

## UPDATED NOTICE OF TELECONFERENCE BOARD MEETING

The Board of Psychology will hold a Board Meeting via WebEx

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 the WebEx link as provided below. If you have trouble getting on the call to listen or participate, please call 916-574-7720.

**Important Notice to the Public: The Board of Psychology will hold a public meeting via WebEx Events. To participate in the WebEx meeting, please log on to this website the day of the meeting:**

July 9, 2020

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=ee1a866b8b49eb6a7d9bacd70f7150a04>

July 10, 2020

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e5e574a0377edc1b92fd72f8629bfa90d>

Instructions to connect to the meeting can be found at the end of this agenda. Members of the public may but are not obligated to provide their names or personal information as a condition of observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will need to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address like in the following sample format: XXXXX@mailinator.com.

Due to potential technical difficulties, please consider submitting written comments by July 7, 2020, to [bopmail@dca.ca.gov](mailto:bopmail@dca.ca.gov) for consideration.

**Thursday, July 9, 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 Manager  
Sandra Monterrubio, Enforcement Program Manager

**Legal Counsel**

Norine Marks

Thursday, July 9, 2020

**AGENDA**

**10:00 a.m. – 1:00 p.m. or until Completion of Business**

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. Coronavirus (COVID-19) Update Including but not Limited to Updates on Waivers (A. Sorrick)
5. President's Report (S. Foo)
  - a) Dates and Locations of 2020 Board and Committee Meetings
  - b) Committee Updates

6. Discussion and Possible Approval of the Board Meeting Minutes: April 17, 2020
7. Budget Report (J. Glasspiegel)
8. Public Comment Request: ASPPB's Guidelines for the Use of Social Media by Psychologists in Practice and by Psychology Regulatory Bodies
9. Licensure Committee Report and Consideration of Committee Recommendations (Harb Sheets – Chairperson, Foo, Tate)
  - a) Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations
  - b) Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 30-Consecutive Month Limitation to Accrue 1500 Hours of Post-Doctoral Supervised Professional Experience Pursuant to Section 1387(a) of Title 16 of the California Code of Regulations
  - c) Consideration of Licensure Committee Recommendations Regarding Supervision Agreement Plans for Supervised Professional Experience in Non-Mental Health Services Pursuant to Section 1387.3 of Title 16 of the California Code of Regulations
  - d) Consideration of Licensure Committee Recommendations Regarding Request for Continuing Education (CE) Exception pursuant to Section 1397.62(b) of Title 16 of the California Code of Regulations
10. Review and Consideration of Changes to the Board's Administrative Procedures Manual
11. Legislative and Regulatory Affairs Report and Consideration of Committee Recommendations (Foo – Chairperson, Casuga, Phillips)
  - a) Board Sponsored Legislation for the 2020 Legislative Session: Review and Possible Action
    - 1) 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.
    - 2) SB 275 (Pan) Board of Psychology: disciplinary action: sexual contact or sexual behavior with a client or former client
  - b) Review and Consideration of Proposed Legislation
    - 1) Review of Bills with Active Positions Taken by the Board
      - A. AB 1145 (Garcia) Child abuse: reportable conduct.
      - B. SB 53 (Wilk) Open meetings.
      - C. SB 66 (Atkins) Medi-Cal: federally qualified health center and rural health clinic services.
    - 2) Review of Bills for a Position
      - A. AB 1263 (Low) Contracts: consumer services: consumer complaints.

- B. AB 2112 (Ramos) Suicide prevention.
- C. AB 2164 (Rivas, Robert) Telehealth.
- D. AB 2185 (Patterson) Professions and vocations: applicants licensed in other states: reciprocity.
- E. AB 2549 (Salas) Department of Consumer Affairs: temporary licenses.
- F. AB 2630 (Flora) Criminal history information: subsequent arrest notification.
- G. AB 2856 (Committee on Business and Professions) Board of Psychology.
- H. AB 3045 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses.
- I. SB 1474 (Committee on Business, Professions and Economic Development) Professions and Vocations

3) Review of Watch Bills

- A. AB 499 (Mayes) Personal information: social security numbers: state agencies.
- B. AB 613 (Low) Professions and vocations: regulatory fees.
- C. AB 798 (Cervantes) Maternal mental health.
- D. AB 1616 (Low) Department of Consumer Affairs: boards: expunged convictions.
- E. AB 1911 (Maienschein) State agencies: veterans.
- F. AB 2028 (Aguiar-Curry) State agencies: meetings.
- G. AB 2093 (Gloria) Public records: writing transmitted by electronic mail: retention.
- H. AB 2113 (Low) Refugees, asylees, and immigrants: professional licensing.
- I. AB 2138 (Chau) California Public Records Act.
- J. AB 2253 (Low) Professional licensure.
- K. AB 2360 (Maienschein) Telehealth: mental health
- L. AB 2438 (Chau) California Public Records Act: conforming revisions.
- M. AB 2476 (Diep) Healing arts licensees.
- N. AB 2631 (Cunningham) License fees: military partners and spouses.
- O. AB 2704 (Ting) Healing arts: licensees: data collection.
- P. SB 806 (Grove) Worker status: employees: independent contractors.
- Q. SB 878 (Jones) Department of Consumer Affairs Licensing: applications: wait times.

