A) In a county that participates in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county or county designee and the FQHC or RHC. If the county or county designee refuses to contract with the FQHC or RHC, the FQHC or RHC may follow the contract denial process set forth in the Special Terms and Conditions.

(B) In a county that does not participate in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county and the FQHC or RHC. If the county refuses to contract with the FQHC or RHC, the FQHC or RHC may request to contract directly with the department and shall be reimbursed for those services at the Drug Medi-Cal fee-for-service rate.

(5) The department shall not reimburse an FQHC or RHC pursuant to subdivision (h) for the difference between its per-visit PPS rate and any payments for Drug Medi-Cal services made pursuant to this subdivision.

(6) For purposes of this subdivision, the following definitions shall apply:

(A) "Drug Medi-Cal organized delivery system" or "DMC-ODS" means the Drug Medi-Cal organized delivery system authorized under the California Medi-Cal 2020 Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services and described in the Special Terms and Conditions.

(B) "Special Terms and Conditions" shall have the same meaning as set forth in subdivision (o) of Section 14184.10.

~~(m)~~

(n) Reimbursement for specialty mental health services shall be provided pursuant to this subdivision.

(1) An FQHC or RHC and one or more mental health plans that contract with the department pursuant to Section 14712 may mutually elect to enter into a contract to have the FQHC or RHC provide specialty mental health services to Medi-Cal beneficiaries as part of the mental health plan's network.

(2) (A) For an FQHC or RHC to receive reimbursement for specialty mental health services pursuant to a contract entered into with the mental health plan under paragraph (1), the costs associated with providing specialty mental health services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing specialty mental health services shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering specialty mental health services the clinic uses different clinical staff at a different location.

(B) If the FQHC or RHC does not use different clinical staff at a different location to deliver specialty mental health services, the FQHC or RHC shall submit documentation, in a manner determined by the department, that the current per-visit PPS rate does not include any costs related to rendering specialty mental health services,

including costs related to utilizing space in part of the FQHC's or RHC's building, that are or were previously calculated as part of the clinic's base PPS rate.

(3) If the costs associated with providing specialty mental health services are within the FQHC's or RHC's clinic base PPS rate, as determined by the department, the specialty mental health services costs shall be adjusted out of the FQHC's or RHC's per-visit PPS rate as a change in scope of service.

(A) An FQHC or RHC shall submit to the department a ~~scope-of-service~~ *scope of service* change request to adjust the FQHC's or RHC's clinic base PPS rate after the first full fiscal year of rendering specialty mental health services outside of the PPS rate. Notwithstanding subdivision (e), the ~~scope-of-service~~ *scope of service* change request shall include a full fiscal year of activity that does not include specialty mental health costs.

(B) An FQHC or RHC may submit requests for a ~~scope-of-service~~ *scope of service* change under this subdivision ~~only within 90 days following the beginning of~~ *at any time during* the FQHC's or RHC's fiscal year. Any ~~scope-of-service~~ *scope of service* change request under this subdivision approved by the department shall be retroactive to the first day that specialty mental health services were rendered and reimbursement for specialty mental health services was received outside of the PPS rate, but in no case shall the effective date be earlier than January 1, 2018.

(C) The FQHC or RHC may bill for specialty mental health services outside of the PPS rate when the FQHC or RHC contracts with a mental health plan to provide these services pursuant to paragraph (1).

(D) Within 90 days of receipt of the request for a scope-in-service change under this subdivision, the department shall issue the FQHC or RHC an interim rate equal to 90 percent of the FQHC's or RHC's projected allowable cost, as determined by the department. An audit to determine the final rate shall be performed in accordance with Section 14170.

(E) Rate changes based on a request for ~~scope-of-service~~ *scope of service* change under this subdivision shall be evaluated in accordance with ~~Medicare~~ *federal* reasonable cost *reimbursement* principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 *and Part 75 (commencing with Section 400) of Title 45* of the Code of Federal Regulations, or its successor.

(F) For the purpose of recalculating the PPS rate, the FQHC or RHC shall provide upon request to the department verifiable documentation as to which employees spent time, and the actual time spent, providing ~~federally qualified health center services or rural health center services~~ *FQHC and RHC services* and specialty mental health services.

(G) After the department approves the adjustment to the FQHC's or RHC's clinic base PPS rate, an FQHC or RHC shall not bill the PPS rate for any specialty mental health services that are provided pursuant to a contract entered into with a mental health plan pursuant to paragraph (1).

(H) An FQHC or RHC that reverses its election under this subdivision shall revert to its prior PPS rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with the applicable scope-of-service *scope of service* adjustments as provided for in subdivision (e).

(4) The department shall not reimburse an FQHC or RHC pursuant to subdivision (h) for the difference between its per-visit PPS rate and any payments made for specialty mental health services under this subdivision.

~~(n) FQHCs and RHCs~~

~~(o) Notwithstanding Section 14104.5 or any other law, an FQHC or RHC may elect to~~ appeal a grievance or complaint concerning ratesetting, ~~scope-of-service changes,~~ *a scope of service change*, and settlement of cost report audits, in the manner prescribed by Section ~~14171.~~ *14171 or file a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure in the superior court.* The rights and remedies provided under this subdivision are cumulative to the rights and remedies available under all other provisions of law of this state.

~~(p)~~

~~(p)~~ The department shall promptly seek all necessary federal approvals in order to implement this section, including any amendments to the state plan. To the extent that any element or requirement of this section is not approved, the department shall submit a request to the federal Centers for Medicare and Medicaid Services for any waivers that would be necessary to implement this section.

(q) The department shall ensure that departmental staff conducting audits, pursuant to Article 5.3 of Chapter 7 of Division 9 of this code, of FQHC or RHC services receive appropriate training on FQHC and RHC program policies and procedures within the Medi-Cal program, including the federal and state legislative history on statutory and regulatory provisions governing the program, and the grant parameters set forth under Section 330 of the federal Public Health Service Act. This training shall be incorporated into existing training opportunities available under the department's current budget for the purpose of improving the quality and integrity of the department's audit process related to the FQHC and RHC provider. Nothing in this subdivision shall be construed to increase departmental obligations.

~~(p)~~

(r) The department shall implement this section only to the extent that federal financial participation is available.

~~(q)~~

(s) Notwithstanding any other law, the director may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific subdivisions ~~(l) and (m)~~ (m) and (n) by means of a provider bulletin or similar instruction. The department shall notify and consult with interested parties and appropriate stakeholders in implementing, interpreting, or making specific the provisions of subdivisions ~~(l) and (m)~~, (m) and (n), including all of the following:

(1) Notifying provider representatives in writing of the proposed action or change. The notice shall occur, and the applicable draft provider bulletin or similar instruction, shall be made available at least 10 business days prior to the meeting described in paragraph (2).

(2) Scheduling at least one meeting with interested parties and appropriate stakeholders to discuss the proposed action or change.

(3) Allowing for written input regarding the proposed action or change, to which the department shall provide summary written responses in conjunction with the issuance of the applicable final written provider bulletin or similar instruction.


(4) Providing at least 60 days advance notice of the effective date of the proposed action or change.

SEC. 2. Section 14132.101 of the Welfare and Institutions Code is repealed.

~~14132.101.(a) Notwithstanding paragraphs (4) and (5) of subdivision (e) of Section 14132.100, a scope of service change request, whether mandatory or permissive, shall be timely when filed within 150 days following the beginning of the federally qualified health center's or rural health clinic's fiscal year following the year in which the change occurred.~~

~~(b) Notwithstanding subdivision (a), and notwithstanding subdivision (c) of Section 14132.100, a federally qualified health center described in Section 14132.102 shall be deemed to have filed a scope of service change in a timely manner upon compliance with the requirements set forth in subdivision (c) of Section 14132.102.~~

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(T) – AB 895 (Muratsuchi) School-based early mental health intervention and prevention services

Background:

The School-Based Early Mental Health Intervention and Prevention Services for Children Act of 1991 authorizes the Director of Health Care Services, in consultation with the Superintendent of Public Instruction, to provide matching grants to local educational agencies to pay the state share of the costs of providing school-based early mental health intervention and prevention services to eligible pupils at school sites of eligible pupils, subject to the availability of funding each year.

AB 895 (Muratsuchi) would revise the program to award grants rather than matching grants and would expand the definition of an eligible pupil to include a pupil who attends a preschool program at a contracting agency of the California state preschool program or a local educational agency, and a pupil who is in transitional kindergarten, thereby extending the application of the act to those persons. The bill would also include charter schools in the definition of local educational agency, thereby extending the application of the act to those entities. The bill would revise the description of eligible support services to include the ability of the local education agency to partner with the county to establish direct linkages for students to community-based mental health services and the ability to participate in evidence-based and community-defined best practice programs for mental health services improvements, among other changes.

Location: 3/4/2019 Assembly Committee on Education

Status: 3/4/2019 Referred to Assembly Committees on Education and Health

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 895 (Muratsuchi) for potential impacts on access to mental health services for students.

Attachment: AB 895 (Muratsuchi) Bill Text

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AB-895 School-based early mental health intervention and prevention services. (2019-2020)

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Date Published: 02/20/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 895**

Introduced by Assembly Member Muratsuchi

February 20, 2019

An act to amend Sections 4372 and 4380 of, and to add Section 4392 to, the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 895, as introduced, Muratsuchi. School-based early mental health intervention and prevention services.

Existing law, the School-Based Early Mental Health Intervention and Prevention Services for Children Act of 1991, authorizes the Director of Health Care Services, in consultation with the Superintendent of Public Instruction, to provide matching grants to local educational agencies to pay the state share of the costs of providing school-based early mental health intervention and prevention services to eligible pupils at schoolsites of eligible pupils, subject to the availability of funding each year. Existing law defines "eligible pupil" for this purpose as a pupil who attends a publicly funded elementary school and who is in kindergarten or grades 1 to 3, inclusive. Existing law also defines "local educational agency" as a school district or county office of education or a state special school. Existing law describes eligible supportive services for purposes of determining the priority to be given to applicants for the grants.

This bill would revise the program to award grants rather than matching grants, and would expand the definition of an eligible pupil to include a pupil who attends a preschool program at a contracting agency of the California state preschool program or a local educational agency, and a pupil who is in transitional kindergarten, thereby extending the application of the act to those persons. The bill would also include charter schools in the definition of local educational agency, thereby extending the application of the act to those entities. The bill would revise the description of eligible support services to include the ability of the local education agency to partner with the county to establish direct linkages for students to community-based mental health services and the ability to participate in evidence-based and community-defined best practice programs for mental health services improvements, among other changes.

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, funds a system of county mental health plans for the provision of mental health services, as specified. The act establishes the Mental Health Services Fund to fund various county

mental health programs by imposing a tax of 1% on annual incomes above \$1,000,000. The act provides that it may be amended by the Legislature by a 2/3 vote of each house as long as the amendment is consistent with and furthers the intent of the act, and that the Legislature may also clarify procedures and terms of the act by majority vote.

This bill would implement the program contingent upon an appropriation in the annual Budget Act from the administrative portion of the Mental Health Services Fund for these purposes.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Pupils from all backgrounds and circumstances in California deserve adequate behavioral and academic support to achieve their full potential.

(b) Pupils in California face relational and environmental stressors that diminish their ability to achieve their full potential. Among these complex challenges may be poverty, frequent exposure to violence, placement in the foster care system, and other negative experiences that result in chronic stress and trauma. Nearly 700,000 pupils in California receive special education services, and nearly one in four youth are living in poverty. Nearly 60,000 youth are currently placed in foster care, and as many as 20 percent of youth are in need of mental health interventions.

(c) In 2014, an estimated 22.5 million Americans 12 years of age or older reported needing treatment for a substance use disorder.

(d) Mental health disorders and substance use disorders share some underlying causes, including changes in brain composition, genetic vulnerabilities, and early exposure to stress or trauma.

(e) Fifty-seven percent of Californian children have experienced trauma.

(f) Early intervention and prevention of mental health and substance use disorders are critical to Californians' behavioral and physical health.

(g) Pupils with these stressors are frequently failed by the current policies and systems in place, as measured by indicators for academic outcomes, social inclusion, emotional development, mental health support, and general pupil well-being.

(h) In California, more than 20 percent of special education pupils spend less than 40 percent of their day within their regular classroom, an indicator of inclusion, compared to 14 percent of special education pupils nationally and a federal target of less than 9 percent.

(i) Only 59 percent of special education pupils graduated from high school within four years in the 2010–11 fiscal year compared to 76 percent of all pupils.

