

NOTICE OF BOARD MEETING

The State Capitol, Room 112
Sacramento, CA 95814
(916) 324-0333

February 27-28, 2020**Board Members**

Seyron Foo, President
Mary Harb Sheets, PhD, Vice-President
Alita Bernal
Sheryll Casuga, PsyD
Marisela Cervantes
Stephen Phillips, JD, PsyD
Shacunda Rodgers, PhD
Lea Tate, PsyD

Legal Counsel

Norine Marks

Board Staff

Antonette Sorrick, Executive Officer
Jeffrey Thomas, Assistant Executive
Officer
Stephanie Cheung, Licensing Manager
Jason Glasspiegel, Central Services
Coordinator
Curtis Gardner, Probation Monitor

The Board plans to webcast this meeting on its website. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast. A link to the webcast will be available on the Board's Website at 9:30 a.m. February 27, 2020, or you may access it at: <https://thedcapage.wordpress.com/webcasts/>. Links to agenda items with attachments are available at www.psychology.ca.gov, prior to the meeting date, Thursday, February 27, 2020.

Thursday, February 27, 2020

AGENDA**9:30 a.m. – OPEN SESSION**

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

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

1. Call to Order/Roll Call/Establishment of a Quorum
2. President's Welcome
 - a) Swearing in New Board Members
 - b) Acknowledgement of Dr. Jacqueline Horn (S. Foo/S. Phillips)
3. Public Comment for Items Not on the Agenda. Note: The Board May Not Discuss or Take Action on Any Matter Raised During this Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code sections 11125 and 11125.7(a)].
4. President's Report (S. Foo)
 - a) Dates and Locations of 2020 Board and Committee Meetings
 - b) Committee Updates
5. Executive Officer's Report (A. Sorrick)
 - a) Personnel Update
6. DCA Executive Office Update
7. Discussion and Possible Approval of the Board Meeting Minutes: October 3-4, 2019
8. Discussion and Possible Approval of the Board Meeting Minutes: November 8, 2019

10:30 a.m. - Petition Hearing

9. Petition for Early Termination of Probation – Molly O'Griffin, PsyD

CLOSED SESSION

10. The Board will Meet in Closed Session Pursuant to Government Code Section 11126(c)(3) to Discuss Disciplinary Matters Including the above petition, Proposed Decisions, Stipulations, Petitions for Reconsideration, and Remands.

BREAK FOR LUNCH (TIME APPROXIMATE)

1:30 p.m. - Petition Hearing

11. Petition for Early Termination of Probation – Joshua Craig, PsyD

CLOSED SESSION

12. The Board will Meet in Closed Session Pursuant to Government Code Section 11126(c)(3) to Discuss Disciplinary Matters Including the above petition, Proposed Decisions, Stipulations, Petitions for Reconsideration, and Remands.

RETURN TO OPEN SESSION

RECESS FOR THE DAY

Friday, February 28, 2020

9:30 a.m. – OPEN SESSION

13. Call to Order/Roll Call/Establishment of a Quorum
14. Public Comment for Items Not on the Agenda. Note: The Board May Not Discuss or Take Action on Any Matter Raised During this Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code sections 11125 and 11125.7(a)].
15. Budget Report (J. Glasspiegel/DCA Budget Office)
16. Licensing Report (S. Cheung)
17. Continuing Education and Renewals Report (J. Glasspiegel)
18. Legislative and Regulatory Affairs Update (S. Foo)
 - a) Board Sponsored Legislation for the 2020 Legislative Session: Review and Possible Action
 - 1) SB 275 (Pan) – Amendments to Section 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact
 - 2) Pathways to Licensure Statutory Revisions – Amendments to Sections 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2940, 2942, 2943, 2946, and 2960 of the Business and Professions Code, and Section 1010 of the Evidence Code.
 - b) Review and Consideration of Proposed Legislation
 - 1) Review of Bills with Active Positions Taken by the Board
 - A. AB 1145 (Garcia) Child abuse: reportable conduct.
 - B. SB 53 (Wilk) Open meetings.
 - C. SB 66 (Atkins) Medi-Cal: federally qualified health center and rural health clinic services.
 - 2) Review of Bills with Recommended Watch Status
 - 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 193 (Patterson) Professions and vocations.
 - E. AB 289 (Fong) California Public Records Act Ombudsperson.
 - F. AB 312 (Cooley) State government: administrative regulations: review.

- G. AB 396 (Eggman) School employees: School Social Worker Pilot Program.
- H. AB 536 (Frazier) Developmental services.
- I. AB 544 (Brough) Professions and vocations: inactive license fees and accrued and unpaid renewal fees
- J. AB 565 (Maienschein) Public health workforce planning: loan forgiveness, loan repayment, and scholarship programs.
- K. AB 613 (Low) Professions and vocations: regulatory fees.
- L. AB 768 (Brough) Professions and vocations.
- M. AB 770 (Garcia, Eduardo) Medi-Cal: federally qualified health clinics: rural health clinics.
- N. AB 798 (Cervantes) Maternal Mental Health.
- O. AB 895 (Muratsuchi) Pupil Mental Health Services Program Act.
- P. AB 1058 (Salas) Medi-Cal: specialty mental health services and substance use disorder treatment.
- Q. AB 1201 (Boerner Horvath) Unfair Practices Act.
- R. AB 1271 (Diep) Licensing examinations: report.
- S. AB 1601 (Ramos) Office of Emergency Services: behavioral health response.
- T. SB 181 (Chang) Healing arts boards.
- U. SB 201 (Wiener) Medical procedures: treatment or intervention: sex characteristics of a minor.
- V. SB 331 (Hurtado) Suicide prevention: strategic plans.
- W. SB 660 (Pan) Postsecondary education: mental health counselors.
- X. SB 700 (Roth) Business and professions: noncompliance with support orders and tax delinquencies.

c) Update on California Psychological Association Legislative Proposal Regarding New Registration Category for Psychological Testing Technicians

- 19. Legislative Items for Future Meeting. The Board May Discuss Other Items of Legislation in Sufficient Detail to Determine Whether Such Items Should be on a Future Board Meeting Agenda and/or Whether to Hold a Special Meeting of the Board to Discuss Such Items Pursuant to Government Code Section 11125.4
- 20. Regulatory Update, Review, and Consideration of Additional Changes (Foo)
 - a) 16 CCR Section 1394 – Substantial Relationship Criteria;
Section 1395 – Rehabilitation Criteria for Denials and Reinstatements;
Section 1395.1 – Rehabilitation Criteria for Denials Suspensions or Revocations
 - b) 16 CCR Section 1396.8 – Standards of Practice for Telehealth
 - c) 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants
 - d) 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees

- e) 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development
 - f) 16 CCR Sections 1391.13, and 1391.14 – Inactive Psychological Assistant Registration and Reactivating a Psychological Assistant Registration
21. Update on Sunset Review (Phillips – Chairperson, Foo)
 22. Review and Consider Feedback Regarding ASPPB Closure of Practice Guidelines
 23. Review and Consideration of Changes to the Board’s Administrative Procedures Manual
 24. Update Regarding *Mathews v. Becerra* - California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting - Penal Code Sections 261.5, 288, and 11165.1
 25. Enhanced EPPP – A Board Member Experience (S. Casuga)
 26. Recommendations for Agenda Items for Future Board Meetings. Note: The Board May Not Discuss or Take Action on Any Matter Raised During This Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code Sections 11125 and 11125.7(a)].

ADJOURNMENT

Except where noticed for a time certain, all times are approximate and subject to change. The meeting may be canceled without notice. For verification, please check the Board’s Web site at www.psychology.ca.gov, or call (916) 574-7720. 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, and items scheduled to be heard on Thursday may be held over to Friday; items scheduled to be heard on Friday may be moved up to Thursday, for convenience, to accommodate speakers, or to maintain a quorum.

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

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

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

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

2020 Board Meeting/Event Calendar

Board Meeting

Event	Date	Location
Board Meeting	Rescheduled to February 27-28, 2020	Sacramento, CA
Board Meeting	Rescheduled to July 9-10, 2020	Los Angeles, CA
Board Meeting	November 20, 2020	Sacramento, CA

Legislative and Regulatory Affairs Committee

Event	Date	Location
Legislative and Regulatory Affairs Committee	June 12, 2020	Teleconference

Licensure Committee

Event	Date	Location
Licensure Committee Meeting	April 24, 2020	Sacramento, CA

Outreach and Communications Committee

Event	Date	Location
Outreach and Communications Committee Meeting	September 25, 2020	Sacramento, CA

Outside Board Events

Event	Date	Location
CPA Convention	April 23-26, 2020	Newport Beach, CA
ASPPB Mid-Year Meeting	April 23-26, 2020	Montreal, Quebec
APA Convention	August 6-9, 2020	Washington, DC
ASPPB Annual Meeting	October 14-18, 2020	New York, NY

Board of Psychology Committee Assignments 2020

Committee	Chairperson	Members
Standing Committees		
Licensure Committee	Mary Harb Sheets, PhD	Seyron Foo Lea Tate, PsyD
Outreach and Communications Committee	Lea Tate, PsyD	Alita Bernal Shacunda Rodgers, PhD
Legislative and Regulatory Affairs Committee	Seyron Foo	Sheryll Casuga, PsyD, Stephen Phillips, JD/PsyD
Ad hoc Committees		
Enforcement Committee	Stephen Phillips, JD/PsyD	Marisela Cervantes
Sunset Review Committee	Stephen Phillips, JD/PsyD	Seyron Foo
Telepsychology Committee	Stephen Phillips, JD/PsyD	Michael Erickson, PhD

MEMORANDUM

DATE	February 27, 2020
TO	Psychology Board Members
FROM	Antonette Sorrick, Executive Officer
SUBJECT	Executive Officer's Report: Personnel Update: Agenda Item 6

Background:

The report below is provided to the Board at each Board Meeting.

Action Requested:

This item is for informational purposes only.

Board of Psychology Update

Staffing Update

Authorized Positions: 25.30

BL 12-03 (999 Blanket) Positions: 0.20

Temp Help: 3.7

New Hires	
Classification	Program

Promotions
None

Other
None

Vacancies
1. BreZE Licensing Coordinator (AGPA) Vacancy. Vacancy effective 10/19/19 2. Enforcement Technician (OT) Vacancy. Vacancy effective 11/19/19 3. Central Services Manager (SSMI). Vacancy effective 1/27/20 None

MEMORANDUM

DATE	January 10, 2020
TO	Board of Psychology
FROM	Evan Gage Special Projects Analyst
SUBJECT	Agenda Item #7 – Discussion and Possible Approval of the Board Meeting Minutes: October 3-4, 2019

Background:

Attached are the draft minutes of the October 3-4, 2019 Board Meeting.

Action Requested:

Review and approve the minutes of the October 3-4, 2019 Board Meeting.

1
2 **BOARD MEETING**

3
4 The Westin San Diego
5 Gaslamp Quarter
6 910 Broadway Circle
7 San Diego, CA 92101
8 (619) 239-2200
9

10 **October 3 - 4, 2019**

11
12 **Thursday, October 3, 2019**

13
14 **Members Present**

15 Stephen Phillips, JD, PsyD, President
16 Seyron Foo, Vice-President
17 Sheryll Casuga, PsyD
18 Marisela Cervantes
19 Mary Harb Sheets, PhD
20 Jacqueline Horn, PhD
21 Lea Tate, PsyD
22

23 **Members Absent**

24 Alita Bernal
25

26 **Others Present**

27 Antonette Sorrick, Executive Officer
28 Norine Marks, DCA Legal Counsel
29 Cherise Burns, Central Services Manager
30 Stephanie Cheung, Licensing Program Manager
31 Sandra Monterrubio, Enforcement Program Manager
32

33

Thursday, October 3, 2019

34 **Agenda Item #1: Call to Order/Roll Call/Establishment of a Quorum**

35 Stephen Phillips, JD, PsyD, Board President, called the open session meeting to order
36 at 10:08 a.m. A quorum was present and due notice had been sent to all interested
37 parties.
38

39 **Agenda Item #2: President's Welcome**

40 Dr. Phillips read opening remarks.
41

42 **Agenda Item #3: Public Comment for Items not on the Agenda. The Board May**
43 **Not Discuss or Take Action on Any Matter Raised During this Public Comment**

44 **Section, Except to Decide Whether to Place the Matter on the Agenda of a Future**
45 **Meeting [Government Code sections 11125 and 11125.7(a)]**

46
47 No public comment was offered.

48
49 **Agenda Item #4: President's Report**

50
51 a) 2019 Meeting Calendar and Locations – Meeting materials were provided in the
52 meeting packet.

53
54 b) 2020 Meeting Calendar and Locations – Dr. Phillips emphasized how important it will
55 be for as many Members as possible to come to the Legislative visits the day before the
56 February 2020 Board Meeting.

57
58 c) Committee Updates – Dr. Phillips explained that there had not been a significant
59 change to Committee assignments and that there would be an election of officers at the
60 end of the open session, noting that the incoming president will revisit the Committee
61 assignments after the election.

62
63 **Agenda Item #5: Executive Officer's Report**

64
65 Ms. Sorrick said that the Board's Licensing and BreEZe Coordinator, Mai Xiong, would
66 be leaving the Board to take a position at OSHPD in October 2019. Ms. Sorrick
67 expressed that Ms. Xiong will be missed and that she has done a great job. Staff is
68 working with OHR to backfill the position. There were no further organizational updates,
69 and no Board comments followed.

70
71 **Agenda Item #7: Discussion and Possible Approval of the Board Meeting**
72 **Minutes: August 15-16, 2019**

73
74 It was M(Foo)/S(Harb Sheets)/C to approve the minutes as amended with any technical
75 changes previously submitted by Board Members.

76
77 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes

78
79 **Agenda Item #6: DCA Executive Office Update**

80
81 Ms. Sorrick introduced a letter from Deputy Director of DCA Board and Bureau Services
82 Chris Castrillo, which provided the Department of Consumer Affairs (DCA) Executive
83 Team update. Patrick Le, Assistant Deputy Director of BBS, had left BBS for a position
84 as a consultant with the Assembly Business and Professions Committee. The Board
85 had not yet had an Assembly Consultant assigned.

86
87 The Director's Quarterly Meeting would be held on October 16, 2019 for Board
88 Presidents and Executive Officers at DCA Headquarters. This meeting would be a

89 check-in with all the divisions within DCA and to report to the Boards on progress being
90 made in any particular areas.

91
92 DCA has put together a new publication called “We’re Listening” which offers ways to
93 improve our interactions with the public.

94
95 The Future Leadership Development program is continuing with its third cohort and had
96 its kickoff in September 2019 and will continue through 2020.

97
98 No Board or public comments followed.

99
100 **Agenda Item #8: Budget Report**

101
102 Ms. Burns provided the update on this item. Ms. Burns explained that not all our
103 expenditures are loaded into the Fi\$Cal system, so a full budget report will follow at the
104 February 2020 Board meeting. The Board’s budget analyst is expected to present their
105 report in February.

106
107 Mr. Foo asked when Fi\$Cal will be working better, at least well enough to be useful. Ms.
108 Burns said it will be a few years until then.

109
110 Dr. Horn asked why the budget is ‘tight’. Ms. Burns explained that personnel costs are
111 going up and will continue to increase until after the Governor’s budget goes through. She
112 explained further that the Board does not always spend the entire budgeted expenditures
113 for contracts, so even though that money looks like it’s being spent in the budget overview
114 report, reversions are just estimates until the fiscal year books are closed. She also
115 explained that Fi\$Cal is still closing out last year and the Board would not be able to
116 release all of that information before the Governor’s budget is finalized.

117
118 Dr. Harb Sheets asked about the impact of increasing department costs, costs the Board
119 will be charged, and whether the Board has been impacted by those yet. Ms. Burns
120 responded in the negative, stating that we are accruing those increased Office of Attorney
121 General (OAG) fees and will have to continue to track those fees. Ms. Burns explained
122 further that the Board can make current year augmentation requests to cover the
123 increased OAG or Office of Administrative Hearing expenses if needed.

124
125 Dr. Phillips mentioned that Board staff is expanding the size of the office suite to better
126 accommodate staff and asked how that expansion will impact the budget. Ms. Burns
127 replied that even though the remaining reversion funds will be drawn down a little more
128 than anticipated to cover some minor facilities costs, the Board should be fine since the
129 Board operates on baseline budgeting as well as is waiting on the January numbers in
130 the Governor’s Budget to be updated.

131

132 There were no further Board or public comments offered.

133

134 **Agenda Item #9: Licensing Report**

135

136 Ms. Cheung provided the update on this item. Ms. Cheung explained that the Board has
137 seen approximately 100 active new licensees and 20 registrants since the August 2019
138 Board meeting. She also noted a slight decrease in the number of registered
139 psychologists.

140

141 Ms. Cheung highlighted the Workflow reports in Attachment B which reflected an
142 increase in the number of new applications and explained that part of that increase
143 resulted from a workflow BreEZe enhancement that triggered some applicants to
144 reapply.

145

146 Dr. Horn asked about whether Attachment B indicated how many applications had been
147 opened or did it show how many have been approved? Ms. Cheung explained that the
148 number of open applications is a byproduct of applicants signing up to take the EPPP or
149 CPLEE and that staff would have to look at each record individually to know the status.

150

151 **Agenda Item #15: Petition for Early Termination of Probation – Paul Whitaker,**
152 **PhD**

153

154 Administrative Law Judge Debra D. Nye-Perkins presided. Deputy Attorney General
155 Rosemary Luzon was present and represented the People of the State of California.
156 Paul Whitaker, PhD was present and represented himself.

157

158 **Agenda Item #16: Closed Session**

159

160 In the interest of time, the Board postponed this closed session and combined it with
161 Agenda Item #18: Closed Session.

162

163 **Agenda Item #17: Petition for Reinstatement of License – Todd Gaffaney, PhD**

164

165 Administrative Law Judge Debra D. Nye-Perkins presided. Deputy Attorney General
166 Rosemary Luzon was present and represented the People of the State of California. Dr.
167 Gaffaney was present and was represented by Lindsay Johnson.

168

169 **Agenda Item #18: Closed Session**

170

171 The Board met in closed session pursuant to Government Code Section 11126(c)(3) to
172 discuss disciplinary matters including the above Petitions, Proposed Decisions,
173 Stipulations, Petitions for Reconsideration, and Remands.

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175 The meeting adjourned at 6:08 p.m.

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Friday, October 4, 2019

9:30 a.m. – OPEN SESSION

Agenda Item #19: Call to Order/Roll Call/Establishment of a Quorum

Stephen Phillips, JD, PsyD, Board President, called the open session meeting to order at approximately 9:30 am. A quorum was present and due notice had been sent to all interested parties.

Members Present

Stephen Phillips, JD, PsyD, President
Seyron Foo, Vice-President
Sheryll Casuga, PsyD
Marisela Cervantes
Mary Harb Sheets, PhD
Jacqueline Horn, PhD
Lea Tate, PsyD

Members Absent

Alita Bernal

Others Present

Antonette Sorrick, Executive Officer
Norine Marks, DCA Legal Counsel
Cherise Burns, Central Services Manager
Stephanie Cheung, Licensing Program Manager
Sandra Monterrubio, Enforcement Program Manager
Gloria Castro, Deputy Chief Attorney General, OAG

CLOSED SESSION

The Board met in Closed Session pursuant to Government Code Section 11126(a)(1) to Conduct its Annual Evaluation of its Executive Officer.

OPEN SESSION

Returned to open session at 11:11 am

Agenda Item #20: Public Comment for Items Not on the Agenda. Note: The Board May Not Discuss or Take Action on Any Matter Raised During this Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code sections 11125 and 11125.7(a)].

No public comment was offered.

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Agenda Item #21: Legislative and Regulatory Affairs Update

- a) Board Sponsored Legislation for the 2019 Legislative Session: Review and Possible Action
 - 1) SB 275 (Pan) – Amendments to Section 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact

Mr. Foo provided an update on SB 275. Ms. Burns explained the nature of grammatical amendments made to the bill to further clarify the definition of sexual contact.

It was M(Tate)/S(Casuga)/C to approve the proposed amendments and direct staff to continue working with Senator Pan on SB 275.

There was no further Board discussion and no public comment.

Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes

Development) Healing Arts – Update on Amendments to Sections 2940-2944 of the Business and Professions Code Regarding Examinations

Ms. Sorrick pointed out that the Governor signed SB 786.

- b) Review and Consideration of Proposed Legislation
 - 1) Review of Bills with Active Positions Taken by the Board
 - A. AB 1076 (Ting) Criminal Records: automatic relief.
 - B. AB 1145 (Garcia) Child abuse: reportable conduct.
 - C. SB 53 (Wilk) Open meetings.

Dr. Phillips requested an explanation of SB 53. Ms. Burns explained that SB 53 has died in committee and did not reach the Governor’s desk.

- D. SB 66 (Atkins) Medi-Cal: federally qualified health center and rural health clinic services.
- E. SB 425 (Hill) Health care practitioners: licensee’s file: probationary physician’s and surgeon’s certificate: unprofessional conduct.