- 12. 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
- 13. Enforcement Report (S. Monterrubio)
- 14. Licensing Report (S. Cheung)
- 15. Continuing Education and Renewals Report (J. Glasspiegel)

16. 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
  - f) 16 CCR Section 1394 – Substantial Relationship Criteria; Section 1395 – Rehabilitation Criteria for Denials and Reinstatements; Section 1395.1 – Rehabilitation Criteria for Denials Suspensions or Revocations

Friday, July 10, 2020

**10:00 a.m. – 1:00 p.m. or until Completion of Business**

17. Call to Order/Roll Call/Establishment of a Quorum
18. 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)].
19. Enforcement Committee Report and Consideration of Committee Recommendations (Phillips – Chairperson, Cervantes)
  - a) Child Custody Stakeholder Meeting-Implementation Plan Update
    - 1) Statutory Discussion Regarding Proposed Exception to Psychotherapist-Patient Privilege for Board Investigations (J. Templet)
  - b) Proposed Amendments to 16 CCR Sections 1394 – Substantial Relationship Criteria; 1395 – Rehabilitation Criteria for Denials and Reinstatements; 1395.1 – Rehabilitation Criteria for Suspensions or Revocations; 1395.2 – Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees
  - c) Review and Consideration of the Goal and Name of the Enforcement Committee
  - d) Statutory and Regulatory Update, Review, and Consideration of Additional Changes
    - 1) 16 CCR Section 1380.6 – Display of License Number
    - 2) 16 CCR Sections 1393 – Requirements for Psychologists on Probation
    - 3) 16 CCR Sections 1396 – Competence; 1396.1 – Interpersonal Relations; 1396.2 – Misrepresentation; 1396.3 – Test Security; 1396.4 – Professional Identification; 1396.5 – Consumer Information; 1397 – Advertising; 1397.1 – Child Abuse Reporting requirements; 1397.2 – Other Actions Constituting Unprofessional Conduct

- 4) 16 CCR Sections 1397.30 – Citation; 1397.36 – Requirements for Professional Corporations; 1397.37 – Shares: Ownership and Transfer; 1397.39 – Corporate Activities; 1397.40 – Trusts
  - 5) 16 CCR Sections 1397.50 – Citations and Fines; 1397.51 – Amount of Fines; 1397.52 – Compliance with Orders of Abatement; 1397.53 – Citations for Unlicensed Practice; 1397.54 – Contest of Citations; 1397.55 – Disconnection of Telephone Service
  - 6) BPC Sections 2902 – Definitions; 2903 – Licensure requirement; Practice of psychology; Psychotherapy; 2903.1 – Biofeedback instruments; 2908 – Exemption of other professions; 2912 – Temporary practice by licensees of other state or foreign country
  - 7) BPC Section 2934.1 – Posting of license status on Web site
  - 8) BPC 2936 – Consumer and professional education in matters relevant to ethical practice; Standards of ethical conduct; Notice
  - 9) BPC Sections 2960 – Grounds for action; 2960 (a)-(r) (o); 2960.05 – Limitations period for filing accusation against licensee; 2960.1 – Sexual contact with patient; Revocation; 2960.2 – Licensee’s physical, emotional and mental condition evaluated; 2960.5 – Mental illness or chemical dependency; 2960.6 – Actions by other states; 2961 – Scope of action; 2962 – Petition for reinstatement or modification of penalty; 2963 – Matters deemed conviction; 2964 – Report of license revocation or restoration; 2964.3 – Persons required to register as sex offender; 2964.5 – Conditions of probation or suspension; 2964.6 – Payment of probationary costs; 2965 – Conduct of proceedings; 2966 – Suspension during incarceration for felony conviction; Determination of substantial relationship of felony to functions of psychologist; Discipline or denial of license; 2969 – Penalties for failure to provide medical records; Failure to comply with court order; Multiple acts
  - 10) BPC Sections 2970 – Violation of chapter as misdemeanor; 2971 – Injunctions
  - 11) BPC 2985 – Renewal of suspended licenses; Reinstatement of revoked licenses, 2986 – Effect of failure to renew within prescribed time
  - 12) BPC Section 2995 – Psychological corporation, 2996 – Violation of unprofessional conduct, 2996.1 – Conduct of practice, 2996.2 – Accrual of income to shareholder while disqualified prohibited, 2997 – Shareholders, directors and officers to be licensees, 2998 – Name, 2999 – Regulation by committee
20. Update on Telehealth Guidance (A. Sorrick)
21. 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**

22. 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.

## **ADJOURNMENT**

Due to technological limitations, adjournment will not be broadcast. Adjournment will immediately follow closed session, and there will be no other items of business discussed or transacted.

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](http://www.psychology.ca.gov), or call (916) 574-7720. Action may be taken on any item on the agenda. To accommodate speakers, or to maintain a quorum, items may be taken out of order, tabled or held over to a subsequent meeting, and items scheduled to be heard on Thursday may be held over to Friday, or if scheduled to be heard on Friday may be moved up to Thursday.