(j) Statewide, a recent study found only 58 percent of foster youth in grade 12 graduated compared to 85 percent of all youth, with nearly 14 percent of foster youth in grade 12 dropping out of school.

(k) Far too often, youth with mental health challenges do not receive the services they need. For instance, one study found that nearly two-thirds of adolescents who experienced a major depressive disorder in the last year did not receive treatment.

(l) Even by grade 3, low-income pupils perform substantially below their higher income peers in areas of social and emotional skills, social and emotional development, engagement in school, and physical well-being.

(m) Delivery of comprehensive community-based support and resources requires a high level of collaboration among schools, school districts, and county mental health agencies.

SEC. 2. Section 4372 of the Welfare and Institutions Code is amended to read:

4372. For the purposes of this part, the following definitions ~~shall~~ apply:

(a) "Cooperating entity" means ~~any~~ a federal, state, or local, public or private nonprofit agency providing school-based early mental health intervention and prevention services that agrees to offer services at a schoolsite through a program assisted under this part.

(b) "Eligible pupil" means a pupil who attends a *preschool program at a contracting agency of the California state preschool program, as established by Article 7 (commencing with Section 8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, or a local educational agency, or who attends a* publicly funded elementary school and who is in ~~kindergarten~~ *kindergarten, transitional kindergarten, or grades 1 to 3, inclusive.*

(c) "Local educational agency" means any school district or county office of education, ~~or~~ state special *school, or charter* school.

(d) *"Department" means the State Department of Health Care Services.*

~~(e)~~

(e) "Director" means the ~~State~~ Director of ~~Mental Health.~~ *Health Care Services.*

~~(e)~~

(f) "Supportive service" means a service that will enhance the mental health and ~~social~~ *social-emotional* development of children.

SEC. 3. Section 4380 of the Welfare and Institutions Code is amended to read:

4380. ~~Subject~~ *Beginning with grants for the 2020–21 school year and subject* to the availability of funding each year, the Legislature authorizes the director, in consultation with the Superintendent of Public Instruction, to award ~~matching~~ grants to local educational agencies to ~~pay the state share of the costs of providing~~ *provide* programs that provide school-based early mental health intervention and prevention services to eligible pupils at schoolsites of eligible pupils, as follows:

(a) The director shall award ~~matching~~ grants pursuant to this chapter to local educational agencies throughout the state.

(b) ~~Matching grants~~ *Grants* awarded under this part shall be awarded for a period of not more than three years and ~~no~~ a single schoolsite shall *not* be awarded more than one ~~grant, except for a schoolsite that received a grant prior to July 1, 1992.~~ *grant.*

(c) The director shall pay to each local educational agency having an application approved pursuant to requirements in this part the state share of the cost of the activities described in the application.

~~(d) Commencing July 1, 1993, the state share of matching grants shall be a maximum of 50 percent in each of the three years.~~

~~(e) Commencing July 1, 1993, the local share of matching grants shall be at least 50 percent, from a combination of school district and cooperating entity funds.~~

~~(f) The local share of the matching grant may be in cash or payment in kind.~~

~~(g) Priority~~

(d) *Priority* shall be given to those applicants that demonstrate the following:

(1) The local educational agency will serve the greatest number of eligible pupils from low-income families.

(2) The local educational agency will provide a strong parental involvement component.

(3) The local educational agency will provide supportive services with one or more cooperating entities.

(4) The local educational agency will provide services at a low cost per child served in the project.

(5) The local educational agency will provide programs and services that are based on adoption or modification, or both, of existing programs that have been shown to be effective. No more than 20 percent of the grants awarded by the director may be utilized for new models.

(6) The local educational agency will provide services to children who are in out-of-home placement or who are at risk of being in out-of-home placement.

~~(h)~~

(e) Eligible supportive services may include the following:

~~(1) Individual and group early mental health intervention and prevention services.~~

~~(2) Parent and caregiver engagement through conferences or training, or both.~~

~~(3) Teacher and staff conferences and training related to meeting project goals.~~

(1) The ability of the local education agency to provide direct services including, but not limited to, increasing staff to student ratios and providing individual and group early mental health intervention and prevention services.

(2) Providing individual and small group counseling supports to individual pupils as well as pupil groups to address social-emotional and mental health concerns.

(3) The ability of the local education agency to partner with the local county to establish direct linkages for students to community-based mental health services.

(4) The ability to participate in evidence-based and community-defined best practice programs for mental health services improvements.

~~(4)~~

(5) Referral to outside resources when eligible pupils require additional services.

~~(5) Use of paraprofessional staff, who are trained and supervised by credentialed school psychologists, school counselors, or school social workers, to meet with pupils on a short-term weekly basis, in a one-on-one setting as in the primary intervention program established pursuant to Chapter 4 (commencing with Section 4343) of Part 3. A minimum of 80 percent of the grants awarded by the director shall include the basic components of the primary intervention program.~~

(6) Any other service or activity that will improve the mental health of eligible ~~pupils~~ *pupils, particularly evidence-based interventions and promising practices intended to mitigate the consequences of childhood adversity and cultivate resilience and protective factors.*

~~Prior~~

(f) Prior to participation by an eligible pupil in either individual or group services, consent of a parent or guardian shall be obtained.

~~(g)~~

(g) Each local educational agency seeking a grant under this chapter shall submit an application to the director at the time, in a manner, and accompanied by any information the director may reasonably require.

~~(j) Each matching~~

(h) Each grant application submitted shall include all of the following:

(1) Documentation of need for the school-based early mental health intervention and prevention services.

(2) A description of the school-based early mental health intervention and prevention services expected to be provided at the schoolsite.

(3) A statement of program goals.

(4) A list of cooperating entities that will participate in the provision of services. A letter from each cooperating entity confirming its participation in the provision of services shall be included with the list. At least one letter shall be from a cooperating entity confirming that it will agree to screen referrals of low-income children the program has determined may be in need of mental health treatment services and that, if the cooperating entity determines that the child is in need of those services and if the cooperating entity determines that according to its priority process the child is eligible to be served by it, the cooperating entity will agree to provide those mental health treatment services.

(5) A detailed budget and budget narrative.

~~(6) A description of the proposed plan for parent involvement in the program.~~

~~(7)~~

(6) A description of the population anticipated to be served, including number of pupils to be served and socioeconomic indicators of sites to receive funds.

~~(8) A description of the matching funds from a combination of local education agencies and cooperating entities.~~

~~(9)~~

(7) A plan describing how the proposed school-based early mental health intervention and prevention services program will be continued after the ~~matching~~ grant has expired.

~~(10)~~

(8) Assurance that grants would supplement and not supplant existing local resources provided for early mental health intervention and prevention services.

~~(11)~~

(9) A description of an evaluation plan that includes quantitative and qualitative measures of school and pupil characteristics, and a comparison of children's adjustment to school.

~~(k) Matching grants~~

(i) *Grants* awarded pursuant to this article may be used for salaries of staff responsible for implementing the school-based early mental health intervention and prevention services program, equipment and supplies, training, and insurance.

~~(j)~~

(j) Salaries of administrative staff and other administrative costs associated with providing services shall be limited to 5 percent of the state share of assistance provided under this section.

~~(m) No more than 10 percent of each matching grant awarded pursuant to this article may be used for matching grant evaluation.~~

~~(n)~~

(k) No more than 10 percent of the moneys allocated to the director pursuant to this chapter may be utilized for program administration and evaluation.

~~Program administration shall include both state staff and field staff who are familiar with and have successfully implemented school-based early mental health intervention and prevention services. Field staff may be contracted with by local school districts or community mental health programs. Field staff shall provide support in the timely and effective implementation of school-based early mental health intervention and prevention services. Reviews of each project shall be conducted at least once during the first year of funding.~~

~~(o) Subject to the approval of the director, at the end of the fiscal year, a school district may apply unexpended funds to the budget for the subsequent funding year.~~

~~(p) Contracts for the program and administration, or ancillary services in support of the program, shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services.~~

SEC. 4. Section 4392 is added to the Welfare and Institutions Code, to read:

4392. Implementation of this chapter is contingent upon an appropriation in the annual Budget Act from the administrative portion of the Mental Health Services Fund for the purposes of this chapter.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(U) – AB 1055 (Levine) Mental health: involuntary commitment

Background:

Current law requires a person admitted to a facility for 72-hour treatment and evaluation under the Lanterman-Petris-Short Act to receive an evaluation as soon as possible after admission and to receive whatever treatment and care the person's condition requires for the full period that the person is held. Existing law requires that person to be released, referred for further care and treatment on a voluntary basis, or certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part. AB 1055 (Levine) would require a person who is released to also be referred for further care and treatment on a voluntary basis, and would require a psychiatrist, psychologist, or medical director approving the release, to, prior to that release, ensure that an initial outpatient appointment is scheduled with a psychiatrist or psychologist within five (5) business days of the release.

Location: 2/21/2019 Assembly

Status: 2/22/2019 From printer. May be heard in committee March 24.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1055 for potential requirements on licensees employed by or contracted with facilities that admit individuals for involuntary 72-hour treatment and evaluation under the Lanterman-Petris-Short Act.

Attachment: AB 1055 (Levine) Bill Text


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AB-1055 Mental health: involuntary commitment. (2019-2020)

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Date Published: 02/21/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 1055

Introduced by Assembly Member Levine

February 21, 2019

An act to amend Section 5152 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1055, as introduced, Levine. Mental health: involuntary commitment.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary detention and treatment of persons with specified mental health disorders for the protection of the persons so committed. Under the act, when a person, as a result of a mental health disorder, is a danger to others, or to himself or gravely disabled, the person may, upon probable cause, be taken into custody and placed in a facility designated by the county and approved by the State Department of Social Services for up to 72 hours for evaluation and treatment. Existing law requires a person admitted to a facility for 72-hour treatment and evaluation under the act to receive an evaluation as soon as possible after admission and to receive whatever treatment and care the person's condition requires for the full period that the person is held. Existing law requires that person to be released, referred for further care and treatment on a voluntary basis, or certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part.

This bill would require a person who is released to also be referred for further care and treatment on a voluntary basis, and would require a psychiatrist, psychologist, or medical director approving the release, to, prior to that release, ensure that an initial outpatient appointment with a psychiatrist or psychologist within 5 business days of the release is scheduled.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5152 of the Welfare and Institutions Code is amended to read:

5152. (a) ~~Each~~*A* person admitted to a facility for 72-hour treatment and evaluation ~~under the provisions of pursuant to~~ this article shall receive an evaluation as soon as possible after ~~he or she~~ *the person* is admitted and

shall receive whatever treatment and care ~~his or her~~ *their* condition requires for the full period that ~~he or she~~ *the medical director* shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment.

(b) ~~Any~~ *(1)* A person who has been detained for evaluation and treatment shall be ~~released,~~ *released and* referred for further care and treatment on a voluntary basis, or certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part as required.

(2) Prior to the release of a person to be referred for further care and treatment on a voluntary basis, the psychiatrist, psychologist, or medical director approving the release shall ensure that an initial outpatient appointment with a psychiatrist or psychologist within five business days of the person's release is scheduled.

(c) *(1)* A person designated by the mental health facility shall give to any person who has been detained at that facility for evaluation and treatment and who is receiving medication as a result of ~~his or her~~ *their* mental illness, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication. The State Department of Health Care Services shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:

~~(1)~~

(A) The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.

~~(2)~~

(B) The likelihood of improving or not improving without the medication.

~~(3)~~

(C) Reasonable alternative treatments available.

~~(4)~~

(D) The name and type, frequency, amount, and method of dispensing the medication, and the probable length of time the medication will be taken.

~~The~~

(2) The fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication shall not constitute new grounds for release.

(d) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(V) – AB 1271 (Diep) Licensing examinations: report

Background:

Current law provides for the licensure and regulation of professions and vocations by various boards that comprise the Department of Consumer Affairs. AB 1271 (Diep) would require the department, on or before January 1, 2021, to provide a report to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development that contains specified information relating to licensing examinations for each licensed profession and vocation under the department's jurisdiction. This bill would require the report to contain the following information:

Whether licensure requires completion of a board-approved education or training program.

Whether licensure requires passage of a written or clinical licensing examination. Whether an examination fee is required in addition to any other initial licensure or application fees and, if so, the amount of the examination fee.

To the extent feasible, information on the average length of time between submitting a licensure application and taking the licensing examination.