The Board did not discuss “Review and Consideration of Proposed Legislation” bills in 21(b)(1)(A), 21(b)(1)(B), 21(b)(1)(D), or 21(b)(1)(E).

- 2) Review of Bills with Recommended Watch Status

- 266 A. AB 5 (Gonzalez) Worker status: employees and independent
267 contractors.
- 268 B. AB 8 (Chu) Pupil health: mental health professionals.
- 269 C. AB 166 (Gabriel) Medi-Cal: violence preventive services.
- 270 D. AB 189 (Kamlager-Dove) Child abuse or neglect: mandated
271 reporters: autism service personnel.
- 272 E. AB 241 (Kamlager-Dove) Implicit bias: continuing education:
273 requirements.
- 274 F. AB 289 (Fong) California Public Records Act Ombudsperson.
- 275 G. AB 469 (Petrie-Norris) State records management: records
276 management coordinator.
- 277 H. AB 476 (Rubio, Blanca) Department of Consumer Affairs: task
278 force: foreign-trained professionals.
- 279 I. AB 496 (Low) Business and professions.
- 280 J. AB 512 (Ting) Medi-Cal: specialty mental health services.
- 281 K. AB 565 (Maienschein) Public health workforce planning: loan
282 forgiveness, loan repayment, and scholarship programs.
- 283 L. AB 577 (Eggman) Health care coverage: maternal mental health.
- 284 M. AB 630 (Arambula) Board of Behavioral Sciences: marriage and
285 family therapists: clinical social workers: educational
286 psychologists: professional clinical counselors: required notice:
287 exemptions.
- 288 N. AB 744 (Aguiar-Curry) Healthcare coverage: telehealth.
- 289 O. AB 798 (Cervantes) Maternal Mental Health.
- 290 P. AB 1058 (Salas) Medi-Cal: specialty mental health services and
291 substance use disorder treatment.
- 292 Q. AB 1179 (Blanca) Child Custody: allegations of abuse: report.
- 293 R. AB 1184 (Gloria) Public records: writing transmitted by electronic
294 mail: retention.
- 295 S. AB 1519 (Low) Healing Arts.
- 296 T. SB 163 (Portantino) Health care coverage: pervasive
297 developmental disorder or autism.
- 298 U. SB 331 (Hurtado) Suicide prevention: strategic plans.
- 299 V. SB 601 (Morrell) State agencies: licenses: fee waiver.
- 300 W. SB 639 (Mitchell) Medical services: credit or loan.
- 301 X. SB 660 (Pan) Postsecondary education: mental health
302 counselors.
- 303

304 The Board did not have any “Watch” bills they wanted to discuss.

305

306 3) Review of Two-Year Bills with Recommended Watch Status

- 307 A. AB 71 (Melendez) Employment standards: independent
308 contractors and employees.
- 309 B. AB 184 (Mathis) Board of Behavioral Sciences: registrants and
310 licensees.
- 311 C. AB 193 (Patterson) Professions and vocations.

- 312 D. AB 312 (Cooley) State government: administrative regulations:
 313 review.
 314 E. AB 396 (Eggman) School employees: School Social Worker Pilot
 315 Program.
 316 F. AB 536 (Frazier) Developmental services.
 317 G. AB 544 (Brough) Professions and vocations: inactive license fees
 318 and accrued and unpaid renewal fees
 319 H. AB 613 (Low) Professions and vocations: regulatory fees.
 320 I. AB 768 (Brough) Professions and vocations.
 321 J. AB 770 (Garcia, Eduardo) Medi-Cal: federally qualified health
 322 clinics: rural health clinics.
 323 K. AB 895 (Muratsuchi) Pupil Mental Health Services Program Act.
 324 L. AB 1201 (Boerner Horvath) Unfair Practices Act.
 325 M. AB 1271 (Diep) Licensing examinations: report.
 326 N. AB 1601 (Ramos) Office of Emergency Services: behavioral
 327 health response.
 328 O. SB 181 (Chang) Healing arts boards.
 329 P. SB 201 (Wiener) Medical procedures: treatment or intervention:
 330 sex characteristics of a minor.
 331 Q. SB 546 (Hueso) Unlicensed activity.
 332 R. SB 700 (Roth) Business and professions: noncompliance with
 333 support orders and tax delinquencies.
 334

335 The Board did not have any Two-Year Bills with Recommended Watch Status that
 336 they wanted to discuss.
 337

338 **Agenda Item #22: Legislative Items for Future Meeting. The Board May**
 339 **Discuss Other Items of Legislation in Sufficient Detail to Determine Whether**
 340 **Such Items Should be on a Future Board Meeting Agenda and/or Whether to**
 341 **Hold a Special Meeting of the Board to Discuss Such Items Pursuant to**
 342 **Government Code Section 11125.4**
 343

344 No comments were offered.
 345

346 **Agenda Item #23: Regulatory Update, Review, and Consideration of Additional**
 347 **Changes**

- 348 a) 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10,
 349 1391.11, 1391.12, 1392.1 – Psychological Assistants
 350 b) 16 CCR Sections 1391.13, and 1391.14 – Inactive Psychological
 351 Assistant Registration and Reactivating a Psychological Assistant
 352 Registration
 353 c) 16 CCR Section 1396.8 – Standards of Practice for Telehealth
 354 d) 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of
 355 Expired License, Psychologist Fees
 356 e) 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 –
 357 Continuing Professional Development

358 f) 16 CCR Section 1394 – Substantial Relationship Criteria;
359 Section 1395 – Rehabilitation Criteria for Denials and Reinstatements;
360 Section 1395.1 – Rehabilitation Criteria for Denials Suspensions or
361 Revocations
362

363 Mr. Foo provided the update on item (d) regarding newly-proposed language for
364 retired license status and referred to the revised draft language provided in the
365 meeting materials. Ms. Burns explained that retired status would not extend to
366 individuals with disciplinary cases, accusations, or other restricted licenses (legal or
367 administrative). The new language clarifies these definitions in regulations for
368 licensees and applicants.
369

370 It was M(Harb-Sheets)/S(Tate)/C to approve the revised regulatory language for
371 noticing.
372

373 There was no further Board discussion and no public comment on item (d).
374

375 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes
376

377 The Board did not discuss items 23(a)-(c) or 23(e)-(f).
378

379 **Agenda Item #28: Licensure Committee Report -- Consideration and Possible**
380 **Approval of Committee Recommendations**

381
382 d) Consideration of Seeking Statutory Change to Allow the Licensure
383 Committee to Meet in Closed Session to Make Final Licensure
384 Determinations
385

386 Dr. Horn explained that the Licensure Committee deliberates on certain requests in
387 closed session to protect applicant's and licensees' privacy. The Committee must
388 then bring their recommendations to full the Board for action, meaning that
389 confidentiality is potentially compromised. Dr. Horn commented that statute requires
390 this Committee be only an advisory committee to the full Board.
391

392 Pursuing a statutory change to allow the Licensing Committee to be the final
393 decision-maker on licensure determinations would mean that the Committee would
394 not have to come before the public and the full Board for action. Precedent has
395 been established for this process through the Dental Board's Practice Act.
396

397 The Licensure Committee requested that the Board allow it to have the ability to
398 make decisions in such a way as to keep licensees' information private. Dr. Horn
399 commented that she could not recall a time when the Board had not agreed with
400 this Committee's recommendations. Dr. Phillips said there was one instance
401 regarding course in human sexuality for out-of-state psychologists, which Dr. Horn
402 recalled, but she could not recall another time during her past six years on the

403 Board. Dr. Phillips pointed out that there might be a very long lag between the
404 Licensure Committee meeting and the consideration of their recommendations at a
405 Board meeting, which could cause an inordinate amount of time between the
406 Committee's approval and Board action to the detriment of the applicant or
407 petitioner.

408
409 It was M(Foo)/S(Harb Sheets)/C to approve the proposed statutory language and
410 seek legislation to implement these changes.

411
412 Ms. Marks pointed out that under current language, the Board will still delegate this
413 authority to the Licensure Committee, but that the Board would retain that power of
414 delegation.

415
416 There was no further Board discussion and no public comments were offered.

417
418 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes
419

420 **Agenda Item #24: Review and Consideration of the Sunset Review Committee**
421 **Report -- Review and Possible Approval of Board's Sunset Report**

422
423 Dr. Phillips mentioned the upcoming Sunset Review Teleconference scheduled for
424 November 8, 2019 to review revisions. Ms. Sorrick described the Sunset process. Board
425 discussion ensued on a section by section basis.

426
427 Section 1: Background and Description of the Board and Regulated Profession. Ms.
428 Cervantes asked about the timeframe covered in the report. Ms. Sorrick explained that
429 each section contained different time information as it was requested. Ms. Burns
430 explained that there would be differences in the information reported depending on
431 which span of time was being requested. No further Board or public comment was
432 made on Section 1 of the Sunset Report.

433
434 Section 2: Performance Measures and Customer Satisfaction Surveys. No Board or
435 public comments were made on this section.

436
437 Section 3: Fiscal and Staff. Dr. Harb Sheets commented that the language regarding
438 the license renewal cycle in question #14 is confusing since the language only pertains
439 to new licensees. Ms. Burns explained that all new licenses issued are on a two-year
440 cycle from the date of issuance, not birthday-month related as was done in the past. Dr.
441 Harb Sheets found this confusing, and Dr. Horn agreed. Discussion ensued about
442 interpreting a renewal date based on licensure date.

443
444 Ms. Sorrick asked Dr. Harb Sheets to provide clarifying language. Dr. Harb Sheets
445 recommended the following language, which Ms. Burns captured live and revised based
446 on further discussion:

447
448 Licensed psychologists renew their licenses biennially. Psychological assistants
449 renew annually. There have been no changes to the renewal cycle in the last 10
450 years; however, for a license issued on or after January 1, 2016, the renewal cycle is
451 two years from the date of issuance. For those licensed on or prior to December 31,
452 2015, the license continues to expire at 12 midnight of the last day of the month of
453 the birthdate of the licensee.
454

455 There was no further Board discussion and no public comment made on this section.
456

457 Section 4: Licensing Program. No Board or public comment was initially made on this
458 section.
459

460 Section 5: Enforcement Program. Dr. Harb Sheets commented that in question #43, she
461 didn't see probation violations fitting into citable violations since they don't really look
462 like the other citable violations. Ms. Sorrick asked whether Dr. Harb Sheets thought cite
463 and fine should include violation of probation, and Dr. Harb Sheets replied in the
464 affirmative.
465

466 Discussion ensued as to whether probation violation should be included as one of the
467 offenses upon which a citation and fine should be based. Dr. Horn commented that
468 probation violation is in fact formal discipline. Mr. Foo agreed with Dr. Horn's comment.
469 Dr. Harb Sheets commented that they are not being additionally formally disciplined,
470 just receiving a citation and fine. Ms. Monterrubio agreed with Dr. Horn and will add
471 probation violation as one of the five most common citable offenses under question #45
472 and further suggested taking failure to maintain proper recordkeeping off the list, since
473 the bullet list only allows the five most often-cited violations. No change was made to
474 question #43.
475

476 Ms. Cervantes asked Ms. Monterrubio whether poor recordkeeping is a common
477 violation of the terms and conditions of probation. Ms. Monterrubio replied in the
478 negative, noting that on the Overview of Enforcement Activity, the statistic is for
479 probation violations, not poor recordkeeping. Dr. Phillips asked Ms. Monterrubio to
480 confirm whether citation and fine is for lesser violations and Ms. Monterrubio confirmed
481 that this was the intended purpose, and that recordkeeping violations do not usually rise
482 to the level of formal discipline.
483

484 Dr. Linder-Crow, CEO of the California Psychological Association (CPA), asked for
485 clarification of the meaning of "the average dollar amount" referred to in question #38b.
486 Ms. Monterrubio explained that she believed this dollar amount spoke to settlements
487 above a certain monetary threshold and that this was an average dollar amount of those
488 awards reported to the Board. Ms. Sorrick commented that the Board sees very few of
489 these awards and therefore this dollar amount is skewed, but that this is what the Board
490 was instructed to report.

491
492 Section 4: Licensing Program. Ms. Marks asked for clarification on question #21 from a
493 previous section [Section 4 – Licensing Program] regarding denials based on criminal
494 history. She asked whether this included only licenses being denied outright, or also
495 included denials that resulted in a license later being issued. Ms. Monterrubio explained
496 that she believed that this data applied to applicants initially being denied which resulted
497 in a Statement of Issues.

498
499 Dr. Harb Sheets pointed out fiscal year 15/17 should be 16/17 in question #21. Ms.
500 Burns corrected this error.

501
502 Dr. Horn wondered whether the Board's answer to question #21 regarding denials will
503 be clear to the Legislature when they read the report. Discussion ensued as to whether
504 clarifying words could be added. Dr. Phillips suggested using the term 'initial' denials;
505 however, Ms. Cervantes countered that this would lead to additional questions. Dr.
506 Phillips suggested that the Board not alter the categories defined by the Legislature. Ms.
507 Marks asked the Board whether it would be helpful to include a note following the
508 statistics on denials to say, 'these are cases where applicants would be subsequently
509 issued a license.' Dr. Phillips recommended that the Board answer the questions posed,
510 and let the Legislature ask clarifying questions, if necessary.

511
512 No public comment was made on this section.

513
514 Section 6: Public Information Policies. No Board or public comments were made on this
515 section.

516
517 Section 7: Online Practice Issues. Dr. Phillips said it was not clear what the Legislature
518 was asking in question #59 regarding online practice, since telepsychology was the only
519 area the Board addressed and so that will be the Board's focus. Discussion ensued as
520 to what the Legislature's intent was in asking this question. Ms. Cervantes speculated
521 that this question may be there to give the Board an opportunity to call attention to
522 emerging trends in online therapy. Ms. Cervantes spoke of being aware of a growth of
523 technology and asked whether the Board should mention those here. Dr. Phillips
524 cautioned that since the Board has not done any in-depth exploration of these items, it
525 could be a misstep to speculate on trends at this point. Ms. Burns pointed out that the
526 Board had not received complaints about online therapy, just telepsychology. Dr.
527 Phillips commented that many of the Board's policies were enforcement-driven.

528
529 Dr. Harb Sheets commented that this section appeared to be two questions which the
530 Board had only partially addressed. Dr. Harb Sheets wondered whether the thought
531 behind this approach was 'less is more'. Dr. Phillips repeated that the Board should not
532 volunteer information that was not requested, and that the Board was trying to be as
533 responsive as possible based on current information. He suggested to let the

534 Legislature come back with clarifying questions. Ms. Sorrick commented that the Board
535 could include a definition of online services, in response to Dr. Horn's question about
536 whether online therapy could be an Outreach and Communications Committee
537 endeavor. Ms. Sorrick felt it would be too early to start defining new outreach goals right
538 now, but that the Board could clarify the definition in this draft to catch it in Sunset. Ms.
539 Burns captured this revised language live as follows and incorporated it into the Board's
540 response to question #59:

541
542 "The Board defines online practice as one method of delivery of psychological services
543 pursuant to BPC Section 2290.5 on telehealth."
544

545 Dr. Winkelman, CPA Director of Professional Affairs, commented that the prevalence of
546 online practice is the most common topic among CPA membership. As for the need for
547 regulation, she continued, there is an increase in text-based therapy, provided by out-of-
548 state providers to in-state consumers.

549
550 No further Board discussion or public comment was made on this section.

551
552 Section 8: Workforce Development and Job Creation. No comments from the Board or
553 public were made on this section.

554
555 Section 9: Current issues. No comments from the Board or public were made on this
556 section.

557
558 Section 10: Board Action and Response to Prior Sunset Issues. Dr. Phillips commented
559 that the Board picked language up verbatim from the previous Sunset report and cannot
560 change this language except to make changes in the "update" box at the end of each
561 issue. Dr. Horn asked whether this whole section was written by the previous Sunset
562 Review Committee. Ms. Sorrick explained that this is a compilation including the
563 Committee's questions and the Board's responses and all the Board does is provide the
564 update. The Board also updated one table.

565
566 No further Board discussion ensued and no public comments were made on this
567 section.

568
569 Section 11: New Issues. Dr. Phillips brought up that this Board had addressed the
570 question of delegation to the Licensure Committee earlier in these proceedings. Dr.
571 Phillips asked whether this language was written in anticipation of this question coming
572 before the full Board and Ms. Burns confirmed that it was.

573
574 No further Board comments were made and no public comments were made on this
575 section.

576

577 Section 12: Attachments. Dr. Phillips pointed out that most of the attachments are
578 documents already in existence. Ms. Burns mentioned that the Administrative
579 Procedure Manual will be taken up at the February 2020 Board meeting.

580
581 No further Board discussion ensued and no public comments were made on this
582 section.

583
584 **Agenda Item #26: Presentation by the Office of the Attorney General on Clear and**
585 **Convincing to a Reasonable Certainty Standard of Proof in Accusations, and the**
586 **Office of the Attorney General Role in the Board's Enforcement Process (G.**
587 **Castro)**

588
589 Gloria L. Castro, Senior Assistant Attorney General, Health and Quality Enforcement
590 Section, Office of the Attorney General, made as presentation to the Board on these
591 issues.

592
593 Dr. Phillips asked for clarification on the difference between Levels of Proof, namely
594 'preponderance of evidence', 'clear and convincing evidence', and 'beyond a
595 reasonable doubt'. Ms. Castro explained the difference. Dr. Phillips put it into lay terms.
596 Ms. Castro confirmed his explanation. Dr. Phillips emphasized that every case is taken
597 very seriously and that in some cases, the Board simply does not have what is needed
598 to move forward with a case. Ms. Castro repeated this in terms of the OAG's view,
599 where every case is viewed individually. For confidentiality reasons, the OAG cannot
600 always share weaknesses or background information related to why a filed case was
601 not accepted for prosecution. It is an intangible benefit that licensees read disciplinary
602 decisions and that it does speak to their own practice.

603
604 Dr. Casuga commented about cases where Board Enforcement staff sends a letter
605 indicating insufficient evidence and that consumers are at a loss to know what else they
606 could have provided. Dr. Casuga asked Ms. Castro whether there was anything else a
607 complainant could present to bolster their case. Ms. Castro replied that Enforcement
608 staff and OAG take all cases very seriously. It is helpful when a complainant turns over
609 all their material and is willing to cooperate fully, but the Subject's side of things is also
610 considered. OAG considers both sides of the complaint in determining whether to
611 proceed, but they must leave it to the expert to see what is 'wrong with this picture.'

612
613 Mr. Foo asked whether the occasion of multiple complaints from multiple people against
614 a single licensee meets the clear and convincing level of proof. Ms. Castro replied that
615 complaints are not taken globally, and that Mr. Foo's scenario would not be enough to
616 show merit for pursuing a case. Pattern and practice are more telling indicators, but
617 those cases are rare enough to not guide OAG policy. Investigations are still conducted
618 case by case, so DAGs and investigators may consider patterns in a big picture, but it is
619 not clear and convincing as initially presented and the merits are evaluated based on

620 the records and the expert's opinion. Dr. Phillips comments that it is not an additive
621 process, meaning that several cases coming in together do not add up to clear and
622 convincing and Ms. Castro agreed with this assessment. Mr. Foo asked if it presents an
623 obstacle when staff cannot obtain a Release from the Complainant and Ms. Castro
624 confirmed that it is an obstacle. Dr. Phillips commented that health care providers are
625 trained to not turn over records in order to protect patient privacy and that the easiest
626 way to enable the provider to turn records over is to receive a Release. Ms. Castro
627 confirmed that the Release is critical to the investigation so as not to hold up the
628 process.

629
630 Dr. Winkelman asked Ms. Castro about the educational aspect of publishing an
631 Accusation and subsequent discipline. Dr. Winkelman referred to a case in which gross
632 negligence was alleged over the use of email communication, and that the topic came
633 up at an earlier Board meeting. Dr. Winkelman wondered whether more detail might be
634 included in some Accusations to fulfill the educational purpose of reading these
635 materials. Ms. Castro referred to 'notice pleading' as the standard in California. Ms.
636 Castro did not believe more detail would be useful, since every case is different. Where
637 the expert reads and finds gross negligence in a case with email communication, the
638 expert would have picked up something in the context or intent and whether the
639 licensee fell short of community standards upheld by all licensees. Ms. Castro said that
640 the instructional aspect of disciplinary publications is food for thought, but she did not
641 feel there would be a situation where a licensee reading a Decision would identify
642 precisely with that Respondent. She indicated the licensee might see similarities which
643 could be used to correct their own practice, which would be in the interest of public
644 protection. Dr. Winkelman asked for even just a few more clarifying words, so that the
645 violation does not appear just to be the email itself, but the content of the email. Ms.
646 Castro replied that Dr. Winkelman's request was well-stated.

647
648 Dr. Phillips thanked Ms. Castro for her informative presentation which will be used for
649 informational purposes so that people better understand the standards and procedures
650 in enforcement.

