

NOTICE OF BOARD MEETING

The Board of Psychology will hold a Board Meeting via telephone conference

Call-in Line for Teleconferencing: (866) 509-3031
Participant Code: 44835535

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, neither Board member locations nor a public meeting location are provided. Public participation may be through teleconferencing as provided above. If you have trouble getting on the call to listen or participate, please call 916-574-7720.

Friday, April 17, 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

Board Staff

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

Legal Counsel

Norine Marks

Friday, April 17, 2020

AGENDA

10:00 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
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. Determination that Emergency Exists, Pursuant to Government Code section 11125.3 (N. Marks)
Board will Determine whether an Emergency Exists to allow it to Consider Modifying the 30/60-month Time Limits in 16 CCR section 1387(a) to Accrue SPE, the 72-month Registration Limit as a Psychological Assistant in 16 CCR section 1391.1, and Waive an Examination under Business and Professions Code Section 2946.
5. Consideration of Modifications and Waivers
 - a) Modification of the 30/60-month Time Limits in 16 CCR section 1387(a) to Accrue SPE
 - b) Modification of the 72-month Registration Limit as a Psychological Assistant in 16 CCR Section 1391.1
 - c) Waiver of the CPLEE under Business and Professions Code Section 2946
6. President's Report (S. Foo)
 - a) Dates and Locations of 2020 Board and Committee Meetings
 - b) Committee Updates
7. Discussion and Possible Approval of the Board Meeting Minutes: February 27-28, 2020
8. Budget Report (J. Glasspiegel)
9. Review, Consider, and Approve Board Responses to the Sunset Background Paper from the Senate Business, Professions, and Economic Development Committee for Submission to the Committee
10. Consideration of Adopting Amendments to Title 16, CCR Sections 1394, 1395, 1395.1 – Substantial Relationship Criteria, Rehabilitation Criteria (J. Glasspiegel)
11. Review and Consider Feedback Regarding ASPPB Changes to the Certificate of Professional Qualification in Psychology (CPQ)
12. 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. AB 2630 (Flora) Criminal history information: subsequent arrest notification
- C. SB 53 (Wilk) Open meetings.
- D. SB 66 (Atkins) Medi-Cal: federally qualified health center and rural health clinic services.

2) Review of Bills for a Position

- A. AB 2185 (Patterson) Professions and Vocations: applicants licensed in other stated: reciprocity.
- B. AB 3045 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses

3) Review of Watch Bills

- A. AB 289 (Fong) California Public Records Act Ombudsperson
- B. AB 499 (Mayes) Personal information: social security numbers: state agencies.
- C. AB 565 (Maienschein) Public health workforce planning: loan forgiveness, loan repayment, and scholarship programs.
- D. AB 1263 (Low) Contracts: consumer services: consumer complaints.
- E. AB 1616 (Low) Department of Consumer Affairs: boards: expunged convictions.
- F. AB 1911 ((Maienschein) State agencies: veterans.

- G. AB 2028 (Aguiar-Curry) State agencies: meetings.
 - H. AB 2093 (Gloria) Public records: writing transmitted by electronic mail: retention.
 - I. AB 2113 (Low) Refugees, asylees, and immigrants: professional licensing.
 - J. AB 2438 (Chau) California Public Records Act: conforming revisions.
 - K. AB 2454 (Chen) Department of Consumer Affairs: retired or inactive status license: discipline.
 - L. AB 2460 (Daly) Department of Consumer Affairs: retired category licenses.
 - M. AB 2476 (Diep) Healing arts licensees.
 - N. AB 2549 (Salas) Department of Consumer Affairs: temporary licenses.
 - O. AB 2597 (Bonta) Department of Consumer Affairs.
 - P. AB 2631 (Cunningham) License fees: military partners and spouses.
 - Q. AB 2704 (Ting) Healing arts: licensees: data collection.
 - R. AB 2978 (Ting D) Department of Justice: arrest and conviction records: review.
 - S. SB 878 (Jones) Department of Consumer Affairs Licensing: applications: wait times.
 - T. SB 891 (Chang) Department of Consumer Affairs.
13. 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
 14. Regulatory Update, Review, and Consideration of Additional Changes (S. Foo)
 - a) 16 CCR Section 1396.8 – Standards of Practice for Telehealth
 - b) 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants

- c) 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees
 - d) 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development
 - e) 16 CCR Sections 1391.13, and 1391.14 – Inactive Psychological Assistant Registration and Reactivating a Psychological Assistant Registration
15. Review and Consideration of Changes to the Board’s Administrative Procedures Manual
 16. Enforcement Report (S. Monterrubio)
 17. Coronavirus (COVID-19) Update (A. Sorrick)
 18. 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)].

CLOSED SESSION

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

RETURN TO OPEN SESSION

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 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	February 27-28, 2020	Sacramento, CA
Board Meeting	April 17, 2020	Teleconference
Board Meeting	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	February 27, 2020	Sacramento, CA
Licensure Committee Meeting	May 15, 2020	Teleconference

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	March 13, 2020
TO	Board of Psychology
FROM	Evan Gage Special Projects Analyst
SUBJECT	Agenda Item #7 – Discussion and Possible Approval of the Board Meeting Minutes: February 27-28, 2020

Background:

Attached are the draft minutes of the February 27-28, 2020 Board Meeting.

Action Requested:

Review and approve the minutes of the February 27-28, 2020 Board Meeting.

Department of Consumer Affairs
Board of Psychology
April 17, 2020 Board Meeting
Teleconference

**Hand-Carry
Agenda Item**

- Agenda Item 7 – February 27-28, 2020 Board Meeting Minutes - DRAFT

MEMORANDUM

DATE	April 3, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #8 - 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 8

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

FM 08 based on 3.23.2020 activity log
Prepared: 4.2.2020

OBJECT DESCRIPTION	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20				
	ACTUAL EXPENDITURES (Prelim FM12)	ACTUAL EXPENDITURES (Prelim FM12)	ACTUAL EXPENDITURES (Prelim FM12)	BUDGET Act 2019-20	CURRENT YEAR EXPENDITURES FM 08	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
Salary & Wages (Staff)	1,029,627	1,215,189	1,260,226	1,356,000	978,470	72%	1,428,823	(72,823)
Temp Help (907)	285,680	177,695	242,457	47,000	99,802	212%	155,463	(108,463)
Statutory Exempt (EO)	91,023	97,272	101,160	90,000	69,800	78%	104,700	(14,700)
Board Member Per Diem	14,400	14,400	19,100	12,000	11,400	95%	12,200	(200)
Overtime/Retirement Payout	3,474	83,027	25,411	10,000	152	2%	200	9,800
Staff Benefits	685,887	735,161	909,697	1,007,000	663,574	66%	977,000	30,000
TOTALS, PERSONNEL SVC	2,110,091	2,322,744	2,558,051	2,522,000	1,823,198	72%	2,678,386	(156,386)
OPERATING EXPENSE AND EQUIPMENT								
General Expense	92,523	92,644	68,164	105,000	41,827	40%	66,000	39,000
Printing	67,340	60,622	58,152	51,000	29,825	58%	51,000	0
Communication	6,544	3,499	3,758	42,000	2,461	6%	4,600	37,400
Postage	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	70,295	57,196	31,845	19,000	16,810	88%	22,000	(3,000)
Travel, Out-of-State	-	1,233	1,669	0	2,000	0%	2,000	(2,000)
Training	620	840	5,260	16,000	630	4%	1,000	15,000
Facilities Operations	164,677	162,553	231,559	139,000	143,635	103%	231,574	(92,574)
C & P Services - Interdept.	-	759	99	263,000	105	0%	286	262,714
Attorney General	706,587	664,375	619,304	1,088,000	617,262	57%	1,087,262	738
Office of Administrative Hearings	118,786	162,690	161,910	162,000	66,050	41%	161,050	950
C & P Services - External	281,030	374,164	422,439	427,000	305,115	71%	448,127	(21,127)
DCA Pro Rata	769,952	857,000	939,000	905,000	603,333	67%	905,000	0
Interagency Services with OPES	39,424	46,776	99,344	54,000	21,945	41%	58,000	(4,000)
Consolidated Data Center (OTECH)	1	7,635	-	7,000	0	0%	0	7,000
Information Technology	9,452	5,164	5,356	7,000	840	12%	6,657	343
Equipment	26,244	47,023	7,518	0	25,283	0%	29,122	(29,122)
TOTALS, OE&E	2,663,276	2,830,796	2,996,154	3,311,000	1,877,294	57%	3,088,678	222,322
TOTAL EXPENSE	4,773,367	5,153,540	5,554,205	5,833,000	3,700,492	63%	5,767,064	65,936
Sched. Reimb. - Fingerprints	(3,888)	(1,127)	(47,000)	(47,000)	(47,000)	100%	(47,000)	0
Sched. Reimb. - Other	(2,115)	(1,175)	(3,547)	(4,000)	(2,254)	56%	(4,000)	0
NET APPROPRIATION	4,585,164	4,966,758	5,358,242	5,782,000	3,651,238	63%	5,716,064	65,936
SURPLUS/(DEFICIT):								1.1%

ISSUE MEMORANDUM

DATE	March 24, 2020
TO	Board of Psychology Members
FROM	Antonette Sorrick, Executive Officer
SUBJECT	Agenda Item #9 - Sunset Background Paper

Background:

The following Sunset Review activities have occurred in the last six months:

- 1) On November 8, 2019, the Board was presented with a draft Sunset Review Oversight Form including relevant attachments, which was approved after final edits.
- 2) 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.
- 3) On March 13, 2020, the draft Background Paper was submitted to the Board staff for a preliminary review. Staff reviewed the document and returned with edits to both committees.

Action Requested:

No action is required at this time. The Board awaits the Committee's Background Paper.

MEMORANDUM

DATE	April 8, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 10: Consideration of Adopting Amendments to Title 16, CCR Sections 1394, 1395, 1395.1 - Substantial Relationship Criteria, Rehabilitation Criteria

Background:

On September 30, 2018, Governor Brown signed AB 2138 (Chiu) into law. AB 2138, which becomes operative July 1, 2020, replaces Business and Professions Code (BPC) Sections 481, which requires the Board to amend its criteria when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the practice of psychology. Further, BPC Section 493 requires the Board to determine whether a crime is substantially related to the qualifications, functions, or duties of the profession it regulates by using criteria including the nature and gravity of the offense, the number of years elapsed since the date of the offense, and the nature and duties of the profession.

In addition, BPC Section 482 requires the Board to amend its criteria for evaluating the rehabilitation of a person when considering the denial, suspension, or revocation of a license. Lastly, the Legislature's clear intent in enacting AB 2138 was to reduce licensing and employment barriers for people who are rehabilitated.

As required under AB 2138, the Board proposes to amend California Code of Regulations, title 16, sections 1394, 1395, and 1395.1 to adhere to these mandates and revise its substantial relationship criteria and rehabilitation criteria for denials and reinstatements, and suspension and revocations.

At the Board's February 7-8, 2019, meeting, this regulatory proposal was presented to the Board for its review and approval. The Board approved the proposed language and delegated authority to its Executive Officer to make any technical, non-substantive changes, if necessary.

This package was received by the Office of Administrative Law on January 27, 2020 and was in the notice publication on February 14, 2020.

The Board made modifications to the proposed language on February 28, 2020, and staff issued a 15-day Notice of modified text on March 24, 2020. One requirement with modified text is that the Board must make sure that any person who comments on the initial noticed language is made aware of any modifications to the language.

The Board received four (4) comments during the 45-day comment period. Two of the comments were received after the issuance of the 15-day notice of modified text. Staff was unable to verify that the two commenters who commented after the issuance of the 15-day modified text received notice of the modification. As such, each of the two commenters are being provided an additional 15-days to comment on the modified text. The comment period for these two individuals ends on April 23, 2020.

The notice period for both the initial 45-day notice, and 15-day notice of modified text ended at the end on April 7, 2020. The hearing for the 45-day noticed language took place on April 8, 2020. The Board did not receive any comments at the hearing. Prior to the hearing, the Board received four (4) comments which are attached for your review.

Upon review of the comments and final approval of the language by the Board, staff will work to resubmit the proposal to DCA for the final review.

Action Requested:

Staff requests that the Board review the attached comments and provide feedback as to whether the comments should be rejected, or accepted and any requested modification to the text. After this review, please delegate to the Executive Officer authority to adopt the modified text in the absence of any negative comments and continue with the process to finalize the regulatory package, including making any non-substantive changes consistent with the Board's policy.

Attachments:

Attachment A: Memo to the Board dated July 20, 2018, regarding the status of AB 2138 as pending legislation.

Attachment B: Comments received during the 45-day comment period.

MEMORANDUM

DATE	July 20, 2018
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #22(c)(2) – AB 2138 (Chiu and Low) Licensing Boards: Denial of Application: Criminal Conviction

Background:

This bill narrows a board's discretion to deny a professional license to the following cases:

- a) The applicant has been convicted of a crime; limits denials based on a criminal conviction to convictions for which the applicant is presently incarcerated or that occurred within the preceding seven years, except for convictions of a serious felony.
- b) The applicant has been subjected to formal discipline by a licensing board within the preceding seven years based on professional misconduct that would have been cause for discipline before the board for which the present application is made.

This bill removes the authority for a board to deny an application for licensure based on "acts" for which there has been no due process in a criminal or disciplinary proceeding.

This bill specifies that a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed.

This bill prohibits a board from denying a license on the basis of an arrest that resulted in a disposition other than a conviction.

This bill states that a board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

This bill requires that a board follow the following procedures in requesting or acting on an applicant's criminal history information:

- a) A board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history.
- b) If a board decides to deny an application based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of the denial of the application as well as the applicant's right to challenge or appeal the

board's decision, as well as the process by which the applicant may secure a copy of their own rap sheet.