Information on average passage rates for the licensing examination and, to the extent feasible, information on the percentage of yearly applicants who ultimately never receive a license due to one or more examination failures.

Location: 2/21/2019 Assembly

Status: 2/22/2019 From printer. May be heard in committee March 24.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1271 for potential impacts on Board operations and staff workload related to the bill's mandated data collection and reporting.

Attachment: AB 1271 (Diep) Bill Text

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AB-1271 Licensing examinations: report. (2019-2020)

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Date Published: 02/22/2019 04:00 AM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 1271**

Introduced by Assembly Member Diep

February 21, 2019

An act relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1271, as introduced, Diep. Licensing examinations: report.

Existing law provides for the licensure and regulation of professions and vocations by various boards that comprise the Department of Consumer Affairs.

This bill would require the department, on or before January 1, 2021, to provide a report to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development that contains specified information relating to licensing examinations for each licensed profession and vocation under the department's jurisdiction.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The intent of the Legislature in enacting this act is to seek opportunities to reduce barriers to professional licensing by eliminating licensing examinations that are found largely to duplicate already required formal education and training.

SEC. 2. On or before January 1, 2021, the Department of Consumer Affairs shall provide a report to the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development that contains the following summary information for each licensed profession and vocation under its jurisdiction:


- (a) Whether licensure requires completion of a board-approved education or training program.
- (b) Whether licensure requires passage of a written or clinical licensing examination.

(c) Whether an examination fee is required in addition to any other initial licensure or application fees and, if so, the amount of the examination fee.

(d) To the extent feasible, information on the average length of time between submitting a licensure application and taking the licensing examination.

(e) Information on average passage rates for the licensing examination and, to the extent feasible, information on the percentage of yearly applicants who ultimately never receive a license due to one or more examination failures.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(W) – AB 1601 (Ramos) Office of Emergency Services: behavioral health response

Background:

AB 1601 (Ramos) would establish a behavioral health deputy director within the Office of Emergency Services to ensure individuals have access to necessary mental and behavioral health services and supports in the aftermath of a natural disaster or declaration of a state of emergency and would require the deputy director to collaborate with the Director of Health Care Services to coordinate the delivery of trauma-related support to individuals affected by a natural disaster or state of emergency.

Location: 2/22/2019 Assembly

Status: 2/25/2019 Read first time.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1601 (Ramos) for potential impacts on access to mental health services during and after a natural disaster.

Attachment: AB 1601 (Ramos) Bill Text

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AB-1601 Office of Emergency Services: behavioral health response. (2019-2020)

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Date Published: 02/22/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 1601**

Introduced by Assembly Member Ramos
(Coauthor: Assembly Member Wood)

February 22, 2019

An act to add Sections 8587.14 and 8587.15 to the Government Code, relating to behavioral health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1601, as introduced, Ramos. Office of Emergency Services: behavioral health response.

The California Emergency Services Act establishes the Office of Emergency Services within the Governor's office under the supervision of the Director of Emergency Services and makes the office responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies. Existing law authorizes the Governor, or the director when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

This bill would establish a behavioral health deputy director within the Office of Emergency Services to ensure individuals have access to necessary mental and behavioral health services and supports in the aftermath of a natural disaster or declaration of a state of emergency and would require the deputy director to collaborate with the Director of Health Care Services to coordinate the delivery of trauma-related support to individuals affected by a natural disaster or state of emergency. The bill would require the Director of Health Care Services, in collaboration with the Office of Emergency Services, to immediately request necessary federal waivers to ensure the provision of healthcare services, as specified, during a natural disaster or declared state of emergency.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8587.14 is added to the Government Code, to read:

8587.14. (a) The office shall establish a behavioral health deputy director to ensure individuals have access to necessary mental and behavioral health services and supports in the aftermath of a natural disaster or declaration of a state of emergency.

(b) The deputy director shall collaborate with the Director of Health Care Services to coordinate the delivery of trauma-related support to individuals affected by a natural disaster or state of emergency. The deputy director's responsibilities may include, but shall not be limited to, both of the following:


(1) Coordinating local behavioral health professionals to provide access to behavioral health services in the aftermath of a natural disaster or declaration of a state of emergency, including ensuring those behavioral health professionals are properly licensed.

(2) Ensuring the availability of trauma specialists to train the appropriate local emergency response staff in the aftermath of a natural disaster or declaration of a state of emergency.

SEC. 2. Section 8587.15 is added to the Government Code, to read:

8587.15. The Director of Health Care Services, in coordination with the office, shall immediately request necessary federal waivers to ensure the provision of healthcare services to individuals in an impacted area during a natural disaster or declared state of emergency.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(X) – SB 201 (Wiener) Medical procedures: treatment or intervention: sex characteristics of a minor

Background:

Current law, under the Medical Practice Act, makes it unprofessional conduct for a physician and surgeon to fail to comply with prescribed informed consent requirements relating to various medical procedures, including sterilization procedures, the removal of sperm or ova from a patient under specified circumstances, and the treatment of breast cancer.

SB 201 (Wiener) would prohibit a physician and surgeon from performing any treatment or intervention on the sex characteristics of an intersex minor if the treatment or intervention may be deferred until the intersex minor can provide informed consent, as described. The bill would also require a physician and surgeon to provide a written and oral disclosure prior to performing the treatment or intervention and to obtain the informed consent of the intersex minor to the treatment or intervention. The bill would still authorize a physician and surgeon to perform the medical procedure without the minor's consent if it is medically necessary and the physician and surgeon provides the written and oral disclosure to the parent or guardian and obtains their informed consent. The bill would also authorize the Medical Board of California to develop and adopt medical guidelines to implement these requirements.

Location: 2/13/2019 Senate Committee on Business, Professions and Economic Development

Status: 2/13/2019 Referred to Senate Committee on Business, Professions and Economic Development

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 201 for potential issues regarding psychological evaluations or referrals being incorporated into these guidelines.

Attachment: SB 201 (Wiener) Bill Text

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SB-201 Medical procedures: treatment or intervention: sex characteristics of a minor. (2019-2020)

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Date Published: 01/31/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 201**

Introduced by Senator Wiener

(Coauthor: Senator Beall)

(Coauthors: Assembly Members Chiu, Gloria, McCarty, Quirk, and Ting)

January 31, 2019

An act to add Section 2295 to the Business and Professions Code, and to add Section 6931 to the Family Code, relating to sex characteristics.

LEGISLATIVE COUNSEL'S DIGEST

SB 201, as introduced, Wiener. Medical procedures: treatment or intervention: sex characteristics of a minor.

(1) Under existing law, the Medical Practice Act, it is unprofessional conduct for a physician and surgeon to fail to comply with prescribed informed consent requirements relating to various medical procedures, including sterilization procedures, the removal of sperm or ova from a patient under specified circumstances, and the treatment of breast cancer. Any violation of the law relating to enforcement of the Medical Practice Act is a misdemeanor, as specified.

This bill would prohibit a physician and surgeon from performing any treatment or intervention on the sex characteristics of an intersex minor if the treatment or intervention may be deferred until the intersex minor can provide informed consent, as described. The bill would, among other things, require a physician and surgeon to provide a written and oral disclosure prior to performing the treatment or intervention and to obtain the informed consent of the intersex minor to the treatment or intervention, as specified. The bill would authorize a physician and surgeon to perform the medical procedure without the minor's consent if it is medically necessary and the physician and surgeon provides the written and oral disclosure to the parent or guardian and obtains their informed consent, as specified. The bill would authorize the Medical Board of California to develop and adopt medical guidelines to implement these requirements. Any violation of these provisions would be subject to disciplinary action by the board, but not criminal prosecution.

(2) Under existing law, a minor may consent to specified medical procedures without the consent of a parent or guardian.

This bill would authorize an intersex minor to provide informed consent to treatment or intervention on their sex characteristics, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2295 is added to the Business and Professions Code, to read:

2295. (a) Consistent with Senate Concurrent Resolution 110 of the 2017–18 Regular Session (Resolution Chapter 225 of the Statutes of 2018), the Legislature hereby finds and declares all of the following:

(1) The Legislature opposes all forms of prejudice, bias, or discrimination and affirms its commitment to the dignity and autonomy of all people, including those born with variations in their physical sex characteristics.

(2) Intersex people are a part of the fabric of our state’s diversity to be celebrated, rather than an aberration to be corrected.

(3) Intersex people should be free to choose whether to undergo life-altering surgeries and other treatments or interventions on their physical sexual characteristics that irreversibly, and sometimes irreparably, cause harm.

(4) The enactment of legislation is necessary to ensure the ability of intersex people to participate in decisions about surgery and other medical treatments or interventions on their physical sex characteristics.

(b) (1) A physician and surgeon shall not perform any treatment or intervention on the sex characteristics of an intersex minor if the treatment or intervention may be deferred until the intersex minor can provide informed consent, as described in subdivision (d).

(2) A treatment or intervention includes, but is not limited to, the following procedures:

(A) Clitorectomy, clitoroplasty, clitoral reduction, and clitoral recession, including corporal-sparing procedures.

(B) Gonadectomy, including of testes, ovaries, ovotestes, and streak gonads.

(C) Hypospadias surgery, relocation of the urethral meatus, and chordee release.

(D) Labiaplasty and labial reduction.

(E) Phalloplasty.

(F) Vaginoplasty, introitoplasty, vaginal exteriorization, and partial or total urogenital sinus mobilization.

(c) Prior to performing a treatment or intervention on the sex characteristics of an intersex minor, a physician and surgeon shall provide written and oral disclosure, in nontechnical terms, about all of the following:

(1) A description of the treatment or intervention to be performed, including any necessary healthcare management or long-term follow-up care to be expected following the treatment or intervention.

(2) A description of any attendant discomfort and risks to the patient in the short term and long term, which may reasonably be expected following the treatment or intervention.

(3) An explanation of any benefits that the patient can reasonably expect following the treatment or intervention.

(4) An explanation of any appropriate alternative procedures, drugs, or devices, including delay of the procedure, that might be advantageous to the patient, and their relative risks and benefits.

(5) An offer to answer any inquiries concerning the treatment or intervention involved.

(d) (1) Following the receipt of the written and oral disclosure provided by the physician and surgeon, as described in subdivision (c), the intersex minor shall provide informed consent to the treatment or intervention, which meets all of the following requirements:

(A) The consent shall be in writing and shall contain the following statement: I (name of minor) do hereby consent to (description of medical procedure) to be performed by (name of physician and surgeon) on (date that the medical procedure is performed on the minor).

(B) The consent shall be signed by the minor and by the physician and surgeon who performs the medical procedure.

(C) The consent shall contain a notification to the minor that the written consent is an important document that should be retained with other vital records.

(2) The physician and surgeon shall retain the original consent in the medical record of the minor and give a copy of the consent to the minor.

(3) If the treatment or intervention is performed in a hospital, the physician and surgeon shall provide a copy of the consent to the hospital.

(e) This section does not affect the obligation of a physician and surgeon under current law to obtain the informed consent of a patient before performing a medical procedure on the patient that may significantly affect the patient's reproductive health or ability to conceive, or both.

(f) (1) If the intersex minor is unable to give informed consent, a physician and surgeon shall opine only on the medical necessity of a treatment or intervention.

(2) If a physician and surgeon opines on medical necessity of a treatment or intervention pursuant to subparagraph (1), they shall neither evaluate nor opine on whether a treatment or intervention on the sex characteristics of an intersex minor is advisable due to psychosocial factors.

(g) If it is medically necessary to perform a treatment or intervention on the sex characteristics of an intersex minor without the consent of the intersex minor, a physician and surgeon may perform the medical procedure only if the physician and surgeon provides the written and oral disclosure, as described in subdivision (c), to the parent or guardian, and the parent or guardian provides informed consent, as described in subdivision (d).

(h) The following definitions apply for purposes of this paragraph:

(1) "Intersex minor" means an individual born with atypical physical sex characteristics, including, but not limited to, chromosomes, genitals, or internal organs, and includes differences in sex development resulting from androgen insensitivity syndrome, congenital adrenal hyperplasia, and hypospadias.

(2) (A) "Medically necessary" means that the treatment or intervention on the sex characteristics of an intersex minor is reasonable and necessary for the diagnosis or treatment of an illness or injury and cannot be safely deferred.

(B) A medically necessary treatment or intervention on the sex characteristics of an intersex minor includes, but is not limited to, a procedure to repair the bladder, a cloacal exstrophy, or any other procedure intended to allow urine to exit the body absent a urethral opening.