651
652 **Agenda Item #27: Enforcement Committee Report – Consideration and Possible**
653 **Approval of Committee Recommendations**

654
655 c) Child Custody Stakeholder Meeting Implementation Update

656
657 Ms. Monterrubio reported that at its April, 2019 meeting, the Enforcement Committee
658 directed staff to work on five Action Items based on the September 2018 Stakeholder
659 Meeting: 1) Mandate Child Abuse/Domestic Violence Education for Subject Matter
660 Experts, 2) Screen Child Custody Subject Matter Experts that Subscribe to Parental
661 Alienation, 3) Educate Public on Clear and Convincing Evidence, 4) Create a Complaint
662 Fact Sheet, and 5) Review and Consider Statutory Language Related to Documentation

663 Considered for Child Custody Complaints. Ms. Monterrubio described the
664 implementation timeline. Dr. Horn asked about the Action Item #2 and whether staff
665 could add “Syndrome” to “Parental Alienation”, but Dr. Phillips stated the five items were
666 based on the comments of stakeholders felt it was inappropriate to restate their
667 concerns. Ms. Marks confirmed that the Board does have that authority to adopt or
668 amend the action items. Dr. Horn had requested this be done to decrease confusion.

669
670 It was M(Horn)/S(Casuga)/C to adopt, as amended, the Child Custody Stakeholder
671 meeting implementation plan with Action Item #2 amended to add “syndrome” to
672 “parental alienation” to read “parental alienation syndrome”.

673
674 Mr. Foo asked about Action Item #3, what was meant by “definition” of Clear and
675 Convincing Evidence and what would be posted. Ms. Monterrubio explained that DAG
676 Liaison Joshua Templet had previously provided this definition for posting.

677
678 Discussion ensued as to the appropriateness of adding additional criteria for screening
679 out experts, many of whom would be highly-qualified to act in that capacity.

680
681 Dr. Linder-Crow commented that she and Dr. Winkelman have heard that since the
682 publication of the Journal with the Enforcement Committee meeting summary, many
683 licensees have come forward with questions. Dr. Linder-Crow expressed concerns
684 about the stakeholder meeting itself and with Action Items #1 and #2. She stated that
685 the stakeholder meeting as originally promoted did not appear to be something CPA
686 needed to be involved with because the meeting was geared toward the Center for
687 Judicial Excellence regarding actions of the courts, the Board’s disciplinary process and
688 a discussion of the burden of clear and convincing evidence. Now as she reads the
689 summary, the content turned out to be much broader, and she commented that CPA
690 was not invited to this facilitated meeting to triage the list of concerns and to comment.
691 Dr. Linder-Crow asks to be considered a stakeholder in any situation that might affect
692 licensees. To that end, she requested a follow-up stakeholder meeting, to include CPA,
693 subject matter experts, and the chapter of Association of Family and Conciliation Courts
694 (AFCC).

695
696 Dr. Linder-Crow commented that Action Item #1 is already a requirement under the
697 California Rules of Court and said that this requirement raises concerns and she
698 wondered how this came to be implemented. On Action Item #2, Dr. Linder-Crow
699 commented that using the correct language is hugely important and that the Journal and
700 the April Board meeting minutes did not clearly explain what this screening entailed.
701 She indicated that Board language edges out many experts who are skilled in detecting
702 the nuances of parental cases and that the Board’s screening process is unknown and
703 wondered whether staff would oversee screening.

704

705 Dr. Winkelman said she has spoken with many experts about parental alienation. She
706 says that there is widespread disbelief in this syndrome, but that there are many kinds
707 of resistive family dynamics, and that well-regarded experts in the field would be
708 screened out without further consideration when instead they need to be a part of this
709 conversation. She echoed that these are very complex issues and that the Board should
710 consult with experts and work on clarifying this requirement.

711
712 Dr. Linder-Crow urged the Board to take a step back on implementation, because these
713 issues are too critical to go forward without CPA and experts in on the conversation. Dr.
714 Phillips explained that a former Board member and a child custody expert would be
715 making that determination and would provide consultation to staff in screening experts.
716 Dr. Phillips explained that the Board is looking specifically at parental alienation
717 syndrome. Dr. Linder-Crow countered that there was concern among experts who know
718 the difference between parental alienation and parental alienation syndrome and that
719 this screening may be applied too broadly.

720
721 Dr. Phillips echoed this sentiment and said that consultant expert is very-highly qualified
722 and that this is how the Board came up with parental alienation 'syndrome.' The Board
723 is being very careful and respectful while also screening experts to make sure the Board
724 is comfortable with their opinions. Dr. Phillips acknowledged that CPA would have been
725 welcome to attend had they so chosen. Dr. Phillips said that he does not see it as a
726 burden to impose the educational requirement of Action Item #1 on subject matter
727 experts. Dr. Linder-Crow commented that CPA will try harder to communicate to
728 licensees just how seriously the Board takes these considerations and issues and the
729 ways in which the Board works.

730
731 No further Board discussion or public comments were made on this item.

732
733 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes

734
735 The Board did not discuss items 27(a), (b), or (d).

736
737 **Agenda Item #29: Election of Officers**

738
739 Ms. Marks explained the process of nominating and electing officers. Discussion
740 ensued as Board Members voiced their nominations for the offices of President and
741 Vice-President of the Board.

742
743 Ms. Marks opened the nominations for the office of President.

744 Dr. Phillips nominated Mr. Foo.

745 Dr. Casuga nominated Dr. Horn. Dr. Horn declined the nomination.

746 Dr. Casuga nominated Dr. Phillips. Dr. Phillips declined the nomination.
747 Dr. Casuga nominated Dr. Harb Sheets. Dr. Harb Sheets declined the nomination.
748 Mr. Foo was elected as President.
749 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes
750
751 Ms. Marks opened the nominations for the office of Vice-President.
752 Mr. Foo nominated Dr. Casuga.
753 Dr. Phillips nominated Dr. Harb Sheets.
754 During a roll-call vote, Dr. Casuga received two votes (Foo, Horn) and Dr. Harb Sheets
755 received five votes (Casuga, Cervantes, Harb Sheets, Phillips, Tate).
756 Dr. Harb Sheets was elected as Vice-President.
757
758 Ms. Marks introduced a motion for the term(s) of office to be for one calendar year and
759 to commence on January 1, 2020.
760
761 It was M(Foo)/S(Casuga)/C for the terms of office to begin January 1, 2020 and last for
762 one calendar year.
763
764 No Board further discussion and no public comment offered.
765
766 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes
767
768 **Agenda Item #28: Licensure Committee Report – Consideration and Possible**
769 **Approval of Committee Recommendations**
770
771 Dr. Horn provided the update on this item, stating that the Board would only be
772 reviewing action items at this time.
773
774 b) Discussion and Consideration for Grievance Process: Options in Resolving a
775 Discrepancy between Weekly Log and Verification of Experience forms.
776
777 Dr. Horn said that staff had been directed to investigate ways to resolve these
778 discrepancies and bring their recommendations back to the Licensure Committee.
779
780 Staff recommended the following options: 1) amend Title 16 of the California Code of
781 Regulations (16 CCR) section 1387.5 to require submission of weekly log with the VOE
782 forms; 2) amend 16 CCR section 1387 to mandate the completion of the weekly log as
783 a component of the required face-to-face supervision; or 3) present the case to the

784 Licensure Committee for review and consideration as a licensure qualification issue on
785 a case-by-case basis during closed session at committee meetings.

786
787 It was M(Foo)/S(Casuga)/C to recommend that the Board adopt option 3 for the
788 Licensure Committee to conduct case-by-case reviews to resolve discrepancies
789 identified between weekly logs and verification of experience forms.

790
791 No Board discussion ensued and no public comment was made on this item.

792
793 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes

794
795 c) Discussion and Consideration of Revisions to the Guidelines for the Review of
796 Requests for Extension to the California Code of Regulations sections 1391.1(b) and
797 1387(a)

798
799 Dr. Horn stated that since the Board was seeing a lot of extension requests, the Board
800 should better communicate how the process works. Staff came up with additional
801 guidelines for people requesting an extension to speed up that process and to aid staff
802 in making those determinations.

803
804 It was M(Foo)/S(Harb Sheets)/C to adopt the revised extension request guidelines as
805 written.

806
807 Dr. Casuga voiced support that this revision is a good idea.

808
809 No further Board discussion ensued and no public comment was made on this item.

810
811 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes

812
813 e) Consideration of Licensure Committee Recommendations Regarding Requests for
814 an Extension of the 30-Consecutive Month Limitation to Accrue 1500 Hours of Post-
815 Doctoral Supervised Professional Experience Pursuant to Section 1387(a) of the
816 California Code of Regulations

817
818 PSY Applicant #1 – Dr. Horn provided a summary of PSY Applicant #1's extension
819 request and the Licensure Committee's recommendation regarding this request.

820
821 It was M(Foo)/S(Tate)/C to approve the Licensure Committee's recommendation to
822 grant PSY Applicant #1's request for an eight-month extension to the 30-consecutive
823 month limitation to accrue post-doctoral SPE.

824
825 No Board discussion ensued and no public comments were made on this item.

826
827 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes

828

829 PSY Applicant #2 – Dr. Horn provided a summary of PSY Applicant #2’s extension
830 request and the Licensure Committee’s recommendation regarding this request.

831

832 It was M(Foo)/S(Tate)/C to approve the Licensure Committee’s recommendation to
833 grant PSY Applicant #2’s request for a three-year-and-four-month extension to the 30-
834 consecutive month limitation to accrue pre-doctoral SPE.

835

836 Dr. Phillips commented that he appreciates that some school programs act effectively
837 as gatekeepers.

838

839 No further Board discussion ensued and no public comments were made on this item.

840

841 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes

842

843 PSY Applicant #3 – Dr. Horn provided a summary of PSY Applicant #3’s extension
844 request and the Licensure Committee’s recommendation regarding this request.

845

846 It was M(Foo)/S(Tate)/C to approve the Licensure Committee’s recommendation to
847 grant PSY Applicant #3’s request for a one-year extension to the 30-consecutive month
848 limitation to accrue post-doctoral SPE.

849

850 Dr. Phillips asked Dr. Horn whether the Licensure Committee was satisfied with the
851 documentation related to the mental health of the candidate and Dr. Horn replied in the
852 affirmative.

853

854 No further Board discussion ensued and no public comments were made on this item.

855

856 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes

857

858 f) Consideration of Licensure Committee Recommendations Regarding Requests for an
859 Extension of the 72-Month Registration Period Limitation for Registered Psychological
860 Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

861

862 Dr. Horn provided a summary of PSB #1’s extension request and the Licensure
863 Committee’s recommendation regarding this request.

864

865 It was M(Foo)/S(Casuga)/C to approve the Licensure Committee’s recommendation to
866 deny PSB #1’s request for a one-year extension of the 72-month limitation for the
867 psychological assistant registration.

868

869 Dr. Harb Sheets commented on the increase in this PSB’s mental health symptoms and
870 noted that there had already been a request for an extension that was denied. Dr. Horn
871 explained that the materials submitted in support of the request did not preclude the

872 PSB from taking the EPPP. Dr. Horn emphasized that the 72-month period is
873 specifically a training period. Dr. Phillips noted that the Board has seen several such
874 requests made in the past by candidates who viewed this psychological assistantship as
875 a terminal licensing class instead of a pass-through registration.

876
877 No further Board discussion ensued and no public comments were made on this item.

878
879 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes
880

881 g) Consideration of Renaming Registered Psychological Assistant

882
883 Dr. Horn notes that more jurisdictions use “Psychological Associate” in the way this
884 Board currently uses “Psychological Assistant.”

885
886 It was M(Foo)/S(Casuga)/C to approve the Licensure Committee’s recommendation to
887 continue with the renaming of “Psychological Assistant” to “Psychological Associate.”
888

889 Dr. Phillips commented that the Board may still be causing confusion since some
890 jurisdictions use “Associate” as an independent practice designation. Dr. Phillips
891 suggested calling it a “Registered Psychological Associate” to make a distinction from
892 terminal independent-licensing categories.

893
894 Mr. Foo commented that "psychological associate" emerged from stakeholder meetings
895 held by the Board and facilitated by SOLID. He added that using the category
896 psychological associate would honor the process and input from stakeholders.
897 Additionally, as the term is used widely in other jurisdictions, it should not cause
898 confusion.

899
900 It was M(Foo)/S(Casuga)/C to amend the Licensure Committee’s recommendation to
901 continue with the renaming of “Psychological Assistant” to “Registered Psychological
902 Associate.”

903
904 No further Board discussion ensued and no public comments were made on this item.

905
906 Vote: 7 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips, Tate), 0 noes
907

908 h) Pupil Personnel Services Credential: Report on Presentation and Discussion by 909 Commission on Teacher Credentialing (CTC) for a Credential with a Specialization in 910 School Psychology

911
912 i) Update on the California Association of School Psychologists Regarding Written
913 Statement to Clarify the Role of Licensed Educational Psychologists
914

915 These items were informational only and were discussed in context with item 28(j) to
916 follow.

917
918 j) Discussion and Consideration of How to Inform Consumers Regarding the Respective
919 Roles of a Licensed Psychologist, Licensed Educational Psychologist, and Individuals
920 Holding a Credential with a Specialization in School Psychology

921
922 Discussion ensued regarding how best to educate consumers on the distinctions
923 between what services a Licensed Educational Psychologist and a Licensed
924 Psychologist could deliver in their respective practices.

925
926 It was M(Foo)/S(Tate)/C for the Board to co-host a stakeholder meeting in the near
927 future to solicit input on how to best inform consumers regarding the respective roles of
928 the three professions with the Board of Behavioral Sciences, the Commission on
929 Teachers Credentialing, and other relevant stakeholders.

930
931 Dr. Horn suggested staff should work with these organizations to identify all the various
932 stakeholders. Ms. Sorrick pointed out that at the September Committee meeting, all
933 present participants in the meeting agreed to make a list of all their respective
934 stakeholders. Dr. Casuga recommended the Association of Regional Center Agencies
935 (ARCA) be one of the stakeholders invited to the stakeholders meeting that is being
936 planned.

937
938 Dr. Casuga wanted to include as a topic making proper referrals to licensed
939 psychologists when clinically indicated.

940
941 Dr. Harb Sheets pointed out that this is more an issue with Licensed Educational
942 Psychologists in private practice and that it is worrying that the Board of Behavioral
943 Sciences does not consider this to be a problem.

944
945 Dr. Horn clarified that the issue was whether consumers know the difference between
946 what an Licensed Educational Psychologist can do and when it is appropriate to refer
947 out to a Licensed Psychologist.

948
949 Mr. Foo commented that Kim Madsen, Executive Officer of the Board of Behavioral
950 Sciences (BBS), made it very clear that this was a stakeholder meeting and that BBS
951 was not interested in reopening their Practice Act.

952
953 Dr. Harb Sheets said consumers are reluctant to tell their stories a second time to
954 another professional, thinking that their present Licensed Educational Psychologist
955 should be able to treat the student.

956
957 Dr. Phillips agreed, that consumers may not be fully aware of their options.

958

959 Ms. Cervantes commented that when the Board distributes information on this topic,
960 there needs to be a sensitivity to language and cultural differences, because there are
961 so many stakeholders involved in K-12 education.

962

963 Mr. Foo asked Ms. Sorrick whether the “Therapy Never Includes Sexual Behavior”
964 brochure was translated to other languages. Ms. Sorrick responded that it was
965 translated into Spanish and that DCA uses Google Translate for other languages. Mr.
966 Foo suggested that the Board should at least create this informational piece in Spanish
967 and refer to Google for translations to other languages.

968

969 No further Board discussion ensued and no public comments were made on this item.

970

971 Vote: 6 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips), 0 noes, 1 absent
972 for this vote (Tate)

973

974 It was M(Foo)/S(Harb Sheets)/C to accept the Licensure Committee report covering the
975 remainder of the non-action items.

976

977 No Board discussion ensued and no public comment were made on this item.

978

979 Vote: 6 ayes (Casuga, Cervantes, Foo, Harb Sheets, Horn, Phillips), 0 noes, 1 absent
980 for this vote (Tate)

981

982 **Agenda Item #21: Legislative and Regulatory Affairs Update**

983

984 c) Update on California Psychological Association Legislative Proposal Regarding New
985 Registration Category for Psychological Testing Technicians

986

987 Mr. Foo introduced Dr. Winkelman, CPA, who provided an update on this item.

988

989 Mr. Foo asked Dr. Winkelman whether the proposed language will go to the Board for
990 review or go straight to the Legislative and Regulatory Affairs Committee first. Dr.
991 Winkelman did not directly reply, but Dr. Phillips asked Dr. Winkelman for a preview
992 once it is available. Dr. Winkelman replied that this would be done. Mr. Foo asked
993 whether Dr. Winkelman is aiming for February 2020, and she confirmed that that was
994 the hope. In the meantime, CPA would reach out to Board staff for technical guidance.

995

996 Dr. Phillips indicated that CANRA was not on this meeting’s agenda but would be
997 brought up on the February agenda.

998

999 **Agenda Item #30: Recommendations for Agenda Items for Future Board**

1000 **Meetings. Note: The Board May Not Discuss or Take Action on Any Matter Raised**

1001 **During This Public Comment Section, Except to Decide Whether to Place the**
1002 **Matter on the Agenda of a Future Meeting [Government Code Sections 11125 and**
1003 **11125.7(a)].**
1004

1005 Dr. Casuga expressed that she wanted to share her experience with the EPPP Part 2
1006 pilot exam at a future meeting.

1007
1008 No further Board or public comment was offered.

1009
1010 In closing, Dr. Phillips expressed his gratitude and appreciation to his fellow Board
1011 members, to Board managers and staff, and to Ms. Sorrick for all the support he
1012 received over his four year-presidency. His remarks were warmly received.

1013
1014 Meeting adjourned at 4:16 pm.

1015
1016 The following agenda items were not discussed at the meeting:

1017
1018 **Agenda Item #10: Continuing Education and Renewals Report**

1019
1020 **Agenda Item #11: Strategic Plan Action Plan Update**

1021
1022 **Agenda Item #12: Board's Social Media Update**

1023
1024 **Agenda Item #13: Website Update**

1025
1026 **Agenda Item #14: Update on Newsletter**

1027
1028 **Agenda Item #25: Enforcement Report**

1029
1030
1031
1032
1033
1034 _____
President

_____ Date

MEMORANDUM

DATE	January 10, 2020
TO	Board of Psychology
FROM	Evan Gage Special Projects Analyst
SUBJECT	Agenda Item #8 – Discussion and Possible Approval of the Board Meeting Minutes: November 8, 2019

Background:

Attached are the draft minutes of the November 8, 2019 Sunset Review Board meeting teleconference.

Action Requested:

Review and approve the minutes of the November 8, 2019 Sunset Review Board meeting teleconference.

BOARD TELECONFERENCE MEETING

Department of Consumer Affairs
1625 N. Market Blvd., El Dorado Room (Second Floor, Room 220)
Sacramento, CA 95834
(no board member was present at this location)

The Board of Psychology held its Board Meeting, as noted above, and via telephone conference at the following locations:

8920 Wilshire Blvd. Beverly Hills, CA 90211 (310) 275-4194	1000 N. Alameda St. Los Angeles, CA 90012 (213) 610-8866 ext. 221
--	---

9330 Carmel Mountain Road, Suite A San Diego, CA 92129 (858) 484-8332	500 Davis St, Suite 100 San Leandro, CA 94577 (510) 618-6108
---	--

Lassen Training Room Caltrans District 2 West Venture Building, 1 st Floor 1031 Butte St. Redding, CA 96001 (530) 225-3426	Cerritos Field Office-HQIU 12750 Center Court Drive South, Suite 750 Cerritos, CA 90703 (562) 402-4668
---	--

Omni Hotel
700 San Jacinto Blvd.
Austin, TX 78701
(512) 476-3700

Friday, November 8, 2019

Agenda Item #1: Call to Order/Roll Call/Establishment of a Quorum

Stephen Phillips, JD, PsyD, Board President, called the open session meeting to order at 1:05 pm. A quorum was present and due notice had been sent to all interested parties. Board Members not present at the noticed address participated in the teleconference from duly-noticed public locations.

Members Present

Stephen Phillips, JD, PsyD, President
Seyron Foo, Vice-President
Alita Bernal
Sheryll Casuga, PsyD
Marisela Cervantes
Jacqueline Horn, PhD
Lea Tate, PsyD

48 **Members Absent**

49 Mary Harb Sheets, PhD

50

51 **Legal Counsel**

52 Norine Marks

53

54 **Board Staff**

55 Antonette Sorrick, Executive Officer

56 Jeffrey Thomas, Assistant Executive Officer

57 Cherise Burns, Central Services Manager

58 Stephanie Cheung, Licensing Program Manager

59 Sandra Monterrubio, Enforcement Program Manager

60 Evan Gage, Special Projects Analyst

61

62 **Agenda Item #2: President's Welcome**

63

64 Dr. Phillips delivered opening remarks after establishment of a quorum.

65

66 Members of the public who identified themselves on the call included Dr. Jo Linder-
67 Crow and Dr. Elizabeth Winkelman of the California Psychological Association (CPA),
68 and Catherine Campbell from the California Protective Parents Association.