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](mailto: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.*

## MEMORANDUM

<b>DATE</b>	April 6, 2019
<b>TO</b>	Psychology Board Members
<b>FROM</b>	Antonette Sorrick Executive Officer
<b>SUBJECT</b>	Agenda Item #4 – Coronavirus (COVID-19) Update

### **Background:**

#### **COVID-19 – DCA Activities and Updates**

DCA is maintaining ongoing updates pertaining to COVID-19, including the waivers, on its website [here](#).

#### **Waivers:**

You can read the full waivers and see a list of current waivers on the [DCA website](#).

DCA boards and bureaus who wish to have a waiver reviewed and considered by the director are requested to submit a Waiver Request Form (Division 2 and Division 3 forms attached) to the following email: [WaiverRequest@dca.ca.gov](mailto:WaiverRequest@dca.ca.gov). It is important to note that the only requests that can be considered for Division 3 boards and bureaus at this time are those related to continuing education. 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](mailto: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.
- On 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!
- Additional COVID-19 Update information can be found on the Board's website at <https://www.psychology.ca.gov/covid/index.shtml>



- Attached is the status update list for current Board of Psychology waivers as of 6/23/20

**Action Requested:**

No further action is needed.

**Attachments:**

Waivers as of 6/23/20

Waiver Topic	Code Section(s) Waived	Summary	Submission Date	Approval Status	Submitted By
Face to Face Supervision	California Code of Regulations Sections 1387(b)(4) and 1391.5(b)	This waiver would allow the Board to relax the requirement of face-to-face supervision to a psychological trainee by allowing the one hour face-to-face, direct, individual supervision to be conducted via HIPAA-compliant means from March 16, 2020, until June 30, 2020, or when the state declaration of emergency is lifted, whichever is sooner. The Board would still require that the trainee indicate the type of supervision on the required weekly log and the primary supervisor should verify this information. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Approved by DCA on 5/6/20	Board of Psychology
Waive Live CE Course Requirement	California Code of Regulations Section 1397.60(e)	This waiver would allow a psychologist to complete all of their required continuing education hours online and waive the in-person requirement. Currently the regulation requires 9 hours of the required 36 hours be taken in-person. Given the lack of availability of conferences where most licensees accrue their live hours, the Board would like to waive this requirement. This waiver is requested to run concurrently with DCA Waiver DCA-20-01 Continuing Education.	Submitted to Director Kirchmeyer on 4/9/2020	Denied on 4/16/20	Board of Psychology
Fingerprints and Exams for Applicants of BBS and Board of Psychology	Business and Professions Code section 144 & 2941		Unknown	Denied on 5/20/20	California Council of Community Behavioral Health Agencies
Temporary Practice	Business and Professions Code section 2912	BPC §2912 - This waiver request would extend this section of law from 30 days to a temporary 6 months. Additionally, this waiver request would extend this section to an out of state trainee and supervisor that is not in a training program or school to still be able to provide services to a CA resident.	5/12/2020	Denied on 6/11/20	DCA
CE Extra Six Months	All DCA Boards	Accordingly, for individuals whose active licenses expire between March 31, 2020, and June 30, 2020, the Director temporarily waives: 1. any statutory or regulatory requirement that individuals renewing a license pursuant to Division 2 of the Code take and pass an examination in order to renew a license; and, 2. any statutory or regulatory requirement that an individual renewing a license pursuant to Division 2 of the Code complete, or demonstrate compliance with, any continuing education requirements in order to renew a license. These temporary waivers do not apply to any continuing education, training, or examination required pursuant to a disciplinary order against a license.	N/A	Published by DCA on 3/31/20	DCA
Reinstatement of Inactive or Canceled License	All DCA Boards	Accordingly, the Director temporarily waives any statutory or regulatory requirement that an individual seeking to reactivate or restore a license originally issued pursuant to Division 2 of the Code: • Complete, or demonstrate compliance with, any continuing education requirements in order to reactivate or restore a retired, inactive, or canceled license; and • Pay any fees in order to reactivate or restore a retired, inactive, or canceled license (including renewal, delinquency, penalty, or late fees, or any other statutory or regulatory fees). These waivers apply only to an individual's license that: (1) is in a retired, inactive, or	N/A	Published by DCA on 3/31/20	DCA