(3) "Parent or guardian" has the same meaning as used in Section 6903 of the Family Code.

(4) "Psychosocial" means an individual's psychological status in relation to their social and physical environment.

(i) The board may develop and adopt medical guidelines to implement this subdivision.

(j) A violation of this section constitutes unprofessional conduct. Section 2314 shall not apply to a violation of this section.

SEC. 2. Section 6931 is added to the Family Code, to read:

6931. Notwithstanding paragraph (1) of subdivision (b) of Section 6925, an intersex minor, as defined in subdivision (h) of Section 2295 of the Business and Professions Code, may provide informed consent to treatment or intervention on their sex characteristics, pursuant to Section 2295 of the Business and Professions Code.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(Y) – SB 331 (Hurtado) Suicide-prevention: strategic plans

Background:

Current law, the California Suicide Prevention Act of 2000, authorizes the State Department of Health Care Services to establish and implement a suicide prevention, education, and gatekeeper training program to reduce the severity, duration, and incidence of suicidal behaviors. SB 331 (Hurtado) would require counties to create a suicide-prevention strategic plan that places particular emphasis on preventing suicide in children who are less than 19 years of age.

Location: 2/28/2019 Senate Committee on Health

Status: 2/28/2019 Referred to Senate Committee on Health

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 331 for potential impacts on consumer access to mental health services as part of each counties' suicide-prevention strategic plan.

Attachment: SB 331 (Hurtado) Bill Text

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SB-331 Suicide-prevention: strategic plans. (2019-2020)

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Date Published: 02/19/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 331**

Introduced by Senator Hurtado
(Principal coauthor: Assembly Member Levine)
(Coauthor: Senator Beall)

February 19, 2019

An act to add Section 4098.6 to the Welfare and Institutions Code, relating to suicide prevention.

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as introduced, Hurtado. Suicide-prevention: strategic plans.

Existing law, the California Suicide Prevention Act of 2000, authorizes the State Department of Health Care Services to establish and implement a suicide prevention, education, and gatekeeper training program to reduce the severity, duration, and incidence of suicidal behaviors.

This bill would require counties to create a suicide-prevention strategic plan that places particular emphasis on preventing suicide in children who are less than 19 years of age. By creating a new duty for counties, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** (a) The Legislature finds and declares all of the following:

(1) The federal Centers for Disease Control and Prevention reports that suicides are increasing across the United States.

(2) Over the 10-year period between 2007 and 2016, California has experienced a constant rise in deaths by suicide, with the exception of one year, 2012, in which there was a slight decrease in deaths by suicide. Over the same 10-year period, almost 40,000 Californians died by suicide.

(3) Since 2009, only seven counties in California, the Counties of Contra Costa, Fresno, San Diego, San Mateo, Santa Clara, Solano, and Tuolumne, have adopted a suicide-prevention strategic plan, with two additional counties, the Counties of Marin and Santa Cruz, recently convening work groups to develop a suicide-prevention strategic plan.

(4) The County of Santa Clara, which has had a concerted suicide-prevention effort since 2010, and has implemented a suicide-prevention strategic plan, has seen an 11 to 14 percent decrease in suicide deaths, while the overall suicide rate in California is increasing.


(b) It is the intent of the Legislature in enacting this act to require counties to implement suicide-prevention strategic plans and reduce the suicide rate in California.

SEC. 2. Section 4098.6 is added to the Welfare and Institutions Code, to read:

4098.6. Counties shall create a suicide-prevention strategic plan. The strategic plan shall place particular emphasis on preventing suicide in children who are less than 19 years of age.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(Z) – SB 601 (Morrell) State agencies: licenses: fee waiver

Background:

Current law requires various licenses to be obtained by a person before engaging in certain professions or vocations or business activities, including licensure as a healing arts professional by various boards within the Department of Consumer Affairs. SB 601 (Morrell) would authorize any state agency that issues any business license to reduce or waive any required fees for licensure, renewal of licensure, or the replacement of a physical license for display if a person or business establishes to the satisfaction of the state agency that the person or business has been displaced by a declared emergency.

Location: 2/22/2019 Senate Committee on Rules

Status: 2/25/2019 From printer. May be acted upon on or after March 27. Read first time.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 601 (Morrell) for potential impacts on the Board's authority to reduce or waive fees required for applications for initial licensure or renewal of a license, and for replacement licenses.

Attachment: SB 601 (Morrell) Bill Text

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SB-601 State agencies: licenses: fee waiver. (2019-2020)

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Date Published: 02/22/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 601**

Introduced by Senator Morrell

February 22, 2019

An act to add Section 11009.5 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 601, as introduced, Morrell. State agencies: licenses: fee waiver.

Existing law requires various licenses to be obtained by a person before engaging in certain professions or vocations or business activities, including licensure as a healing arts professional by various boards within the Department of Consumer Affairs.

This bill would authorize any state agency that issues any business license to reduce or waive any required fees for licensure, renewal of licensure, or the replacement of a physical license for display if a person or business establishes to the satisfaction of the state agency that the person or business has been displaced by a declared emergency, as defined.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 11009.5 is added to the Government Code, to read:

11009.5. (a) Notwithstanding any other law, a state agency that issues any business license may, within one year of the declaration of an emergency as defined in Section 8558, reduce or waive any required fees for licensure, renewal of licensure, or the replacement of a physical license for display if a person or business establishes to the satisfaction of the state agency that the person or business has been displaced by the declared emergency.

(b) For purposes of this section, "license" includes, but is not limited to, a certificate, registration, or other required document to engage in business.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(1)(AA) – SB 639 (Mitchell) Medical services: credit or loan

Background:

Current law prohibits a healing arts licensee, or an employee or agent of that licensee from charging treatment or costs to an open-end credit or loan extended by a 3rd party that is arranged for or established in the licensee's office without first providing a specified written treatment plan, a specified written or electronic notice, and a specified list of which treatment and services are being charged. Current law also provides that a person who willfully violates these provisions is subject to specified civil liability.

SB 639 (Mitchell) would also prohibit a licensee or employee or agent of that licensee from charging treatment or costs to an open-end credit or loan that is extended by a third party and that is arranged for, or established in, that licensee's office without providing that plan or list.

Location: 2/22/2019 Senate Committee on Rules

Status: 2/25/2019 From printer. May be acted upon on or after March 27. Read first time.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 639 for potential impacts on billing requirements that could affect Board licensees.

Attachment: SB 639 (Mitchell) Bill Text

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SB-639 Medical services: credit or loan. (2019-2020)

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Date Published: 02/22/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 639**

Introduced by Senator Mitchell

February 22, 2019

An act to amend Section 654.3 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 639, as introduced, Mitchell. Medical services: credit or loan.

Existing law prohibits a healing arts licensee, as defined, or an employee or agent of that licensee from charging treatment or costs to a open-end credit or loan extended by a 3rd party that is arranged for or established in the licensee's office without first providing a specified written treatment plan, a specified written or electronic notice, and a specified list of which treatment and services are being charged. Existing law provides that a person who willfully violates these provisions is subject to specified civil liability.

This bill would also prohibit a licensee or employee or agent of that licensee from charging treatment or costs to an open-end credit or loan that is extended by a third party and that is arranged for, or established in, that licensee's office without providing that plan or list. The bill would additionally prohibit a licensee or employee or agent of that licensee from offering an open-end credit or loan that contains a deferred interest provision, as defined. The bill would require a licensee, if the licensee accepts Medi-Cal, to indicate on the treatment plan if Medi-Cal would cover an alternate, medically appropriate service. The bill would also revise the content of the required written or electronic notice.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 654.3 of the Business and Professions Code is amended to read:**654.3.** (a) For purposes of this section, the following definitions shall apply:

(1) "Deferred interest provision" means a contractual provision that allows for interest to be charged on portions of the original balance that have already been paid off.

~~(1)~~

(2) "Licensee" means an individual, firm, partnership, association, corporation, limited liability company, or cooperative association licensed under this division or under any initiative act or division referred to in this division.

~~(2)~~

(3) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

~~(3)~~

(4) "Open-end credit" means credit extended by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an outstanding unpaid balance, and the amount of credit that may be extended to the debtor during the term of the plan, up to any limit set by the creditor, is generally made available to the extent that any outstanding balance is repaid.

~~(4)~~

(5) "Patient" includes, but is not limited to, the patient's parent or other legal representative.

(b) It is unlawful for a licensee, or employee or agent of that licensee, to offer an open-end credit or loan that contains a deferred interest provision.

~~(b)~~

(c) It is unlawful for a licensee, or employee or agent of that licensee, to charge treatment or costs to an open-end credit or loan, that is extended by a third party and that is arranged for, or established in, that licensee's office, before the date upon which the treatment is rendered or costs are ~~incurred,~~ incurred. It is also unlawful for a licensee, or employee or agent of that licensee, to charge treatment or costs to an open-end credit or loan, that is extended by a third party and that is arranged for, or established in, that licensee's office, without first providing the patient with a treatment plan, as required by subdivision ~~(e)~~ (f) and a list of which treatment and services are being charged in advance of rendering or incurring of costs.

~~(e)~~

(d) A licensee shall, within 15 business days of a patient's request, refund to the lender any payment received through credit or a loan extended by a third party that is arranged for, or established in, that licensee's office for treatment that has not been rendered or costs that have not been incurred.

~~(e)~~

(e) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan extended by a third party for a patient without first providing the following written or electronic notice, on one page or screen, respectively, in at least 14-point type, and obtaining a signature from the patient:

"Credit or Loan for Health Care Services

The attached application and information is for a credit ~~Before applying for this credit card/line of credit~~ card or loan, you have the right to a written treatment plan from your health care ~~provider that includes the anticipated provider. This plan must include the expected~~ treatment to be provided and the estimated costs of each service.

~~If you are approved for a credit card/line of credit or loan, your health care provider can only charge treatment and laboratory costs to that credit card/line of credit or loan when you get the treatment or the health care provider incurs costs unless your health care provider has first given you a list of treatments that you are paying for in advance and the cost for each treatment or service.~~

~~You have the right to receive a credit to your credit card/line of credit or loan account refunded for any costs charged to the credit card/line of credit or loan for treatment that has not been rendered or costs that your health care provider has not incurred. Your health care provider must refund the amount of the charges to the lender within 15 business days of your request, after which the lender will credit your account.~~

Your health care provider cannot charge your credit card or loan account before you get treatment.

If you do not get treatment, you have the right to have your credit card or loan account refunded for any costs charged for that treatment. Your health care provider must refund the amount of the charges to the lender within 15 business days of your request. The lender must take refunded charges off your account. Your health care provider may still charge costs spent preparing for your treatment if you change your mind.

~~Please read carefully the terms and conditions of this credit card/line of credit card or loan, including any promotional offers. loan.~~

~~You may be required to pay interest rates on the amount charged to the credit card/line of credit card or the amount of the loan. If you miss a payment or do not pay on time, pay late, you may have to pay a penalty on the entire cost of your procedure and a higher interest rate.~~

~~You may use this credit card/line of credit card or loan for payments toward subsequent health care to pay for future health care services.~~

~~If you do not pay the money that you owe on the company that provides you with a credit card/line of credit credit card or loan, your missed payments can appear on your credit report can be reported and could hurt your credit rating. You could also be sued.~~

[Patient's Signature]"

~~(e)~~

~~(f) Prior to arranging for or establishing credit or a loan extended by a third party, a licensee shall give a patient a written treatment plan. The treatment plan shall include each anticipated service to be provided and the estimated cost of each service. If a patient is covered by a private or government medical benefit plan or medical insurance, from which the licensee takes assignment of benefits, the treatment plan shall indicate the patient's private or government-estimated share of cost for each service. If the licensee accepts Medi-Cal, the treatment plan shall indicate if Medi-Cal would cover an alternate, medically appropriate service. If the licensee does not take assignment of benefits from a patient's medical benefit plan or insurance, the treatment plan shall indicate that the treatment may or may not be covered by a patient's medical benefit or insurance plan, and that the patient has the right to confirm medical benefit or insurance information from the patient's plan, insurer, or employer before beginning treatment.~~

~~(f)~~

~~(g) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan extended by a third party for a patient with whom the licensee, or an employee or agent of that licensee, communicates primarily in a language other than English that is one of the Medi-Cal threshold languages, unless the written notice information required by subdivision ~~(d)~~ (e) is also provided in that language.~~

~~(g)~~

~~(h) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan that is extended by a third party for a patient who has been administered or is under the influence of general anesthesia, conscious sedation, or nitrous oxide.~~


~~(h)~~

~~(i) A patient who suffers any damage as a result of the use or employment by any person of a method, act, or practice that willfully violates this section may seek the relief provided by Chapter 4 (commencing with Section 1780) of Title 1.5 of Part 4 of Division 3 of the Civil Code.~~

~~(i)~~

~~(j) The rights, remedies, and penalties established by this article are cumulative, and shall not supersede the rights, remedies, or penalties established under other laws.~~

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(A) – AB 5 (Gonzalez) Worker status: independent contractors

Background:

Current law, as established in the case of Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee. Current law requires a 3-part test, commonly known as the “ABC” test, to establish that a worker is independent contractor. AB 5 (Gonzalez) would state the intent of the Legislature to include provisions within this bill would codify the decision in the Dynamex case and clarify its application.