69

70 **Agenda Item #3: Public Comment for Items Not on the Agenda. Note: The Board**
71 **May Not Discuss or Take Action on Any Matter Raised During this Public**
72 **Comment Section, Except to Decide Whether to Place the Matter on the Agenda**
73 **of a Future Meeting [Government Code sections 11125 and 11125.7(a)].**

74

75 Ms. Campbell commented that she appreciated the Board looking at the family court
76 crisis and called to mind an issue of institutional betrayal leading to institutional courage.
77 Ms. Campbell requested that the Board self-reflect and use institutional courage itself.

78

79 **Agenda Item #4: Review and Possible Approval of Board's Sunset Report**

80

81 Ms. Sorrick introduced this item and explained that the purpose of this meeting was to
82 finalize the draft Sunset Review report for submission to the Business and Professions
83 Sunset Review Committee by the December 1, 2019 deadline.

84

85 Discussion ensued as the Board reviewed the draft Sunset report.

86

87 Dr. Horn asked about items in Section 1 highlighted in yellow, whether those highlighted
88 items would be unhighlighted based on updated meeting attendance. Dr. Phillips replied
89 that highlighting in this section would be removed based on meeting attendance and
90 Ms. Sorrick explained that legislative and regulatory information would remain
91 highlighted until the last moment, in order to capture the most up-to-date status.

92

93 Mr. Foo asked about question #16, namely regarding the obstacles faced in hiring staff.
94 Ms. Sorrick replied that not only do applicants have to take a test, but that they must
95 also be eligible based on certain qualifications. Military background and college

96 education weigh into this eligibility and ranking. The Board might identify a candidate
97 who could be a good fit for a Board position only to have DCA's Office of Human
98 Resources (OHR) deny that candidate as not being 'reachable' on an eligibility list, and
99 then the Board would be unable to make an offer of employment. Ms. Sorrick explained
100 that OHR is contemplating developing a single administrative classification, but that this
101 is still in the works. If and when this comes to pass, this might lessen the obstacle(s) the
102 Board faces in hiring promising candidates.

103
104 As Board discussion continued, minor revisions to wording and sentence order were
105 captured live and incorporated directly into the Sunset report.

106
107 Ms. Cervantes asked, in reference to question #20, whether it should be explained that
108 the apparent downtrend in Registered Psychologists and Registered Psychological
109 Assistants is being driven in part by changes in the profession. Ms. Sorrick replied that
110 the information tabulated here represents the Board's best educated guesses based on
111 policy changes. In particular, the downtrend might have been influenced by the
112 imposition of the 72-month rule for psychological assistant registrations, which may
113 have pushed many more psychological assistants to seek licensure and drop out of the
114 psychological assistant ranks. Ms. Sorrick explained further that many locations that
115 previously provided supervised experience were no longer eligible and this, too, may
116 have pushed psychological assistants to seek licensure. Mr. Thomas added that recent
117 rule changes caused psychological assistants to obtain their own single registration
118 rather than having a separate registration for each primary supervisor. Ms. Marks
119 commented that the older data showed the same number of registrants overall but
120 spread out over different license types in the newer data.

121
122 Dr. Casuga pointed out that the Applied Behavioral Analysis Task Force and the EPPP2
123 Task Force were not listed as Ad Hoc Committees. Discussion ensued as how best to
124 indicate the status of the various committees on the Board's website in the most
125 consistent way. Ms. Sorrick cautioned that this meeting should not review the goals of
126 the various committees, as that would necessitate convening the ABA and EPPPs task
127 forces before the December 1 deadline to accommodate those goal revisions.

128
129 It was M(Horn)/S(Casuga)/C to approve the Sunset Review report with the changes
130 incorporated during this meeting, and to delegate to the Executive Officer the authority
131 to make additional technical, non-substantive changes and finalize the report for
132 submission to the legislative business and professions committees.

133
134 Public discussion ensued regarding the Board's target date for completing
135 investigations. Ms. Campbell asked whether PM4 included the entire duration of an
136 investigation, from start to finish. Ms. Sorrick replied in the affirmative and emphasized
137 that 540 days is a target date mandated to all Boards and Bureaus under DCA. Ms.
138 Monterrubio referred Ms. Campbell to the Board's website for this information. In reply
139 to Ms. Campbell's question as to why there was not a count of licensees who have
140 multiple complaints against them, Dr. Phillips and Ms. Sorrick restated that the Board is
141 providing specific information in response to specific requests from the Joint Sunset
142 Review Oversight Committee and that the Board does not have the flexibility to add
143 unsolicited information.

144
145 Ms. Campbell asked whether Subjects are notified when their case goes to the OAG
146 and Ms. Monterrubio answered that the Subject would have been aware of a formal
147 investigation going on, but that staff does not inform the Subject that the case would be
148 referred to the OAG. Ms. Campbell asked how long it takes for the Board to transmit a
149 case to the OAG and Dr. Phillips iterated that the Board is answering only the questions
150 that were asked and that these other subjects are on the Board's radar for future
151 meetings.

152
153 Dr. Winkelman asked about Sections 9 and 10, regarding the way an issue becomes
154 something to be reported during Sunset Review. Ms. Sorrick answered that technical,
155 non-substantive issues can be reviewed in committee throughout the Sunset process,
156 whereas more substantive changes would likely cause the Board to seek an author to
157 pass legislation to deal with bigger issues. Ms. Sorrick further explained that all Boards
158 and Bureaus receive the same questions for Section 9, whereas Section 10 is this
159 Board's place to raise its own new issues. She clarified that the issues in Section 11
160 during the previous Sunset Review are what appear in Section 10 for the current Sunset
161 Review. What appears in Section 11 for the current Sunset Review will appear in
162 Section 10 during the next Sunset Review.

163
164 Board discussion about meeting attendance ensued. No further public comment was
165 offered.

166
167 Votes: 7 ayes (Bernal, Casuga, Cervantes, Foo, Horn, Phillips, Tate), 0 noes

168
169 **Agenda Item #5: Update Regarding Mathews v. Becerra - California Child Abuse**
170 **and Neglect Reporting Act (CANRA) and Mandated Reporting - Penal Code**
171 **Sections 261.5, 288, and 11165.1**

172
173 This item was informational only.

174
175 **Agenda Item #6: Recommendations for Agenda Items for Future Board Meetings.**
176 **Note: The Board May Not Discuss or Take Action on Any Matter Raised During**
177 **This Public Comment Section, Except to Decide Whether to Place the Matter on**
178 **the Agenda of a Future Meeting [Government Code Sections 11125 and**
179 **11125.7(a)].**

180
181 There were no recommendations made for future agenda items.

182
183 **CLOSED SESSION**

184
185 **Agenda Item #7: The Board will Meet in Closed Session Pursuant to Government**
186 **Code Section 11126(c)(3) to Discuss Disciplinary Matters Including Proposed**
187 **Decisions, Stipulations, Petitions for Reconsideration, and Remands.**

188
189 The Board went into closed session at 2:10 pm.

190
191 **RETURN TO OPEN SESSION/ADJOURNMENT**

192
193
194
195
196
197
198
199
200
201
202
203

The Board returned to open session at 2:32 pm and the meeting adjourned.

President

Date

DRAFT

MEMORANDUM

DATE	January 29, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #15 - Budget Report

Background:

In the Governor's 2019-20 Budget, the Board has an appropriation of \$5,586,000 and an estimated Fund Balance of \$9,390,000 which includes a General Fund Loan Repayment of \$3,700,000.

Action Requested:

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

Attachment A: Budget Report: FY 2019-2020 through Fiscal Month 6

Attachment B: Explanation of Discretionary and Non-Discretionary Budget Items

Attachment C: Analysis of Fund Condition

Attachment D: Psychology Fund Balance/Expenditure Comparison Spreadsheet

**BOARD OF PSYCHOLOGY
FY 2019-20 BUDGET REPORT**

FM 06 based on 1.29.2020 activity log
Prepared: 2.7.2020

Projections are based on approved Attorney General and OAH Augmenations

OBJECT DESCRIPTION	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20				
	ACTUAL EXPENDITURES (Prelim FM12)	ACTUAL EXPENDITURES (Prelim FM12)	ACTUAL EXPENDITURES (Prelim FM12)	ACTUAL EXPENDITURES (Prelim FM12)	BUDGET Act 2019-20	CURRENT YEAR EXPENDITURES FM 06	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
Salary & Wages (Staff)	948,138	1,029,627	1,215,189	1,260,226	1,356,000	746,097	55%	1,435,319	(79,319)
Temp Help (907)	185,254	285,680	177,695	242,457	47,000	83,061	177%	155,463	(108,463)
Statutory Exempt (EO)	88,547	91,023	97,272	101,160	90,000	52,350	58%	104,700	(14,700)
Board Member Per Diem	24,300	14,400	14,400	19,100	12,000	10,100	84%	19,000	(7,000)
Overtime/Retirement Payout	8,528	3,474	83,027	25,411	10,000	152	2%	200	9,800
Staff Benefits	607,403	685,887	735,161	909,697	1,007,000	509,001	51%	980,000	27,000
TOTALS, PERSONNEL SVC	1,862,170	2,110,091	2,322,744	2,558,051	2,522,000	1,400,762	56%	2,694,681	(172,681)
OPERATING EXPENSE AND EQUIPMENT									
General Expense	98,284	92,523	92,644	68,164	105,000	33,394	32%	66,000	39,000
Printing	66,404	67,340	60,622	58,152	51,000	13,870	27%	51,000	0
Communication	5,863	6,544	3,499	3,758	42,000	1,830	4%	4,600	37,400
Postage	18,134	14,858	29,221	10,017	26,000	118	0%	10,000	16,000
Insurance	-	20	6,870	8,116	0	55	0%	5,000	(5,000)
Travel In State	69,641	70,295	57,196	31,845	19,000	13,927	73%	28,000	(9,000)
Travel, Out-of-State	-	-	1,233	1,669	0	2,000	0%	2,000	(2,000)
Training	1,143	620	840	5,260	16,000	455	3%	1,000	15,000
Facilities Operations	147,630	164,677	162,553	231,559	139,000	104,505	75%	224,227	(85,227)
C & P Services - Interdept.	-	-	759	99	263,000	105	0%	286	262,714
Attorney General	843,411	706,587	664,375	619,304	1,068,000	503,473	47%	1,067,473	527
Office of Administrative Hearings	127,825	118,786	162,690	161,910	165,250	31,875	19%	165,250	0
C & P Services - External	309,722	281,030	374,164	422,439	427,000	190,911	45%	461,000	(34,000)
DCA Pro Rata	779,648	769,952	857,000	939,000	905,000	452,500	50%	905,000	0
Interagency Services with OPES	46,484	39,424	46,776	99,344	54,000	13,807	26%	58,000	(4,000)
Consolidated Data Center (OTECH)	2	1	7,635	-	7,000	0	0%	0	7,000
Information Technology	10,041	9,452	5,164	5,356	7,000	840	12%	6,657	343
Equipment	23,631	26,244	47,023	7,518	0	3,000	0%	29,122	(29,122)
TOTALS, OE&E	2,930,240	2,663,276	2,830,796	2,996,154	3,294,250	1,366,666	41%	3,084,615	209,635
TOTAL EXPENSE	4,792,410	4,773,367	5,153,540	5,554,205	5,816,250	2,767,427	48%	5,779,297	36,953
Sched. Reimb. - Fingerprints	(2,401)	(3,888)	(1,127)	(2,793)	(47,000)		0%	(47,000)	0
Sched. Reimb. - Other	(2,115)	(2,115)	(1,175)	(705)	(4,000)		0%	(4,000)	0
NET APPROPRIATION	4,657,673	4,585,164	4,966,758	5,405,291	5,765,250	2,767,427	48%	5,728,297	36,953
SURPLUS/(DEFICIT):								0.6%	

Board of Psychology Budget Items

Non-Discretionary Budget

Personal Services <i>Permanent Staff, Per Diem, Benefits</i>	\$ 1,317,549
---	--------------

Operating Expenses <i>Facilities, Departmental Distributed, Statewide Prorata, Credit Card Processing, Examinations, Enforcement</i>	\$ 1,297,176
---	--------------

Discretionary Budget

Personal Services <i>Temporary Help, Overtime</i>	\$ 83,212
--	-----------

Operating Expenses <i>General Operating Expenses, Equipment, Travel, Maintenance Contracts, Printing, Postage</i>	\$ 69,490
--	-----------

Total Budget	\$ 2,767,427
---------------------	---------------------

0310 - Psychology Fund Condition Analysis

Prepared 12.23.2019

(Dollars in Thousands)

Governor's Budget 2020-21

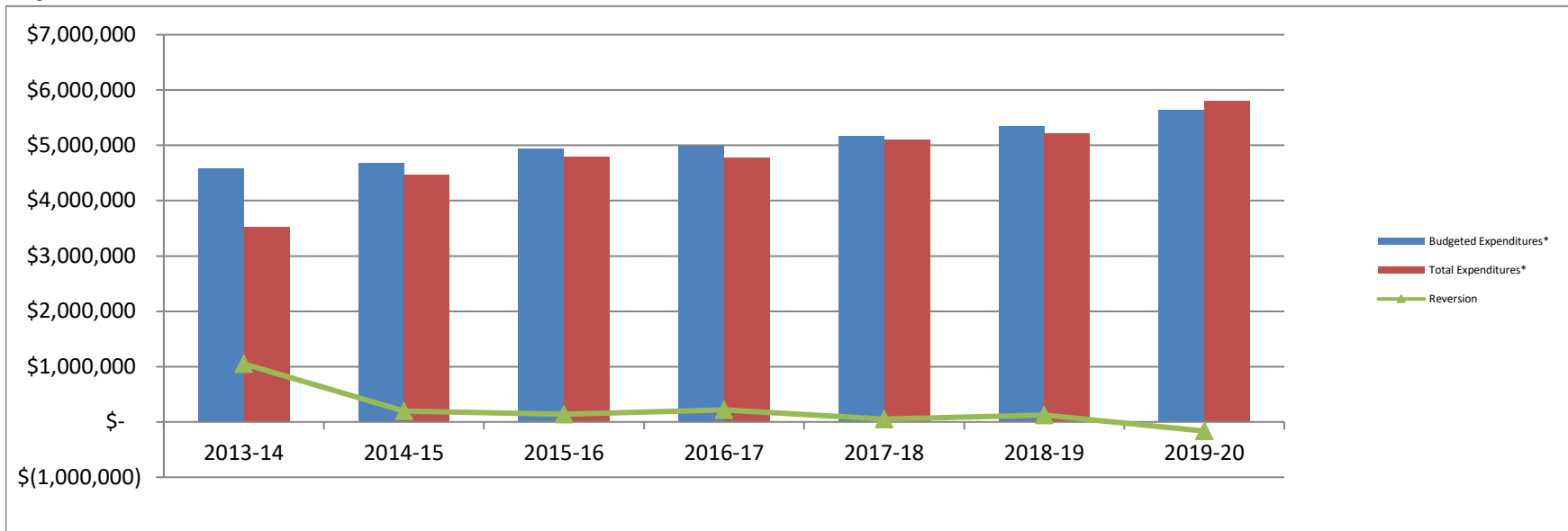
	PY 2018-19	Budget Act CY 2019-20	BY 2020-21	BY +1 2021-22
BEGINNING BALANCE	\$ 2,863	\$ 7,380	\$ 9,390	\$ 6,821
Prior Year Adjustment	\$ 114	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,977	\$ 7,380	\$ 9,390	\$ 6,821
REVENUES AND TRANSFERS				
Revenues:				
4121200 Delinquent fees	\$ 39	\$ 56	\$ 56	\$ 56
4127400 Renewal fees	\$ 3,511	\$ 3,470	\$ 3,470	\$ 3,470
4129200 Other regulatory fees	\$ 149	\$ 120	\$ 120	\$ 120
4129400 Other regulatory licenses and permits	\$ 623	\$ 595	\$ 595	\$ 595
4140000 Sales of documents	\$ -	\$ -	\$ -	\$ -
4143500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
4150500 Interest interest from Interfund loans	\$ 1,605	\$ -	\$ -	\$ -
4163000 Income from surplus money investments	\$ 68	\$ 55	\$ 102	\$ 59
4170400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
4171400 Escheat of unclaimed checks and warrants	\$ 1	\$ 1	\$ 1	\$ 1
4172500 Miscellaneous revenues	\$ -	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ 5,996	\$ 4,298	\$ 4,345	\$ 4,302
Transfers from Other Funds				
GF Loan Repayment Per Item 1450-011-0310 BA of 2002	\$ 3,800	\$ 1,200	\$ -	\$ -
GF Loan Repayment Per Item 1110-011-0310 BA of 2008	\$ -	\$ 2,500	\$ -	\$ -
Totals, Revenues and Transfers	\$ 9,796	\$ 7,998	\$ 4,345	\$ 4,302
Totals, Resources	\$ 12,773	\$ 15,378	\$ 13,735	\$ 11,123
EXPENDITURES				
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 5,032	\$ 5,586	\$ 6,529	\$ 6,725
8880 Financial Information System for California (State Operations)	\$ 1	\$ -1	\$ -	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ 45	\$ 94	\$ 94	\$ 94
9900 Statewide General Administrative Expenditures (Pro Rata)(State Operations)	\$ 315	\$ 309	\$ 291	\$ 291
Total Disbursements	\$ 5,393	\$ 5,988	\$ 6,914	\$ 7,110
FUND BALANCE				
Reserve for economic uncertainties	\$ 7,380	\$ 9,390	\$ 6,821	\$ 4,013
Months in Reserve	14.8	16.3	11.5	6.8

NOTES:

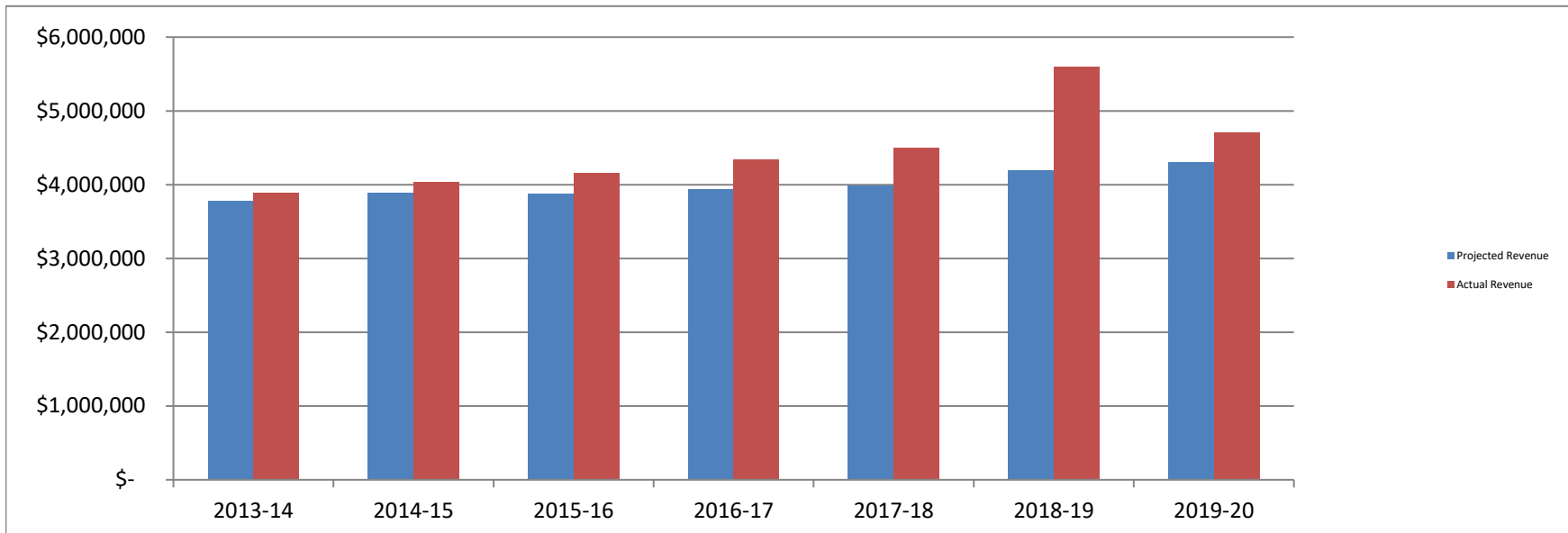
- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR BY+1 AND ON-GOING.
- ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR IN BY+1 AND ON-GOING..
- ASSUMES INTEREST RATE OF 1.5%

Psychology Expenditure Comparison (Budgeted vs. Actual)							
	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Budgeted Expenditures*	\$4,576,000	\$4,669,000	\$4,933,000	\$4,989,000	\$5,158,000	\$ 5,341,000	\$ 5,637,000
Total Expenditures*	\$3,526,000	\$4,472,000	\$4,792,000	\$4,773,000	\$5,107,000	\$ 5,216,000	\$ 5,802,417
Reversion	\$1,050,000	\$ 197,000	\$ 141,000	\$ 216,000	\$ 51,000	\$ 125,000	\$ (165,417)

*Figures do not include reimbursements



	Psychology Revenue Comparison (Projected vs. Actual)						
	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Projected Revenue	\$3,778,000	\$3,887,000	\$3,872,000	\$3,941,000	\$3,980,000	\$ 4,185,000	\$ 4,298,000
Actual Revenue	\$3,888,000	\$4,034,000	\$4,150,000	\$4,337,000	\$4,493,000	\$ 5,591,000	\$ 4,705,000
Difference	\$ (110,000)	\$ (147,000)	\$ (278,000)	\$ (396,000)	\$ (513,000)	\$(1,406,000)	\$ (407,000)



MEMORANDUM

DATE	February 10, 2020
TO	Board Members
FROM	Stephanie Cheung Licensing Manager
SUBJECT	Agenda Item 16 Licensing Report

Licensing Staff Update:

The Board anticipates the departure of our two retired annuitants, Mrs. Kelli Okuma and Mrs. Mary Lynn Ferreira, due to budgetary impact. Mrs. Okuma and Mrs. Ferreira have been much valued members of the Licensing unit since their joining in July 2012 and August 2013 respectively. Over the years, they have contributed significantly to our program by bringing in many years of knowledge and experience relevant to licensing / registration matters, the development of various regulatory packages, and dedication on numerous special projects. We want to thank them for their commitment and appreciate all of their efforts. We wish them the best on their retirement.