CPLEE for Restoration of License	Business and Professions Code Section 2986 California Code of Regulation Section 1397.67(b)	This waiver would allow the board to restore licenses of psychologists whose California licenses have cancelled without requiring the board's law and ethics examination (CPLEE). This waiver would become effective 3/4/20 until 6/30/20, or when the declaration of emergency is lifted. This would be consistent with the DCA Waiver DCA-20-02 Reinstatement of Licensure. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20	Board of Psychology
SPE Time Limitation	California Code of Regulations Section 1387(a)	The regulation allows a psychological trainee to request that the Board extend the time limitations of 30/60 consecutive months to accrue their pre-doctoral and post-doctoral hours of supervised professional experience (respectively) required for licensure. The waiver requested would be to allow applicants who reach the 30/60 month limitations between 3/4/20 and 6/30/20 up to an additional 6 months, or when the declaration of emergency is lifted, whichever is sooner, to accrue their hours. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20	Board of Psychology
Psych Asst 72 month Limit	California Code of Regulations Section 1391.1(b)	This waiver would allow a psychological assistant to continue their registration, beyond the 72 months limit upon request, and to provide services to clients for up to six months from the expiration date, or when the state of emergency ceases to exist, whichever is sooner. A psychological assistant who has reached the registration limit between 3/4/2020 and 6/30/2020 will qualify for the wavier and can request for such waiver during the state of emergency. This will help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20	Board of Psychology
Withdraw Application	California Code of Regulations Section 1381.4	This waiver would allow the board to extend the ability for candidates to take or re-take an examination and not withdraw their application if they were unable to take or re-take it within the required twelve-month timeframe on or after 3/4/20. The Board may extend this time for a period of six months, or until the declaration of emergency is lifted, whichever is sooner.	Submitted to Director Kirchmeyer on 4/10/2020	Global waiver request going through the waiver process.	Board of Psychology
Fingerprint Inactive/Canceled	Business and Professions Code Section 144(b)(20) Business and Professions Code Section 2986 California Code of Regulations Section 1397.67(b)	This waiver would allow the board to restore licenses of psychologists whose California licenses have canceled without requiring submission of fingerprints for a period of six months, or until the declaration of emergency is lifted, whichever is sooner. This would be consistent with the DCA waiver DCA-20-02 Reinstatement of Licensure. This waiver would help with the workforce surge by increasing the licensed population.	Submitted to Director Kirchmeyer on 4/10/2020	Withdrawn due to duplicative nature with existing global waiver. Advisory submitted for posting 6/17/20.	Board of Psychology

SPE All Trainees	California Code of Regulations Section 1387(a)	For trainees who were accruing supervised professional experience hours at any point during the declared emergency, the Board grants six additional months to accrue their pre-doctoral and/or post-doctoral hours of supervised professional experience (respectively) required for licensure.	Submitted to Director Kirchmeyer on 4/22/20		Board of Psychology
Psych Asst Extend Time for All	California Code of Regulations Section 1391.1(b)	For psychological assistants who were registered at any time during the declared emergency, the Board allows for the registration to be effective an additional six months.	Submitted to Director Kirchmeyer on 4/22/20		
180 Day Limitation for Out of State Applicants	Business and Professions Code section 2946	For individuals who have applied to the Board for a license and are unable to take the examination or complete the pre-licensure coursework during the emergency, the Board grants six additional months to perform activities and services of a psychological nature.	Submitted to Director Kirchmeyer on 4/22/20		Board of Psychology

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 4 Attachment

APA Letter to Board of Psychology Regarding Telesupervision

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 4 Attachment

APPIC Letter to Board of Psychology

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 4 Attachment

California Training Directors and Supervisors

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 4 Attachment

Petition to Extend Remote Supervision



# 2020 Board Meeting/Event Calendar

## Board Meeting

Event	Date	Location
Board Meeting	Rescheduled to February 27-28, 2020	Sacramento, CA
Board Meeting	April 17, 2020	Teleconference
Board Meeting	Rescheduled to July 9-10, 2020	Teleconference
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	Cancelled	Newport Beach, CA
ASPPB Mid-Year Meeting	Cancelled	Montreal, Quebec
APA Convention	August 6-9, 2020	Virtual Conference
ASPPB Annual Meeting	October 14-18, 2020	New York, NY

## Board of Psychology Committee Assignments 2020

Committee	Chairperson	Members
<b><u>Standing Committees</u></b>		
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
<b><u>Ad hoc Committees</u></b>		
Emergency Preparedness Committee	Marisela Cervantes	Shacunda Rodgers, PhD
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

<b>DATE</b>	June 25, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Evan Gage Special Projects Analyst
<b>SUBJECT</b>	Agenda Item # 6 – Discussion and Possible Approval of the Board Meeting Minutes: April 17, 2020

**Background:**

Attached are the draft minutes of the April 17, 2020 Board Meeting.

**Action Requested:**

Review and approve the minutes of the April 17, 2020 Board Meeting.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Hand-Carry Item**

Agenda Item 6 Attachment

April 17, 2020 Board WebEx Teleconference Minutes – DRAFT

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Hand-Carry Item**

Agenda Item 7

Budget Report Memo

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Hand-Carry Item**

Agenda Item 7 Attachment

Budget Report

## MEMORANDUM

<b>DATE</b>	June 24, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jeffrey Thomas Assistant Executive Officer
<b>SUBJECT</b>	Agenda Item 8 Public Comment Request: ASPPB's Guidelines for the Use of Social Media by Psychologists in Practice and by Psychology Regulatory Bodies

### **Background:**

On April 29, 2020, the Association of State and Provincial Psychology Boards (ASPPB) released its *Guidelines for the Use of Social Media by Psychologists in Practice and by Psychology Regulatory Bodies* for consideration and comment. The guidelines were developed by the ASPPB Social Media Task Force (SMTF) and were recently approved by the ASPPB Board of Directors to go out for public comment. ASPPB has committed itself to providing member boards with useful resources that can aid its licensees in providing safe and competent services, and aid member boards in their work to meet the mandate of public protection. The document proposes a need for specific guidelines for the use of social media by psychologists in their professional practice as well as in their personal use of social media. The guidelines are also intended to aid member boards in the adjudication of complaints that involve social media use by psychologists. The guidelines were developed in consideration of, and to align with, the ASPPB Code of Conduct, the Canadian and American Psychological Associations' code of ethics, and with best practices identified in the current literature.