This bill requires boards to retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant for a minimum of three years.

This bill requires boards to retain the following statistical information:

a) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

b) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

c) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

d) The final disposition and demographic information, including, but not limited to, voluntarily provided information on race or gender, of any applicant.

This bill requires boards to annually make available to the public through the board's website and through a report submitted to the Legislature deidentified information collected that ensures confidentiality of the individual applicants.

This bill requires each board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates, including the following:

a) The nature and gravity of the offense.

b) The number of years elapsed since the date of the offense.

c) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

This bill requires each board to post on its website a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates.

This bill requires a board to consider that an applicant or licensee has made a showing of rehabilitation if any of the following are met:

a) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

c) The applicant or licensee has satisfied criteria for rehabilitation developed by the board.

This bill would require the Board of Psychology to promulgate regulations if it wishes to continue to use the option of granting a license and immediately issue a public reapproval

pursuant to Section 495, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension. This process would now be possible through broad other action language that would need to be clarified in regulations.

At the May 2018 Board Meeting, the Board voted to Oppose AB 2138 (Chiu and Low). Staff has attended all stakeholder meetings on the bill and sent letters of opposition and testified in opposition to the bill at the two subsequent Senate hearings on the bill.

Location: Senate Committee on Appropriations

Status: 06/13/2018 – Referred to Senate Committee on Appropriations.

Votes: 06/26/2018 – Senate Public Safety (4-2-1)
06/18/2018 – Senate Business Professions and Economic Development (6-3-0)
05/31/2018 – Assembly Floor (45-29-4)
05/25/2018 – Assembly Committee on Appropriations (12-4-1)
04/24/2018 – Assembly Committee on Business and Professions (11-5-0)

Action Requested:

No action is required at this time. Staff will continue to advocate in Opposition to AB 2138 (Chiu and Low).

Attachment A: Letter of Opposition to Senate Committee on Business Professions and Economic Development

Attachment B: AB 2138 (Chiu and Low) Text

Department of Consumer Affairs
Board of Psychology

April 17, 2020 Board Meeting
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**Item(s) Available Upon
Request**

Agenda Item 10 Attachment

10(B): Comments received during the 45-day comment period

MEMORANDUM

DATE	March 31, 2020
TO	Board of Psychology
FROM	Jeffrey Thomas Assistant Executive Officer
SUBJECT	Agenda Item 11 - Review and Consider Feedback Regarding ASPPB Changes to the Certificate of Professional Qualification in Psychology (CPQ)

Background:

The California Board of Psychology is a participating jurisdiction in the Association of State and Provincial Psychology Board's (ASPPB) Certificate of Professional Qualification in Psychology (CPQ) program. California Code of Regulations Section 1388.6(c) states that applications for licensure as a psychologist who hold a CPQ shall not be required to take the EPPP and shall be deemed to have met the educational and experience requirements set forth in Business and Professions Code Section 2914. Such applicants must take and pass the California Laws and Ethics Examination.

The ASPPB Mobility Committee is contemplating making a change to the requirements to obtain a CPQ to require an applicant's doctoral degree to be from a program that was American Psychological Association (APA) or Canadian Psychological Association (CPA) accredited or Joint Designated at the time the degree was conferred, with no equivalency standard regarding degree program, courses or residency. Foreign trained applicants would be required to provide an evaluation by an acceptable evaluation service demonstrating equivalency to an APA/CPA/Joint Designation program.

Business and Professions Code Section 2914(b) and (c) specify the educational requirements for licensure as a psychologist and read as follows (emphasis added):

(b) Possess an earned doctorate degree (1) in psychology, (2) in educational psychology, or (3) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (h), this degree or training shall be obtained from an accredited university, college, or professional school. The board shall make the final determination as to whether a degree meets the requirements of this section.

(c) (1) On or after January 1, 2020, possess an earned doctorate degree in psychology, in educational psychology, or in education with the field of specialization in counseling psychology or educational psychology from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education. Until January 1, 2020, the board may accept an applicant who possesses a doctorate degree in psychology, educational psychology, or in

education with the field of specialization in counseling psychology or educational psychology from an institution that is not accredited by an accrediting agency recognized by the United States Department of Education, but is approved to operate in this state by the Bureau for Private Postsecondary Education.

(2) Paragraph (1) does not apply to any student who was enrolled in a doctoral program in psychology, educational psychology, or in education with the field of specialization in counseling psychology or educational psychology at a nationally accredited or approved institution as of December 31, 2016.

(3) **No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists**, and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology.

(4) **An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that he or she possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada.**

These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation the board deems necessary.

The ASPPB Mobility Committee is seeking feedback regarding how this change may impact the Board's continued participation in the CPQ program.

Action Requested:

Review and consider feedback regarding ASPPB Changes to the CPQ program.

Staff Recommendation:

Staff recommends providing feedback to ASPPB that the California Board of Psychology is opposed to the above change as it is in conflict with Business and Professions Code Section 2914(b) and (c) and would provide an unfair disadvantage to applicants who received their doctoral degree from a regionally accredited program that was not APA or CPA accredited or Joint Designated at the time the degree was conferred. If approved, these changes may impact the Board's use of the CPQ as a pathway to licensure.

Attachment:

Section 7: Certificate of Professional Qualification in Psychology (CPQ) of the ASPPB Mobility Program Policies and Procedures

Department of Consumer Affairs
Board of Psychology

April 17, 2020 Board Meeting
Teleconference

**Item(s) Available Upon
Request**

Agenda Item 11 Attachment

11: CPQ Section of the ASPPB Mobility Program Policies and
Procedures)

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #12(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, and February 13, 2020, SB 275 (Pan) was amended and re-referred to the Assembly Business and Professions Committee.

Location: Re-referred to Assembly Committee on Business and Professions

Status: 2/13/2020 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 of the Business and Professions Code is amended to read:

2960.

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

- (a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.
- (b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to ~~himself or herself,~~ *themselves*, any other person, or the public, or to an extent that this use impairs ~~his or her~~ *their* ability to perform the work of a psychologist with safety to the public.
- (c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.
- (d) Impersonating another person holding a psychology license or allowing another person to use ~~his or her~~ *their* license or registration.
- (e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.
- (f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.
- (g) Violating Section 17500.
- (h) Willful, unauthorized communication of information received in professional confidence.
- (i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.
- (j) Being grossly negligent in the practice of ~~his or her~~ *their* profession.
- (k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.
- (l) The aiding or abetting of any person to engage in the unlawful practice of psychology.
- (m) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to practice psychology or as a psychological assistant issued by that state or country to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.
- (n) The commission of any dishonest, corrupt, or fraudulent act.
- (o) (1) Any act of sexual abuse, *sexual relations*, or sexual ~~relations~~ *behavior* with a ~~patient~~ *client* or former ~~patient~~ *client* within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, ~~functions~~ *functions*, or duties of a psychologist or psychological assistant or registered psychologist.

(2) For purposes of this subdivision, “sexual behavior” means inappropriate contact or communication of a sexual nature for purpose of sexual arousal, gratification, exploitation, or abuse. “Sexual behavior” does not include the provision of appropriate therapeutic interventions relating to sexual issues.

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

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

(r) Repeated acts of negligence.

SECTION 1. SEC. 2.

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

2960.1.

Notwithstanding Section 2960, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act ~~of sexual contact, as defined in Section 728, when that act is with a patient,~~ *with a client*, or with a former ~~patient~~ *client* within two years following termination of therapy, *that constitutes the unprofessional conduct specified in subdivision (o) of Section 2960* 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.*

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	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(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, have been submitted to the legislature 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	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #12(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: Senate Committee on Rules

Status: 1/28/2020 Senate. Read first time. To Committee on Rules for assignment

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	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #12(b)(1)(B) – AB 2630 (Flora) Criminal history information: subsequent arrest notification

Background:

This bill would provide that the Department of Justice (DOJ) is authorized to submit fingerprints to the Federal Bureau of Investigation (FBI) where they will be retained for the purpose of being searched against future submissions to the FBI. This bill would authorize the DOJ to search latent fingerprint images against all retained fingerprint submissions. This bill would also authorize the DOJ to collect fees for federal subsequent notification services and remit the fees to the FBI.

From correspondence from the DOJ, “What we learned as we planned for the implementation of AB 2461 [Flora, Chapter 300, Statutes of 2018] was that for the DOJ to participate in the federal Rap Back program (enabling the DOJ to provide subsequent federal arrest and disposition information to applicant agencies,) the FBI required explicit authority in California law to allow them to retain fingerprints for this purpose.”

Location: Assembly Committee on Public Safety

Status: 3/17/2020 In committee: Hearing postponed by committee

Action Requested:

Staff recommend the Board take a **Support** position on AB 2630 (Flora). This bill provides additional consumer protection measures by allowing the Board to receive subsequent arrest notifications for Federal arrests.

Attachment A: AB 2630 (Flora) Bill Text

AB 2630 - (I) Amends the Law

SECTION 1.

Section 11105.2 of the Penal Code is amended to read:

11105.2.

(a) (1) The Department of Justice shall provide to the State Department of Social Services, the Medical Board of California, and the Osteopathic Medical Board of California, pursuant to state or federal law authorizing those departments to receive state or federal summary criminal history information, and may provide to any other entity authorized by state or federal law to receive state or federal summary criminal history information, subsequent state or federal arrest or disposition notification to assist in fulfilling employment, licensing, or certification duties, or the duties of approving relative caregivers, nonrelative extended family members, and resource families upon the arrest or disposition of any person whose fingerprints are maintained on file at the Department of Justice or the Federal Bureau of Investigation (FBI) as the result of an application for licensing, employment, certification, or approval. *The Department of Justice is authorized to submit fingerprints to the FBI where they will be retained for the purpose of being searched against future submissions to the FBI, including latent fingerprint searches. The Department of Justice is authorized to search latent fingerprint images against all retained fingerprint submissions.* This section does not authorize the notification of a subsequent disposition pertaining to a disposition that does not result in a conviction, unless the department has previously received notification of the arrest and has previously lawfully notified a receiving entity of the pending status of that arrest. If the department supplies subsequent arrest or disposition notification to a receiving entity, the entity shall, at the same time, expeditiously furnish a copy of the information to the person to whom it relates if the information is a basis for an adverse employment, licensing, or certification decision. If the copy is not furnished in person, the copy shall be delivered to the last contact information provided by the applicant.

(2) The Department of Justice may collect fees in an amount sufficient to cover the costs of federal subsequent notification services and remit the fees to the FBI.

~~(2)~~ (3) An entity that submits the fingerprints of applicants for licensing, employment, or certification, or approval to the Department of Justice for the purpose of establishing a record of the applicant to receive notification of subsequent state or federal arrests or dispositions pursuant to paragraph (1) shall comply with subdivision (d).

(b) For purposes of this section, "approval" means those duties described in subdivision (d) of Section 309 of the Welfare and Institutions Code for approving the home of a relative caregiver or of a nonrelative extended family member for placement of a child supervised by the juvenile court, and those duties in Section 16519.5 of the Welfare and Institutions Code for resource families.

(c) An entity, other than a law enforcement agency employing peace officers as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31, shall enter into a contract with the Department of Justice in order to receive notification of subsequent state or federal arrests or dispositions for licensing, employment, or certification purposes.

(d) An entity that submits the fingerprints of applicants for licensing, employment, certification, or approval to the Department of Justice for the purpose of establishing a record of the applicant to receive notification of subsequent state or federal arrests or dispositions shall immediately notify the department when the employment of the applicant is terminated, when the applicant's license or certificate is revoked, when the applicant may no longer renew or reinstate the license or certificate, or when a relative caregiver's or nonrelative extended family member's approval is terminated. The Department of Justice shall terminate state or federal subsequent notification on any applicant upon the request of the licensing, employment, certifying, or approving authority.

(e) An entity that receives a notification of a state or federal subsequent arrest or disposition for a person unknown to the entity, or for a person no longer employed by the entity, or no longer eligible to renew the certificate or license for which subsequent notification service was established shall immediately return the subsequent notification to the Department of Justice, informing the department that the entity is no longer interested in the applicant. The entity shall not record or otherwise retain any information received as a result of the subsequent notice.

(f) An entity that submits the fingerprints of an applicant for employment, licensing, certification, or approval to the Department of Justice for the purpose of establishing a record at the department or the Federal Bureau of Investigation to receive notification of subsequent arrest or disposition shall immediately notify the department if the applicant is not subsequently employed, or if the applicant is denied licensing certification, or approval.

(g) An entity that fails to provide the Department of Justice with notification as set forth in subdivisions (c), (d), and (e) may be denied further subsequent notification service.

(h) Notwithstanding subdivisions (c), (d), and (f), subsequent notification by the Department of Justice and retention by the employing agency shall continue as to retired peace officers listed in subdivision (c) of Section 830.5.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #12(b)(1)(C) – SB 53 (Wilk) Open meetings

Background:

This bill would modify 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

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 Appropriations

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.

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	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #12(b)(1)(D) – 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.

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.

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

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

~~(r)~~ (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	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #12(b)(2)(A) – AB 2185 (Patterson and Gallagher) Professions and vocations: applicants licensed in other states: reciprocity

Background:

This bill would require the California Board of Psychology (Board) to issue a license for the practice of psychology, to a person that is married to, or is in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, who is assigned to a duty station in California, and licensed in another state, subject to additional requirements.

Location: Assembly Committee on Business and Professions

Status: 3/17/2020 Referred to Committee on Business and Professions

Action Requested:

Due to the inability for Board staff to verify that the applicant meets licensure requirements in California, Board staff recommend the Board take an **Oppose** position on AB 2185 (Patterson and Gallagher).