Location: 12/3/2018 Assembly

Status: 12/4/2018 From printer. May be heard in committee January 3.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 5 for potential impacts on the employment relationship the bill could have on Psychological Assistants.

Attachment: AB 5 (Gonzalez) Bill Text

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AB-5 Worker status: independent contractors. (2019-2020)

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Date Published: 12/03/2018 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 5**

Introduced by Assembly Member Gonzalez

December 03, 2018

An act to add Section 2750.3 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as introduced, Gonzalez. Worker status: independent contractors.

Existing law, as established in the case of *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903 (*Dynamex*), creates a presumption that a worker who performs services for a hirer is an employee. Existing law requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is independent contractor.

This bill would state the intent of the Legislature to include provisions within this bill would codify the decision in the *Dynamex* case and clarify its application.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** The Legislature finds and declares all of the following:

(a) On April 30, 2018, the California Supreme Court issued a unanimous decision in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*, (2018) 4 Cal.5th 903.


(b) In its decision, the Court cited the harm to misclassified workers who lose significant workplace protections, the unfairness to employers who must compete with companies that misclassify, and the loss to the state of needed revenue from companies that use misclassification to avoid obligations such as payment of payroll taxes, payment of premiums for workers compensation, Social Security, unemployment, and disability insurance.

(c) The misclassification of workers as independent contractors has been a significant factor in the erosion of the middle class and the rise in income inequality.

SEC. 2. Section 2750.3 is added to the Labor Code, to read:

2750.3. (a) It is the intent of the Legislature in enacting this section to include provisions that would codify the decision of the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903, and would clarify the decision's application in state law.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(B) – AB 166 (Gabriel) Medi-Cal: violence prevention counseling services

Background:

Current law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive healthcare services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Current law establishes a schedule of benefits under the Medi-Cal program, including various mental health services. AB 166 (Gabriel) would state the intent of the Legislature to enact legislation relating to Medi-Cal reimbursement for violence prevention counseling services.

Location: 1/7/2019 Assembly

Status: 1/8/2019 From printer. May be heard in committee February 7.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 166

Attachment: AB 166 (Gabriel) Bill Text


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AB-166 Medi-Cal: violence preventive services. (2019-2020)

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Date Published: 03/07/2019 09:00 PM

AMENDED IN ASSEMBLY MARCH 07, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 166

Introduced by Assembly Member Gabriel

January 07, 2019

An act *to add Section 14134.3 to the Welfare and Institutions Code*, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 166, as amended, Gabriel. Medi-Cal: violence ~~prevention counseling~~ *preventive* services.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive ~~healthcare~~ *health care* services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law establishes a schedule of benefits under the Medi-Cal program, including various mental health services. *Existing federal law authorizes, at the option of the state, preventive services, as defined, that are recommended by a physician or other licensed practitioner of the healing arts.*

~~This bill would state the intent of the Legislature to enact legislation relating to Medi-Cal reimbursement for violence prevention counseling services.~~

This bill would, no later than July 1, 2020, make violence preventive services provided by a qualified violence prevention professional, as defined, a covered benefit under the Medi-Cal program, subject to utilization controls. The bill would make the benefit available to a Medi-Cal beneficiary who has received medical treatment for a violent injury and for whom a licensed health care provider has determined that the beneficiary is at elevated risk of reinjury or retaliation and has referred the beneficiary to participate in a violence preventive services program.

The bill would require the department to approve at least one governmental or nongovernmental accrediting body with expertise in violence preventive services to review and approve training and certification programs. The bill would require an entity that employs or contracts with a qualified violence prevention professional to maintain specified documentation on, and to ensure compliance by, that professional.

The bill would require the department to seek any federal approvals necessary to implement these provisions. The bill would be implemented only to the extent that federal financial participation is available and not otherwise jeopardized, and any necessary federal approvals have been obtained.

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 14134.3 is added to the Welfare and Institutions Code, immediately following Section 14134.25, to read:*

14134.3. *(a) It is the intent of the Legislature that the State Department of Health Care Services develop and implement services targeted at reducing injury recidivism among violently injured Medi-Cal beneficiaries, and provide direct reimbursement to qualified violence prevention professionals for violence preventive services in accordance with this section.*

(b) No later than July 1, 2020, violence preventive services provided by a qualified violence prevention professional are a covered benefit, subject to utilization controls, for a Medi-Cal beneficiary who meets both of the following conditions:

(1) The beneficiary has received medical treatment for a violent injury, including, but not limited to, a gunshot wound, stabbing injury, or any other form of violent injury.

(2) A licensed health care provider has determined that the beneficiary is at elevated risk of violent reinjury or retaliation and has referred the beneficiary to participate in a violence preventive services program.

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

(1) "Prevention professional" has the same meaning as defined by the National Uniform Claim Committee (NUCC) under NUCC Code Number 405300000X or its successor.

(2) "Qualified violence prevention professional" means a prevention professional who meets all of the following conditions:

(A) Possesses at least six months of full-time equivalent experience in providing violence preventive services through employment, volunteer work, or as part of an internship experience.

(B) Has successfully completed an accredited training and certification program for violence prevention professionals, in accordance with subdivision (d), or has been certified as a violence prevention professional by the National Network of Hospital-Based Violence Intervention Programs prior to the effective date of this section.

(C) Successfully completes at least four hours of continuing education annually in the field of violence preventive services.

(D) Satisfies any other requirements necessary to maintain certification as a violence prevention professional.

(3) "Violence preventive services" means evidence-based, trauma-informed, supportive, and nonpsychotherapeutic services provided by a prevention professional for the purpose of promoting improved health outcomes and positive behavioral change, preventing injury recidivism, and reducing the likelihood that violently injured individuals will commit or promote violence themselves. Those services may be provided within or outside of a clinical setting and may include the provision of peer support and counseling, mentorship, conflict mediation, crisis intervention, targeted case management, referrals, patient education, or screening services to victims of interpersonal violence.

(d) The department shall approve at least one governmental or nongovernmental accrediting body with expertise in violence preventive services to review and approve training and certification programs for violence prevention professionals, if that accrediting body elects to do so. The accrediting body shall approve programs that prepare individuals to provide violence preventive services to victims of interpersonal violence, and that include at least 35 hours of training, collectively addressing all of the following:

(1) The profound effects of trauma and violence and the basics of trauma-informed care.

(2) Violence prevention strategies, including, but not limited to, conflict mediation and retaliation prevention related to interpersonal violence.

(3) Case management and advocacy practices.

(4) Patient privacy and the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(e) An entity that employs or contracts with a qualified violence prevention professional to provide violence preventive services shall do both of the following:

(1) Maintain documentation that the qualified violence prevention professional has met all of the conditions described in paragraph (2) of subdivision (c).

(2) Ensure that the qualified violence prevention professional is providing violence preventive services consistent with paragraph (3) of subdivision (c).

(f) The department shall seek any federal approvals necessary to implement this section, including, but not limited to, any state plan amendments or federal waivers by the federal Centers for Medicare and Medicaid Services.

(g) This section shall be implemented only to the extent that federal financial participation is available and not otherwise jeopardized, and any necessary federal approvals have been obtained.

(h) This section does not alter the scope of practice for any health care professional and does not authorize the delivery of health care services in a setting or in a manner that is not authorized under any provision of the Business and Professions Code or the Health and Safety Code.

~~SECTION 1. It is the intent of the Legislature to enact legislation relating to Medi-Cal reimbursement for violence prevention counseling services.~~

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(C) – AB 241 (Kamlager-Dove) Implicit bias

Background:

Existing law, the California Fair Employment and Housing Act, protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. AB 241 (Kamlager-Dove) would declare the intent of the Legislature to enact legislation that would address implicit bias in the healing arts professions.

Location: 1/18/2019 Assembly

Status: 1/22/2019 From printer. May be heard in committee February 21.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 241 (Kamlager-Dove) for potential impacts on the Board's licensure requirements and processes.

Attachment: AB 241 (Kamlager-Dove) Bill Text

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AB-241 Implicit bias. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 241**

Introduced by Assembly Member Kamlager-Dove

January 18, 2019

An act relating to implicit bias.

LEGISLATIVE COUNSEL'S DIGEST

AB 241, as introduced, Kamlager-Dove. Implicit bias.

Existing law, the California Fair Employment and Housing Act, protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

This bill would declare the intent of the Legislature to enact legislation that would address implicit bias in the healing arts professions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature to enact legislation that would address implicit bias in the healing arts professions.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(D) – AB 289 (Fong) Public records appeals: ombudsman

Background:

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. The act declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. AB 289 (Fong) would declare the intent of the Legislature to enact legislation that would establish an ombudsman within the California State Auditor's Office who would serve as the appeals body for all requests related to the California Public Records Act.

Location: 1/28/2019 Assembly

Status: 1/29/2019 From printer. May be heard in committee February 28.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 289 for potential impacts on the requirements of the Public Records Act and impacts on Board processes related to requests made under the Public Records Act.

Attachment: Bill Text

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AB-289 Public records appeals: ombudsman. (2019-2020)

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Date Published: 01/28/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 289**

Introduced by Assembly Member Fong

January 28, 2019

An act relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 289, as introduced, Fong. Public records appeals: ombudsman.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. The act declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

Existing law creates the California State Auditor's Office, which is independent of the executive branch and legislative control, to examine and report annually upon the financial statements prepared by the executive branch.

This bill would declare the intent of the Legislature to enact legislation that would establish an ombudsman within the California State Auditor's Office who would serve as the appeals body for all requests related to the California Public Records Act.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature that would enact legislation to establish an ombudsman within the California State Auditor's Office who would serve as the appeals body for all requests related to the California Public Records Act.

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(E) – AB 862 (Kiley) Professional licenses

Background:

Current law governs the denial, suspension, and revocation of certain professional licenses for specified conduct. AB 862 (Kiley) would make nonsubstantive changes to this provision.

Location: 2/20/2019 Assembly

Status: 2/21/2019 From printer. May be heard in committee March 23.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 862 (Kiley) for potential impacts on the Board's authority to deny, suspend, or revoke a license.

Attachment: AB 862 (Kiley) Bill Text


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AB-862 Professional licenses. (2019-2020)

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Date Published: 02/20/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 862

Introduced by Assembly Member Kiley

February 20, 2019

An act to amend Section 475 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 862, as introduced, Kiley. Professional licenses.

Existing law governs the denial, suspension, and revocation of certain professional licenses for specified conduct.

This bill would make nonsubstantive changes to this provision.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 475 of the Business and Professions Code is amended to read:


475. (a) Notwithstanding any other provisions of this code, ~~the provisions of~~ this division shall govern the denial of licenses on the grounds of:

- (1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.
- (2) Conviction of a crime.
- (3) Commission of any act involving dishonesty, ~~fraud~~ *fraud*, or deceit with the intent to substantially benefit ~~himself~~ *oneself* or another, or substantially injure another.
- (4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, ~~the provisions of~~ this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(F) – AB 994 (Mathis) Health care practitioner identification

Background:

Current law requires a health care practitioner, as defined, to wear a name tag while working that discloses the practitioner's name and license status in at least 18-point type, except as specified. Current law authorizes an employing entity or agency to make an exception from the name tag requirement, for individual safety or therapeutic concerns, for a health care practitioner or a licensed clinical social worker working in a psychiatric setting or in a setting that is not licensed by the state. AB 994 (Mathis) would make nonsubstantive changes to those name tag provisions.

Location: 2/21/2019 Assembly

Status: 2/22/2019 From printer. May be heard in committee March 24.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 994 for potential impacts on the Board's authority to require licensees to post specified information in their primary practice location or wear name identification badges in their work setting.