ASPPB has requested the Board's reactions, feedback, suggestions, and/or alternative ideas to all aspects of these current draft guidelines.

### **Action Requested:**

Review ASPPB's draft *Guidelines for the Use of Social Media by Psychologists in Practice and by Psychology Regulatory Bodies* and provide feedback, suggestions, and/or alternative ideas to be provided back to ASPPB for their consideration.

**Attachment:**

*Guidelines for the Use of Social Media by Psychologists in Practice and by Psychology Regulatory Bodies*



**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(a) Attachment

PSB #1 Letter of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(a) – Psychological Assistant (PSB) #1</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

### **Background:**

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

### **PSB #1 – Request for the Maximum Length of Extension of the 72-Month Registration Period**

PSB #1 was issued a total of seven psychological assistant registrations with the first registration issued on August 4, 1998. All seven registrations have since expired or cancelled. PSB #1's most recent registration was issued on December 22, 2016 and expired on April 25, 2020 with a previously approved 18-month extension request.

PSB #1 has submitted a total of three extension requests to the psychological assistant registration. Below is the description of each extension request in chronological order:

1. The first extension request was submitted on September 1, 2017 due to educational setbacks and financial crisis which prevented PSB #1 from accruing the required 1,500 post-doc SPE within the 72-month limitation to a psychological assistant registration. The extension request was reviewed by the Board and was

approved for an 18-month extension to the psychological assistant registration on February 16, 2018.

2. On March 5, 2020, PSB #1 submitted a second extension request for a one-year extension to the psychological assistant registration that expired on April 25, 2020. The extension request was reviewed by staff and was denied based on the need for extra time to study for the Examination for Professional Practice in Psychology (EPPP).
3. On March 31, 2020, PSB #1 submitted an extension request due to the impact of the COVID-19 pandemic which may prolong examination scheduling. In addition, PSB #1 referenced an NPR article that states a shortage of health workers during this crisis. PSB #1 explains that PSB #1 is determined to take and pass the examinations for licensure. However, PSB #1 would like to respond to the emergency mental health needs of the community at this unprecedented time.

On April 28, 2020, staff notified PSB #1 that PSB #1 does not qualify under the Board's Waiver PSY 20-02, which amended California Code of Regulations section 1391.1(b) to extend a psychological assistant registration limitation from 72-month to 78-month, because PSB #1 registration was previously approved for an 18-month extension beyond the 72-month limitation.

PSB #1 is requesting for the maximum amount of time for an extension to the psychological assistant registration because of the uncertainty of the shelter-in-place mandate.

The Board's records show PSB #1 completed the required 3,000 of Supervised Professional Experience (SPE) on January 30, 2020. PSB #1 was approved to take the EPPP on May 4, 2020.

**Attachment:**

A: Letter of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to deny the extension request of the 72-month limitation for the psychological assistant registration.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(a) Attachment

PSB #1 Letter of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(a) – Psychological Assistant (PSB) #2</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

### **Background:**

California Code of Regulations, Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

### **PSB #2 – Request for a 4-6 Months Extension of the 72-Month Registration Period**

PSB #2 was issued a total of three psychological assistant registrations with the first registration issued on August 6, 2012 and expired on July 31, 2013. PSB #2's second registration was issued on April 2, 2015 and expired on January 1, 2017. PSB #2's most recent registration was issued on August 1, 2016 and expired on April 27, 2020 according to the 72-month limitation for a psychological assistant registration.

PSB #2 reported a total of 5,400 hours of post-doctoral Supervised Professional Experience (SPE) accrued from August 1, 2016 to June 26, 2019.

The Board's records show that PSB #2 was approved to take the Examination for Professional Practice in Psychology (EPPP) on August 27, 2019.

PSB #2 is requesting for an extension because of the impacts of the COVID-19 pandemic. PSB #2's EPPP examination which was scheduled for March 28, 2020 was

cancelled. As a result, PSB #2 raised concerns that testing centers may be inundated once they reopen and there may be a pushback on exam rescheduling. PSB #2 also stated the need to continue serving clients in this pandemic outbreak. PSB #2 has shifted to telehealth and has spent time setting up proper telehealth services. Furthermore, due to school closure for PSB #2's child, PSB #2 has reduced studying time for the exam and is now required to spend additional time to care for PSB #2's child.

PSB #2 also explained the challenges to study for exam include PSB #2's diagnosis with multiple sclerosis. PSB #2 multiple sclerosis symptoms include feeling fatigue and sleep disturbances.