Attachment A: AB 2185 (Patterson and Gallagher) Analysis

Attachment B: AB 2185 (Patterson and Gallagher) Bill Text

2020 Bill Analysis

Author: Patterson and Gallagher	Bill Number: AB 2185	Related Bills:
Sponsor: R Street Institute	Version: 3/16/2020	
Subject: Professions and vocations: applicants licensed in other states: reciprocity		

SUMMARY

This bill would require the California Board of Psychology (Board) to issue a license for the practice of psychology, to a person that is married to, or is in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, who is assigned to a duty station in California, and licensed in another state, subject to additional requirements.

RECOMMENDATION

Due to the inability for Board staff to verify that the applicant meets licensure requirements in California, Board staff recommend the Board take an **Oppose** position on AB 2185 (Patterson and Gallagher).

REASON FOR THE BILL

According to the author, many new California residents, particularly military spouses who are stationed in the state, can face numerous obstacles to gaining licensure in California, which means a delay in working and making an income. For most licensed occupations, California offers no credit to licensure applicants for their out-of-state license, and often requires additional coursework or supervised work hours before granting a California license. Additionally, it is not one of the 32 states that currently grants licensure by endorsement for military spouses.

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

Many states have faced the same problem, and have addressed it by accepting all out-of-state occupational licenses for the purpose of satisfying state-specific occupational licensing agreements. AB 2185 would have California follow the lead of states like Arizona and Pennsylvania by granting an occupational license to those who establish residency or are military spouses and have the same license from another state. Additionally, these applicants must have been practicing for at least three of the past five years and have faced no disciplinary action. California licensing boards will still collect the necessary fees to process the license, and may require state-specific exams if necessary.

ANALYSIS

In addition to the requirement for marriage, domestic partnership, or legal union with a member of the military stationed in California, the applicant would need to meet the following additional requirements:

- The person currently holds a license in good standing in another state in the discipline and practice level and with the same scope of practice for which the person is applying.
- The person has held the license and has practiced in the licensed field in the other state for at least three of the last five years.
- The person has not had any disciplinary actions imposed against their license and has not had a license in the discipline for which the person is applying revoked or suspended in any other state.
- The person submits verification that they have satisfied all education, work, examination, and other requirements for licensure in the other state in which the person holds a license in good standing and those requirements are similar to the standards required for licensure in this state.
- The person would not be denied licensure under any other provision of this code, including, but not limited to, disqualification for criminal history relating to the license sought.
- The person pays all applicable fees for licensure and complies with any applicable surety bond and insurance requirements.
- If required by the board, the person has passed a California jurisprudence and ethics examination or other examination otherwise required for applicants by the board on the statutes and regulations relating to the license.

Provisions of the bill that are of concern:

1. The person submits verification that they have satisfied all education, work, examination, and other requirements for licensure in the other state in which the

person holds a license in good standing and those requirements are similar to the standards required for licensure in this state.

While a verification that the California applicant met the licensing requirements of the other state is easily satisfied with the submission of a license verification from the state in which they are licensed, the ability to verify requirement similarities between the two states is not as simplistic.

Based on the language, it is unclear whether the verification is to be created and provided by the licensed state or the applicant. It is unreasonable to assume that either the licensed state or the applicant is qualified to determine whether other states standards required for licensure are similar to California.

Below are some items that tend to be different between states:

- Degree requirements (West Virginia licenses at the master's level)
 - Supervision requirements (many states allow paying for supervision, and some states do not require post-doctoral hours)
2. The person would not be denied licensure under any other provision of this code, including, but not limited to, disqualification for criminal history relating to the license sought.

This provision would prohibit the Board from denying an applicant with a criminal history other than license discipline. It is unclear and potentially varies between states what convictions effect the issuance of a license.

LEGISLATIVE HISTORY

None Available.

OTHER STATES' INFORMATION

Other states do accept licensure based on reciprocity. Arizona is as follows.

Taken from the Arizona Board of Psychologist Examiners Website:

On August 27, 2019, the Arizona Board of Psychologist Examiners began accepting applications for licensure by universal recognition ("reciprocity"). Applications can be found on the applications page for the profession.

The universal recognition policy allows Arizona residents to use an out-of-state professional or occupational license to qualify for an Arizona license to work. To qualify, an applicant must:

- Prove residency in Arizona.
- Be currently licensed or certified for at least one year in another U.S. state in the discipline applied for and at the same level of practice as recognized in Arizona.
- Be in good standing in all states where currently or previously licensed or certified.

- Have met all applicable education, work, exam, and/or clinical supervision requirements in the other state where originally licensed or certified.
- Complete a criminal background check when required by law.
- Take and pass any applicable exam on Arizona state law.
- Pay all applicable fees to the Arizona Board of Psychologist Examiners.

PROGRAM BACKGROUND

Currently, Board staff prioritize the review of any applications submitted by active or honorably discharged members of the military or those who they are married to or in a domestic partnership or legal union with. This provides applicants with the fastest possible review by those who are most knowledgeable regarding the requirements for licensure in this state.

All applicants previously licensed have the potential for modified requirements depending on their license history:

- Any applicant for licensure that has been licensed for five (5) or more years out of state does not have to submit their EPPP (national exam) score from the Association of State and Provincial Psychology Boards (ASPPB).
- Any applicant for licensure that has been licensed for five (5) or more years and has a Certificate of Professional Qualification (CPQ) issued by ASPPB, is credentialed as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology (NRHSPP), or is certified by the American Board of Professional Psychology (ABPP), is not required to submit evidence of supervised professional experience.

FISCAL IMPACT

As this bill requires the applicant to pay all applicable fees, there is no fiscal impact.

ECONOMIC IMPACT

Due to the small number of applications received by this group, there would be no economic impact.

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support: None Listed

Opposition: None Listed

AB 2185 - (A) Amends the Law

SECTION 1.

Section 117 is added to the Business and Professions Code, to read:

117.

(a) Notwithstanding any law, each board within the department shall issue a license in the discipline for which the applicant applies if the applicant meets all of the following requirements:

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

(2) The person currently holds a license in good standing in another state in the discipline and practice level and with the same scope of practice for which the person is applying.

(3) The person has held the license and has practiced in the licensed field in the other state for at least three of the last five years.

(4) The person has not had any disciplinary actions imposed against their license and has not had a license in the discipline for which the person is applying revoked or suspended in any other state.

(5) The person submits verification that they have satisfied all education, work, examination, and other requirements for licensure in the other state in which the person holds a license in good standing and those requirements are similar to the standards required for licensure in this state.

(6) The person would not be denied licensure under any other provision of this code, including, but not limited to, disqualification for criminal history relating to the license sought.

(7) The person pays all applicable fees for licensure and complies with any applicable surety bond and insurance requirements.

(8) If required by the board, the person has passed a California jurisprudence and ethics examination or other examination otherwise required for applicants by the board on the statutes and regulations relating to the license.

(b) This section shall not supersede any other reciprocity agreement, compact membership, or statute that provides reciprocity for a person who holds a valid license in another state.

(c) This section shall not apply to the Board of Registered Nursing, any board that has a mandatory license portability requirement in statute, and any board that currently authorizes license portability as a component of qualifying for licensure in this state.

(d) Notwithstanding any law, the fees, fines, penalties, or other money received by a board pursuant to this section shall not be continuously appropriated and shall be available only upon appropriation by the legislature.

SEC. 2.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or

changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #12(b)(2)(B) – AB 3045 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses

Background:

This bill would require boards not subject to the temporary licensing provisions described in Business and Professions Code Section 115.6, to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the Board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license.

Location: Assembly

Status: 2/24/2020 Read first time.

Action Requested:

Due to the inability for Board staff to verify that the applicant meets licensure requirements in California, Board staff recommend the Board take an **Oppose** position on AB 3045 (Gray).

Attachment A: AB 3045 (Gray) Analysis
Attachment B: Utah Military Exemption Information
Attachment C: Washington Endorsement Information
Attachment D: AB 3045 (Gray) Bill Text

2020 Bill Analysis

Author: Gray	Bill Number: AB 3045	Related Bills:
Sponsor: Author	Version: Introduced	
Subject: Department of Consumer Affairs: boards: veterans: military spouses: licenses		

SUMMARY

This bill would require boards not subject to the temporary licensing provisions described in Business and Professions Code Section 115.6, to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the Board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license.

RECOMMENDATION

Due to the inability for Board staff to verify that the applicant meets licensure requirements in California, Board staff recommend the Board take an **Oppose** position on AB 3045 (Gray).

REASON FOR THE BILL

According to the Author, the US Air Force recently announced that it will consider a state's policies for accepting professional licenses as part of future basing decisions. Base Realignment and Closure (BRAC) has had a devastating impact on the

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

communities that grew up around and depended on military bases as economic

engines. If California does not improve our policies around veteran and military spouse licensure, the state may be vulnerable to additional closures and ineligible for future base expansions.

AB 3045 requires most licensing boards under the Department of Consumer Affairs to honor the out-of-state professional license of a veteran or activity duty military spouse to create license portability for this vulnerable community.

While California has passed several reforms to expedite licensure for veterans and military spouses, we have stopped short of creating true license portability. Thirty-seven other states have license recognition laws that are more veteran-friendly than California and fifteen other states, including Oregon, Utah, and Michigan have laws requiring even greater license portability than AB 3045 proposes.

ANALYSIS

This bill requires the following:

(a) A board not specified in subdivision (a) of Section 115.6 shall, after appropriate investigation, issue a license to an applicant if the applicant meets all of the following requirements:

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

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

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

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

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

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

(b) A board may adopt regulations necessary to administer this section.

Provisions of this bill that are of concern

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

Similar to the concern from AB 2185 (Patterson), while a verification that the California applicant met the licensing requirements of the other state is easily satisfied with the submission of a license verification from the licensed state, the ability to verify requirement similarities between the two states is not as simplistic.

Based on the language it is unclear whether the verification is to be created and provided by the licensed state or the applicant. It is unreasonable to assume that either the licensed state or the applicant is qualified to determine whether other states standards required for licensure are similar to California.

Below are some items that tend to be different between states:

- Degree requirements (West Virginia licenses at the master's level)
 - Supervision requirements (many states allow paying for supervision, and some states do not require post-doctoral hours)
2. While the legislative digest for this bill does reference the payment of fees, the bill language is absent any specific mention of fees being remitted for the Board for the issuance of the license.

LEGISLATIVE HISTORY

None Available.

OTHER STATES' INFORMATION

Oregon has two separate pathways to licensure for individuals licensed in another state:

1. Actively licensed for 15 years or more.
Along with a verification from the originating state, fingerprints and an application, the applicant is required to provide the following:

License Documentation

Request that your file be sent directly to the Board's office from your original licensing state or from your credentialing body (ASPPB, ABPP, or National Register). The Board will accept an EPPP verification (date passed and score) when received directly from the other licensing state or credentialing body. If this is not provided in your file, you will need to request:

An EPPP score transfer from ASPPB. If you have never taken the EPPP, then the score transfer requirement is waived.

2. Actively licensed for less than 15 years.
Along with a verification from the originating state, fingerprints and an application, the applicant is required to provide the following:

License Documentation (File Transfer)

Request that your file be sent directly to the Board's office from your original licensing state or from your credentialing body (ASPPB, ABPP, or National Register).

The Board will accept copies of transcripts, EPPP verification (date passed and score), and documentation of supervised work experience when received directly from the other licensing state or credentialing body. If these are not provided in your file, or do not provide sufficient information, then you will need to request:

Official graduate level transcript(s) showing date degree was conferred, sent directly from the educational institution to the Board's office.

EPPP score. You will need to request a score transfer from ASPPB.

Documentation of post-doctoral work experience. You will need to request that the individual(s) who served as your primary supervisor during your post-doctoral supervised work experience complete and return to the Board's office a Supervisor Reference Form.

Endorsement Reference Forms

Three (3) reference forms from mental health professionals who can attest to your professionalism and fitness to practice psychology. These individuals must not also be submitting a Supervisor Reference Form.

Utah has an exemption for military and military families which is included.

Washington states on their website: “Psychologists who have an active license in another state or country for at least two years that has been deemed substantially equivalent by the board may apply by endorsement. To determine if your jurisdiction is equivalent see our equivalent states/countries web page.

or

Psychologists may qualify who are diplomates in good standing with the American Board of Professional Psychology (ABPP). Verification must come directly from the ABPP to the department of Health.

*If we can't verify online that the out-of-state license is in good standing, then the state or jurisdiction must send verification of that license.”

The webpage for equivalency is included.

PROGRAM BACKGROUND

Currently, Board staff prioritize the review of any applications submitted by active or honorably discharged members of the military or those who they are married to or in a domestic partnership or legal union with. This provides applicants with the fastest possible review by those who are most knowledgeable regarding the requirements for licensure in this state.

All applicants previously licensed have the potential for modified requirements depending on their license history:

- Any applicant for licensure that has been licensed for five (5) or more years out of state does not have to submit their EPPP (national exam) score from the Association of State and Provincial Psychology Boards (ASPPB).
- Any applicant for licensure that has been licensed for five (5) or more years and has a Certificate of Professional Qualification (CPQ) issued by ASPPB, is credentialed as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology (NRHSPP), or is certified by the American Board of Professional Psychology (ABPP), is not required to submit evidence of supervised professional experience.

FISCAL IMPACT

There is a potential minor fiscal impact with this bill as the statute is unclear whether the Board can charge for licensure.

ECONOMIC IMPACT

Due to the small number of applications received by this group, there would be no economic impact.

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support: None on File

Opposition: None on File

Department of Consumer Affairs
Board of Psychology

April 17, 2020 Board Meeting
Teleconference

**Item(s) Available Upon
Request**

Agenda Item 12(b)(2)(B) Attachments

B: Utah Military Exemption Letter

C: Washington Endorsement Information

AB 3045 - (I) Amends the Law

SECTION 1.