License/Registration Data by Fiscal Year:

License & Registration	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20**
Psychologist*	21,527	22,020	22,688	***	20,575	20,227	20,024	20,580	21,116	21,891
Psychological Assistant	1,507	1,635	1,727	***	1,701	1,580	1,446	1,446	1,361	1,423
Registered Psychologist	312	320	349	***	280	272	278	250	129	125

*Current and Current Inactive

**As of February 10, 2020

***Statistics unavailable

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

Application Workload Reports:

The attached reports provide statistics on the application status by month for each of the license and registration types (see Attachment B). The data include applications that were opened as early as January 1, 2013. This allows the reports to reflect data on the application workload by showing the number of applications that were updated or approved within the past six months. On each report, the type of transaction is indicated on the x-axis of the graphs. The different types of transactions and the meaning of the transaction status are explained below for the Board's reference.

Psychologist Application Workload Report

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

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

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

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

Psychological Assistant Application Workload Report

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

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

Registered Psychologist Application Workload Report

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

Attachments:

- A. Licensing Population Report as of February 10, 2020
- B. Application Workload Reports as of February 10, 2020
- C. Applications Received February 2019 – January 2020 as of February 10, 2020

D. Examination Statistics December 2018 – November 2019 as of February 10, 2020

Action:

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



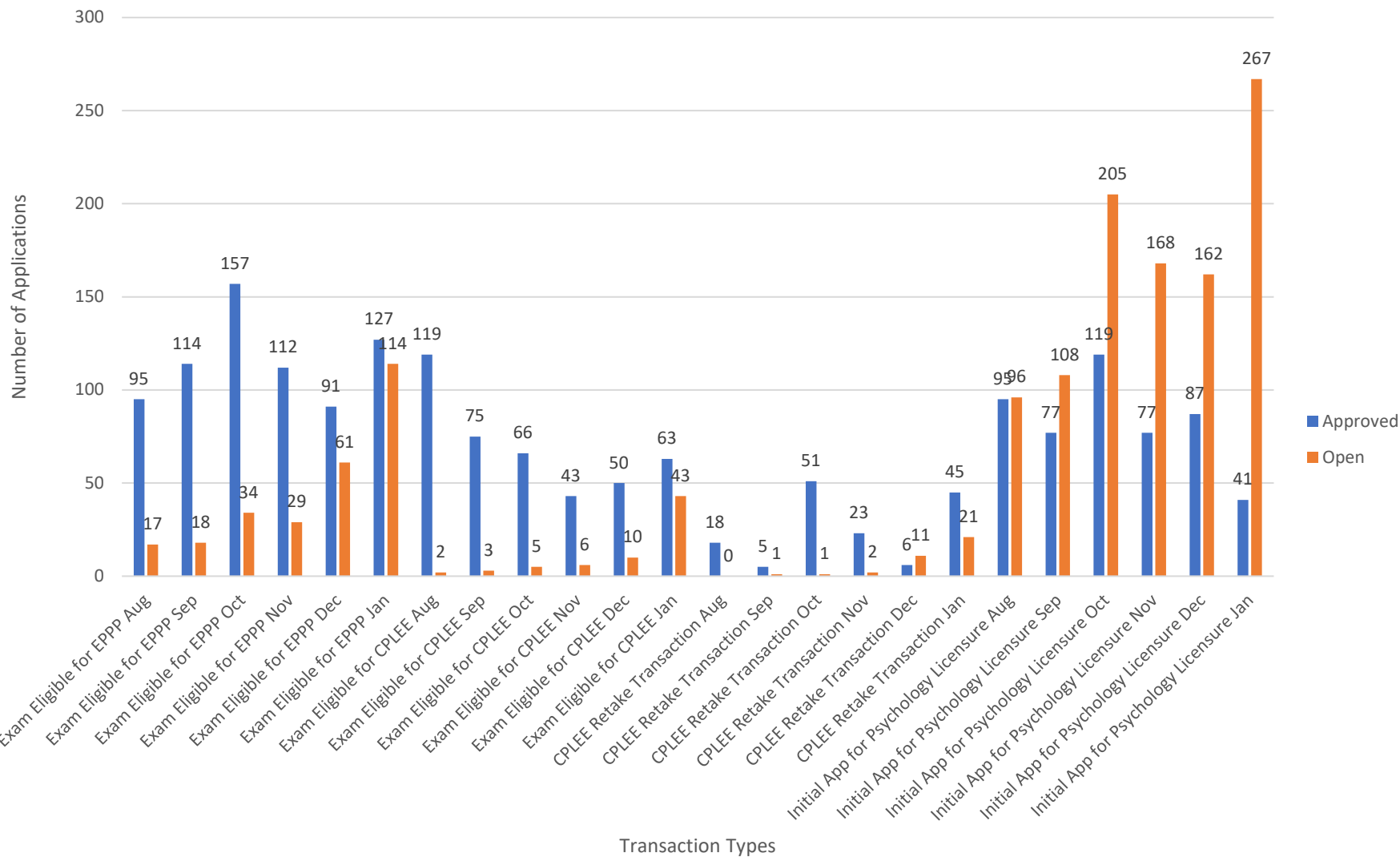
STATE DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM



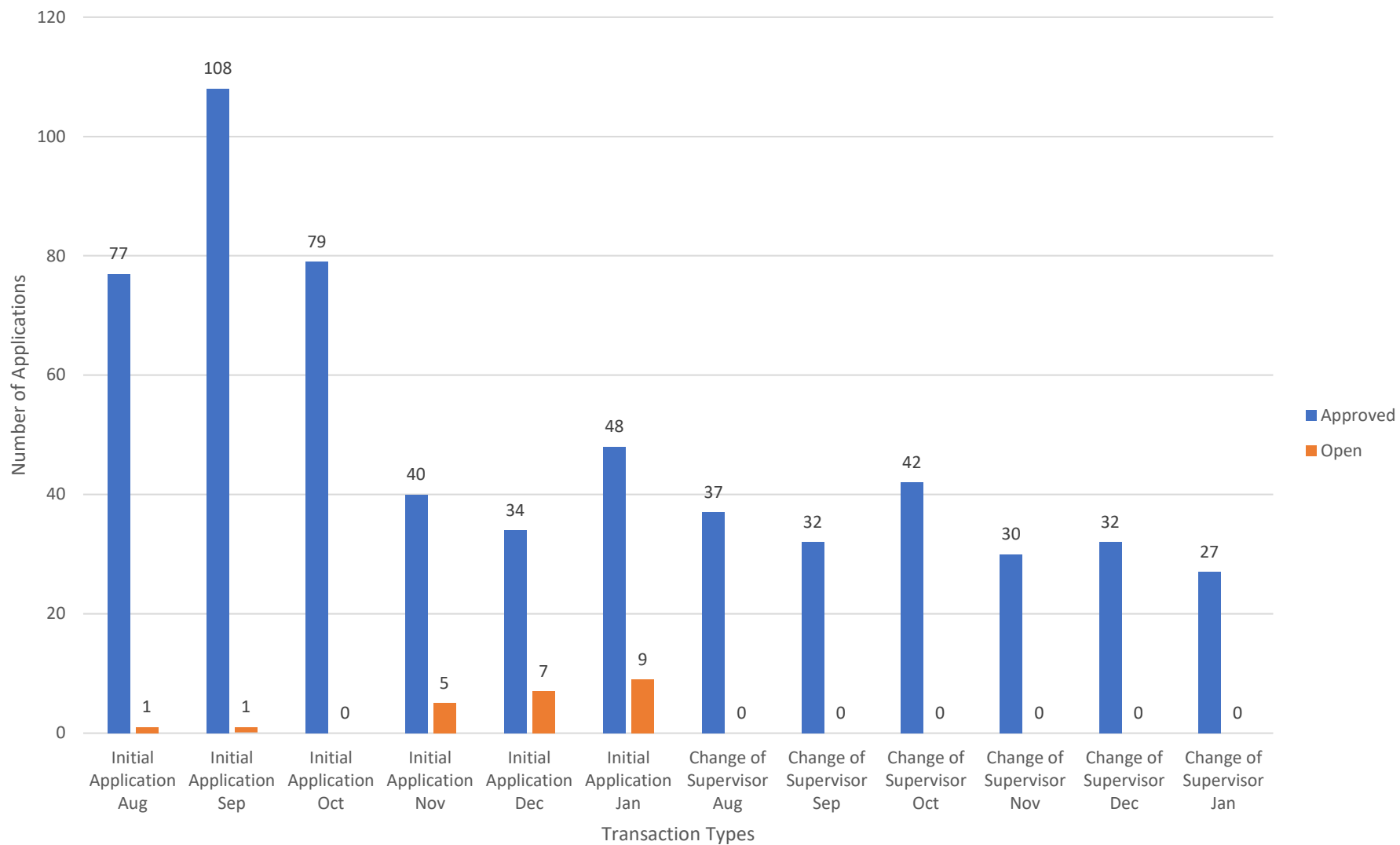
LICENSING POPULATION REPORT
BOARD OF PSYCHOLOGY
AS OF 2/10/2020

License Type	License Status							Total
	Licensing					Enforcement		
	Current	Inactive	Delinquent	Cancelled	Deceased	Surrendered	Revoked	
Psychologist	18,982	2,909	1,252	6,351	1,005	224	148	30,871
Psychological Assistant	1,423	0	68	21,654	8	9	7	23,169
Registered Psychologist	125	0	0	4,529	1	0	0	4,655
Total	20,530	2,909	1,320	32,534	1,014	233	155	58,695

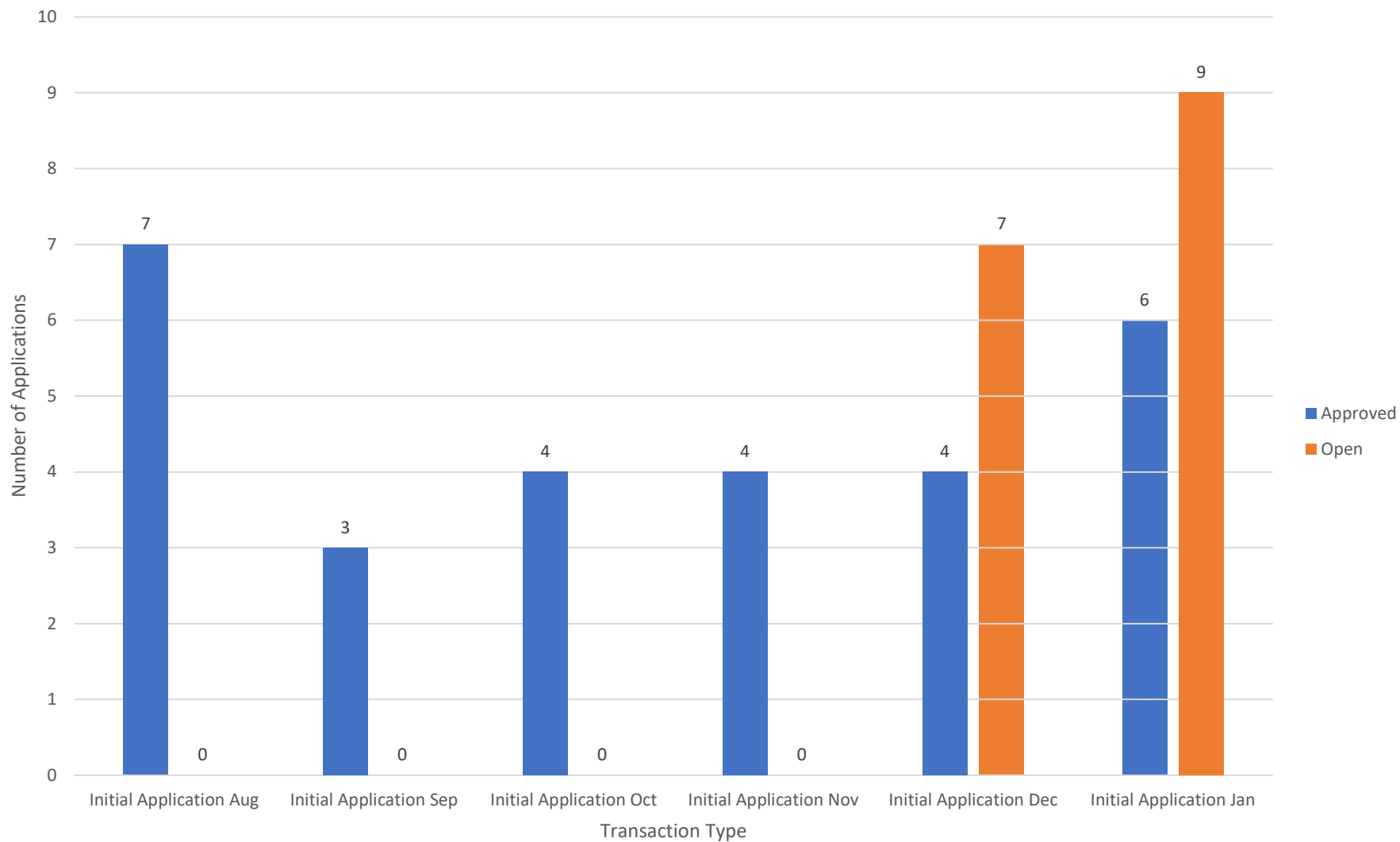
Psychologist Application Workload Report August 1, 2019 to January 1, 2020



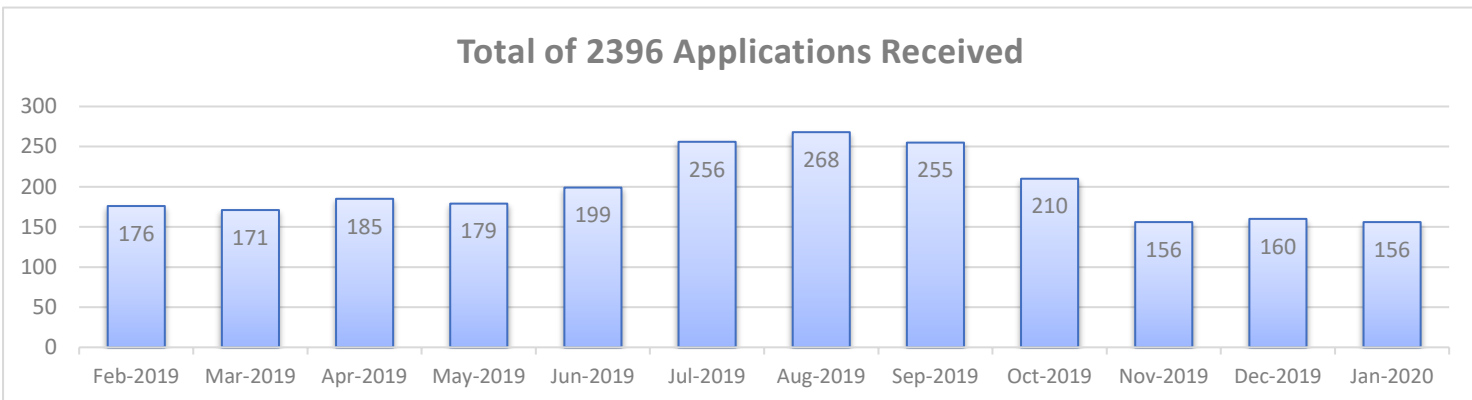
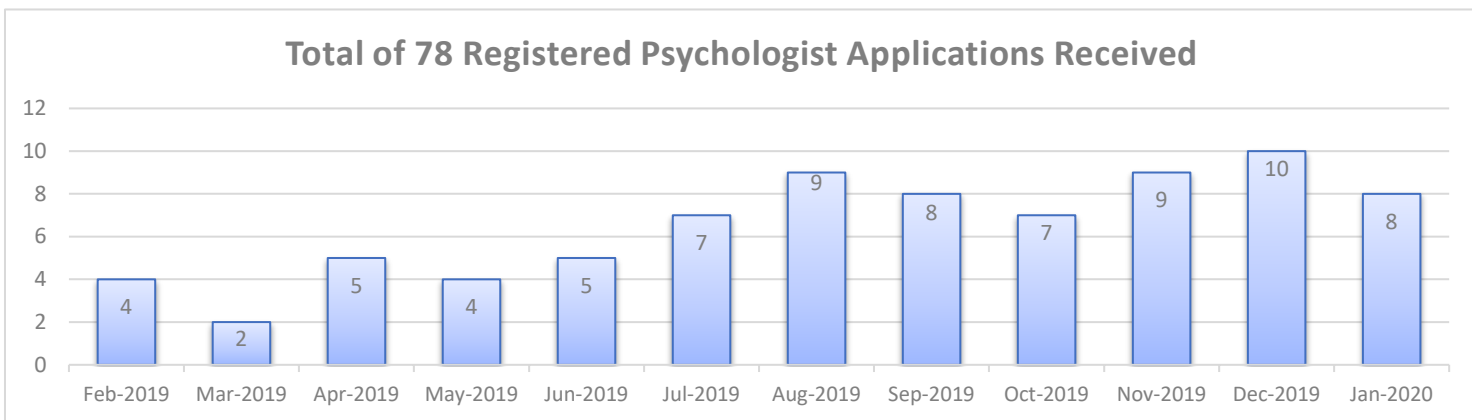
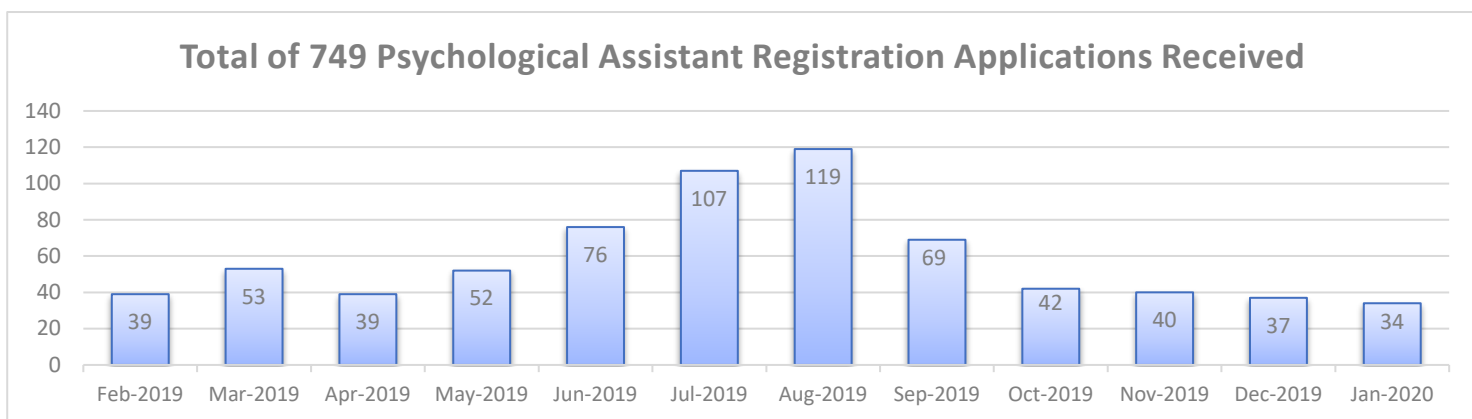
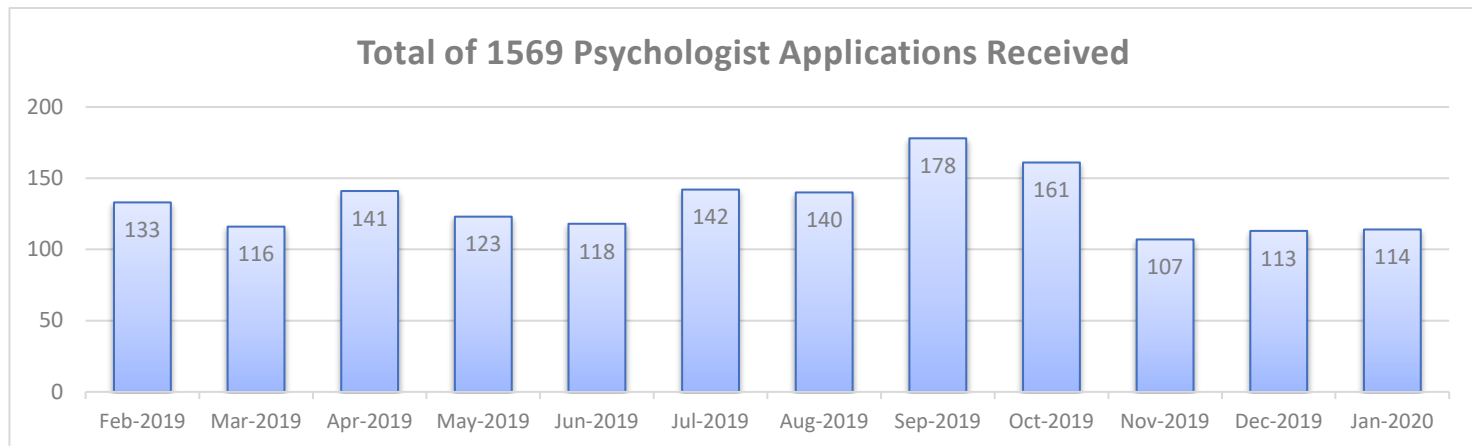
Psychological Assistant Application Workload Report August 1, 2019 to January 31, 2020