On April 28, 2020, staff notified PSB #2 that under the Board's Waiver PSY 20-02, PSB #2 has been granted a 6-month extension approval for the psychological assistant registration. The expiration date for PSB #2 registration has been revised to October 28, 2020.

There is an outstanding 4-6 months extension from PSB #2's initial request of a 10-12 months extension. The reasons stated for requesting an extension do not fall within the guidelines provided to staff in reviewing straightforward requests. Staff is referring this request for the Committee's review.

**Attachment:**

A: Letter of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to grant the 6-month extension request of the 72-month limitation for the psychological assistant registration.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(a) Attachment

PSB #2 Letter of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(a) – Psychological Assistant (PSB) #3</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

### **Background:**

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

### **PSB #3 – Request for an 18-month Extension of the 72-Month Registration Period**

PSB #3 was issued two psychological assistant registrations on September 21, 2012 and July 10, 2015. Both registrations expired on September 21, 2014 and December 4, 2019 respectively. PSB #3 reported completing 2,842 hours of SPE as of November 30, 2019.

PSB #3 has not applied for psychologist licensure at this time.

PSB #3 is requesting an 18-month extension based on multiple factors (hospitalization of father in home country, being a single parent and caregiver for son, and own medical conditions) that led to the delay in the completion of thesis and obtaining the doctoral degree.



**Attachment:**

A: Letter of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to grant the 18-month extension request of the 72-month limitation for the psychological assistant registration.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(a) Attachment

PSB #3 Letter of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(a) – Psychological Assistant (PSB) #4</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

### **Background:**

California Code of Regulations, Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

### **PSB #4 – Request for a 6-Year Extension of the 72-Month Registration Period**

PSB #4 was issued a total of two psychological assistant registrations with the first registration issued on June 12, 2014 and expired on January 20, 2016. PSB #4's most recent registration was issued on December 19, 2014 and will expire June 26, 2020 according to the 72-month limitation for a psychological assistant registration.

PSB #4 reported a total of 4,140 hours of post-doctoral Supervised Professional Experience (SPE) accrued from December 19, 2014 to April 17, 2020.

The Board's records show that PSB #4 has applied to take the Examination for Professional Practice in Psychology (EPPP) on April 29, 2020.

PSB #4 explained that within the last three years, PSB #4 has encountered several hardships which resulted in an inefficient preparation for licensure. PSB #4 stated the constant struggles with severe symptoms of depression and anxiety while trying to

manage her symptoms to focus on studying for the examinations. In addition, PSB #4 became the caregiver of PSB #4's spouse who suffered from a disability that was caused from work in 2015. Furthermore, the passing of both PSB #4's parents also had an overwhelming impact on PSB #4's health and emotional wellbeing.

PSB #4 is determined to become a licensed psychologist and is requesting for an extension to allow PSB #4 adequate time to prepare for licensure while continuing to provide psychological services.

**Attachment:**

A: Letter of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to grant a 6-month, instead of 6-year, extension request of the 72-month limitation for the psychological assistant registration.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(a) Attachment

PSB #4 Letter of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(a) – Psychological Assistant (PSB) #5</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

### **Background:**

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

### **PSB #5 – Request for a Two-Year Extension of the 72-Month Registration Period**

PSB #5 was issued a total of five psychological assistant registrations with the first registration issued on February 28, 2011. All five registrations have since expired or cancelled. PSB #5's most recent registration was issued on May 14, 2018 and expired on January 30, 2019 according to the 72-month limitation for a psychological assistant registration.

As stated on the Verification of Experience forms, PSB #5 has accrued more than 3,000 hours of supervised professional experience (SPE) by July 2017 and has met the SPE requirement towards licensure.

PSB #5 requests for examination accommodation was approved for extra time to take the examination from March 29, 2018 to March 29, 2019. The accommodation request was reapproved for the period from February 7, 2019 to February 7, 2020. PSB #5 has taken the EPPP a total of seven times. Below are the dates for each attempt:

- July 14, 2015
- June 2, 2016
- May 22, 2017
- February 1, 2018
- November 28, 2018
- May 1, 2019
- November 27, 2019

On November 1, 2018, PSB #5's supervisor requested to terminate the supervision of PSB #5. As a result, staff sent an email to PSB #5 on the same day to confirm supervisor removal and requested for a response from PSB #5 to cancel or keep the registration. PSB #5 failed to response to staff's email.

PSB #5 notified staff on January 10, 2020 that PSB #5 did not receive the email. In addition, PSB #5 thought the "Notification to Add or Change Supervisor or Service Location for a Psychological Assistant" form would automatically cancel the registration due to prohibition to practice without a supervisor. PSB #5 stated that PSB #5 did not provide psychological services from November 1, 2018 to January 30, 2019.

PSB #5 is requesting for an extension request due to lost time from failing to provide a response to staff and anxiety disorder. PSB #5 provided supporting documentation that PSB #5 was diagnosed on February 27, 2018 with anxiety disorder.