Section 115.7 is added to the Business and Professions Code, to read:

115.7.

(a) A board not specified in subdivision (a) of Section 115.6 shall, after appropriate investigation, issue a license to an applicant if the applicant meets all of the following requirements:

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

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

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

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

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

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

(b) A board may adopt regulations necessary to administer this section.

SEC. 2.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(A): AB 289 (Fong) California Public Records Act Ombudsperson

Background:

This bill would establish, within the California State Auditor's Office, the California Public Records Act Ombudsperson. The bill would require the California State Auditor to appoint the ombudsperson subject to certain requirements. The bill would require the ombudsperson to receive and investigate requests for review, determine whether the denials of original requests, complied with the California Public Records Act, and issue written opinions of its determination, as provided. The bill would require the ombudsperson to create a process to that effect and would authorize a member of the public to submit a request for review to the ombudsperson consistent with that process. The bill would require the ombudsperson, within 30 days from receipt of a request for review, to make a determination, as provided, and would require the ombudsperson to require the state agency to provide the public record if the ombudsperson determines that it was improperly denied. The bill would authorize the ombudsperson to require any state agency determined to have improperly denied a request to reimburse the ombudsperson for its costs to investigate the request for review. The bill would require the ombudsperson to report to the Legislature, on or before January 1, 2021, and annually thereafter, on, among other things, the number of requests for review the ombudsperson has received in the prior year.

Location: Senate Committee on Judiciary

Status: 7/3/2019: Failed passage in Committee. Reconsideration granted.

Action Requested:

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

Attachment A: AB 289 (Fong) Bill Text

AB 289 - (A) Amends the Law

SECTION 1.

Article 5 (commencing with Section 8549) is added to Chapter 6.5 of Division 1 of Title 2 of the Government Code, to read:

Article 5. California Public Records Act Ombudsperson

8549.

For purposes of this article, the following terms have the following meanings:

(a) "California Public Records Act" means the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(b) "Member of the public" has the same meaning as defined in Section 6252.

(c) "Ombudsperson" means the California Public Records Act Ombudsperson created pursuant to this article.

(d) "Original request" means a request for records retained by a state agency made by a member of the public pursuant to the California Public Records Act.

(e) "Public agencies" has the same meaning as defined in Section 6252.

(f) "State agency" has the same meaning as defined in Section 6252.

(g) "Request for review" means a request for the ombudsperson to review a denial by a state agency of an original request.

(h) "Unusual circumstances" has the same meaning as defined in subdivision (c) of Section 6253.

8549.1.

(a) There is, within the California State Auditor's Office, a California Public Records Act Ombudsperson. The ombudsperson shall receive and investigate requests for review, determine whether the denials of original requests complied with the California Public Records Act, and issue written opinions of determination.

(b) (1) (A) The ombudsperson shall be appointed by the California State Auditor. The appointee shall have expertise in the California Public Records Act.

(B) In the event of a vacancy or if the ombudsperson is unable to fulfill the duties of the ombudsperson for a period of 30 days, the California State Auditor shall appoint a new ombudsperson within 30 days.

(2) The California State Auditor shall provide necessary staff to the ombudsperson to perform the functions and carry out the objectives of the ombudsperson.

(c) (1) The ombudsperson shall create a process that allows members of the public to submit a request for review.

(2) A member of the public who believes that a state agency improperly denied an original request made by that member of the public may, in the form and manner prescribed by the ombudsperson pursuant to paragraph (1), submit a request for review.

(3) (A) (i) The ombudsperson shall, within 30 days from receipt of a request for review, determine whether the original request, in whole or in part, sought copies of disclosable public records that were in the possession of the state agency and whether the agency's denial of the request complied with the California Public Records Act.

(ii) Upon completion of its review, the ombudsperson shall promptly notify the member of the public who submitted the request for review and the state agency of its determination and the reasons therefor.

(iii) In unusual circumstances, the time limit specified in clause (i) may be extended by written notice to the member of the public who submitted the request for review and the state agency, setting forth the reasons for the extension and the date on which a determination is reasonably expected to be dispatched. The ombudsperson shall reassess the circumstances necessitating the extension of the time period specified in clause (i) every 30 days and, in the event the date on which a determination is reasonably expected to be dispatched changes, notify the requester and the state agency.

(B) If the ombudsperson determines that the state agency improperly denied disclosure of the public record or records, the ombudsperson shall require the state agency to provide the public record or records to the member of the public who submitted the request for review.

(C) The ombudsperson may require any state agency determined to have improperly denied a request for public records to reimburse the ombudsperson for its costs to investigate the request for review.

(4) A state agency that is the subject of a request to review shall provide the ombudsperson access to all relevant information, documents, and other records upon which the agency relied in denying the original request, or that the ombudsperson requests to assist in its review of the agency's determination.

(5) The ombudsperson shall not disclose any records that are exempt from disclosure by express provisions of law, including, but not limited to, the California Public Records Act.

(d) The ombudsperson shall maintain a copy of any written opinion issued pursuant to this section and shall post the opinion on its internet website.

(e) (1) An opinion issued under this section does not affect the right of a person to enforce their right to inspect or to receive a copy of any public record through an action pursuant to Sections 6258 and 6259. A member of the public is not required to exhaust the administrative remedies available under this section prior to filing a legal action.

(2) If a person elects to bring an action under Sections 6258 and 6259 and does not seek a request for review, the ombudsperson shall not proceed under this section.

(3) A person may withdraw, by written notice, their request for review under this section if the withdrawal notice is received by the ombudsperson prior to the issuance of an opinion.

(f) Notwithstanding any other provision of this section, the ombudsperson may provide written information, guidance, and advice to both public agencies and members of the public regarding the California Public Records Act, including by posting such information, guidance, and advice on its internet website.

(g) (1) On or before January 1, 2021, and every year thereafter, the ombudsperson shall provide a report to the Legislature on all of the following:

(A) The activities of the ombudsperson in the prior year.

(B) The number of requests to review that were submitted to the ombudsperson in the prior calendar year and the number of determinations made by the ombudsperson that a state agency improperly denied a request for a public record or records.

(C) Any proposals, both legislative and administrative, that would allow the ombudsperson to function more independently and provide more transparency to the records of public agencies.

(D) The amounts of reimbursements sought and obtained from state agencies for the cost of investigating requests for review conducted by the ombudsperson pursuant to this section.

(2) The report shall comply with Section 9795.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(B): AB 499 (Mayes) Personal information: social security numbers: state agencies

Background:

This bill would prohibit a state agency from sending any outgoing mail that contains an individual's full social security number unless, under the particular circumstances, federal law requires inclusion of the full social security number. The bill would require each state agency, on or before September 1, 2021, to report to the Legislature when and why it mails documents that contain individuals' full social security numbers. The bill would require a state agency that, in its own estimation, is unable to comply with the prohibition to submit an annual corrective action plan to the Legislature until it is in compliance. The bill would require a state agency that is not in compliance with the prohibition to offer to provide appropriate identity theft prevention and mitigation services to any individual, at no cost to the individual, to whom it sent outgoing United States mail that contained the individual's full social security number, as specified.

Location: Senate Committee on Rules

Status: 7/3/2019: In Senate. Read first time. To Committee on Rules. for assignment.

Action Requested:

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

Attachment A: AB 499 (Mayes) Bill Text

AB 499 - (A) Amends the Law

SECTION 1.

Section 11019.7 of the Government Code is amended to read:

11019.7.

(a) No state agency shall send any outgoing United States mail to an individual that contains personal information about that individual, including, but not limited to, the individual's ~~social security number,~~ telephone number, driver's license number, or credit card account number, unless that personal information is contained within sealed correspondence and cannot be viewed from the outside of that sealed correspondence.

(b) (1) Notwithstanding subdivision (a) or any other law, commencing on or before January 1, 2023, a state agency shall not send any outgoing United States mail to an individual that contains the individual's full social security number unless, under the particular circumstances, federal law requires inclusion of the full social security number.

(2) (A) On or before September 1, 2021, each state agency shall report to the Legislature when and why it mails documents that contain individuals' full social security numbers.

(B) A state agency that, in its own estimation, is unable to comply with the requirement of paragraph (1) of this subdivision shall submit an annual corrective action plan to the Legislature until it is in compliance with that paragraph.

(3) A state agency that is not in compliance with paragraph (1) shall offer to provide appropriate identity theft prevention and mitigation services for not less than 12 months to any individual, at no cost to the individual, to whom it sent outgoing United States mail that contained the individual's full social security number, along with all information necessary to take advantage of the offer.

(4) (A) The requirement for submitting a report imposed under subparagraph (A) of paragraph (2) is inoperative on January 1, 2024, pursuant to Section 10231.5 of the Government Code.

(B) A report to be submitted pursuant to subparagraph (A) or (B) of paragraph (2) shall be submitted in compliance with Section 9795 of the Government Code.

~~(b)~~ (c) "Outgoing United States mail" for the purposes of this section includes correspondence sent via a common carrier, including, but not limited to, a package express service and a courier service.

~~(c)~~ (d) Notwithstanding subdivision (a) of Section 11000, "state agency" includes the California State University.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(C): AB 565 (Maienschein) Public health workforce planning: loan forgiveness, loan repayment, and scholarship programs

Background:

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, requires the Office of Statewide Health Planning and Development (OSHPD), in coordination with the California Behavioral Health Planning Council, to identify the total statewide needs for each professional and other occupational category utilizing county needs assessment information and develop a 5-year education and training development plan. Existing law requires OSHPD to include specified components in the 5-year plan, including expansion plans for the forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and making loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

This bill would clarify that OSHPD is required to include in the 5-year plan both expansion plans for loan forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and expansion plans for making loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

Location: Senate Committee on Appropriations

Status: In committee: Held under submission.

Action Requested:

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

Attachment A: AB 565 (Maienschein) Bill Text

AB 565 - (A) Amends the Law

SECTION 1.

Section 128552 of the Health and Safety Code is amended to read:

128552.

For purposes of this article, the following definitions shall apply:

(a) "Account" means the Medically Underserved Account for Physicians established within the Health Professions Education Fund pursuant to this article.

(b) "Foundation" means the Health Professions Education Foundation.

(c) "Fund" means the Health Professions Education Fund.

(d) "Medi-Cal threshold languages" means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000, eligible LEP Medi-Cal beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal beneficiaries residing in two contiguous ZIP Codes.

(e) "Medically underserved area" means an area defined as a health professional shortage area in Part 5 of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the California Healthcare Workforce Policy Commission pursuant to Section 128225.

(f) "Medically underserved population" means the Medi-Cal program, Healthy Families Program, and uninsured populations.

(g) "Office" means the Office of Statewide Health Planning and Development (OSHPD).

(h) "Physician Volunteer Program" means the Physician Volunteer Registry Program established by the Medical Board of California.

(i) "Practice setting," for the purposes of this article only, means ~~either~~ *any* of the following:

(1) A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role pursuant to Section 17000 of the Welfare and Institutions Code, which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(2) A physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50 percent of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(3) A program or facility operated by, or contracted to, a county mental health plan.

(j) "Primary specialty" means family practice, internal medicine, pediatrics, or obstetrics/gynecology.

(k) "Program" means the Steven M. Thompson Physician Corps Loan Repayment Program.

(l) "Selection committee" means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.

~~SEC. 3.~~ SEC. 2.

Section 5822 of the Welfare and Institutions Code is amended to read:

5822.

The Office of Statewide Health Planning and Development shall include in the five-year plan:

(a) Expansion plans for the capacity of postsecondary education to meet the needs of identified mental health occupational shortages.

(b) Expansion plans for loan forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system.

~~(b) (c)~~ Expansion plans for ~~the forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and make-~~ *making* loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

~~(c) (d)~~ Creation of a stipend program modeled after the federal Title IV-E program for persons enrolled in academic institutions who want to be employed in the mental health system.

~~(d) (e)~~ Establishment of regional partnerships between the mental health system and the educational system to expand outreach to multicultural communities, increase the diversity of the mental health workforce, ~~to-~~ reduce the stigma associated with mental illness, and ~~to-~~ promote the use of *internet* web-based ~~technologies,~~ *technologies* and distance learning techniques.

~~(e) (f)~~ Strategies to recruit high school students for mental health occupations, increasing the prevalence of mental health occupations in high school career development programs such as health science academies, adult schools, and regional occupation centers and programs, and increasing the number of human service academies.

~~(f) (g)~~ Curriculum to train and retrain staff to provide services in accordance with the provisions and principles of Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section ~~5850) of this division.~~ *5850*).

~~(g) (h)~~ Promotion of the employment of mental health consumers and family members in the mental health system.

~~(h) (i)~~ Promotion of the meaningful inclusion of mental health consumers and family members and incorporating their viewpoint and experiences in the training and education programs in subdivisions (a) through ~~(f).~~ *(g)*.

~~(i) (j)~~ Promotion of meaningful inclusion of diverse, racial, and ethnic community members who are underrepresented in the mental health provider network.

~~(j) (k)~~ Promotion of the inclusion of cultural competency in the training and education programs in subdivisions (a) through ~~(f).~~ *(g)*.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(D): AB 1263 (Low) Contracts: consumer services: consumer complaints

Background:

This bill would prohibit a contract or proposed contract involving the provision of a consumer service by a licensee regulated by a licensing board from including a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee. The bill would specify that a waiver of these provisions is contrary to public policy and is void and unenforceable. The bill would provide that a violation of these provisions by a licensee constitutes unprofessional conduct subject to discipline by the licensee's regulatory board.

Location: Senate Committee on Rules

Status: 1/30/20 In Senate. Read first time. To Committee on Rules for assignment.

Action Requested:

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

Attachment A: AB 1263 (Low) Bill Text

AB 1263 - (A) Amends the Law

SECTION 1.