Registered Psychologist Application Workload Report August 1, 2019 to January 31, 2020



Applications Received February 2019 to January 2020 As of February 10, 2020



**Examination Statistics December 2018 - November 2019
As of February 10, 2020**

2018/2019 Monthly EPPP Examination Statistics

Month	# of Candidates	# Passed	% Passed	Total First Timers	First Time Passed	% First Time Passed
December 2018	126	61	48.41	63	42	66.67
January 2019	56	25	44.64	31	20	64.52
February 2019	110	59	53.64	62	41	66.13
March 2019	157	84	53.50	89	67	75.28
April 2019	174	94	54.02	96	74	77.08
May 2019	173	84	48.55	95	66	69.47
June 2019	148	69	46.62	83	56	67.47
July 2019	172	79	45.93	91	56	61.54
August 2019	158	71	44.94	86	50	58.14
September 2019	115	47	40.87	47	28	59.57
October 2019	137	69	50.36	60	40	66.67
November 2019	130	63	48.46	65	43	66.15
Total	1656	805	48.33	868	583	66.56

2018/2019 Monthly CPLEE Examination Statistics

Month	# of Candidates	# Passed	% Passed	Total First Timers	First Time Passed	% First Time Passed
December 2018	112	88	78.57	89	70	78.65
January 2019	86	60	69.77	50	35	70
February 2019	83	60	72.29	62	43	69.35
March 2019	105	75	71.43	87	68	78.16
April 2019	89	59	66.29	47	32	68.09
May 2019	79	60	75.95	53	38	71.7
June 2019	114	78	68.42	92	65	70.65
July 2019	106	84	79.25	76	60	78.95
August 2019	151	124	82.12	121	100	82.64
September 2019	154	121	78.57	130	105	80.77
October 2019	83	62	74.7	56	47	83.93
November 2019	90	73	81.11	57	48	84.21
Total	1252	944	74.87	920	711	76.43

MEMORANDUM

DATE	January 29, 2019
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #17 – Continuing Education Audit/Renewals Report

Attached please find the following Continuing Education (CE) Audit/Renewals statistics for Psychologists and Psychological Assistants:

- A. CE Audit – January 2018 through March 2019
- B. Reasons for Not Passing CE Audit
- C. Psychologist and Psychological Assistant Renewal Applications Processed:
January 2019 – December 2019
- D. Online vs. Mailed In Renewals Processed
- E. Pass and Fail Rate 2014-2017
- F. Pass and Fail Rate 2018
- G. Pass and Fail Rates for 2nd Audits
- H. Renewal Postcard

CE audits have been sent out for the months of January 2018 through March 2019. To date, the pass rate is 61 percent with 29 percent of audits still pending review. Audits for October, November, December 2018 and January, February, and March 2019 were sent out on January 3, 2020. The due date for those audits is March 3, 2020.

For January 2019 through December 2019, an average of 893 renewal applications were processed per month, with 78 percent of Psychologists renewing as Active. Approximately 67 percent Psychologists and Psychological Assistants renewed their license online per month. The pass rate from 2014-2017 has been consistently over 80 percent. The pass rate for 2nd audits has risen from 68 percent in 2016 to 82 percent in 2018.

In the interest of reducing the Board's carbon footprint, conserving natural resources, reducing mailing costs, and making best use of licensee/registrant renewal fees, the Board has gone PaperLite for all license and registration renewals. Effective January 2020, licensees no longer receive the automated renewal applications mailed to the address of record. Instead, licensees receive a postcard to renew online on BreEZe.

The Continuing Professional Development (CPD) goal from the Strategic Plan 2019-2023 to implement licensed Board member CPD audits each license renewal cycle for transparency purposes will begin with the January 1, 2019 audit cycle.

Action Requested:

These items are for information purposes only. No action requested.

Department of Consumer Affairs Board of Psychology

February 27-28, 2020 Board Meeting
Sacramento, CA

Item(s) Available Upon Request

Agenda Item 17 Attachments

- 17(A) – CE Audit – January 2018 through March 2019
- 17(B) – Reasons for Not Passing CE Audit
- 17(C) – PSY and PSB Renewal Applications Processed January 2019 to December 2019
- 17(D) – Online vs. Mailed-In Renewals Processed
- 17(E) – Pass and Fail Rate 2014-2017
- 17(F) – Pass and Fail Rate 2018
- 17(G) – Pass and Fail Rate for 2nd Audits
- 17(H) – Renewal Postcard

MEMORANDUM

DATE	January 15, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #18(a)(1) – 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. 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 Board Legal

Counsel 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, which became SB 275 (Pan).

On April 1, 2019, the Senate Committee on Business, Professions and Economic Development heard SB 275. Board President Stephen Phillips, JD, PsyD, testified on the Board's behalf. SB 275 received unanimous support from the committee and passed through the Senate Floor on May 5, 2019.

On July 9, 2019, the Assembly Committee on Business and Professions (Assembly B&P) heard SB 275. At the hearing, Dr. Pan and Dr. Phillips gave strong testimony on the need for the bill and Ms. Burns provided additional statutory clarification to the committee, but Assembly B&P failed to move the bill or take a vote. Since the bill did not move out of Assembly B&P by the legislative deadline, the bill became a 2-year bill and can be acted on upon the start of the next session in January 2020.

Board staff worked with Assembly B&P staff and Senator Pan's staff regarding potential technical amendments to facilitate moving the bill forward.

On January 6, 2020, SB 275 (Pan) was amended and re-referred to the Assembly Business and Professions Committee.

Location: 1/6/2020 Re-referred to Assembly Committee on Business and Professions

Status: 1/6/2020 From committee with author's amendments. Read second time and amended. Re-referred to Committee on Business and Professions

Votes: 4/1/2019 Senate Committee on Business, Professions and Economic Development (9-0-0)
5/2/2019 Senate Floor (38-0-0)

Action Requested:

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

Attachment A: SB 275 (Pan) Bill Text

Attachment B: SB 275 (Pan) Letter to Assembly Business and Professions Committee

SB 275 - (A) Amends the Law

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,~~ *contact or sexual behavior, as those terms are 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 the purposes of this section, the following definitions shall apply:

(1) "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.

(2) "Sexual contact" means sexual intercourse or the touching of an intimate part of a client for the purpose of sexual arousal, gratification, or abuse.

(3) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code.

January 17, 2020

The Honorable Evan Low
Chair, Assembly Committee on Business and Professions
State Capitol, Room 4126
Sacramento, CA 95814

RE: SB 275 (Pan) – Psychologist: prohibition against sexual behavior – SPONSOR

Dear Assembly Member Low:

The Board of Psychology (Board) is pleased to **SPONSOR** SB 275 (Pan). This bill would add sexual behavior with a client (patient or client) or former client to the violations that would require an Administrative Law Judge's (ALJ's) proposed decision to include an order of revocation. SB 275 (Pan) would define sexual behavior as "inappropriate contact or communication of a sexual nature for the purpose of sexual arousal, gratification, exploitation, or abuse. 'Sexual behavior' does not include the provision of appropriate therapeutic interventions relating to sexual issues."

Pursuant to Business and Professions Code (BPC) Section 2960.1, when an investigation finds that a psychologist had sexual contact with a patient or former patient within two years of termination of therapy, the proposed decision (discipline) that the ALJ recommends to the Board for adoption must include a recommendation for an order of revocation. The Board maintains ultimate adjudicatory discretion over the adoption of the final discipline against a licensee, which would remain unchanged by SB 275, but current law ensures that in instances of sexual intercourse and sexual contact (sexual misconduct) revocation must be the discipline recommended by an ALJ. Under BPC Section 728, sexual contact means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse. Additionally, Penal Code Section 243.4 defines an intimate part as "the sexual organ, anus, groin, or buttocks of any person, and the breast of a female". Current law narrowly defines sexual misconduct to sexual intercourse or touching of an intimate part, and therefore also narrowly limits the mandatory discipline recommended to the Board by an ALJ.

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

The Board sponsored SB 275 due to the Board's experiences adjudicating cases involving inappropriate sexual conduct that did not meet the current definition of sexual contact and therefore did not require the ALJ to recommend revoking the license. Examples of sexual behaviors that the Board has seen in disciplinary cases that did not reach the level of sexual contact 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.

Page 2

SB 275 (Pan): SPONSOR

January 17, 2020

These cases left the Board hamstrung in achieving appropriate discipline for sexual behavior antithetical to the psychotherapist-client relationship, making it exceedingly difficult for the Board to achieve disciplinary terms that matched the egregiousness of the acts. By way of SB 275, the Board seeks to ensure that sexual behavior with a client, even if it has not resulted in intercourse or sexual contact, is considered a violation that merits the highest level of discipline.

While the Board has discussed this issue with the Office of the Attorney General to address the prosecutorial role, the Board believes that inappropriate sexual behavior with a client beyond sexual contact is sexual misconduct and should be prosecuted and adjudicated as such. SB 275 would make this clear under the law that these sexual behaviors with a client are sexual misconduct.

The Board is cognizant that during psychotherapy, and especially during therapeutic interventions related to sexual issues, there will be in-depth discussions and communications of a sexual nature with the client. When these discussions are a part of appropriate and documented therapeutic interventions, these communications would not be considered sexual behavior under SB 275.

The Board believes that inappropriate sexual behavior with a client is sexual misconduct and should be prosecuted and adjudicated as such. SB 275 (Pan) would close a loophole in current law and treat sexual behavior between a psychologist and client as the sexual misconduct it is.

For these reasons, the Board asks for your support of SB 275 (Pan) when it is heard in the Assembly Committee on Business and Professions. If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (916) 574-7113. Thank you.

Sincerely,



Seyron Foo
President, Board of Psychology

cc: Assembly Member William P. Brough (Vice Chair)
Members of the Assembly Committee on Business and Professions
Senator Richard Pan, MD
Assembly Republican Caucus

MEMORANDUM

DATE	January 16, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 18(a)(2) - Pathways to Licensure Statutory Revisions – Amendments to: Business and Professions Code Sections: §27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2940, 2942, 2943, 2946, 2960 Evidence Code Section: § 1010

Background:

The Pathways to Licensure legislative changes which have been previously approved by the Board, will be split into two separate proposals. Staff will begin searching for an author to make the substantive changes, and all non-substantive changes will be submitted for consideration as part of our sunset bill.

Action Requested:

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

MEMORANDUM

DATE	January 27, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #18(b)(1)(A) – AB 1145 (Garcia, Christina) Child abuse: reportable conduct

Background:

For the purposes of the Child Abuse Neglect Reporting Act (CANRA), this bill would have revised the definition of sexual assault to no longer include any acts under Penal Code Sections 286 (sodomy), 287 or former Section 288a (oral copulation), and Section 289 (sexual penetration), if committed voluntarily and if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age.

This bill would have provided for equal treatment of consenting minors under the law regardless of the type of consensual sexual activities they engage in and provides clarity on the requirements of mandatory reporters under CANRA in these situations.

At the April 24-26 2019, Board Meeting, the Board took a Support position on AB 1145 (Garcia, Christina).

Location: Assembly Floor

Status: 1/23/2020 Read second time. Ordered to third reading.

Votes: 1/23/2020 Assembly Appropriations (10-6-2)
4/2/2019 Assembly Public Safety (5-2-1)

Action Requested:

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

Attachment A: AB 1145 (Garcia, Christina) Bill Text

Attachment B: AB 1145 (Garcia, Christina) Assembly Floor Alert

AB 1145 - (I) Amends the Law

SECTION 1.

Section 11165.1 of the Penal Code is amended to read:

11165.1.

As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), Section 264.1 (rape in concert), Section 285 (incest), Section 286 (sodomy), Section 287 or former Section 288a (oral copulation), subdivision (a) or ~~(b)~~, (b) of, or paragraph (1) of subdivision (c) ~~of~~ of, Section 288 (lewd or lascivious acts upon a child), Section 289 (sexual penetration), or Section 647.6 (child molestation). *"Sexual assault" for the purposes of this article does not include voluntary conduct in violation of Section 286, 287, or 289, or former Section 288a, if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age.*

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Intrusion by one person into the genitals or anal opening of another person, including the use of an object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) A person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or a person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) A person who depicts a child in, or who knowingly develops, duplicates, prints, downloads, streams, accesses through any electronic or digital media, or exchanges, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for

those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(d) "Commercial sexual exploitation" refers to either of the following:

(1) The sexual trafficking of a child, as described in subdivision (c) of Section 236.1.

(2) The provision of food, shelter, or payment to a child in exchange for the performance of any sexual act described in this section or subdivision (c) of Section 236.1.

FLOOR ALERT

AB 1145 (Garcia, Cristina) – Child Abuse: Reportable Conduct

At its April 26, 2019 meeting, the Board of Psychology (Board) adopted a **SUPPORT** position on AB 1145 (Garcia, Cristina). This bill provides for equal treatment of consenting minors under the law regardless of the type of consensual sexual activities they engage in, and for these situations, provides clarity on the requirements of mandatory reporters under the Child Abuse and Neglect Reporting Act (CANRA).

Specifically, this bill revises the definition of sexual assault to no longer include any acts under Penal Code Sections 286 (sodomy), 287 or former Section 288a (oral copulation), and Section 289 (sexual penetration), if committed voluntarily and if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age.

For these reasons, the Board asks for you to vote “**AYE**” when AB 1145 (Garcia, Christina) is heard on the Assembly Floor. Thank you.

MEMORANDUM

DATE	January 27, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #18(b)(1)(B) – SB 53 (Wilk) Open meetings

Background:

This bill would have modified the Bagley-Keene Open Meeting Act (Bagley-Keene) to require two-member advisory committees of a “state body” to hold open, public meetings if at least one member of the advisory committee is a member of the larger state body, and the advisory committee is supported, in whole or in part, by funds provided by the state body.

All items that are created or modified during two-member advisory committees are brought to the Board in an open meeting for discussion and approval. The Board of Psychology only utilizes a two-person committee structure when necessary due to concerns for employee safety and the necessity for a collaborative discussion of confidential information which could not be discussed in depth during a public meeting.

At the April 24-26, 2019 Board Meeting, the Board voted to Oppose SB 53 (Wilk).

Location: 7/11/2019 Assembly Committee on Appropriations

Status: 8/30/2019 August 30 hearing: Held in committee and under submission

Votes: 3/12/2019 Sen Governmental Organization (14-0-2)
4/8/2019 Senate Committee on Appropriations (6-0-0)
4/22/2019 Senate Floor (38-0-0)
7/10/2019 Assembly Governmental Organization (21-0-0)

Action Requested:

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

Attachment A: SB 53 (Wilk) Bill Text

Attachment B: SB 53 (Wilk) Letter to Assembly Committee on Governmental Organization

SB 53 - (A) Amends the Law

SECTION 1.

Section 11121 of the Government Code is amended to read:

11121.

As used in this article, "state body" means each of the following:

- (a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.
- (b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.
- (c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more ~~persons~~ *persons, except as provided in subdivision (d)*.
- (d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.
- (e) Notwithstanding subdivision (a) of Section 11121.1, the State Bar of California, as described in Section 6001 of the Business and Professions Code. This subdivision shall become operative on April 1, 2016.

SEC. 2.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid unnecessary litigation and ensure the people's right to access the meetings of public bodies pursuant to Section 3 of Article 1 of the California Constitution, it is necessary that this act take effect immediately.

July 18, 2019

The Honorable Lorena Gonzalez
Chair, Assembly Committee on Appropriations
State Capitol, Room 2114
Sacramento, CA 95814

RE: SB 53 (Wilk) – Open Meetings - OPPOSE

Dear Assembly Member Gonzalez:

At its April 26, 2019 meeting, the Board of Psychology (Board) adopted an **OPPOSE** position on SB 53 (Wilk). This bill modifies the Bagley-Keene Open Meeting Act (Bagley-Keene) to require two-member advisory committees of a “state body” to hold open, public meetings if at least one member of the advisory committee is a member of the larger state body, and the advisory committee is supported, in whole or in part, by funds provided by the state body.

The Board places a very high importance on transparency. This is evidenced by the adoption of the Board’s 2019-2023 Strategic Plan, which includes adoption of the Board’s revised Mission, Vision, and Values. The Values adopted for the next five years are: Transparency, Integrity, Fairness, Responsiveness, and Professionalism. The Board makes every effort to interweave transparency in its operations by webcasting all Board meetings, posting Board meeting materials and minutes online, and publicizing all public Board and Committee meetings via email listserv (to licensees and external stakeholders) and via social media. Moreover, the Board ensures that all items created or modified during two-member advisory committees are brought to the full Board in an open meeting for review, discussion, and approval. This existing format provides an opportunity for the public to comment on the policy-making function of the Board.

The Board of Psychology utilizes a two-person committee structure in a limited number of circumstances when necessary. This structure may be used due to concerns for employee safety, for a collaborative discussion of confidential information which could not be discussed in depth during a public meeting, or for collaborative working group meetings of limited duration and scope where the Committee’s task is drafting iterative versions of legislatively mandated reports, drafting letters, or providing expert analysis.

The Board’s Enforcement Committee is a two-person committee where Enforcement Analysts (who out of concern for their safety use an assigned alphabetical letter when communicating with the public instead of their real name) are present and active participants in the conversations of the Committee. This often involves discussion of confidential materials which would not be able to be discussed in an open meeting. Enforcement analyst participation would not be possible with the passage of SB 53 and enforcement analysts would no longer be able to participate in and provide invaluable information to the Committee. Again, for transparency purposes, all actions by the Enforcement Committee are reviewed, discussed, and approved by the full Board at a subsequent Board Meeting.

In addition, the Board has an ad hoc Sunset Review Committee which is an extremely collaborative committee used while the Board is preparing the legislatively mandated Sunset Review report and background paper. The ability to meet and communicate frequently and

SB 53 (Wilk): OPPOSE

July 18, 2019

with short notice is imperative to the success of the Committee and the Board as a whole while it prepares for Sunset Review. The Board also has a Telepsychology Committee that was tasked with providing staff with expert and profession-specific input necessary to analyze a national telepsychology compact proposal and to draft telepsychology regulation language for the full Board's consideration. This Committee met for a limited duration and with a limited scope to provide necessary input to staff regarding the provision of telepsychology. Again, all reports, analysis, and language drafted during these ad hoc meetings is reviewed by the full Board at a Board Meeting where the public has sufficient notice and ability to comment.

Lastly, the Board is also concerned that SB 53 would curb the Board's ability to effectively perform advocacy activities and limit Board outreach and education activities. Specifically, each year the Board organizes meetings with some or all members of the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee to inform legislators and legislative staff on issues impacting consumer protection, Board operations, and the profession of psychology. This bill would limit the Board's ability to have both a public and licensed Board member at each legislative meeting. SB 53 would also create potential Open Meetings Act issue when more than one Board Member attends a professional conference as part of the Board's outreach and education efforts. The Board does not believe that it is the intent of the bill to impact activities outside of committee meetings, but this bill would create additional barriers to effective advocacy and outreach activities intended to enhance consumer protection and educate the public.

For these reasons, the Board asks you to OPPOSE SB 53 (Wilk) when it is heard in the Assembly Committee on Appropriations. If you have any questions or concerns, please feel free to contact the Board's Central Services Manager, Cherise Burns, at (916) 574-7227. Thank you.