**Attachment:**

A: Extension Request Email Correspondence

**Action Requested:**

Review and consider the Licensure Committee's recommendation to deny the 2-year extension request of the 72-month limitation for the psychological assistant registration.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(a) Attachment

PSB #5 Extension Request Email Correspondence



## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(a) – Psychological Assistant (PSB) #6</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

### Background:

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

### **PSB #6 – Request for a 12-month Extension of the 72-Month Registration Period**

PSB #6 was issued a total of two psychological assistant registrations with the first registration issued on May 15, 2011. Both registrations have since expired or cancelled. PSB #6 was granted a 2-year extension by the Board on November 17, 2017 and the registration was expired on December 21, 2019.

PSB #6 subsequently submitted two additional extension requests to the psychological assistant registration. Below is the description of each additional extension request in chronological order:

1. On October 3, 2019, PSB #6 submitted a 6-month extension request based on the need for more time to take and pass the licensure examinations and to continue to be able to see clients until licensure. The request was reviewed and denied by staff as PSB #6 has successfully accrued 3,000 hours of supervised professional experience necessary for licensure.

2. On December 9, 2019, PSB #6 submitted a 12-month extension request based on financial reasons. PSB #6 also elaborated and used the medical reasons and hardship that led to the approval of the initial 2-year extension request as the additional reasons of this request.

This request does not qualify under the Board's Waiver PSY 20-02, which the Board amended California Code of Regulations section 1391.1(b) to extend a psychological assistant registration limitation from 72-month to 78-month, because the registration was previously granted a 2-year extension period beyond the unmodified 72-month limitation.

The Board's records show that PSB #6 took the Examination for Professional Practice in Psychology (EPPP) on September 3, 2019 and January 15, 2020, but is not able to pass the examination yet.

**Attachment:**

A: Letters of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to deny the 12-month extension request of the 72-month limitation for the psychological assistant registration.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(a) Attachment

PSB #6 Letters of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(a) – Psychological Assistant (PSB) #7</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 72-Month Registration Period Limitation for Registered Psychological Assistant Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

### **Background:**

California Code of Regulations (CCR), Title 16, section 1391.1 provides in part:

(b) Registration as a psychological assistant shall be limited to a cumulative total of six years (72 months). Each registration shall be subject to annual renewal pursuant to section 1391.12.

For any psychological assistant registered prior to the effective date of this subdivision, subsequent renewals or registrations shall be limited to a cumulative total of six years (72 months) from the date of the psychological assistant's next registration or renewal, whichever occurs first.

Upon showing of good cause as determined by the Board, these specified time limitations may be reasonably modified.

### **PSB #7 – Request for an 18-month Extension of the 72-Month Registration Period**

PSB #7 was issued a psychological assistant registration on January 23, 2014 which was expired on January 22, 2020.

PSB #7 reported a total of 2,080 hours of pre-doctoral supervised professional experience (SPE) from August 31, 2018 and October 15, 2019, and a maximum of 1,500 hours of pre-doctoral SPE were credited towards licensure. PSY #7 obtained a doctoral degree in Psychology at Pepperdine University on October 15, 2019. PSB #7 has not submitted post-doctoral SPE at the time of the request.

PSB #7 is requesting for an 18-month extension based on the need to accrue the necessary post-doctoral SPE towards licensure (see Attachment A).

This request does not qualify under the Board's Waiver PSY 20-02, which the Board amended California Code of Regulations section 1391.1(b) to extend a psychological

assistant registration limitation from 72-month to 78-month, because the registration expired prior to the effective date of the declared emergency on March 4, 2020.

The Board's records show that PSB #7 was approved to take the Examination for Professional Practice in Psychology (EPPP) on March 9, 2020.

**Attachment:**

A: Letters of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to grant the 18-month extension request of the 72-month limitation for the psychological assistant registration.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(a) Attachment

PSB #7 Letters of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(b) – Psychologist Licensure Applicant (PSY) #1</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 30-Consecutive Month Limitation to Accrue 1500 Hours of Post-Doctoral Supervised Professional Experience Pursuant to Section 1387(a) of Title 16 of the California Code of Regulations

### **Background:**

California Code of Regulations, Title 16, section 1387 provides in part:

(a) Pursuant to section 2914(c) of the code, two years of qualifying SPE shall be completed and documented prior to licensure. One year of SPE shall be defined as 1500 hours. At least one year of SPE shall be completed postdoctorally. Each year of SPE shall be completed within a thirty (30) consecutive month period. If both years of SPE (3000 hours) are completed postdoctorally, they shall be completed within a sixty (60) month period. Upon showing of good cause as determined by the board, these specified time limitations may be reasonably modified.

### **PSY #1 – Request for 10-Month Extension to the 30-Consecutive Month Limitation to Accrue Post-Doctoral Supervised Professional Experience (SPE)**

PSY #1 reported a total of 3,000 hours of SPE in September 2019. On February 27, 2020, staff notified PSY #1 that the reported nonprofit organization where hours were accrued is not considered an exempt setting and requested PSY #1 to submit weekly logs for further review. Upon reviewing the weekly logs, staff verified that the post-doctoral hours (a total of 154 hours) accrued from October 26, 2016 until March 1, 2017, prior to the PSY #1's Departmental of Mental Health (DMH) Waiver was approved, will not count towards licensure.