Section 1670.8.5 is added to the Civil Code, to read:

1670.8.5.

(a) A contract or proposed contract involving the provision of a consumer service by a licensee regulated by a licensing board shall not include a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee.

(b) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

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

(1) "Consumer service" means any service which is obtained for use primarily for personal, family, or household purposes.

(2) "Licensing board" means any entity contained in Section 101 of the Business and Professions Code, the State Bar of California, the Department of Real Estate, or any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(d) Violation of this section by a licensee shall constitute unprofessional conduct subject to discipline by the licensee's licensing board.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(E): AB 1616 (Low) Department of Consumer Affairs: boards: expunged convictions.

Background:

This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime to, within 6 months of receiving the expungement order for the underlying offense from the person, post notification of the expungement order and the date thereof on the board's internet website if the person applies for licensure or is relicensed, or remove the initial posting on its internet website that the person's license was revoked if the person is not currently licensed and does not reapply for licensure, as specified. The bill would require a person to pay a fee, to be determined by the department, to the board for the cost of administering the bill's provisions.

Location: Senate Committee on Rules

Status: 1/30/20 In Senate. Read first time. To Committee on Rules for assignment.

Action Requested:

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

Attachment A: AB 1616 (Low) Bill Text

AB 1616 - (A) Amends the Law

SECTION 1.

Section 493.5 is added to the Business and Professions Code, to read:

493.5.

(a) A board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime, upon receiving from the person a certified copy of an expungement order granted pursuant to Section 1203.4 of the Penal Code for the underlying offense, shall, within six months of receiving the expungement order, unless it is otherwise prohibited by law, or by other terms or conditions, do either of the following:

(1) If the person reapplies for licensure or has been relicensed, post notification of the expungement order and the date thereof on its internet website.

(2) If the person is not currently licensed and does not reapply for licensure, remove the initial posting on its internet website that the person's license was revoked.

(b) A person described in subdivision (a) shall pay to the board a fee in an amount to be determined by the department that does not exceed the reasonable cost of administering this section. The fee shall be deposited by the board into the appropriate fund and shall be available only upon appropriation by the Legislature.

(c) For purposes of this section "board" means an entity listed in Section 101.

(d) If any provision in this section conflicts with Section 2027, Section 2027 shall prevail.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(F): AB 1911 (Maienschein) State agencies: veterans.

Background:

Existing law requires, as of July 1, 2014, every state agency that requests on any written form or written publication, or through its internet website, whether a person is a veteran, to request that information in a specified manner.

This bill would delete the above-described provisions and instead would require each state agency, among other things, to include questions on its intake forms to determine whether an applicant is affiliated with the United States Armed Forces. The bill would require the state agency, through the intake form, to request permission from that person to transmit their contact information to the Department of Veterans Affairs so that the person may be notified of potential eligibility to receive state and federal veterans benefits.

The bill would require each state agency to electronically transmit to the Department of Veterans Affairs specified information regarding each applicant who has identified that they or a family member has served in the United States Armed Forces and has consented to be contacted about military, veterans, family member, or survivor benefits.

Location: Assembly Committee on Veterans Affairs

Status: 1/17/20 Referred to Committee on Veterans Affairs

Action Requested:

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

Attachment A: AB 1911 (Maienschein) Bill Text

AB 1911 - (I) Amends the Law

SECTION 1.

Section 11019.11 of the Government Code is repealed.

~~11019.11.~~

~~(a) Every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, shall request that information only in the following format: "Have you ever served in the United States military?"~~

~~(b) This section shall apply only to a written form or written publication that is newly printed on or after July 1, 2014.~~

SEC. 2.

Section 11019.11 is added to the Government Code, to read:

11019.11.

(a) Each state agency shall include all of the following on any intake form:

(1) An option for a person to indicate whether they are affiliated with the United States Armed Forces by asking both of the following:

(A) "Have you ever served in the military?"

(B) "Has a family member ever served in the military?"

(2) An option for a person who identifies as being military affiliated, as provided in paragraph (1), to give their consent to be contacted regarding eligibility to receive state or federal veterans benefits by including the following statement:

"I consent to this state agency transmitting my name, email address, and mailing address to the Department of Veterans Affairs for this purpose only, and I have been notified that this transmittal will occur."

(3) Each intake form shall also include a statement of potential eligibility to receive state and federal services, with contact information for the Department of Veteran Affairs.

(b) Each state agency shall electronically transmit to the Department of Veterans Affairs all of the following information regarding each applicant who has identified that they or a family member has served in the United States Armed Forces since the last data transfer and has consented to be contacted about military, veterans, family member, or survivor benefits, pursuant to subdivision (a):

(1) True full name.

(2) Email address.

(3) Mailing address.

(c) Information obtained by the Department of Veterans Affairs pursuant to this section shall be used to assist individuals in accessing benefits and shall not be disseminated except as needed for that purpose.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(G): AB 2028 (Aguiar-Curry) State agencies: meetings.

Background:

This bill would, except for closed sessions, require that a meeting noticed under the Bagley-Keene Open Meeting Act, include all writings or materials provided for the noticed meeting. The bill would require these writings and materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item. Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

Location: Assembly Committee on Governmental Organization

Status: 2/14/20 Referred to Committee on Governmental Organization

Action Requested:

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

Attachment A: AB 2028 (Aguiar-Curry) Bill Text

AB 2028 - (I) Amends the Law

SECTION 1.

The Legislature finds and declares the following:

(a) The Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) (hereafter "Bagley-Keene") was intended to implement Section 3 of Article I of the California Constitution, which states in part, "The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."

(b) Bagley-Keene was written to protect public meetings and public notice and to ensure the transparency of actions taken by state agencies, boards, and commissions.

(c) Californians have the right to participate in state body deliberations. This includes the public's ability to comment on all agenda items discussed at a meeting of the state body, regardless of whether an item has been discussed previously in a committee of the state body.

(d) The purpose of public notice is so that state bodies give the public adequate time for review of the substance of a state body meeting and for comment.

(e) Public notice must also include any writings or materials provided by a state body's staff or by a member of the state body to other members of the state body for a noticed meeting of the body held at least 10 days prior to the meeting.

(f) Bagley-Keene affirms these rights by stating in Section 11120 of the Government Code, "The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

SEC. 2.

Section 11125 of the Government Code is amended to read:

11125.

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the ~~Internet~~ *internet* at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the ~~Internet site~~ *internet website* where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) (1) Except as otherwise provided in paragraph (4), any notice provided pursuant to subdivision (a) shall include all writings or materials provided for the noticed meeting to a member of the state body by

the staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting.

(2) The writings or materials described in paragraph (1) shall be made available on the internet at least 10 days in advance of the meeting, and to any person who requests that notice in writing.

(3) A state body may distribute or discuss writings or materials described in paragraph (1) at a meeting of the state body only if it has complied with this subdivision.

(4) This subdivision does not apply to writings or materials prepared for a matter to be discussed in a closed session of the state body.

~~(e)~~ (d) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

~~(d)~~ (e) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

~~(e)~~ (f) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

~~(f)~~ (g) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

SEC. 3.

Section 11125.7 of the Government Code is amended to read:

11125.7.

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. ~~This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body.~~ Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) (1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to ~~closed sessions held pursuant to Section 11126.~~ *any of the following:*

(1) Closed sessions held pursuant to Section 11126.

~~(f) (2) This section is not applicable to decisions.~~ *Decisions* regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

~~(g) (3) This section is not applicable to hearings.~~ *Hearings* conducted by the California Victim Compensation Board pursuant to Sections 13963 and 13963.1.

~~(h) (4) This section is not applicable to agenda.~~ *Agenda* items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(H): AB 2093 (Gloria) Public records: writing transmitted by electronic mail: retention.

Background:

This bill would, unless a longer retention period is required by statute or regulation, or established by the Secretary of State pursuant to the State Records Management Act, require a public agency, for purposes of the California Public Records Act, to retain and preserve for at least 2 years every public record, as defined, that is transmitted by electronic mail.

Location: Assembly Committee on Appropriations

Status: 3/10/20 Do pass and re-refer to Committee on Appropriations.

Action Requested:

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

Attachment A: AB 2093 (Gloria) Bill Text

AB 2093 - (I) Amends the Law

SECTION 1.

Section 6253.32 is added to the Government Code, immediately following Section 6253.31, to read:

6253.32.

Unless a longer retention period is required by statute or regulation, or established by the Secretary of State pursuant to the State Records Management Act (Article 7 (commencing with Section 12270) of Chapter 3 of Part 2 of Division 3 of Title 2), a public agency shall, for the purpose of this chapter, retain and preserve for at least two years every public record, as defined in subdivision (e) of Section 6252, that is transmitted by electronic mail.

SEC. 2.

The Legislature finds and declares that Section 1 of this act, which adds Section 6253.32 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act furthers the right of public access to the writings of local public officials and local agencies by requiring that public agencies preserve for at least two years every public record that is transmitted by electronic mail.

SEC. 3.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(I): AB 2113 (Low) Refugees, asylees, and immigrants: professional licensing

Background:

This bill, notwithstanding any other law, would require a board within the department to expedite, and authorize it to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they are a refugee, have been granted political asylum, or have a special immigrant visa, as specified. The bill would authorize a board to adopt regulations necessary to administer these provisions.

Location: Assembly Committee on Business and Professions

Status: 2/27/20 Referred to Committee on Business and Professions.

Action Requested:

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

Attachment A: AB 2113 (Low) Bill Text

AB 2113 - (I) Amends the Law

SECTION 1.

Section 135.4 is added to the Business and Professions Code, to read:

135.4.

(a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted political asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8.

(b) A board may adopt regulations necessary to administer this section.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(J): AB 2438 (Chau) California Public Records Act: conforming revisions.

Background:

This bill would enact various conforming and technical changes related to another bill that recodifies and reorganizes the California Public Records Act. The bill would only become operative if the related bill recodifying the act is enacted and becomes operative on January 1, 2022. The bill would also specify that any other bill enacted by the Legislature during the 2020 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified.

Location: Assembly Committee on Judiciary

Status: 3/17/20 In committee: Hearing postponed by committee.

Action Requested:

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

Attachment A: AB 2438 (Chau) Bill Text

Applicable sections taken

AB 2438 - (I) Amends the Law

SECTION 1.

Section 27 of the Business and Professions Code is amended to read:

27.

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (~~Chapter 3.5 (Division 10)~~ (commencing with Section ~~6250~~) of ~~Division 7 of 7920.000~~) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as the licensee's address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet.

(b) In providing information on the internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Household Goods and Services shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, service contract administrators, and household movers.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The Acupuncture Board shall disclose information on its licensees.

(13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.

(14) The Dental Board of California shall disclose information on its licensees.

(15) The State Board of Optometry shall disclose information on its licensees and registrants.

(16) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(17) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permit holders.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Cannabis Control shall disclose information on its licensees.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2.

Section 30 of the Business and Professions Code is amended to read:

30.

(a) (1) Notwithstanding any other law, any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2) (A) In accordance with Section 135.5, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for a license or certificate, as defined in subparagraph (2) of subdivision (e), and for purposes of this subdivision.

(B) In implementing the requirements of subparagraph (A), a licensing board shall not require an individual to disclose either citizenship status or immigration status for purposes of licensure.

(C) A licensing board shall not deny licensure to an otherwise qualified and eligible individual based solely on the individual's citizenship status or immigration status.

(D) The Legislature finds and declares that the requirements of this subdivision are consistent with subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

(g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

(h) Notwithstanding ~~Chapter 3.5 Division 10~~ (commencing with Section ~~6250~~) ~~of Division 7 of 7920.000~~ of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of their employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make

known in any manner that information, except as provided pursuant to this section, to the Franchise Tax Board, the Employment Development Department, the Office of the Chancellor of the California Community Colleges, a collections agency contracted to collect funds owed to the State Bar by licensees pursuant to Sections 6086.10 and 6140.5, or as provided in subdivisions (j) and (k).

(j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges, and for purposes of collecting funds owed to the State Bar by licensees pursuant to Section 6086.10 and Section 6140.5 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar of California, the Department of Real Estate, and the Department of Motor Vehicles.

(m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(3) Date of birth.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

- (1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).
 - (2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.
 - (3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.
 - (4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.
 - (5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).
- (r) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

SEC. 3.

Section 211 of the Business and Professions Code is amended to read:

211.

If the department hires a third-party consultant to assess the department's operations, the department shall, promptly upon receipt of the consultant's final report on that assessment, submit that report to the appropriate policy committees of the Legislature after omitting any information that is not subject to disclosure under the California Public Records Act (~~Chapter 3.5 commencing (Division 10 (commencing with Section 6250) of Division 7 of 7920.000) of~~ Title 1 of the Government Code.

SEC. 4.

Section 655 of the Business and Professions Code is amended to read:

655.

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

- (1) "Health plan" means a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
- (2) "Optical company" means a person or entity that is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, health plans, or dispensing opticians of lenses, frames, optical supplies, or optometric appliances or devices or kindred products.
- (3) "Optometrist" means a person licensed pursuant to Chapter 7 (commencing with Section 3000) or an optometric corporation, as described in Section 3160.
- (4) "Registered dispensing optician" means a person licensed pursuant to Chapter 5.5 (commencing with Section 2550).

(5) "Therapeutic ophthalmic product" means lenses or other products that provide direct treatment of eye disease or visual rehabilitation for diseased eyes.

(b) No optometrist may have any membership, proprietary interest, coownership, or any profit-sharing arrangement, either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with any registered dispensing optician or any optical company, except as otherwise permitted under this section.