Attachment: AB 994 (Mathis) Bill Text


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AB-994 Health care practitioner identification. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 994

Introduced by Assembly Member Mathis

February 21, 2019

An act to amend Section 680 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 994, as introduced, Mathis. Health care practitioner identification.

Existing law establishes various healing arts boards, within the Department of Consumer Affairs, that license and regulate various healing arts licensees. Existing law requires a health care practitioner, as defined, to wear a name tag while working that discloses the practitioner's name and license status in at least 18-point type, except as specified. Existing law authorizes an employing entity or agency to make an exception from the name tag requirement, for individual safety or therapeutic concerns, for a health care practitioner or a licensed clinical social worker working in a psychiatric setting or in a setting that is not licensed by the state.

This bill would make nonsubstantive changes to those name tag provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 680 of the Business and Professions Code is amended to read:


680. (a) Except as otherwise provided in this section, a health care ~~practitioner shall disclose,~~ *practitioner*, while working, ~~his or her shall disclose the practitioner's~~ name and ~~practitioner's~~ license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency ~~shall have the discretion to~~ *may* make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who

is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using ~~his or her~~ *the assistant's* title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Public Health, or the State Department of Health Care Services shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Public Health, and the State Department of Health Care Services shall verify through periodic inspections that the policies required pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(G) – AB 1058 (Salas) Medi-Cal: specialty mental health services and substance use disorder treatment

Background:

AB 1058 (Salas) would declare the intent of the Legislature to enact legislation to establish a pilot program in several counties to support the integration of specialty mental health services and substance use disorder treatment provided under the Medi-Cal program.

Location: 2/21/2019 Assembly

Status: 2/22/2019 From printer. May be heard in committee March 24.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1058 for potential impacts to consumer access to mental health services.

Attachment: AB 1058 (Salas) Bill Text

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AB-1058 Medi-Cal: specialty mental health services and substance use disorder treatment. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 1058**

Introduced by Assembly Member Salas

February 21, 2019

An act to add Section 14685 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1058, as introduced, Salas. Medi-Cal: specialty mental health services and substance use disorder treatment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive healthcare services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides for various benefits under the Medi-Cal program, including mental health services and substance use disorder treatment.

This bill would declare the intent of the Legislature to enact legislation to establish a pilot program in several counties to support the integration of specialty mental health services and substance use disorder treatment provided under the Medi-Cal program, as specified.


Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14685 is added to the Welfare and Institutions Code, to read:

14685. It is the intent of the Legislature to enact legislation to establish a pilot program in several counties to support the integration of specialty mental health services and substance use disorder treatment provided under the Medi-Cal program. The pilot will build upon ongoing efforts underway in many counties. The pilot will seek to reduce barriers to integrated care that remain in the bifurcated delivery systems whereby specialty mental health services and substan

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(H) – AB 1132 (Gabriel) The Information Practices Act of 1977

Background:

Current law under the Information Practices Act (IPA) of 1977 requires specified state agencies to maintain in their records only personal information that is relevant and necessary to accomplish a purpose of the agency and to collect personal information to the greatest extent practicable directly from the individual who is the subject of the information. Current law requires these state agencies to maintain all records, to the maximum extent possible, with accuracy, relevance, timeliness, and completeness if those records are used to make any determination about an individual. Current law also requires a state agency, subject to these provisions, that transfers a record outside of state government to correct, update, withhold, or delete any portion of the record that it knows or has reason to believe is inaccurate or untimely. AB 1132 (Gabriel) would make nonsubstantive changes to those provisions.

Location: 2/21/2019 Assembly

Status: 2/22/2019 From printer. May be heard in committee March 24.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1132 for potential impacts on Board requirements, policies and procedures relating to requests made under the IPA.

Attachment: AB 1132 (Gabriel) Bill Text


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AB-1132 The Information Practices Act of 1977. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 1132

Introduced by Assembly Member Gabriel

February 21, 2019

An act to amend Section 1798.18 of the Civil Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1132, as introduced, Gabriel. The Information Practices Act of 1977.

Existing law, the Information Practices Act of 1977, requires specified state agencies to maintain in their records only personal information that is relevant and necessary to accomplish a purpose of the agency and to collect personal information to the greatest extent practicable directly from the individual who is the subject of the information. Existing law requires these state agencies to maintain all records, to the maximum extent possible, with accuracy, relevance, timeliness, and completeness if those records are used to make any determination about an individual. Existing law requires a state agency, subject to these provisions, that transfers a record outside of state government to correct, update, withhold, or delete any portion of the record that it knows or has reason to believe is inaccurate or untimely.


This bill would make nonsubstaniv>

1798.18. ~~Each~~ *(a) An* agency shall maintain all records, to the maximum extent possible, with accuracy, relevance, timeliness, and ~~completeness.~~ *completeness if those records are used to make any determination about an individual.*

~~Such standard need not be met except when such records are used to make any determination about the individual. When~~

(b) If an agency transfers a record outside of state government, it shall correct, update, withhold, or delete any portion of the record that it ~~knows~~ *knows*, or has reason to ~~believe~~ *believe*, is inaccurate or untimely.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(I) – AB 1184 (Gloria) Public records

Background:

Current law under the California Public Records Act (PRA) requires a public agency, defined to mean any state or local agency, to make public records available for inspection, subject to certain exceptions. The act requires any agency that has any information that constitutes a public record not exempt from disclosure, to make that public record available in accordance with certain procedures. Existing law authorizes cities, counties, and special districts to destroy or to dispose of duplicate records that are less than two years old when they are no longer required by the city, county, or special district, as specified. AB 1184 (Gloria) would state the intent of the Legislature to enact legislation relating to the retention of records by public agencies.

Location: 2/21/2019 Assembly

Status: 2/22/2019 From printer. May be heard in committee March 24.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1184 for potential impacts on Board requirements, policies and procedures relating to requests made under the PRA.

Attachment: AB 1184 (Gloria) Bill Text

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AB-1184 Public records. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 1184**

Introduced by Assembly Member Gloria

February 21, 2019

An act relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1184, as introduced, Gloria. Public records.

The California Public Records Act requires a public agency, defined to mean any state or local agency, to make public records available for inspection, subject to certain exceptions. The act requires any agency that has any information that constitutes a public record not exempt from disclosure, to make that public record available in accordance with certain procedures. Existing law authorizes cities, counties, and special districts to destroy or to dispose of duplicate records that are less than two years old when they are no longer required by the city, county, or special district, as specified.


This bill would state the intent of the Legislature to enact legislation relating to the retention of records by public agencies.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature to enact legislation relating to the retention of records by public agencies.

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(J) – AB 1201 (Boerner Horvath) Unfair Practices Act

Background:

Current law defines unfair competition to mean and include an unlawful, unfair, or fraudulent business act or practice, unfair, deceptive, untrue, or misleading advertising, and any false representations to the public and provides that any person who engages, has engaged, or proposes to engage in unfair competition is liable for a civil penalty. Current law requires that one-half of a penalty collected as the result of an action brought by the Attorney General be paid to the treasurer of the county in which the judgment was entered and the other half to the General Fund. AB 1201 (Boerner Horvath) would make a nonsubstantive change to that provision.

Location: 2/21/2019 Assembly

Status: 2/22/2019 From printer. May be heard in committee March 24.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1201 for potential impacts to the laws governing the Board's enforcement of the Unfair Practices Act.

Attachment: AB 1201 (Boerner Horvath) Bill Text

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-1201 Unfair Practices Act.** (2019-2020)

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Date Published: 02/22/2019 04:00 AM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 1201**

Introduced by Assembly Member Boerner Horvath

February 21, 2019

An act to amend Section 17206 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 1201, as introduced, Boerner Horvath. Unfair Practices Act.

Existing law defines unfair competition to mean and include an unlawful, unfair, or fraudulent business act or practice, unfair, deceptive, untrue, or misleading advertising, and any false representations to the public and provides that any person who engages, has engaged, or proposes to engage in unfair competition is liable for a civil penalty. Existing law requires that one-half of a penalty collected as the result of an action brought by the Attorney General be paid to the treasurer of the county in which the judgment was entered and the other half to the General Fund.

This bill would make a nonsubstantive change to that provision.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 17206 of the Business and Professions Code is amended to read:**17206.** Civil Penalty for Violation of Chapter

(a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city having a population in excess of 750,000, by any city attorney of any city and county, or, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was ~~entered~~, *entered* and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (e), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.

(d) The Unfair Competition Law Fund is hereby created as a special account within the General Fund in the State Treasury. The portion of penalties that is payable to the General Fund or to the Treasurer recovered by the Attorney General from an action or settlement of a claim made by the Attorney General pursuant to this chapter or Chapter 1 (commencing with Section 17500) of Part 3 shall be deposited into this fund. Moneys in this fund, upon appropriation by the Legislature, shall be used by the Attorney General to support investigations and prosecutions of California's consumer protection laws, including implementation of judgments obtained from such prosecutions or investigations and other activities which are in furtherance of this chapter or Chapter 1 (commencing with Section 17500) of Part 3. Notwithstanding Section 13340 of the Government Code, any civil penalties deposited in the fund pursuant to the National Mortgage Settlement, as provided in Section 12531 of the Government Code, are continuously appropriated to the Department of Justice for the purpose of offsetting General Fund costs incurred by the Department of Justice.

(e) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(f) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered for the exclusive use by the city attorney for the enforcement of consumer protection laws. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(K) – AB 1264 (Petrie-Norris) Department of Consumer Affairs

Background:

Current law establishes the Department of Consumer Affairs and provides that the department is composed of various boards, bureaus, committees, and commissions. AB 1264 (Petrie-Norris) would make nonsubstantive changes to that provision.

Location: 2/21/2019 Assembly

Status: 2/22/2019 From printer. May be heard in committee March 24.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1264 (Petrie-Norris) for potential impacts on the Board's authority or operations.

Attachment: AB 1264 (Petrie-Norris) Bill Text

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AB-1264 Department of Consumer Affairs. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 1264**

Introduced by Assembly Member Petrie-Norris

February 21, 2019

An act to amend Section 101 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1264, as introduced, Petrie-Norris. Department of Consumer Affairs.

Existing law establishes the Department of Consumer Affairs and provides that the department is composed of various boards, bureaus, committees, and commissions.

This bill would make nonsubstantive changes to that provision.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no


THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 101 of the Business and Professions Code is amended to read:**101.** The department is ~~comprised~~ *composed* of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.

- (h) The State Board of Barbering and Cosmetology.
- (i) The Board for Professional Engineers, Land Surveyors, and Geologists.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Household Goods and Services.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The Bureau of Security and Investigative Services.
- (r) The Court Reporters Board of California.
- (s) The Board of Vocational Nursing and Psychiatric Technicians.
- (t) The Landscape Architects Technical Committee.
- (u) The Division of Investigation.
- (v) The Bureau of Automotive Repair.
- (w) The Respiratory Care Board of California.
- (x) The Acupuncture Board.
- (y) The Board of Psychology.
- (z) The California Board of Podiatric Medicine.
- (aa) The Physical Therapy Board of California.
- (ab) The Arbitration Review Program.
- (ac) The Physician Assistant Board.
- (ad) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (ae) The California Board of Occupational Therapy.
- (af) The Osteopathic Medical Board of California.
- (ag) The Naturopathic Medicine Committee.
- (ah) The Dental Hygiene Board of California.
- (ai) The Professional Fiduciaries Bureau.
- (aj) The State Board of Chiropractic Examiners.
- (ak) The Bureau of Real Estate Appraisers.
- (al) The Structural Pest Control Board.
- (am) The Bureau of Cannabis Control.
- (an) Any other boards, offices, or officers subject to its jurisdiction by law.

~~(ao) This section shall become operative on July 1, 2018.~~

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(L) – AB 1474 (Wicks) Mental Health Master Plan

Background:

Current law requires the establishment of a mental health master plan, to ensure that a comprehensive policy is developed that addresses the critical problems and key issues facing the mental health system in California. Current law requires the plan to include an analysis of components. AB 1474 (Wicks) would make technical, nonsubstantive changes to these provisions.

Location: 2/22/2019 Assembly

Status: 2/25/2019 Read first time.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1474 for potential impacts on consumer access to mental health services.

Attachment: AB 1474 (Wicks) Bill Text

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AB-1474 Mental Health Master Plan. (2019-2020)

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Date Published: 02/22/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 1474**

Introduced by Assembly Member Wicks

February 22, 2019

An act to amend Section 5733 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1474, as introduced, Wicks. Mental Health Master Plan.