Sincerely,



STEPHEN C. PHILLIPS, JD, PsyD
President, Board of Psychology

cc: Assembly Member Frank Bigelow (Vice Chair)
Members of the Assembly Committee on Appropriations
Senator Scott Wilk
Assembly Committee on Appropriations
Assembly Republican Caucus

MEMORANDUM

DATE	January 27, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #18(b)(1)(C) – SB 66 (Atkins) Medi-Cal: federally qualified health center and rural health clinic services

Background:

This bill would have allowed 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.

At the April 24-26, 2019 Board Meeting, the Board voted to **Support** SB 66 (Atkins).

Location: 9/1/2019 Assembly Floor

Status: 9/11/2019 Ordered to inactive file on request of Assembly Member Calderon.

Votes: 3/20/2019 Senate Health (8-0-1)
5/16/2019 Senate Committee on Appropriations (6-0-0)
5/23/2019 Senate Floor (38-0-0)
7/2/2019 Assembly Health (15-0-0)
8/30/2019 Assembly Appropriations (18-0-0)

Action Requested:

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

Attachment A: SB 66 (Atkins) Bill Text

Attachment B: SB 66 (Atkins) Letter to Assembly Committee on Appropriations

SB 66 - (A) Amends the Law

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.

(l) 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, 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.~~ *therapist, or a licensed acupuncturist.*

(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,~~ *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 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.

(+) (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.

~~(e)~~ *(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 ~~(m)~~ *(m)* and ~~(n)~~ *(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 ~~(m)~~ *(m)* and ~~(n)~~ *(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.

July 18, 2019

The Honorable Lorena Gonzalez
Chair, Assembly Committee on Appropriations
State Capitol, Room 2114
Sacramento, CA 95814

RE: SB 66 (Atkins) – Medi-Cal: federally qualified health center and rural health clinic services - SUPPORT

Dear Assembly Member Gonzalez:

At its April 26, 2019 meeting, the Board of Psychology (Board) adopted a **SUPPORT** position on SB 66 (Atkins). This bill would require the state to allow Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) to bill Medi-Cal for two visits if a patient is provided mental health services on the same day they receive other medical services.

In California, if a patient receives treatment through Medi-Cal at a FQHC or RHC 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 cannot be adequately reimbursed for their time and expertise. In turn, the FQHC and RHC have to find alternative funds to cover that visit or deny the service on 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 would remove unnecessary barriers to access to mental health care and increase the likelihood that patients can start or continue receiving services at these clinics.

For these reasons, the Board asks for your support of SB 66 (Atkins) when it is heard in the Assembly Committee on Appropriations. If you have any questions or concerns, please feel free to contact the Board's Central Services Manager, Cherise Burns, at (916) 574-7227. Thank you.

Sincerely,



STEPHEN C. PHILLIPS, JD, PsyD
President, Board of Psychology

cc: Assembly Member Frank Bigelow (Vice Chair)
Members of the Assembly Committee on Appropriations
Senator Toni Atkins
Consultant, Assembly Committee on Appropriations
Assembly Republican Caucus

MEMORANDUM

DATE	January 28, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #18(b)(2) – Review of Bills with Watch Status

Background:

The enclosed matrix lists the legislative bills the Board of Psychology watched during the 2019 legislative session.

Information on bills in the matrix can be found at: <http://leginfo.legislature.ca.gov>.

Action Requested:

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

Department of Consumer Affairs

Board of Psychology

February 27-28, 2020 Board Meeting
Sacramento, CA

Item Available Upon Request

- Agenda Item 18(b)(2) – Attachment – Review of Bills with Watch Status

MEMORANDUM

DATE	January 31, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #20 – 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 was provided to the Department of Consumer Affairs (DCA) on November 12, 2019 and is now in the Initial Departmental Review Stage. This stage involves a review by DCA’s legal, budget, and executive offices, and the State’s Business Consumer Services and Housing Agency (Agency). Upon approval by DCA and Agency, staff will notice this package for a 45-day comment period and subsequent hearing.

b) **Addition to 16 CCR Sections 1391.13, and 1391.14 – Inactive Psychological Assistant Registration and Reactivating A Psychological Assistant Registration**

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package is in the Initial Review Stage. Staff received feedback from Legal Counsel on September 17, 2019 and have incorporated the recommended changes. Staff is waiting to submit the package back to Board Counsel until the Sunset Psychological Assistant regulatory package is farther through the regulatory process. Upon approval by Board Legal Counsel, the package will be submitted for the Initial Departmental Review which involves reviews by DCA Legal Affairs Division, DCA Budget Office, DCA’s Division of Legislative Affairs, DCA Chief Counsel, DCA Director, and the Business Consumer Services and Housing Agency.

c) 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 was provided to the Department of Consumer Affairs (DCA) on March 15, 2019 and is now in the Initial Departmental Review Stage. This stage involves a review by DCA’s legal, budget, and executive offices, and the State’s Business Consumer Services and Housing Agency (Agency). Upon approval by DCA and Agency, staff will notice this package for a 45-day comment period and subsequent hearing.

d) Update on 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package was provided to the Department of Consumer Affairs (DCA) on November 14, 2019 and is now in the Initial Departmental Review Stage. This stage involves a review by DCA’s legal, budget, and executive offices, and the State’s Business Consumer Services and Housing Agency (Agency). Upon approval by DCA and Agency, staff will notice this package for a 45-day comment period and subsequent hearing.

e) Update on 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package was provided to the Department of Consumer Affairs (DCA) on August 23, 2019 and is now in the Initial Departmental Review Stage. This stage involves a review by DCA’s legal, budget, and executive offices, and the State’s Business Consumer Services and Housing Agency (Agency). Upon approval by DCA and Agency, staff will notice this package for a 45-day comment period and subsequent hearing.

f) Update on 16 CCR Sections 1394, 1395, 1395.1, 1392 – Substantial Relationship Criteria, Rehabilitation Criteria for Denials and Reinstatements, Rehabilitation Criteria for Suspensions and Revocations

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package was received by the Office of Administrative Law on January 27, 2020, and will be in the notice publication on February 14, 2020. The notice

period will end at the end of the day on March 30, 2020. The hearing for this proposal is scheduled for April 1, 2020, and the Board will hold a teleconference meeting to review comments after April 1, 2020. Upon final approval of the language by the Board, staff will work to resubmit the proposal to DCA for the final review.

Action Requested:

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

MEMORANDUM

DATE	January 15, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #21 – Update on Sunset Review

Background:

On July 22, 2019, the Board received the Sunset Review Oversight Form (Form). The Sunset Review Oversight process allows the Legislature to review the laws and regulations pertaining to each board and evaluate the board's programs and policies, determine whether the board operates and enforces its regulatory responsibilities and is carrying out its statutory duties, and examine fiscal management practices and financial relationships with other agencies. Through Sunset Review Oversight, boards are also evaluated on key performance measures and targets related to the timeliness of action, enforcement, and other necessary efforts to serve the needs of and adequately protect California consumers while promoting regulatory efficiency and effectiveness.

On November 8, 2019, the Board was presented with a draft Sunset Review Oversight Form including relevant attachments, which was approved after final edits.

On November 27, 2019, the approved Sunset Review Oversight Form and relevant attachments were hand delivered to staff of the Assembly Business and Professions Committee and Senate Business, Professions, and Economic Development Committee, as well as members of both committees.

Action Requested:

No action is required at this time. Staff are anticipating the Background Paper with additional questions from the Committees early this year.

Attachment A: Timeline of Sunset Process

Department of Consumer Affairs

Board of Psychology

February 27-28, 2020 Board Meeting
Sacramento, CA

**Item Available Upon
Request**

- Agenda Item 21 – Attachment – Sunset Review Timeline

MEMORANDUM

DATE	January 15, 2020
TO	Board of Psychology
FROM	Jeffrey Thomas Assistant Executive Officer
SUBJECT	Agenda Item #22 – Review and Consider Feedback Regarding ASPPB Closure of Practice Guidelines

Background:

The ASPPB Professional Termination Task Force (Task Force) has been working on Guidelines for Closing a Psychology Practice. The draft document was posted on ASPPB's website in November 2019 for public comment. The comment period closed on January 6, 2020. The Task Force will be meeting in mid-February to review the feedback and make any necessary changes. The document will then go to the ASPPB Board of Directors (BOD) for a vote. Once the document is approved by the BOD, it will be brought back to the Board at a future meeting.

Action Requested:

This item is informational only. No action is required at this time.

Attachment:

ASPPB Draft Closure of Practice Guidelines

Department of Consumer Affairs
Board of Psychology

February 27-28, 2020 Board Meeting
Sacramento, CA

**Item Available Upon
Request**

- Agenda Item 22 – Attachment – ASPPB Draft Closure of Practice Guidelines

MEMORANDUM

DATE	January 14, 2020
TO	Board of Psychology
FROM	Evan Gage Special Projects Analyst
SUBJECT	Agenda Item #23 – Discussion and Possible Approval of the Board Administrative Procedure Manual

Background:

Attached is the draft of the Administrative Procedure Manual.

Action Requested:

Review and approve the draft of the Administrative Procedure Manual.

Board of Psychology Administrative Procedure Manual

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DRAFT

CHAPTER 1: INTRODUCTION

Mission

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

Vision

A healthy California where our diverse communities enjoy the benefits of the highest standard of psychological services.

Overview

The California Board of Psychology dates back to 1958 when the first psychologists were certified in the state. The Board of Psychology is one of 30 regulatory entities which fall under the organizational structure of the Department of Consumer Affairs. The Board of Psychology exists solely to serve the public by:

- Protecting the health, safety, and welfare of consumers of psychological services with integrity honesty, and efficiency;
- Advocating the highest principles of professional psychological practice;
- Empowering the consumer through education on licensee/registrant disciplinary actions and through providing the best available information on current trends in psychological service options.

The Board:

- Licenses and renews licenses of individual psychologists,
- Registers and renews registrations of psychological assistants,
- Registers registered psychologists,
- Investigates complaints and takes disciplinary action against licensees for violation of Board statutes and regulations,
- Monitors licensees on probation, and
- Monitors compliance with continuing education requirements.

Composition

Business and Professions Code Sections 103, 2920, 2921, and 2922

The Board consists of nine members (five licensed psychologists and four public members) who are appointed to the Board for four-year terms. Each member may serve a maximum of two terms. The five licensed members and two public members are appointed by the Governor. One public member is appointed by the Senate Rules Committee, and one public member is appointed by the Speaker of the Assembly. Public members cannot be licensed by the Board of Psychology or by any other Department of Consumer Affairs healing arts board.

The Board's executive officer is appointed by the Board to ensure that the Board functions efficiently and serves solely in the interests of the consumers of psychological services in the State of California.

The Board is funded totally through license, application, and examination fees. This procedure manual is updated as necessary and provided to Board members as a ready reference of important laws, regulations, Department policies, and Board policies. It is designed to help guide the actions of the Board members and to ensure effectiveness and efficiency.

CHAPTER 2: MANDATORY BOARD MEMBER TRAINING

Ethics Training (Every Odd Year)

Government Code Section 11146 et seq.

Board members are required to receive an ethics orientation within the first six months of their appointment and every two years thereafter. To comply with that directive, members may either complete the interactive training on the website of the Office of the Attorney General or view an interactive video available upon request. A Board administrative team member will coordinate with each Board member to ensure timely compliance.

Sexual Harassment Prevention Training (Every Odd Year)

Department Policy EEO 12-01

Sexual harassment prevention training for all Board members will be accomplished in accordance with Departmental procedures.

Defensive Driving Training (Every Four Years)

SAM 0752

To be completed by state employees who frequently drive state vehicles, vehicles rented by the state or drive personal vehicles for state business

Information Security and Privacy Protection Awareness (Annually)

SAM 5300.3

All DCA Staff (including students)

Board Member Orientation Training

Business and Professions Code Section 453

Every newly appointed Board member shall, within one year of assuming office, complete the training and orientation program offered by the Department regarding, among other things, his or her functions, responsibilities, and obligations as a Board member.

Objectives of the program are for Board members to be able to:

- Explain their role in the protection of California consumers
- List the key provisions of the Open Meeting Act and how it applies to them
- Define "Ex Parte" communications and differentiate between acceptable and unacceptable communications with others, and be able to prevent unacceptable contact
- List the parts of the Administrative Record and be able to review it with regard to a proposed board decision

- Explain the ethical issues that arise from the quasi-judicial nature of the board member role
- Understand the different conflict of interest laws such as the Political Reform Act, Incompatible Activities, and Government Code Section 1090's prohibition against self-contract

Non-Discrimination Acknowledgement

To be signed annually

Sexual Harassment Acknowledgement

To be signed every odd year in conjunction with the mandatory odd-year training

CHAPTER 3: BOARD MEETING PROCEDURES

Frequency of Meetings

Business and Professions Code Sections 2926

The Board typically meets four times annually to make policy decisions, make decisions on disciplinary matters, and review committee recommendations. Special meetings may be called at any time by the President of the Board or at the written request of any two members of the Board.

The Board endeavors to hold meetings in different geographic locations throughout the State when possible as a convenience to the attending public and licensees.

Board Member Attendance at Board Meetings

Board Policy B-95-01

Board members are expected to attend each Board meeting. If a member is unable to attend, he or she is asked to contact the Board President or the Executive Officer and ask to be excused from the meeting for a specific reason. All Board members are expected to attend all committee meetings for each committee to which the Board member has been assigned. All Board members shall attend the entirety of any Board or committee meeting unless excused by the President. The entirety of a meeting shall mean from the date and time of the beginning of the meeting as set forth on the official agenda for said meeting until the official adjournment of the meeting.

Board Member Participation

Board Policy B-95-01

The Board President may contact a member who has missed three consecutive meetings to determine the reason he or she has been absent and whether or not the member is able to continue serving as an active Board member. The President may suggest that the member consider resigning if, in the opinion of the President, the absences lack good cause.

The Board, by resolution, may request in writing to the appointing authority that a member be replaced. The member shall be notified in writing of such proposed action and be given the opportunity to present to the Board his or her written or oral arguments against such action prior to the Board adopting the resolution.

Public Notice/Information at Board Meetings

Government Code Section 11120 et seq.; Business and Professions Code Section 2927.5

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of state bodies. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda. Any general discussion of examinations or disciplinary procedures shall be held in public.

See Appendix A.

The Board may meet in closed session to discuss examinations, deliberate on enforcement cases, discuss pending litigation, and review personnel issues. If the agenda contains matters that, on advice of legal counsel, are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Quorum

Business and Professions Code Section 2927

Five members of the Board constitute a quorum for transaction of business at any meeting of the Board. At a meeting duly held at which a quorum of five members is present, a concurrence of three members of the Board present shall be necessary to constitute an act or decision of the Board.

Agenda Items

Board Policy

Agenda items are generally discussed and agreed upon at a full Board meeting. Additional agenda items for a Board meeting from any source, including Board members, must be submitted to the Executive Officer at least 30 days prior to the scheduled meeting. The Executive Officer may confer with the Board President prior to adding items to the meeting agenda.

Notice of Meetings

Government Code Section 11120 et seq.

As mandated by the Bagley-Keene Open Meeting Act, meeting notices (including agendas for Board meetings) must be sent to persons who have requested to receive such notices and posted on the Board's website at least 10 calendar days in advance of the meeting. The notice must include a staff person's name, work address, and work telephone number to provide further information prior to the meeting.

Record of Board Meetings

Board Policy

The minutes are a summary of each Board meeting, not a transcript. Board minutes are approved at the next scheduled Board meeting. Once approved, the minutes serve as the official record of the meeting.

Webcasting

The Board will webcast the Board meetings when webcasting staff is available from the Department of Consumer Affairs to do so. The webcast will be posted on the Board's website.

Meeting Rules

Board Policy

The Board will be guided by, but not bound, by, Robert's Rules of Order when conducting Board meetings, except to the extent where it conflicts with State law (e.g., Bagley-Keene Open Meeting Act).

CHAPTER 3: TRAVEL AND SALARY POLICIES/PROCEDURES

Travel Approval

Board Policy

Executive Order B-06-11

Board members must receive prior approval from the Board President for all travel except for mission critical travel, such as to regularly scheduled Board and committee meetings to which the Board member is assigned, or to statutorily-mandated training, such as Board Member Orientation. Out-of-state travel requires Department of Finance and Governor approvals.

Non-mission critical travel might include:

- Conference attendance
- Networking opportunities
- Professional development courses
- CE classes and seminars
- Non-essential meetings that could be conducted via phone or video conference
- Events for the sole purpose of making a presentation unless explicitly approved by the DCA Director.

The Board President and the Executive Officer must use the Board's annual budget and *Department of Consumer Affairs' Travel Guide* when considering travel requests.

See Appendix B.

Travel Arrangements

Board Policy

Board members shall work with Board staff to make travel arrangements, including airfare, lodging, and ground transportation, when appropriate. The Department of Consumer Affairs (Department) provides instructions for Board members to establish a State travel account under "CalAters" (California Automated Travel Expense Reimbursement System) to use when making all Board-related airfare arrangements.

Out-of-State Travel

SAM Section 700 et seq.

All out-of-state travel for persons representing the Board must be approved by the Board President and Executive Officer and is ultimately controlled and approved by the Governor. Once approved for out-of-state travel, Board members will be reimbursed actual lodging expenses, supported by receipts, and will be reimbursed for meal and supplemental expenses according to current reimbursement rates. Travel prior to approval by the Governor restricts the member's ability to represent the Board and is at the individual Board member's own risk and reimbursement may be denied.

Travel Claims

SAM section 700 et seq.

All expenses are claimed using CalATERS. Each Board member will work with a designated member of the administrative team to set up a CalATERS account and designate a specified member of the administrative team as an authorized "preparer."

The Board member shall provide travel-related receipts and other necessary documentation to said preparer within 60 days of travel and/or work.

The Department's travel unit uses standard mileage reimbursement. If travel includes side trips other than traveling directly from one point to another and returning, each stop must be itemized and an address included.

See Appendix C.

Per Diem

Business and Professions Code Section 103

Pursuant to Business and Professions Code Section 103, Board members 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.

No public officer or employee shall receive per diem salary compensation for serving on those Boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment."

See Appendix D

Travel Reimbursement and Payment of Per Diem

Board Policy B-95-01

The following general guidelines must be adhered to in the payment of per diem or reimbursement for travel:

Attendance at events such as hearings, conferences, or meetings other than official Board or committee meetings are to be approved in advance by the Board President and the Executive Officer. Board members attending meetings or events to perform a substantial official service are paid per diem and reimbursed for travel-related expenses.

The term “day actually spent in the discharge of official duties” means such time as is expended from the commencement of a Board meeting or committee meeting to the conclusion of that meeting. If it is necessary for a Board member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of per diem and reimbursement for travel-related expenses.

Unless it is an emergency, Board members must get prior approval from the Board President to leave a meeting early. Because the Board only meets a few times a year, Board members are expected to stay for the duration of the meeting.

For Board-specified work, Board members are compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at events, meetings, hearings, or conferences, and enforcement case review. Preparation time for Board or committee meetings is compensated when eight hours are accrued.

Members must submit timesheet summary forms for actual work performed outside a Board meeting in order to be compensated.

CHAPTER 4: OTHER POLICIES/PROCEDURES

Appointment of Executive Officer

Business and Professions Code Sections 107 and 2933

The Board of Psychology (Board) may employ a person as an Executive Officer exempt from civil service.

Specific instructions for the Executive Officer from the Board members regarding implementing policy matters shall be coordinated through the Board President.

Strategic Plan

Board Policy B-94-01

The Board meets to review, evaluate, and update its strategic plan. The strategic plan shall include a mission statement, a vision statement, and strategies to achieve goals, objectives, and critical success factors for each Board program.

See Appendix E.

Improper/Unprofessional Board Member Conduct

A member may be censured by the Board if the Board determines that he or she has acted in an inappropriate manner while conducting Board business.

Removal of Board Members

Board Policy

The Board, by resolution, may request in writing to the appointing authority that a member be replaced. The member shall be notified in writing of such proposed action and be given the opportunity to present to the Board his or her written or oral arguments against such action prior to the Board adopting the resolution.

Business and Professions Code Sections 106 and 2924

The Governor has power to remove from office any member of the Board for neglect of any required duty, for incompetency, or for unprofessional conduct.

Business and Professions Code Section 106.5

The Governor may also remove from office a Board member who directly or indirectly discloses examination questions to an applicant for examination for licensure, which may also constitute a misdemeanor.

Resignation of Board Members

Government Code Section 1750

In the event that it becomes necessary for a Board member to resign, a letter shall be sent by the resigning member to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by

State law. A copy of this letter shall also be sent to the director of the Department of Consumer Affairs, the Board President, and the Executive Officer.

Officers of the Board

Business and Professions Code Section 2925; Government Code Section 1750

The Board shall elect annually a President and Vice-President from among its members.