(c) (1) A registered dispensing optician or an optical company may operate, own, or have an ownership interest in a health plan so long as the health plan does not directly employ optometrists to provide optometric services directly to enrollees of the health plan, and may directly or indirectly provide products and services to the health plan or its contracted providers or enrollees or to other optometrists. For purposes of this section, an optometrist may be employed by a health plan as a clinical director for the health plan pursuant to Section 1367.01 of the Health and Safety Code or to perform services related to utilization management or quality assurance or other similar related services that do not require the optometrist to directly provide health care services to enrollees. In addition, an optometrist serving as a clinical director may not employ optometrists to provide health care services to enrollees of the health plan for which the optometrist is serving as clinical director. For the purposes of this section, the health plan's utilization management and quality assurance programs that are consistent with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) do not constitute providing health care services to enrollees.

(2) The registered dispensing optician or optical company shall not interfere with the professional judgment of the optometrist.

(3) The Department of Managed Health Care shall forward to the State Board of Optometry any complaints received from consumers that allege that an optometrist violated the Optometry Practice Act (Chapter 7 (commencing with Section 3000)). The Department of Managed Health Care and the State Board of Optometry shall enter into an Inter-Agency Agreement regarding the sharing of information related to the services provided by an optometrist that may be in violation of the Optometry Practice Act that the Department of Managed Health Care encounters in the course of the administration of the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(d) An optometrist, a registered dispensing optician, an optical company, or a health plan may execute a lease or other written agreement giving rise to a direct or indirect landlord-tenant relationship with an optometrist, if all of the following conditions are contained in a written agreement establishing the landlord-tenant relationship:

(1) (A) The practice shall be owned by the optometrist and in every phase be under the optometrist's exclusive control, including the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist spends with patients, fees charged for optometric products and services, the examination procedures and treatment provided to patients and the optometrist's contracting with managed care organizations.

(B) Subparagraph (A) shall not preclude a lease from including commercially reasonable terms that: (i) require the provision of optometric services at the leased space during certain days and hours, (ii) restrict the leased space from being used for the sale or offer for sale of spectacles, frames, lenses, contact lenses, or other ophthalmic products, except that the optometrist shall be permitted to sell therapeutic ophthalmic products if the registered dispensing optician, health plan, or optical company located on or adjacent to the optometrist's leased space does not offer any substantially similar therapeutic ophthalmic products for sale, (iii) require the optometrist to contract with a health plan network, health plan, or health insurer, or (iv) permit the landlord to directly or indirectly provide furnishings and equipment in the leased space.

(2) The optometrist's records shall be the sole property of the optometrist. Only the optometrist and those persons with written authorization from the optometrist shall have access to the patient records and the examination room, except as otherwise provided by law.

(3) The optometrist's leased space shall be definite and distinct from space occupied by other occupants of the premises, have a sign designating that the leased space is occupied by an independent optometrist or optometrists and be accessible to the optometrist after hours or in the case of an emergency, subject to the facility's general accessibility. This paragraph shall not require a separate entrance to the optometrist's leased space.

(4) All signs and displays shall be separate and distinct from that of the other occupants and shall have the optometrist's name and the word "optometrist" prominently displayed in connection therewith. This paragraph shall not prohibit the optometrist from advertising the optometrist's practice location with reference to other occupants or prohibit the optometrist or registered dispensing optician from advertising their participation in any health plan's network or the health plan's products in which the optometrist or registered dispensing optician participates.

(5) There shall be no signs displayed on any part of the premises or in any advertising indicating that the optometrist is employed or controlled by the registered dispensing optician, health plan or optical company.

(6) Except for a statement that an independent doctor of optometry is located in the leased space, in-store pricing signs and as otherwise permitted by this subdivision, the registered dispensing optician or optical company shall not link its advertising with the optometrist's name, practice, or fees.

(7) Notwithstanding paragraphs (4) and (6), this subdivision shall not preclude a health plan from advertising its health plan products and associated premium costs and any copayments, coinsurance, deductibles, or other forms of cost sharing, or the names and locations of the health plan's providers, including any optometrists or registered dispensing opticians that provide professional services, in compliance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(8) A health plan that advertises its products and services in accordance with paragraph (7) shall not advertise the optometrist's fees for products and services that are not included in the health plan's contract with the optometrist.

(9) The optometrist shall not be precluded from collecting fees for services that are not included in a health plan's products and services, subject to any patient disclosure requirements contained in the health plan's provider agreement with the optometrist or that are not otherwise prohibited by the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(10) The term of the lease shall be no less than one year and shall not require the optometrist to contract exclusively with a health plan. The optometrist may terminate the lease according to the terms of the lease. The landlord may terminate the lease for the following reasons:

(A) The optometrist's failure to maintain a license to practice optometry or the imposition of restrictions, suspension or revocation of the optometrist's license or if the optometrist or the optometrist's employee is or becomes ineligible to participate in state or federal government-funded programs.

(B) Termination of any underlying lease where the optometrist has subleased space, or the optometrist's failure to comply with the underlying lease provisions that are made applicable to the optometrist.

(C) If the health plan is the landlord, the termination of the provider agreement between the health plan and the optometrist, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(D) Other reasons pursuant to the terms of the lease or permitted under the Civil Code.

(11) The landlord shall act in good faith in terminating the lease and in no case shall the landlord terminate the lease for reasons that constitute interference with the practice of optometry.

(12) Lease or rent terms and payments shall not be based on number of eye exams performed, prescriptions written, patient referrals or the sale or promotion of the products of a registered dispensing optician or an optical company.

(13) The landlord shall not terminate the lease solely because of a report, complaint, or allegation filed by the optometrist against the landlord, a registered dispensing optician or a health plan, to the State Board of Optometry or the Department of Managed Health Care or any law enforcement or regulatory agency.

(14) The landlord shall provide the optometrist with written notice of the scheduled expiration date of a lease at least 60 days prior to the scheduled expiration date. This notice obligation shall not affect the ability of either party to terminate the lease pursuant to this section. The landlord may not interfere with an outgoing optometrist's efforts to inform the optometrist's patients, in accordance with customary practice and professional obligations, of the relocation of the optometrist's practice.

(15) The State Board of Optometry may inspect, upon request, an individual lease agreement pursuant to its investigational authority, and if such a request is made, the landlord or tenant, as applicable, shall promptly comply with the request. Failure or refusal to comply with the request for lease agreements within 30 days of receiving the request constitutes unprofessional conduct and is grounds for disciplinary action by the appropriate regulatory agency. This section shall not affect the Department of Managed Health Care's authority to inspect all books and records of a health plan pursuant to Section 1381 of the Health and Safety Code.

Any financial information contained in the lease submitted to a regulatory entity, pursuant to this paragraph, shall be considered confidential trade secret information that is exempt from disclosure under the California Public Records Act (~~Chapter 3.5 (Division 10~~ (commencing with Section ~~6250) of Division 7 of 7920.000) of Title 1 of the Government Code).~~

(16) This subdivision shall not be applicable to the relationship between any optometrist employee and the employer medical group, or the relationship between a medical group exclusively contracted with a health plan regulated by the Department of Managed Health Care and that health plan.

(e) No registered dispensing optician may have any membership, proprietary interest, coownership, or profit-sharing arrangement either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with an optometrist, except as permitted under this section.

(f) Nothing in this section shall prohibit a person licensed under Chapter 5 (commencing with Section 2000) or its professional corporation from contracting with or employing optometrists, ophthalmologists, or optometric assistants and entering into a contract or landlord tenant relationship with a health plan, an optical company, or a registered dispensing optician, in accordance with Sections 650 and 654 of this code.

(g) Any violation of this section constitutes a misdemeanor as to such person licensed under Chapter 7 (commencing with Section 3000) of this division and as to any and all persons, whether or not so licensed under this division, who participate with such licensed person in a violation of any provision of this section.

(h) (1) Notwithstanding any other law and in addition to any action available to the State Board of Optometry, the State Board of Optometry may issue a citation containing an order of abatement, an order to pay an administrative fine, or both, to an optical company, an optometrist, or a registered dispensing optician for a violation of this section. The administrative fine shall not exceed fifty thousand dollars (\$50,000) per investigation. In assessing the amount of the fine, the board shall give due consideration to all of the following:

(A) The gravity of the violation.

(B) The good faith of the cited person or entity.

(C) The history of previous violations of the same or similar nature.

(D) Evidence that the violation was or was not willful.

(E) The extent to which the cited person or entity has cooperated with the board's investigation.

(F) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

(G) Any other factors as justice may require.

(2) A citation or fine assessment issued pursuant to a citation shall inform the cited person or entity that if a hearing is desired to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The board shall adopt regulations to implement a system for the issuance of citations, administrative fines, and orders of abatement authorized by this section. The regulations shall include provisions for both of the following:

(A) The issuance of a citation without an administrative fine.

(B) The opportunity for a cited person or entity to have an informal conference with the executive officer of the board in addition to the hearing described in paragraph (2).

(4) The failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(5) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(i) Administrative fines collected pursuant to this section shall be deposited in the Dispensing Opticians Fund. It is the intent of the Legislature that moneys collected as fines and deposited in the fund be used by the board primarily for enforcement purposes.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(K): AB 2454 (Chen) Department of Consumer Affairs: retired or inactive status license: discipline.

Background:

On March 16, 2020, this bill was amended to be:

AB 2454 (Low) Bureau of Automotive Repair: administration: trusted dealer certification.

Action Requested:

No action is required at this time. Staff will no longer be watching this bill.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(L): AB 2460 (Daly) Department of Consumer Affairs: retired category licenses

Background:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any of the boards or commissions within the department, except as specified, to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation.

This bill would additionally require a board that offers a retired category of licensure to disclose that information on its internet website.

Location: Assembly Committee on Business and Professions

Status: 2/27/20 Referred to Committee on Business and Professions

Action Requested:

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

Attachment A: AB 2460 (Daly) Bill Text

AB 2460 - (I) Amends the Law

SECTION 1.

Section 464 of the Business and Professions Code is amended to read:

464.

(a) (1) Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(2) A board that offers a retired category of licensure shall disclose that information on its internet website.

(b) The regulation shall contain the following:

(1) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.

(2) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice ~~his or her~~ *their* profession or vocation.

(3) The holder of a retired license shall not be required to renew that license.

(4) The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.

(5) In order for the holder of a retired license issued pursuant to this section to restore ~~his or her~~ *their* license to an active status, the holder of that license shall meet all the following:

(A) Pay a fee established by statute or regulation.

(B) Certify, in a manner satisfactory to the board, that ~~he or she~~ *the holder of the license* has not committed an act or crime constituting grounds for denial of licensure.

(C) Comply with the fingerprint submission requirements established by regulation.

(D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(E) Complete any other requirements as specified by the board by regulation.

(c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in ~~his or her~~ *their* profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.

(d) Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(M): AB 2476 (Diep) Healing arts licensees

Background:

Existing law relating to health care practitioners requires a board, as defined, to report to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing the licensee's profession, to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

This bill would make nonsubstantive changes to that reporting provision.

Location: Assembly

Status: 2/20/20 From printer. May be heard in committee March 21.

Action Requested:

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

Attachment A: AB 2476 (Diep) Bill Text

AB 2476 - (I) Amends the Law

SECTION 1.

Section 683 of the Business and Professions Code is amended to read:

683.

(a) A board shall report, within 10 working days, to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing ~~his or her~~ *the licensee's* profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

(b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Behavioral Sciences, the ~~California~~ *Podiatric Medical* Board of ~~Podiatric Medicine,~~ *California*, and the California Board of Occupational Therapy.

(c) This section shall become operative on January 1, 2015.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(N): AB 2549 (Salas) Department of Consumer Affairs: temporary licenses

Background:

This bill would expand the requirement in Business and Professions Code section 115.6, which relates to issuing temporary licenses for individuals married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders, to include licenses issued by the Veterinary Medical Board, the Dental Board, the Dental Hygiene Board, the Board of Pharmacy, the Board of Barbering and Cosmetology, the Board of Psychology, the Board of Occupational Therapy, the Physical Therapy Board, and the Board of Accountancy. The bill would require a board to issue a temporary license within 30 days of receiving the required documentation.

The bill would require a temporary license to be converted to a standard license if, within 12 months of issuance, the applicant demonstrates having met all of the requirements for a standard license or submits documents demonstrating that the requirements to obtain the out-of-state license were substantially equivalent to the requirements for a standard license as determined by the board in order to protect the public. The bill would require a board to adopt regulations necessary to administer these provisions and to publish regulations on its internet website and in application materials by January 1, 2022.

Location: Assembly Committee on Business and Professions

Status: 3/16/20 Re-referred to Committee on Business and Professions

Action Requested:

No action is required at this time. Staff will continue to watch AB 2549 (Salas).

Attachment A: AB 2549 (Salas) Bill Text

AB 2549 - (A) Amends the Law

SECTION 1.

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

115.6.

(a) A board within the department shall, after appropriate investigation, issue the following eligible temporary licenses to an applicant ~~if the applicant meets~~ *within 30 days of receiving the required documentation pursuant to meeting* the requirements set forth in subdivision (c):

- (1) Registered nurse license by the Board of Registered Nursing.
 - (2) Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
 - (3) Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
 - (4) Speech-language pathologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
 - (5) Audiologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
 - (6) ~~Veterinarian license~~ *All licenses* issued by the Veterinary Medical Board.
 - (7) All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.
 - (8) All licenses issued by the Medical Board of California.
 - (9) All licenses issued by the Podiatric Medical Board of California.
 - (10) All licenses issued by the Dental Board of California.*
 - (11) All licenses issued by the Dental Hygiene Board of California.*
 - (12) All licenses issued by the California State Board of Pharmacy.*
 - (13) All licenses issued by the State Board of Barbering and Cosmetology.*
 - (14) All licenses issued by the Board of Psychology.*
 - (15) All licenses issued by the California Board of Occupational Therapy.*
 - (16) All licenses issued by the Physical Therapy Board of California.*
 - (17) All licenses issued by the California Board of Accountancy. Revenues from fees for temporary licenses issued under this paragraph shall be credited to the Accountancy Fund in accordance with Section 5132.*
- (b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.
- (c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

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

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

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

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

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

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

~~(d) A board may adopt regulations necessary to administer this section.~~

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

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

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

(g) A temporary license issued pursuant to this section shall be converted to a standard license if, within 12 months of issuance, the applicant demonstrates having met all of the requirements for a standard license or submits documents demonstrating that the requirements to obtain the out-of-state license were substantially equivalent to the requirements for a standard license as determined by the board in order to protect the public.