Existing law requires the establishment of a mental health master plan, to ensure that a comprehensive policy is developed that addresses the critical problems and key issues facing the mental health system in California. Existing law requires the plan to include an analysis of components.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 5733 of the Welfare and Institutions Code is amended to read:**5733.** The Mental Health Master Plan shall include, but not be limited to, an analysis of all of the following:

- (a) The specific planning elements required by Public Law 99-660.
- (b) Identification of priority populations to be served and a definition of those priority populations.
- (c) Proposed methods of allocating resources ~~which~~ *that* result in the most effective system of care possible for the priority populations.
- (d) Proposed methods of evaluating the effectiveness of current service delivery methods and the populations ~~which~~ *that* are best served by these models of care.

(e) Recommendations related to the governance and responsibilities of the state, county, or other administrative ~~structures~~ *structures*, for the delivery of mental health programs ~~which~~ *that* are cost-effective and provide the highest quality of care.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(M) – AB 1752 (Kalra) Consumers

Background:

Current law, under the Consumer Affairs Act, states that it is the intent of the Legislature to promote and protect the interests of the people as consumers, and that the government advances the interests of consumers by, among other things, protecting consumers from the sale of goods and services through the use of deceptive methods, acts, or practices that are inimical to the general welfare of consumers. AB 1752 (Kalra) would make nonsubstantive changes to this provision.

Location: 2/22/2019 Assembly

Status: 2/25/2019 Read first time.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch AB 1752 for potential impacts on the Board operations.

Attachment: AB 1752 (Kalra) Bill Text

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AB-1752 Consumers. (2019-2020)

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Date Published: 02/22/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**No. 1752**

Introduced by Assembly Member Kalra

February 22, 2019

An act to amend Section 301 of the Business and Professions Code, relating to consumers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1752, as introduced, Kalra. Consumers.

Existing law, the Consumer Affairs Act, states that it is the intent of the Legislature to promote and protect the interests of the people as consumers, and that the government advances the interests of consumers by, among other things, protecting consumers from the sale of goods and services through the use of deceptive methods, acts, or practices that are inimical to the general welfare of consumers.

This bill would make nonsubstantive changes to this provision.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** Section 301 of the Business and Professions Code is amended to read:

301. It is the intent of the Legislature and the purpose of this chapter to promote and protect the interests of the people as consumers. The Legislature finds that vigorous representation and protection of consumer interests are essential to the fair and efficient functioning of a free enterprise market economy. The Legislature declares that government advances the interests of consumers by facilitating the proper functioning of the free enterprise market economy through (a) educating and informing the consumer to ~~insure~~ ensure rational consumer choice in the marketplace; (b) protecting the consumer from the sale of goods and services through the use of deceptive methods, acts, or practices ~~which~~ that are inimical to the general welfare of consumers; (c) fostering competition; and (d) promoting effective representation of consumers' interests in all branches and levels of government.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(N) –SB 144 (Mitchell) Fees: criminal administrative fees

Background:

Current law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, incarcerating inmates, facilitating medical visits, and sealing or expunging criminal records. SB 144 (Mitchell) would state the intent of the Legislature to enact legislation to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred because of the imposition of administrative fees.

Location: 1/18/2019 Senate Committee on Rules.

Status: 1/31/2019 Referred to Senate Committee on Rules.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 144 for potential unintended consequences related to these changes as well as potential for the bill to be extended to similar fees charged by the Board in its disciplinary proceedings.

Attachment: AB SB 144 (Mitchell) Bill Text

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SB-144 Fees: criminal administrative fees. (2019-2020)

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Date Published: 01/18/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 144**

Introduced by Senator Mitchell

January 18, 2019

An act relating to criminal fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 144, as introduced, Mitchell. Fees: criminal administrative fees.

Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, incarcerating inmates, facilitating medical visits, and sealing or expunging criminal records.

This bill would state the intent of the Legislature to enact legislation to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** The Legislature finds and declares all of the following:

(a) State law authorizes counties to charge criminal administrative fees. These financial exactions are imposed in addition, in many cases, to serving time in prison, and are intended to generate revenue for public programs and to fund their operations.

(b) Administrative fees, penalty assessments, and surcharges are extraordinarily burdensome. Individuals exiting the criminal justice system are often charged dozens of administrative fees and surcharges, totaling thousands of dollars per person. In Los Angeles County, for example, someone with a 3-year term of probation accumulates over \$5,500 in probation fees alone.

(c) These fees are charged to people who have already paid their debt to society and serve no formal punitive function, and are often assigned to people who simply cannot afford to pay them.

(d) This practice often pushes families into poverty and can trap them in a cycle of debt. They serve as a perpetual punishment by pushing vulnerable families further into economic insecurity and peril, as well as increased mental stress, with low-income people and people of color often hit the hardest. Additionally, a national survey of formerly incarcerated people found that families often bear the burden of fees, and that 83 percent of the people responsible for paying these costs are women.

(e) Due to overpolicing and systemic racial bias, these fees are disproportionately imposed on communities of color and are especially harmful for Black and Latinx people, who are overrepresented in the criminal legal system across the state. Despite making up only 7 percent of the state population, Black people make up 23 percent of the probation population and are also grossly overrepresented in felony and misdemeanor arrests. Moreover, close to half of Black and Latinx households in California live on the brink of poverty as they struggle to put food on the table and pay for housing.

(f) The vast majority of people exiting jail or prison are unemployed, have unstable housing, have no steady source of income, and find work difficult or nearly impossible to obtain after release. Approximately 80 percent of individuals in jail are indigent. Yet, after someone has already served their time, they frequently receive a bill for a long list of fines and fees to pay for probation, fingerprinting, and mandated user fees. According to a report by the Ella Baker Center for Human Rights, the average debt incurred for court-related fines and fees of over 700 people surveyed was \$13,607, nearly equal to the annual income for respondents in the survey.

(g) Criminal fees also undermine public safety. The goal of a successful postincarceration period is to reintegrate into the community, yet these fees create significant barriers to successful reentry. These financial burdens frequently hit individuals at the precise moment they are trying to turn their lives around. The nonpayment of criminal fees can lead to wage garnishment, bank account levies, tax refund intercepts, driver's and professional license suspensions, negative credit scores, and even incarceration or deportation. These consequences can, in turn, limit access to employment, housing, education, and public benefits, which creates additional barriers to successful reentry. Research also shows that the fees can push individuals into underground economies and can result in individuals turning to criminal activity or predatory lending to pay their debts.


(h) Criminal fees are also an inefficient source of government revenue. Research shows that the fees are expensive and difficult to collect. For instance, in one year, Alameda County Central Collections spent approximately \$1.6 million toward collection of adult fines, fees and restitution for all cases, resulting in a net loss of \$1.3 million. Similarly, a study of comparable juvenile administrative fees found that counties typically netted very little or even lost revenue after accounting for collections costs.

(i) Momentum to end criminal fees is growing in the state and individual counties have begun to recognize that these fees are "high pain, low gain," and are taking steps to eliminate them. In May 2018, San Francisco eliminated all criminal administrative fees under its control, freeing over 21,000 people of more than \$32,000,000 in outstanding criminal administrative fees and surcharges. Additionally, in December of 2018, the Alameda County Board of Supervisors voted to eliminate a host of county-imposed criminal fees. The board voted to eliminate \$26,000,000 in fees for tens of thousands of Alameda County residents. In 2017, the County of Los Angeles eliminated its public defender registration fee.

(j) With the passage of Senate Bill 190 in 2017 and other important criminal justice reform bills, California is a national leader in criminal justice reform. In order to live up to our progressive values of fairness, equity, and opportunity for all, the Legislature should continue its work on criminal justice reform and take all measures necessary to ensure all California families have a chance to achieve economic stability and are treated fairly.

SEC. 2. It is the intent of the Legislature to enact legislation to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees.

MEMORANDUM

DATE	March 7, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(O) – SB 180 (Chang) Health care professionals

Background:

Current law, under the Health Care Professional Disaster Response Act, states findings of the Legislature regarding the shortage of qualified health care practitioners during times of national or state disasters, and authorizes a physician and surgeon, whose license has been expired for less than 5 years and who meets specified criteria, to obtain a license without paying fees. SB 180 (Chang) would make nonsubstantive changes to those findings.

Location: 1/28/2019 Senate Committee on Rules.

Status: 2/6/2019 Referred to Senate Committee on Rules.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 180 to ensure future amendments do not diminish consumer protections during a state of emergency.

Attachment: SB 180 (Chang) Bill Text


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SB-180 Health care professionals. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

No. 180

Introduced by Senator Chang

January 28, 2019

An act to amend Section 921 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 180, as introduced, Chang. Health care professionals.

Existing law, the Health Care Professional Disaster Response Act, states findings of the Legislature regarding the shortage of qualified health care practitioners during times of national or state disasters, and authorizes a physician and surgeon, whose license has been expired for less than 5 years and who meets specified criteria, to obtain a license without paying fees.

This bill would make nonsubstantive changes to those findings.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 921 of the Business and Professions Code is amended to read:


921. (a) The Legislature finds and declares *both of* the following:

(1) In times of national or state disasters, a shortage of qualified health care practitioners may exist in areas throughout the state where they are desperately required to respond to public health emergencies.

(2) Health care practitioners with lapsed or inactive licenses could potentially serve in those areas where a shortage of qualified health care practitioners exists, if licensing requirements were streamlined and fees curtailed.

(b) ~~It is, therefore,~~ *Therefore, it is* the intent of the Legislature to address these matters through the ~~provisions of the~~ Health Care Professional Disaster Response Act.

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(P) – SB 181 (Chang) Healing arts boards

Background:

Current law creates various regulatory boards within the Department of Consumer Affairs. Current law authorizes health-related boards to adopt regulations requiring licensees to display their licenses in the locality in which they are treating patients and to make specified disclosures to patients. SB 181 (Chang) would make nonsubstantive changes to that license display and disclosure provision.

Location: 1/28/2019 Senate Committee on Rules.

Status: 2/6/2019 Referred to Senate Committee on Rules.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 181 for potential impacts on the Board's authority to require licensees to post specified information in their primary practice location.

Attachment: SB 181 (Chang) Bill Text

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SB-181 Healing arts boards. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 181**

Introduced by Senator Chang

January 28, 2019

An act to amend Section 104 of the Business and Professions Code, relating to the Department of Consumer Affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 181, as introduced, Chang. Healing arts boards.

Existing law creates various regulatory boards within the Department of Consumer Affairs. Existing law authorizes health-related boards to adopt regulations requiring licensees to display their licenses in the locality in which they are treating patients and to make specified disclosures to patients.

This bill would make nonsubstantive changes to that license display and disclosure provision.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 104 of the Business and Professions Code is amended to read:

104. All boards or other regulatory entities within the department's jurisdiction that the department determines to be health-related may adopt regulations to require licensees to display their licenses or registrations in the locality in which they are treating patients, and to inform patients as to the identity of the regulatory agency ~~they~~ *the patients* may contact if they have any questions or complaints regarding the licensee. In complying with this requirement, those boards may take into consideration the particular settings in which licensees practice, or other circumstances ~~which that~~ may make the displaying or providing of information to the consumer extremely difficult for the licensee in their particular type of practice.

MEMORANDUM

DATE	March 10, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(Q) – SB 342 (Hertzberg) Consumer complaints

Background:

Current law, under the Consumer Affairs Act, requires the Director of the Department of Consumer Affairs to administer and enforce that act to protect and promote the interests of consumers regarding the purchase of goods or services. The director, upon receipt of a consumer complaint relating to specified violations, is required to transmit any valid complaint to the local, state, or federal agency whose authority provides the most effective means to secure the relief. The act requires the director to advise the consumer of the action taken on the complaint, as appropriate, and of any other means that may be available to the consumer to secure relief. SB 342 (Hertzberg) would make nonsubstantive changes to those consumer complaint provisions.

Location: 2/19/2019 Senate Committee on Rules

Status: 2/28/2019 Referred to Senate Committee on Rules

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 342 for potential impacts on the Board's enforcement program.

Attachment: SB 342 (Hertzberg) Bill Text


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SB-342 Consumer complaints. (2019-2020)

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Date Published: 02/19/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

No. 342

Introduced by Senator Hertzberg

February 19, 2019

An act to amend Section 326 of the Business and Professions Code, relating to consumer complaints.