Election of Officers

Board Policy

Elections for the offices of President and Vice-President shall be conducted at the last scheduled Board meeting of the year. The newly elected President and Vice-President shall assume duties effective January 1 following the election.

Officer Vacancies

Board Policy

If the office of the President becomes vacant, the Vice-President assumes the office of the President on an interim basis and until election of officers at the next scheduled Board meeting.

Access to Board Files and Records

Board Policy

No Board member may access a licensee, applicant, or complaint file without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records must not be removed from the Board's office.

Communications with Other Organizations/Individuals

Board Policy

The Executive Officer, his or her designee, or the Board President shall serve as spokesperson to the media or to any individual or organization on Board actions, policies, or any communication that is deemed sensitive or controversial. Any Board member who is contacted by any of the above should terminate the contact and inform the Executive Officer or the Board President.

Board Staff

Board Policy

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, all authority and responsibility for management of the civil service staff is delegated to the Executive Officer. Individual Board members should not intervene or become involved in specific day-to-day Board office operations. However, the Board must hold the Executive Officer accountable for supervising all day-to-day operations.

Board Administration

Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer under the supervision of the Board President.

Examination Preparation

Board Policy

Board members shall not perform any function of examination development for the Board or the Department during their term as Board members.

Correspondence

Board Policy

Originals of any correspondence received by Board members regarding official Board business must be given to the Executive Officer and maintained in the Board's office files.

Statement of Economic Interest

Government Code Section 81000 et.seq.

The Political Reform Act requires appointed Board members to publicly disclose their personal assets and income. The Fair Political Practices Commission (FPPC) is the agency responsible for maintaining the Statement of Economic Interests Form 700. Board members must complete a Statement of Economic Interest when appointed, annually and upon leaving office. The Form 700 must be filed annually on or before April 1, or risk sanctioning by the FPPC.

See Appendix F.

Sexual Harassment Prevention Policy

It is the policy of the Department of Consumer Affairs (DCA) that all employees and nonemployees assume responsibility for maintaining a work environment free from all forms of sexually harassing conduct and/or behavior.

See Appendix G.

Contact with Licensees

Board Policy

Board members must not intervene on behalf of a licensee for any reason. All contacts or inquiries must be forwarded to the Executive Officer or Board staff.

Contact with Complainant/Respondent

Board members must not directly participate in complaint handling and resolution or investigations. To do so would subject the Board member to disqualification in any future disciplinary action against the

licensee. If a Board member is contacted by a complainant/respondent or his or her attorney, he or she should refer the individual to the Executive Officer or Board staff.

Gifts from Applicants, Registrants, or Licensees of the Board

Board Policy

Gifts of any kind to Board members from applicants, registrants, or licensees of the Board are not permitted.

The Political Reform Act¹ (the “Act”) imposes limits on gifts, prohibits honoraria payments², and imposes limits and other restrictions on the receipt of travel payments and personal loans by the following state officials:

- Elected state officers, candidates for elective state office, and other state officials specified in Section 87200; 3
- Members of state boards and commissions; and
- Designated employees of state agencies (i.e., officials and employees of state agencies who file statements of economic interests (Form 700) under their agency’s conflict of interest code).

Elected state officers, candidates for elective state office, and other state agency officials and employees are subject to two gift limits:

1. \$10 Lobbyist Gift Limit. Elected state officers, candidates for elective state office, and most legislative employees may not accept gifts aggregating to more than \$10 in a calendar month either from or arranged by any single registered state lobbyist or lobbying firm. State agency officials, including board and commission members, officials who manage public investments, and employees, may not accept gifts aggregating to more than \$10 in a calendar month either from or arranged by a single registered state lobbyist or lobbying firm if the lobbyist or firm is registered to lobby the official or employee’s agency. (Sections 86201-86204.)
2. \$500 Gift Limit. Gifts from any other single source may not exceed \$500 (2019-2020 limit) in a calendar year. For officials and employees who file statements of economic interests (Form 700) under a state agency’s conflict of interest code (“designated employees”), this limit applies only if the official or employee would be required to report income or gifts from that source on the Form 700, as outlined in the “disclosure category” portion of the agency’s conflict of interest code. (Section 89503.)

A “gift” is any payment or other benefit that confers a personal benefit for which a public official does not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See Regulation 18946 for valuation guidelines.) A public official has “received” or “accepted” a gift when he or she has actual possession of the gift or when he or she takes any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official’s behalf and gifts made to others at the direction of the official. (Regulation 18941.)

Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as \$5,000 per violation or three times the amount illegally obtained. (See Sections 83116, 89520, 89521, 91000, 91004 and 91005.5.)

Conflict of Interest

Government Code Section 87100

No Board member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board member who has a financial interest shall disqualify himself or herself from making or attempting to use his or her official position to influence the decision. Any Board member who feels he or she is entering into a situation where there is a potential conflict of interest should immediately consult the Executive Officer or Board President.

Board Policy B-96-02

It is a conflict of interest for a Board member to seek office in a professional association or to actively sponsor or support others seeking office in such associations, use his or her position as a Board member to further their own personal interests, discuss confidential Board business with anyone except other Board members and Board staff, or publicly espouse opinions on behalf of the Board without specific Board approval to do so.

CHAPTER 5: DUTIES OF THE BOARD PRESIDENT AND VICE-PRESIDENT

Board President

Board Policy

The President does at least the following:

- Preside at open/closed session Board meetings and official regulation hearings.
- Meet with Board management and legal counsel in advance of each quarterly Board meeting to review the agenda book, any anticipated issues, and management/staff concerns as to the agenda items.
- Assure that agenda timeframes are followed and that meeting proceed in an orderly and effective fashion.
- Appoint chairpersons of all committees, define the responsibilities of the chairpersons, and make committee appointments.
- Assure that all Board Members adhere to all Board policies, including attendance at Board and committee meetings and voting on enforcement matters.
- Serve as delegate or alternate delegate to state and national associations or appoint another Board Member to serve in such capacity.

- Represent the Board in communications relating to Board actions or policy or designate another Board Member to represent him/her if necessary, including attending legislative hearings or meetings.
- Review, revise and sign correspondence to legislative officers and the Governor's office regarding Board decisions, bill positions taken by the Board, and upcoming Board activities.
- Approve or disapprove Board members' travel other than regularly scheduled Board or committee meetings.
- Make decisions respecting emergency or urgent matters between meetings of the Board.
- Sign decisions, orders and rulings of the Board and Board minutes after approval by the Board and making oneself readily available to review, sign and expeditiously transmit to Board staff.
- Serve as liaison between the Board and Department's Deputy Director of Board and Bureau Services.
- Serve as immediate supervisor of the Executive Officer. Approve time off requests, sign monthly time sheets, and approve travel expenses. Regular meetings and communications as to Board operations, the agendas for upcoming meetings, and external affairs. Lead the performance evaluation of the Executive Officer, including soliciting comments from all Board members, preparing the evaluation, meeting with the Executive Officer to review the evaluation, and act as representative of Board in recommending salary adjustments.
- Chair the Sunset Review Committee which includes the Vice President and key staff. Meet with staff to review draft reports to the Senate and Assembly Business and Professions committees and testify before the legislature.
- Drafts quarterly column for the Board's Journal and reviews and provides comments as to the publication as a whole.
- Coordinate with and maintains regular communication with the Vice President as to issues relevant to Board meetings, Board policy, and operational concerns.
- Assume responsibilities usually vested in or customarily incident to the office of President and otherwise prescribed by law.

See Appendix H.

Vice-President

The Vice President does at least the following:

- If the President is temporarily unable or unwilling to perform assigned duties as President, the Vice President shall perform all of the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon, the President.

- Serve on the Sunset Review Committee with the Board President and key staff. Meet with staff to review draft reports to the Senate and Assembly Business and Professions committees and testify before the legislature.
- Coordinates with maintains regular communications with the President as to issues relevant to Board meetings, Board policy, and operational concerns.
- Aids and advises the President in preparing for and in the orderly conduct of quarterly Board meetings and issues as they present themselves throughout the year.

CHAPTER 6: EXECUTIVE OFFICER

Appointment

The Board appoints an Executive Officer who is exempt from civil service and serves at the pleasure of the Board.

Role

The Executive Officer implements the policies developed by the Board.

Recruitment

The Board may institute an open recruitment plan to obtain a pool of qualified Executive Officer candidates. It may also utilize departmental personnel recruitment procedures.

Selection

A qualified candidate for Executive Officer must demonstrate the ability to supervise employees and handle conflict resolution and complaint mediation. The Executive Officer must also demonstrate effective written and verbal communication skills and have knowledge and expertise in the areas of legislation, regulations, administration, examination, licensing, enforcement, and budgets.

The selection of a new Executive Officer is included as an item of business, which must be included in a written agenda and transacted at a public meeting.

Performance Appraisal of the Executive Officer

Memo OHR 2/14/13, Government Code Section 11126(a), and Board Policy P-97-02

The Board evaluates its Executive Officer on an annual basis. Approximately two months before the meeting, the Department's Office of Human Resources will direct that all Board members receive a copy of the evaluation form with instruction to complete their evaluations individually and forward them directly to the Board President. The Board President will review all evaluations and collate the ratings and comments for submission to the Department.

See Appendix I.

Each year, the matter of the Executive Officer evaluation will be placed on the agenda. The Board members will meet first in closed session to determine what action, if any, needs to be taken. The Board members will then meet with the Executive Officer to discuss the appraisal. Further actions will be taken in accordance with the Open Meetings Act.

Government Code Section 11126

Matters relating to the performance of the Executive Officer are discussed by the Board in closed session unless the Executive Officer requests that it be discussed in open session.

CHAPTER 7: BOARD COMMITTEES

Standing Committees

The Board of Psychology (Board) has three standing committees:

- Outreach and Communications Committee
- Legislative and Regulatory Affairs Committee
- Licensure Committee

Ad Hoc Committees (Active)

The Board has three active ad hoc committees:

- Enforcement Committee
- Sunset Review Committee
- Telepsychology Committee

Ad Hoc Committees (Inactive)

The Board has two inactive ad hoc committees:

- Applied Behavioral Analysis (ABA) Task Force
- EPPP2 Task Force

Internal organization of each committee is at the President's discretion.

Committee Appointments

The Board President determines committee composition, whether standing or ad hoc; however, committee members may make recommendations for new members.

Ad hoc committees will be established by the Board as needed. Members and the chairperson will be appointed by the President. Ad hoc committees may include the appointment of non-Board members.

Report of Committee Meetings

Each committee chair provides a report to the full Board at its regularly scheduled Board meeting. The Board can approve the committee report with any and all of the recommendations contained in the report, or approve a portion of the report, and discuss certain items and vote on them separately.

Outreach and Communications Committee

The goal of this committee is to provide critical information to all Californians regarding the evolving practice of psychology, relevant and emerging issues in the field of psychology, and the work of the Board.

Legislative and Regulatory Affairs Committee

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

See Appendix J.

Licensure Committee

The goal of this committee is to ensure valid licensing policies and procedures, making recommendations on changes as appropriate. The committee will also ensure a valid and reliable examination process to assess professional knowledge, as well as the laws and ethics governing the profession, working with such entities as the Association of State and Provincial Psychology Boards (ASPPB) and the Department's Office of Professional Examination Services.

Enforcement Committee

The goal of this committee is to protect the health and safety of consumers of psychological services through the active enforcement of the statutes and regulations governing the safe practice of psychology in California. The Committee reviews the Board's Disciplinary Guidelines and enforcement statutes and regulations and submits recommended amendments to the full Board for consideration.

Sunset Review Committee

The goal of this committee is to review staff's responses to the questions asked by the Assembly Business and Professions and the Senate Business, Professions and Economic Development Committees. The Committee formulates and reviews the responses before submission to the full Board.

Telepsychology Committee

The goal of this committee is to develop regulatory language for the practice of psychology that is conducted remotely within the State of California and interstate practice that is conducted remotely. This is a rapidly developing area of the profession, and technology has outpaced the current guidelines.

Applied Behavioral Analysis (ABA) Task Force

This committee is comprised of two Board Members and relevant stakeholders.

EPPP2 Task Force

This committee is comprised of two Board Members and relevant stakeholders.

CHAPTER 8: BOARD DELEGATIONS

PILOT LEGISLATIVE COMMITTEE GUIDELINE

The Board committees are advisory and may recommend actions to the Board. Recommendations and reports of committees shall be submitted to the full Board for consideration and approval. However, the Board hereby delegates to the Executive Officer and the Legislative and Regulatory Affairs Committee Chair the authority to take action – only in the event that time constraints or quorum preclude Board action – on legislation that changes the Psychology Licensing Law, impacts a previously-established Board policy, or affects the public’s health, safety or welfare as it pertains to the Mission of the Board. Before taking a position on legislation, the Executive Officer or Legislative and Regulatory Affairs Committee Chair shall consult with the Board President. The Board shall be notified of such action as soon as possible.

Submission and Review Guidelines for Extension Requests

Requests may be submitted to extend the following time limitation pursuant to the California Code of Regulations Sections 1391.1(b) and 1387(a):

- 72-month limitation for psychological assistant registration;
- 30-month limit to accrue 1,500 hours of pre or post-doctoral supervised professional experience (SPE); or
- 60-month limit to accrue 3,000 hours of post-doctoral SPE.

Submission Guidelines

To submit an extension request, please provide the following information to the Board for review via email at boplicensing@dca.ca.gov:

- In the subject line, indicate the type of extension request by stating whether it is for an extension to the 72-month registration limitation period of a psychological assistant registration or the 30- or 60-month time limitation in accruing SPE.
- The length of the extension.
- The reason for the extension request.
- Attach any documents (e.g., medical letter, birth/death certificates, timeline, etc.) that support the stated reason(s) for the extension request.

Review Guidelines

The following information serves as guidelines to assist Board staff in the preliminary review of straightforward requests for extension. Please note that requests made based on the following listed reason(s) do not indicate an automatic approval as they will be reviewed on a case-by-case basis. Requests submitted may still be subject to the review of the Licensure Committee at its future scheduled meeting prior to a final determination is made.

Reasons for Extension	Parameters	Length of Extension
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Disability under the ADA*	Unable to practice	1-year or less
Care of family member		
Injury or accident		
Parental leave		

The intent of a psychological assistant registration is to allow an individual to accrue the necessary SPE required for licensure as a psychologist. An extension to a registration beyond the 72-month limitation is unnecessary if the individual has successfully accrued all required experience.

*ADA - Americans with Disabilities Act

CHAPTER 9: ASSOCIATION MEMBERSHIP

Association of State and Provincial Psychology Boards

The Board maintains membership in the Association of State and Provincial Psychology Boards (ASPPB). This organization is the alliance of state, provincial, and territorial agencies responsible for the licensure and certification of psychologists throughout the United States and Canada. ASPPB is the owner and developer of the national examination for licensure and certification in psychology. A national database of regulatory actions taken against licensed psychologists is maintained by ASPPB. Membership in the association aids the Board in staying current with relevant and emerging issues on a national level.

Council on Licensure, Enforcement and Regulation (CLEAR)

CLEAR is an association of individuals, agencies and organizations that comprise the international community of professional and occupational regulation, providing a forum for improving the quality and understanding of regulation to enhance public protection. The Board's membership is part of a Department of Consumer Affairs (DCA) organizational membership and does come with voting privileges represented by a single organization vote.

APPENDICES

Appendix A

Bagley-Keene Open Meeting Act:

www.dca.ca.gov/publications/bagleykeene_meetingact.pdf

Appendix B

Department of Consumer Affairs (DCA) Travel Guide:

inside.dca.ca.gov/offices/oas/accounting/travel_guide.pdf

Appendix C

Department of Human Resources 2014 Mileage Reimbursement Rate

www.calhr.ca.gov/PML%20Library/2013043.pdf

Appendix D

Travel and Expense Per Diem Form

Appendix E

2019-2023 Strategic Plan

Appendix F

Form 700:

<http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Form%20700/2019-2020/Form%20700%202019.2020%20IA.pdf>

Appendix G

Department Policy EEO 12-01:

https://inside.dca.ca.gov/documents/eeo_1201.pdf

Appendix H

Board President Supervisory Expectations

Appendix I

DCA Executive Officer Performance Evaluation Guide

www.dpa.ca.gov/pv_obj_cache/pv_obj_id_EFF6E9241108A87DBEFCEFAF204DEC8F41C10700/filename/executive-officer-performance-evaluation-guide-dca.pdf

Appendix J

Overview of Legislative and Rulemaking Processes

www.oal.ca.gov/res/docs/pdf/howtoparticipate.pdf

senweb03.sen.ca.gov/ebrochure/SD34/SD34-Government-Life%20Cycle%20of%20Legislation.pdf

MEMORANDUM

DATE	January 15, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #24 – Update regarding the California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting – Penal Code Sections 261.5, 288, and 11165.1

Background:

In February of 2015, The Board of Psychology requested that Assembly Member Garcia request an opinion from the Attorney General (AG) regarding mandatory reporting requirements under CANRA, on behalf of the Board of Psychology. This request for an opinion was assigned opinion number 15-201 by the AG's office.

The questions laid out in the request to the AG were:

1. The Child Abuse and Neglect Reporting Act (CANRA), starting at Penal Code Section 11164 et seq.) requires “mandated reporters” to report instances of child sexual abuse, assault, and exploitation to specified law enforcement and/or child protection agencies. Does this requirement include the mandatory reporting of voluntary acts of sexual intercourse, oral copulation, or sodomy between minors of a like age?
2. Under CANRA is the activity of mobile device “sexting,” between minors of a like age, a form of reportable sexual exploitation?
3. Does CANRA require a mandated reporter to relay third-party reports of downloading, streaming, or otherwise accessing child pornography through electronic or digital media?

The reason for this request was due to an opinion the Board of Behavioral Sciences (BBS) received from their legal counsel. BBS advised that they first began to examine the issue because stakeholders brought it to the attention of their Board due to the various interpretations of the law by many of their licensees. Coincidentally, legislative staff members contacted BBS to advise that the interpretation by their stakeholders was incorrect, and that the amendments to CANRA could have implications on family planning agencies. Due to the concern over a legal misinterpretation of CANRA, BBS requested a legal opinion from the Department of Consumer Affairs (DCA). Once this legal opinion was received, the Board placed the opinion in their Board materials.

Since the receipt of the BBS opinion, that Board has made no statements regarding the interpretation of CANRA, and has not advised their licensees that they will or will not take enforcement action against them due to a CANRA-related complaint.

On February 20, 2015, the issue became subject to litigation which placed the AG opinion on hold pending the disposition of the case.

On January 9, 2017, a decision was rendered by the Court of Appeal of the State of California, Second Appellate District. This decision affirmed the judgement of the Los Angeles County Superior Court trial.

On February 21, 2017, the plaintiffs in the Matthews v. Harris case filed a petition for review with the California Supreme Court.

On April 6, 2017, the Office of the Attorney General advised that their office will maintain the suspension of opinion number 15-201 until the litigation is concluded and they have a final disposition in the matter.

On May 10, 2017, The California Supreme Court granted a review of Matthews v. Harris, which was changed to Mathews v. Becerra (S240156).

On October 2, 2019, the cause was argued and submitted before the California Supreme Court.

On December 26, 2019, the California Supreme Court issued an Opinion which reversed the judgement issued by the Los Angeles County Superior Court and affirmed by the Court of Appeal of the State of California, Second Appellate District. Below is an excerpt from the decision which can be found here:

<https://www.courts.ca.gov/opinions/documents/S240156.PDF>

...

According to the complaint, plaintiffs' patients include many persons who, during the course of voluntary psychotherapy, have admitted to downloading or electronically viewing child pornography but who, in plaintiffs' professional judgment, do not present a serious risk of sexual contact with children. Plaintiffs contend that the basic norm of confidentiality protected by the psychotherapist-patient privilege applies to such admissions and that the 2014 amendment to section 11165.1(c)(3), which requires plaintiffs to report such patients to law enforcement and child welfare authorities, violates their patients' right to privacy under article I, section 1 of the California Constitution and the Fourteenth Amendment of the United States Constitution. The Attorney General and the Los Angeles County District Attorney (collectively, defendants) filed demurrers, contending that plaintiffs had failed to establish a

valid privacy claim under either the state or the federal Constitution. The trial court dismissed the complaint, and the Court of Appeal affirmed.

...

We conclude that plaintiffs have asserted a cognizable privacy interest under the state Constitution such that their complaint survives demurrer and the action may proceed to factfinding on whether the reporting requirement furthers its intended purpose. Because this case comes to us on demurrer, we have assumed the facts pleaded as true, and we have given the complaint a reasonable interpretation. Whether plaintiffs will succeed on the merits after the development of an evidentiary record remains to be seen, and we express no view on the ultimate validity of Assembly Bill 1775. Furthermore, plaintiffs have challenged CANRA's validity only to the extent it requires mandatory reporting of patients suspected of simple possession or viewing of child pornography. We do not question the validity of other reporting obligations encompassed by former section 11165.1, subdivision (c)(3).

Action Requested:

This item is for informational purposes only. There is no action required, Board staff will continue to monitor this case.