(h) A board shall adopt regulations necessary to administer this section and shall publish these regulations on its internet website and in application materials by January 1, 2022.

SEC. 2.

Section 5132 of the Business and Professions Code is amended to read:

5132.

(a) All moneys received by the board under this chapter from any source and for any purpose *and from a temporary license issued under Section 115.6* shall be accounted for and reported monthly by the board to the Controller and at the same time the moneys shall be remitted to the State Treasury to the credit of the Accountancy Fund.

(b) The secretary-treasurer of the board shall, from time to time, but not less than once each fiscal year, prepare or have prepared on ~~his or her~~ *their* behalf, a financial report of the Accountancy Fund that contains information that the board determines is necessary for the purposes for which the board was established.

(c) The report of the Accountancy Fund, which shall be published pursuant to Section 5008, shall include the revenues and the related costs from examination, initial licensing, license renewal, citation and fine authority, and cost recovery from enforcement actions and case settlements.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(O): AB 2597 (Bonta) Department of Consumer Affairs

Background:

Existing law establishes in state government, in the Business, Consumer Services, and Housing Agency, a Department of Consumer Affairs.

This bill would make nonsubstantive changes to that provision.

Location: Assembly

Status: 2/21/20 From printer. May be heard in committee March 22.

Action Requested:

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

Attachment A: AB 2597 (Bonta) Bill Text

AB 2597 - (I) Amends the Law

SECTION 1.

Section 100 of the Business and Professions Code is amended to read:

100.

There is in ~~the~~ state government, in the Business, Consumer Services, and Housing Agency,
a *the* Department of Consumer Affairs.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(P): AB 2631 (Cunningham) License fees: military partners and spouses

Background:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would prohibit a board from charging an initial or original license fee to an applicant who meets these expedited licensing requirements.

Location: Assembly Committee on Business and Professions

Status: 3/2/20 Referred to Committee on Business and Professions

Action Requested:

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

Attachment A: AB 2631 (Cunningham) Bill Text

AB 2631 - (I) Amends the Law

SECTION 1.

Section 115.5 of the Business and Professions Code is amended to read:

115.5.

(a) A board within the department shall expedite the licensure process for an applicant who meets both of the following requirements:

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

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board.

(b) A board shall not charge an applicant who meets the requirements in subdivision (a) an initial or original license fee.

~~(b)~~ (c) A board may adopt regulations necessary to administer this section.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(Q): AB 2704 (Ting) Healing arts: licensees: data collection

Background:

This bill would require all boards that oversee healing arts licensees to collect, at least biennially, specified demographic information, post the information on the internet websites that they each maintain, and provide the information annually to the Office of Statewide Health Planning and Development. The bill would require these boards to maintain the confidentiality of the information they receive from licensees and to only release information in aggregate form, as specified.

Location: Assembly Committee on Business and Professions

Status: 3/12/20 Referred to Committee on Business and Professions

Action Requested:

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

Attachment A: AB 2704 (Ting) Bill Text

AB 2704 - (I) Amends the Law

SECTION 1.

Section 502 is added to the Business and Professions Code, to read:

502.

(a) A board that supervises healing arts licensees under this division shall collect and analyze workforce data from its licensees as specified in subdivision (b) for future workforce planning. The data may be collected at the time of license renewal, or at least biennially from a scientifically selected random sample of licensees.

(b) (1) The workforce data collected by each board about its licensees shall include, at a minimum, information concerning all of the following:

(A) City, county, and ZIP Code of practice.

(B) Type of employer or classification of primary practice site among the types of practice sites specified by the board, including, but not limited to, clinic, hospital, managed care organization, or private practice.

(C) Work hours.

(D) Titles of positions held.

(E) Time spent in direct patient care.

(F) Clinical practice area.

(G) Race or ethnicity, subject to paragraph (2).

(H) Gender.

(I) Languages spoken.

(J) Educational background.

(K) Future work intentions.

(L) Job satisfaction ratings.

(2) A licensee may, but is not required to, report their race or ethnicity to the board.

(c) Each board shall maintain the confidentiality of the information it receives from licensees under this section and shall only release information in an aggregate form that cannot be used to identify an individual.

(d) Each board shall produce reports containing the workforce data it collects pursuant to this section, at a minimum, on a biennial basis. Aggregate information collected pursuant to this section shall be posted on each board's internet website.

(e) Each board shall annually provide the data it collects pursuant to this section to the Office of Statewide Health Planning and Development in a manner directed by the office that allows for inclusion of the data into the annual report it produces pursuant to Section 128052 of the Health and Safety Code.

SEC. 2.

Section 2717 of the Business and Professions Code is repealed.

~~2747.~~

~~(a) The board shall collect and analyze workforce data from its licensees for future workforce planning. The board may collect the data at the time of license renewal or from a scientifically selected random sample of its licensees. The board shall produce reports on the workforce data it collects, at a minimum, on a biennial basis. The board shall maintain the confidentiality of the information it receives from licensees under this section and shall only release information in an aggregate form that cannot be used to identify an individual. The workforce data collected by the board shall include, at a minimum, employment information such as hours of work, number of positions held, time spent in direct patient care, clinical practice area, type of employer, and work location. The data shall also include future work intentions, reasons for leaving or reentering nursing, job satisfaction ratings, and demographic data.~~

~~(b) Aggregate information collected pursuant to this section shall be placed on the board's Internet Web site.~~

~~(c) (1) Notwithstanding subdivision (a), the board shall collect, at least biennially, at the times of both issuing an initial license and issuing a renewal license, all of the following data on nurses licensed under this chapter:~~

~~(A) Location of practice, including city, county, and ZIP Code.~~

~~(B) Race or ethnicity, subject to paragraph (3).~~

~~(C) Gender.~~

~~(D) Languages spoken.~~

~~(E) Educational background.~~

~~(F) Classification of primary practice site among the types of practice sites specified by the board, including, but not limited to, clinic, hospital, managed care organization, or private practice.~~

~~(2) The board shall annually provide the data collected pursuant to paragraph (1) to the Office of Statewide Health Planning and Development in a manner directed by the office that allows for inclusion of the data into the annual report required by Section 128052 of the Health and Safety Code.~~

~~(3) A licensee may, but is not required to, report his or her race or ethnicity to the board.~~

~~(d) The board is authorized to expend the sum of one hundred forty five thousand dollars (\$145,000) from the Board of Registered Nursing Fund in the Professions and Vocations Fund for the purpose of implementing this section.~~

SEC. 3.

Section 2852.5 of the Business and Professions Code is repealed.

~~2852.5.~~

~~(a) The board shall collect, at least biennially, at the times of both issuing an initial license and issuing a renewal license, all of the following data on vocational nurses licensed under this chapter:~~

~~(1) Location of practice, including city, county, and ZIP Code.~~

~~(2) Race or ethnicity, subject to subdivision (c).~~

~~(3) Gender.~~

~~(4) Languages spoken.~~

~~(5) Educational background.~~

~~(6) Classification of primary practice site among the types of practice sites specified by the board, including, but not limited to, clinic, hospital, managed care organization, or private practice.~~

~~(b) The board shall annually provide the data collected pursuant to subdivision (a) to the Office of Statewide Health Planning and Development in a manner directed by the office that allows for inclusion of the data into the annual report required by Section 128052 of the Health and Safety Code.~~

~~(c) A licensee may, but is not required to, report his or her race or ethnicity to the board.~~

SEC. 4.

Section 3518.1 of the Business and Professions Code is repealed.

3518.1.

~~(a) The board shall collect, at least biennially, at the times of both issuing an initial license and issuing a renewal license, all of the following data on physician assistants licensed under this chapter:~~

~~(1) Location of practice, including city, county, and ZIP Code.~~

~~(2) Race or ethnicity, subject to subdivision (c).~~

~~(3) Gender.~~

~~(4) Languages spoken.~~

~~(5) Educational background.~~

~~(6) Classification of primary practice site among the types of practice sites specified by the board, including, but not limited to, clinic, hospital, managed care organization, or private practice.~~

~~(b) The board shall annually provide the data collected pursuant to subdivision (a) to the Office of Statewide Health Planning and Development in a manner directed by the office that allows for inclusion of the data into the annual report required by Section 128052 of the Health and Safety Code.~~

~~(c) A licensee may, but is not required to, report his or her race or ethnicity to the board.~~

SEC. 5.

Section 3770.1 of the Business and Professions Code is repealed.

3770.1.

~~(a) The board shall collect, at least biennially, at the times of both issuing an initial license and issuing a renewal license, all of the following data on respiratory therapists licensed under this chapter:~~

~~(1) Location of practice, including city, county, and ZIP Code.~~

~~(2) Race or ethnicity, subject to subdivision (c).~~

~~(3) Gender.~~

~~(4) Languages spoken.~~

~~(5) Educational background.~~

~~(6) Classification of primary practice site among the types of practice sites specified by the board, including, but not limited to, clinic, hospital, managed care organization, or private practice.~~

~~(b) The board shall annually provide the data collected pursuant to subdivision (a) to the Office of Statewide Health Planning and Development in a manner directed by the office that allows for inclusion of the data into the annual report required by Section 128052 of the Health and Safety Code.~~

~~(c) A licensee may, but is not required to, report his or her race or ethnicity to the board.~~

SEC. 6.

Section 4506 of the Business and Professions Code is repealed.

~~4506.~~

~~(a) The board shall collect, at least biennially, at the times of both issuing an initial license and issuing a renewal license, all of the following data on psychiatric technicians licensed under this chapter:~~

~~(1) Location of practice, including city, county, and ZIP Code.~~

~~(2) Race or ethnicity, subject to subdivision (c).~~

~~(3) Gender.~~

~~(4) Languages spoken.~~

~~(5) Educational background.~~

~~(6) Classification of primary practice site among the types of practice sites specified by the board, including, but not limited to, clinic, hospital, managed care organization, or private practice.~~

~~(b) The board shall annually provide the data collected pursuant to subdivision (a) to the Office of Statewide Health Planning and Development in a manner directed by the office that allows for inclusion of the data into the annual report required by Section 128052 of the Health and Safety Code.~~

~~(c) A licensee may, but is not required to, report his or her race or ethnicity to the board.~~

SEC. 7.

The Legislature finds and declares that Section 1 of this act, which adds Section 502 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of licensees, while also gathering useful workforce data, it is necessary that some information collected from licensees only be released in aggregate form.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(R): AB 2978 (Ting) Department of Justice: arrest and conviction records: review

Background:

Existing law, commencing January 1, 2021, and subject to an appropriation in the annual Budget Act, requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and to identify persons who are eligible for arrest record relief or automatic conviction record relief by having their arrest records, or their criminal conviction records, withheld from disclosure or modified, as specified. Under existing law, an arrest or conviction record is eligible for this relief if, among other criteria, the arrest or conviction occurred on or after January 1, 2021.

This bill would instead require that an arrest or conviction have occurred on or after January 1, 1973, in order to be considered for relief.

Location: Assembly Committee on Public Safety

Status: 3/17/20 In committee: Hearing postponed by committee.

Action Requested:

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

Attachment A: AB 2978 (Ting) Bill Text

AB 2978 - (I) Amends the Law

SECTION 1.

Section 851.93 of the Penal Code is amended to read:

851.93.

(a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, shall identify persons with records of arrest that meet the criteria set forth in paragraph (2) and are eligible for arrest record relief.

(2) A person is eligible for relief pursuant to this section, if the arrest occurred on or after January 1, ~~2021~~, 1973, and meets any of the following conditions:

(A) The arrest was for a misdemeanor offense and the charge was dismissed.

(B) The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges that arose, from that arrest.

(C) The arrest was for an offense that is punishable by imprisonment pursuant to paragraph (1) or (2) of subdivision (h) of Section 1170, there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

(D) The person successfully completed any of the following, relating to that arrest:

(i) A prefiling diversion program, as defined in Section 851.87, administered by a prosecuting attorney in lieu of filing an accusatory pleading.

(ii) A drug diversion program administered by a superior court pursuant to Section 1000.5, or a deferred entry of judgment program pursuant to Section 1000 or 1000.8.

(iii) A pretrial diversion program, pursuant to Section 1000.4.

(iv) A diversion program, pursuant to Section 1001.9.

(v) ~~Any~~ A diversion program described in Chapter 2.8 (commencing with Section 1001.20), Chapter 2.8A (commencing with Section 1001.35), Chapter 2.81 (commencing with Section 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A (commencing with Section 1001.60), Chapter 2.9B (commencing with Section 1001.70), Chapter 2.9C (commencing with Section 1001.80), Chapter 2.9D (commencing with Section 1001.81), or Chapter 2.92 (commencing with Section 1001.85), of Title 6.

(b) (1) The department shall grant relief to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's arrest record, a note stating "arrest relief granted," listing the date that the department granted relief, and this section. This note shall be included in all statewide criminal databases with a record of the arrest.

(3) Except as otherwise provided in subdivision (d), an arrest for which arrest relief has been granted is deemed not to have occurred, and a person who has been granted arrest relief is released from any

penalties and disabilities resulting from the arrest, and may answer any question relating to that arrest accordingly.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on February 1, 2021, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning an arrest that is granted relief pursuant to this section to any person or entity, in any format, except to the person whose arrest was granted relief or a criminal justice agency, as defined in Section 851.92.