LEGISLATIVE COUNSEL'S DIGEST

SB 342, as introduced, Hertzberg. Consumer complaints.

The Consumer Affairs Act requires the Director of the Department of Consumer Affairs to administer and enforce that act to protect and promote the interests of consumers regarding the purchase of goods or services. The director, upon receipt of a consumer complaint relating to specified violations, is required to transmit any valid complaint to the local, state, or federal agency whose authority provides the most effective means to secure the relief. The act requires the director to advise the consumer of the action taken on the complaint, as appropriate, and of any other means that may be available to the consumer to secure relief.

This bill would make nonsubstantive changes to those consumer complaint provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 326 of the Business and Professions Code is amended to read:

326. (a) Upon receipt of ~~any~~ a complaint pursuant to Section 325, the director may notify the person against whom the complaint is made of the nature of the complaint and may request appropriate relief for the consumer.

(b) (1) The director shall also transmit any valid complaint to the local, ~~state~~ state, or federal agency whose authority provides the most effective means to secure the relief.

~~The~~

(2) The director shall, if appropriate, advise the consumer of the action taken on the complaint and of any other means ~~which~~ that may be available to the consumer to secure relief.

(c) If the director receives a complaint or receives information from any source indicating a probable violation of any law, rule, or order of any regulatory agency of the ~~state,~~ *state* or if a pattern of complaints from consumers develops, the director shall transmit any complaint ~~he or she~~ *the director* considers to be valid to any appropriate law enforcement or regulatory agency and any evidence or information ~~he or she~~ *the director* may have concerning the probable violation or pattern of complaints or request the Attorney General to undertake appropriate legal action. It shall be the continuing duty of the director to discern patterns of complaints and to ascertain the nature and extent of action taken with respect to the probable violations or pattern of complaints.

MEMORANDUM

DATE	March 10, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(R) – SB 546 (Hueso) Unlicensed activity

Background:

Current law establishes the Department of Consumer Affairs and requires boards within the department to license and regulate various professions and vocations. Under current law, the Legislature finds and declares that unlicensed activity in the professions and vocations regulated by the department is a threat to the health, welfare, and safety of the people of the State of California. SB 546 (Hueso) would make a nonsubstantive change to that provision.

Location: 2/22/2019 Senate Committee on Rules

Status: 2/25/2019 From printer. May be acted upon on or after March 27. Read first time.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 546 (Hueso) for potential impacts on the Board's enforcement program.

Attachment: SB 546 (Hueso) Bill Text


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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 546**

Introduced by Senator Hueso

February 22, 2019

An act to amend Section 145 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 546, as introduced, Hueso. Unlicensed activity.

Existing law establishes the Department of Consumer Affairs and requires boards within the department to license and regulate various professions and vocations. Under existing law, the Legislature finds and declares that unlicensed activity in the professions and vocations regulated by the department is a threat to the health, welfare, and safety of the people of the State of California.


This bill would make a nonsubstantive change to that provision.

Vote: majority Appropriation: no Fiscal Committee: no ~~the State of California.~~ *this state.*

(b) The law enforcement agencies of the state should have sufficient, effective, and responsible means available to enforce the licensing laws of the state.

(c) The criminal sanction for unlicensed activity should be swift, effective, appropriate, and create a strong incentive to obtain a license.

MEMORANDUM

DATE	March 10, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(S) – SB 700 (Roth) Business and professions: noncompliance with support orders and tax delinquencies

Background:

Under current law, each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by specified entities, who is not in compliance with a judgment or order for child or family support, is subject to support collection and enforcement proceedings by the local child support agency. Existing law also makes each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies subject to suspension or revocation of the license or renewal by a state governmental licensing entity, as specified. SB 700 (Roth) would make nonsubstantive changes to those provisions.

Location: 2/22/2019 Senate Committee on Rules

Status: 2/25/2019 From printer. May be acted upon on or after March 27. Read first time.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 700

Attachment: SB 700 (Roth) Bill Text

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SB-700 Business and professions: noncompliance with support orders and tax delinquencies. (2019-2020)

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Date Published: 02/22/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 700**

Introduced by Senator Roth

February 22, 2019

An act to amend Section 31 of the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 700, as introduced, Roth. Business and professions: noncompliance with support orders and tax delinquencies.

Under existing law, each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by specified entities, who is not in compliance with a judgment or order for child or family support, is subject to support collection and enforcement proceedings by the local child support agency. Existing law also makes each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies subject to suspension or revocation of the license or renewal by a state governmental licensing entity, as specified.

This bill would make nonsubstantive changes to those provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 31 of the Business and Professions Code is amended to read:

31. (a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the ~~Bureau~~ *Department* of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.

(c) "Compliance with a judgment or order for support" has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.

(d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.

(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay ~~his or her~~ *the licensee's* state tax obligation and that ~~his or her~~ *the* license may be suspended if the state tax obligation is not paid.

(f) For purposes of this section, "tax obligation" means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

MEMORANDUM

DATE	March 10, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #7(b)(2)(T) – SB 749 (Durazo) California Public Records Act

Background:

Current law, under the California Public Records Act (PRA), requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. The act declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. SB 749 (Durazo) would declare the intent of the Legislature to enact legislation relating to the California PRA.

Location: 2/22/2019 Senate Committee on Rules

Status: 2/25/2019 From printer. May be acted upon on or after March 27. Read first time.

Action Requested:

Staff recommends the Policy and Advocacy Committee watch SB 749 for potential impacts on Board requirements, policies and procedures relating to requests made under the PRA.

Attachment: SB 749 (Durazo) Bill Text

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SB-749 California Public Records Act. (2019-2020)

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Date Published: 02/22/2019 09:00 PM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 749**

Introduced by Senator Durazo

February 22, 2019

An act relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 749, as introduced, Durazo. California Public Records Act.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. The act declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

This bill would declare the intent of the Legislature to enact legislation relating to the California Public Records Act.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1.** It is the intent of the Legislature to enact legislation relating to the California Public Records Act.

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee Meeting
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #8 – 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 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 is in the Initial Review Stage. Staff incorporated the feedback provided by Legal Counsel's review and resubmitted the package to Board Legal Counsel on January 8, 2019. Upon approval by Board Legal Counsel, the package will be resubmitted to DCA Legal for review, followed by DCA Budgets, DCA's Division of Legislative and Regulatory Review, and DCA Chief Counsel.

b) **Update on 16 CCR Section 1396.8 – 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 is in the Initial Review Stage. Staff incorporated the feedback provided by Legal Counsel's review and resubmitted the package to Board Legal Counsel on March 8, 2019. Upon approval by Board Legal Counsel, the package will be resubmitted to DCA Legal for review, followed by DCA Budgets, DCA's Division of Legislative and Regulatory Review, and DCA Chief Counsel.

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 is in the Initial Review Stage. Staff incorporated the feedback provided by Legal Counsel’s review and resubmitted the package to Board Legal Counsel on December 31, 2018. Upon approval by Board Legal Counsel, the package will be resubmitted to DCA Legal for review, followed by DCA Budgets, DCA’s Division of Legislative and Regulatory Review, and DCA Chief Counsel.

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 is in the Initial Review Stage. Staff incorporated the feedback provided by Legal Counsel’s review and resubmitted the package to Board Legal Counsel on March 8, 2019. Upon approval by Board Legal Counsel, the package will be resubmitted to DCA Legal for review, followed by DCA Budgets, DCA’s Division of Legislative and Regulatory Review, and DCA Chief Counsel.

e) **Update on 16 CCR Sections 1395.2 – Disciplinary Guidelines 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 has been placed on hold due to the necessity to incorporate the changes by DCA to the Uniform Standards for Substance Abusing Licensees and incorporate AB 2138 changes prior to submission.

f) **Update on 16 CCR Sections 1394, 1395, 1395.1, 1392 – Substantian Relationship Criteria, Rehabilitation Criteria, for Denials, suspensions and Revocations, and Disciplinary Guidelines**


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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Staff is currently preparing this regulatory package, and will submit it to Board Legal Counsel by the end of March 2019.

Action Requested:

These items are for informational purposes only. No action is required at this time.

MEMORANDUM

DATE	March 8, 2019
TO	Policy and Advocacy Committee
FROM	 Cherise Burns Central Services Manager
SUBJECT	Agenda Item #9 – Update on California Psychological Association Legislative Proposal Regarding New Registration Category for Psychological Testing Technicians

Background:

This agenda item is provided to allow the California Psychological Association (CPA) an opportunity to provide the Policy and Advocacy Committee an update on their legislative proposal regarding a new registration category for psychological testing technicians.

Action Requested:

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



March 11, 2019

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

Re: Psychological and Neuropsychological Testing Technicians

Dear Board Members:

At your February 2019 meeting, CPA requested that you consider the issue of psychological and neuropsychological testing technicians at a future Board of Psychology meeting. We appreciate that you agreed to consider this topic and that it has been placed on the agenda for your Policy and Advocacy Committee meeting on March 18 and for the full Board of Psychology meeting on April 24-26. We also appreciate the efforts of the Board staff to facilitate discussion of this topic.

Issue:

The use of testing technicians to administer and score psychological and neuropsychological tests under the supervision of a licensed psychologist is within well-established standards of practice and is an effective, efficient way to expand the availability of testing services. Testing technicians are recognized by many states' laws and by the following entities: The National Association of Neuropsychologists;ⁱ the American Academy of Neuropsychology;ⁱⁱ the American Psychological Association Division 40 Society for Clinical Neuropsychology;ⁱⁱⁱ and the Centers for Medicare and Medicaid Services.^{iv v}

California law currently makes no specific reference to psychological or neuropsychological testing technicians. Psychological test administration is included within psychology's scope of practice^{vi} and there is no clear authorization for the use of testing technicians to provide such services.

CPA was recently contacted by the leaders of its Neuropsychology Division (Division 8) with a request to address this problem. Division 8 recommended seeking changes to California law to define and allow the use of testing technicians. They emphasized that such legislation would benefit the public by substantially increasing access to needed services.

Proposed solution:

CPA is seeking to sponsor legislation that would specifically allow the use of supervised testing technicians with appropriate credentials to administer and score psychological and neuropsychological tests. Initial meetings with legislative offices indicated that the most promising approach would be to create a registration system for testing technicians under the Board of Psychology in order to enhance

consumer protections while increasing access to testing services. These meetings also made it clear that gaining the support of the Board of Psychology would be crucial to moving such legislation forward.

Request for Committee and Board support:

CPA respectfully requests that you consider the issue of testing technicians and support our proposed solution, which is to develop legislation to implement a registration system under the Board of Psychology. We anticipate that any registration system will include the following minimum requirements for technicians: bachelor's degree in psychology; training in ethics; training in test administration and scoring; and a background check (fingerprinting). The legislation would specifically permit properly registered technicians to provide administration and scoring of psychological and neuropsychological tests under the direct supervision of a licensed psychologist.

CPA regrets being unable to send a representative to your March 18 meeting because of our annual lobby day. However, both CPA staff and expert neuropsychologists are planning to attend the full Board meeting next month. In the meantime, any feedback you may be able to provide would be greatly appreciated. Also, please let us know if you would like additional information.

Sincerely,



Elizabeth Winkelman, JD, PhD
Director, Professional Affairs

ⁱ The Use of Neuropsychology Test Technicians in Clinical Practice: Official Statement of the National Academy of Neuropsychology <https://www.nanonline.org/docs/PAIC/PDFs/NANPositionTechs.pdf>

ⁱⁱ American Academy of Clinical Neuropsychology Policy on the Use of Non-Doctoral-Level Personnel in Conducting Clinical Neuropsychological Evaluations <https://www.tandfonline.com/doi/abs/10.1076/1385-4046%28199911%2913%3A04%3B1-Y%3BFT385>

ⁱⁱⁱ Report of the APA Division 40 Task Force on Education, Accreditation and Credentialing: Guidelines Regarding the Use of Nondoctoral Personnel in Clinical Neuropsychological Assessment <https://www.apaservices.org/practice/reimbursement/billing/cpt/2006-toolkit-div40.pdf>

^{iv} Psychological and Neuropsychological Testing CPT® Codes & Descriptions <https://www.apaservices.org/practice/reimbursement/health-codes/testing/codes-descriptions.pdf>

^v Up-to-Code: Understanding the new testing codes 2019 <https://www.apaservices.org/practice/reimbursement/health-codes/testing/examining-testing-codes>

^{vi} Bus. & Prof. Code §2903 https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC§ionNum=2903.