(d) Relief granted pursuant to this section is subject to the following conditions:

(1) Arrest relief does not relieve a person of the obligation to disclose an arrest in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(3) This section does not limit the ability of a district attorney to prosecute, within the applicable statute of limitations, an offense for which arrest relief has been granted pursuant to this section.

(4) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control ~~any a~~ firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the arrest would otherwise affect this authorization or susceptibility.

(5) Relief granted pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

(6) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(e) This section ~~shall~~ **does** not limit petitions, motions, or orders for arrest record relief, as required or authorized by any other law, including, but not limited to, Sections 851.87, 851.90, 851.91, 1000.4, and 1001.9.

(f) The department shall annually publish statistics for each county regarding the total number of arrests granted relief pursuant to this section and the percentage of arrests for which the state summary criminal history information does not include a disposition, on the OpenJustice Web portal, as defined in Section 13010.

(g) This section shall be operative commencing January 1, 2021, subject to an appropriation in the annual Budget Act.

SEC. 2.

Section 1203.425 of the Penal Code is amended to read:

1203.425.

(a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the

Supervised Release File, shall identify persons with convictions that meet the criteria set forth in paragraph (2) and are eligible for automatic conviction record relief.

(2) A person is eligible for automatic conviction relief pursuant to this section if they meet all of the following conditions:

(A) The person is not required to register pursuant to the Sex Offender Registration Act.

(B) The person does not have an active record for local, state, or federal supervision in the Supervised Release File.

(C) Based upon the information available in the department's record, including disposition dates and sentencing terms, it does not appear that the person is currently serving a sentence for any offense and there is no indication of any pending criminal charges.

(D) Except as otherwise provided in clause (iii) of subparagraph (E), there is no indication that the conviction resulted in a sentence of incarceration in the state prison.

(E) The conviction occurred on or after January 1, ~~2021~~, 1973, and meets either of the following criteria:

(i) The defendant was sentenced to probation and, based upon the disposition date and the term of probation specified in the department's records, appears to have completed their term of probation without revocation.

(ii) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment.

(b) (1) Except as specified in subdivision (h), the department shall grant relief, including dismissal of a conviction, to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's criminal record, a note stating "relief granted," listing the date that the department granted relief and this section. This note shall be included in all statewide criminal databases with a record of the conviction.

(3) Except as otherwise provided in subdivision (d) and in Section 13555 of the Vehicle Code, a person granted conviction relief pursuant to this section shall be released from all penalties and disabilities resulting from the offense of which the person has been convicted.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on February 1, 2021, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning a conviction granted relief pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

(d) Relief granted pursuant to this section is subject to the following conditions:

(1) Relief granted pursuant to this section does not relieve a person of the obligation to disclose a criminal conviction in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section does not relieve a person of the obligation to disclose the conviction in response to ~~any a~~ direct question contained in ~~any a~~ questionnaire or application for public office, or for contracting with the California State Lottery Commission.

(3) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(4) Relief granted pursuant to this section does not limit the jurisdiction of the court over ~~any a~~ subsequently filed motion to amend the record, petition or motion for postconviction relief, or collateral attack on a conviction for which relief has been granted pursuant to this section.

(5) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control ~~any a~~ firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the criminal conviction would otherwise affect this authorization or susceptibility.

(6) Relief granted pursuant to this section does not affect ~~any a~~ prohibition from holding public office that would otherwise apply under law as a result of the criminal conviction.

(7) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(8) Relief granted pursuant to this section does not make eligible a person who is otherwise ineligible to provide, or receive payment for providing, in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or pursuant to Section 14132.95, 14132.952, or 14132.956 of the Welfare and Institutions Code.

(9) In ~~any a~~ subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the relief had not been granted.

(e) This section shall not limit petitions, motions, or orders for relief in a criminal case, as required or authorized by any other law, including, but not limited to, Sections 1203.4 and 1204.4a.

(f) The department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic relief pursuant to subdivision (h), on the OpenJustice Web portal, as defined in Section 13010.

(g) Subdivisions (a) to (f), inclusive, shall be operative commencing January 1, 2021, subject to an appropriation in the annual Budget Act.

(h) (1) The prosecuting attorney or probation department may, no later than 90 calendar days before the date of a person's eligibility for relief pursuant to this section, file a petition to prohibit the department from granting automatic relief pursuant to this section, based on a showing that granting ~~such that~~ relief would pose a substantial threat to the public safety.

(2) The court shall give notice to the defendant and conduct a hearing on the petition within 45 days after the petition is filed.

(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

(4) The prosecutor or probation department has the initial burden of proof to show that granting conviction relief would pose a substantial threat to the public safety. In determining whether granting ~~such-~~ relief would pose a substantial threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) Declarations or evidence regarding the offense for which a grant of relief is being contested.

(B) The defendant's record of arrests and convictions.

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing ~~such~~ relief. In determining whether the defendant's hardship outweighs the threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) The hardship to the defendant that has been caused by the conviction and that would be caused if relief is not granted.

(B) Declarations or evidence regarding the defendant's good character.

(6) If the court grants a petition pursuant to this subdivision, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief pursuant to this section was denied, and the department shall not grant relief pursuant to this section.

(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If the court subsequently grants relief pursuant to one of those sections, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief was granted pursuant to the applicable section, and the department shall grant relief pursuant to that section.

(i) At the time of sentencing, the court shall advise a defendant, either orally or in writing, of the provisions of this section and of the defendant's right, if any, to petition for a certificate of rehabilitation and pardon.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(S): SB 878 (Jones) Department of Consumer Affairs Licensing: applications: wait times

Background:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

This bill would require each board within the department that issues licenses to prominently display the current timeframe for processing initial and renewal license applications on its internet website, as provided.

Location: Senate Committee on Business, Professions, and Economic Development

Status: 3/18/20 March 23 hearing postponed by committee.

Action Requested:

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

Attachment A: SB 878 (Jones) Bill Text

SB 878 - (I) Amends the Law

SECTION 1.

Section 139.5 is added to the Business and Professions Code, to read:

139.5.

Each board, as defined in section 22, within the department that issues a license shall do both of the following:

(a) Prominently display the current timeframe for processing initial and renewal license applications on its internet website.

(b) With respect to the information displayed on the website, specify the average timeframe for each license category.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item 12(b)(3)(T): SB 891 (Chang) Department of Consumer Affairs

Background:

This bill was amended on March 2, 2020 and now relates to:

California State Lottery: revenue allocation

Action Requested:

This is for informational purposes only. Staff will no longer watch this bill.

MEMORANDUM

DATE	March 30, 2020
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #14 – 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 April 7, 2020. The hearing for this proposal is scheduled for April 8, 2020, and the Board will hold a teleconference meeting to review comments on April 17, 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	March 13, 2020
TO	Board of Psychology
FROM	Evan Gage Special Projects Analyst
SUBJECT	Agenda Item #15 – 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.

Department of Consumer Affairs
Board of Psychology
April 17, 2020 Board Meeting
Teleconference

**Hand-Carry
Agenda Item**

- Agenda Item 15 – Administrative Procedure Manual - DRAFT

MEMORANDUM

DATE	April 2, 2020
TO	Psychology Board Members
FROM	Sandra Monterrubio, Enforcement Program Manager Board of Psychology
SUBJECT	Agenda Item 16, Enforcement Report

Please find attached the Overview of Enforcement Activity conveying complaint, investigation, and discipline statistics to date for the current fiscal year.

Complaint Program

Since July 1, 2019, the Board has received 894 complaints. All complaints received are opened and assigned to an enforcement analyst.

Citation Program

Since July 1, 2019, the Board has issued 35 enforcement citations. Citation and fines are issued for minor violations.

Discipline Program

Since July 1, 2019, the Board has referred 71 cases to the Office of the Attorney General for formal discipline.

Probation Program

Enforcement staff is currently monitoring 44 probationers. Of the 44 probationers, two are out of compliance. Being out of compliance can result in a citation and fine or further disciplinary action through the Office of the Attorney General.

Attachments:

Overview of Enforcement Activity

Action Requested

This item is for informational purposes only.

BOARD OF PSYCHOLOGY

Overview of Enforcement Activity

License & Registration	15/16	16/17	17/18	18/19	*19/20
Psychologist	20,024	20,596	20,977	21,329	18,763
Registered Psychologist	278	249	188	162	127
Psychological Assistant	1,466	1,442	1,350	1,475	1,392
Cases Opened	15/16	16/17	17/18	18/19	*19/20
Complaints Received	798	1,042	1,097	1,093	894
Arrest Reports**	50	39	53	40	39
Investigations Opened	602	771	805	862	594
Cases referred to DA	0	0	0	0	0
Cases referred to AG	33	45	70	56	71
Filings	15/16	16/17	17/18	18/19	*19/20
Accusations	23	27	15	31	35
Statement of Issues	5	7	6	4	5
Petition to Revoke Probation	3	1	6	3	2
Petitions to Compel Psych. Exam	1	0	0	0	2
Petitions for Penalty Relief	0	3	6	5	4
Petition for Reinstatement	0	2	1	5	3
Petitions for Reconsideration	0	0	2	0	0
Filing Withdrawals/Dismissals	15/16	16/17	17/18	18/19	*19/20
Accusations Withdrawn	5	0	0	3	0
Accusations Dismissed	4	1	0	4	0
Statement of Issues Withdrawn	0	1	3	0	0
Citations	15/16	16/17	17/18	18/19	*19/20
Citations Ordered	27	32	46	47	35
Disciplinary Decisions	15/16	16/17	17/18	18/19	*19/20
Revocations	4	2	9	1	6
Revocation, Stayed, Probation	24	16	7	11	12
Revoked, Stayed, Probation, Susp.	0	0	0	0	0
Surrender	12	26	11	9	10
Reprovals	3	3	4	1	1
ISO/TRO/PC23 Ordered	2	1	2	1	2
Statement of Issues-License Denied	0	0	0	0	0
Total Disciplinary Decisions	45	48	33	23	31
Other Decisions	15/16	16/17	17/18	18/19	*19/20
Statement of Issues-License Granted	1	0	0	3	0
Petitions for Penalty Relief Denied	0	2	4	7	2
Petitions for Penalty Relief Granted	0	1	2	3	1
Petition for Reinstatement Granted	0	0	0	1	0
Petition for Reinstatement Denied	0	2	1	1	1
Reconsiderations Denied	1	0	2	0	0
Reconsiderations Granted	0	0	0	0	0
Orders Compelling Psych. Evaluation	0	0	3	0	2
Total Other Decisions	2	5	12	15	6
Violation Types	15/16	16/17	17/18	18/19	*19/20
Gross Negligence/Incompetence	23	29	20	20	14
Improper Supervision	1	0	1	0	0
Repeated Negligent Acts	22	31	21	13	6
Self-Abuse of Drugs or Alcohol	7	15	7	3	1
Dishonest/Corrupt/Fraudulent Act	6	8	9	6	5
Mental Illness	4	5	2	2	1
Aiding Unlicensed Practice	1	0	0	0	0
General Unprofessional Conduct	5	2	13	8	16
Probation Violation	3	26	29	12	3
Sexual Misconduct	6	14	2	3	3
Conviction of a Crime	18	23	1	8	7
Discipline by Another State Board	5	5	2	0	0
Misrepresentation of License Status	1	1	1	0	2

**Enforcement data pulled on March 24, 2020

MEMORANDUM

DATE	April 6, 2020
TO	Psychology Board Members
FROM	Antonette Sorrick Executive Officer
SUBJECT	Agenda Item #17 – Coronavirus (COVID-19) Update

Background:

1. COVID-19 – Update on DCA Activities

- DCA is maintaining ongoing updates pertaining to Coronavirus (COVID-19) on its website [here](#).
- Pursuant to the Governor’s Executive Order [N-39-20](#), during the State of Emergency, the director of the Department of Consumer Affairs (DCA) may waive any statutory or regulatory requirements with respect to a professional license issued pursuant to [Division 2](#) of the Business and Professions Code. In addition, pursuant to Executive Order [N-40-20](#), the director of DCA may waive any statutory or regulatory requirements with respect to continuing education for licenses issued pursuant to [Division 3](#) of the Business and Professions Code.
- To date, waivers issued by the DCA director include:
 - [DCA Waiver DCA-20-01 Continuing Education](#) (presently applicable to healing arts boards denoted in Division 2 of the Business and Professions Code)
 - [DCA Waiver DCA-20-02 Reinstatement of Licensure](#) (presently applicable to healing arts boards denoted in Division 2 of the Business and Professions Code)
- DCA Boards and Bureaus who wish to have a waiver reviewed and considered by the director are requested to submit a Waiver Request Form (attached) to the following email: WaiverRequest@dca.ca.gov. [The Department has been working with the boards to submit and review waiver requests. The information received by the boards will assist in determining whether to approve or deny the request.](#)
- Other important information:
 - Individuals with a current/active out-of-state license who want to assist with COVID-19 in California should email Emergency Medical Services Authority (EMSA) at: Covid19@emsa.ca.gov
 - The Department of Health Care Services issued a bulletin, [Guidance Relating to Non-Discrimination in Medical Treatment for Novel Coronavirus 2019 \(COVID-19\)](#), for the attention of all licensed health care workers. DCA healing arts boards are requested to provide this information to all health care licensees.
- Call to ACTION: On Monday, March 31, 2020, the Governor put out a call to action asking those licensed in California to join the fight in battling the COVID-19 pandemic. In addition, he launched the [California Health Corps](#) where

individuals can go to sign up to be deployed to assist providing care to those in need. Please encourage those around you to sign up to help!

Action Requested:

No further action is needed.