The breakdown of the total hours of SPE for PSY #1 is as follows:

- 1,500 hours of credited pre-doctoral SPE accrued from August 29, 2012 to August 28, 2013;
- 1,288 hours of post-doctoral SPE accrued from March 1, 2017 to August 30, 2019 (see Attachment C), 154 hours of SPE was omitted from October 26, 2016 to February 28, 2017; and
- 58 hours of post-doctoral SPE accrued from October 25, 2018 to April 19, 2019.

Pursuant to the time limitation in accruing SPE set forth by section 1387(a) of the California Code of Regulations, PSY #1 is required to complete all post-doctoral SPE between March 1, 2017 and September 1, 2019. PSY #1 is requesting an extension because PSY #1 was not aware of the proper documentation needed prior to accruing SPE. PSY #1 reported that PSY #1 has already begun psychological assistantship again and anticipates accruing the necessary SPE for licensure by the end of June 2020.

The Board's records show that PSY #1 attempted to take the Examination for Professional Practice in Psychology (EPPP) on January 25, 2020 but did not pass the examination.

**Attachment:**

A: Letter of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to grant the 10-month extension request to the 30-consecutive month limitation to accrue post-doctoral SPE.



**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(b) Attachment

PSY #1 Letters of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(b) – Psychologist Licensure Applicant (PSY) #2</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 30-Consecutive Month Limitation to Accrue 1500 Hours of Post-Doctoral Supervised Professional Experience Pursuant to Section 1387(a) of Title 16 of the California Code of Regulations

### **Background:**

California Code of Regulations (CCR), Title 16, section 1387 provides in part:

(a) Pursuant to section 2914(c) of the code, two years of qualifying SPE shall be completed and documented prior to licensure. One year of SPE shall be defined as 1500 hours. At least one year of SPE shall be completed postdoctorally. Each year of SPE shall be completed within a thirty (30) consecutive month period. If both years of SPE (3000 hours) are completed postdoctorally, they shall be completed within a sixty (60) month period. Upon showing of good cause as determined by the board, these specified time limitations may be reasonably modified.

### **PSY #2 – Request for 7-week Extension to the 30-Consecutive Month Limitation to Accrue Post-Doctoral Supervised Professional Experience (SPE)**

PSY #2 applied for and passed the EPPP on June 8, 2019 and subsequently applied to take the CPLEE. Pursuant to the time limitation in accruing SPE set forth by section 1387(a) of the California Code of Regulations, PSY #2 is required to complete all post-doctoral SPE between March 22, 2016 and September 22, 2018. PSY #2 was notified of the denial of the portion of the hours accrued after September 22, 2018 as they were accrued outside the time limitation set forth by the regulations

The breakdown of the total hours of SPE for PSY #2 is as follows:

- 1,500 hours of credited pre-doctoral SPE accrued from January 28, 2014 to July 1, 2015;
- 1,815 hours of post-doctoral SPE accrued from March 22, 2016 to June 17, 2019.

PSY #2 is requesting an extension due to loss of time and reduced work schedule in accruing SPE resulting from the treatment of injuries sustained from a car accident shortly after beginning the accrual of post-doctoral hours.

**Attachment:**

A: Letters of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to grant the 7-week extension request to the 30-consecutive month limitation to accrue post-doctoral SPE.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(b) Attachment

PSY #2 Letters of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(b) – Psychologist Licensure Applicant (PSY) #3</b> Consideration of Licensure Committee Recommendations Regarding Requests for an Extension of the 30-Consecutive Month Limitation to Accrue 1500 Hours of Post-Doctoral Supervised Professional Experience Pursuant to Section 1387(a) of Title 16 of the California Code of Regulations

### Background:

California Code of Regulations (CCR), Title 16, section 1387 provides in part:

(a) Pursuant to section 2914(c) of the code, two years of qualifying SPE shall be completed and documented prior to licensure. One year of SPE shall be defined as 1500 hours. At least one year of SPE shall be completed postdoctorally. Each year of SPE shall be completed within a thirty (30) consecutive month period. If both years of SPE (3000 hours) are completed postdoctorally, they shall be completed within a sixty (60) month period. Upon showing of good cause as determined by the board, these specified time limitations may be reasonably modified.

### PSY #3 – Request for a 17-Month Extension to the 30-Consecutive Month Limitation to Accrue Post-Doctoral Supervised Professional Experience (SPE)

PSY #3 reported a total of 3,808 hours of SPE and 2,616 hours of SPE was credited towards licensure. The breakdown of the total hours of SPE for PSY #3 is as follows:

<b>Pre-doctoral SPE: 2,280</b>	
<b>Number of Hours</b>	<b>Start and End Date of SPE</b>
1,101.25	September 1, 2012 – August 30, 2013
1,178.75	August 22, 2011 – August 23, 2012

<b>Post-doctoral SPE: 1,528</b>	
<b>Number of Hours</b>	<b>Start and End Date of SPE</b>
730	October 8, 2015 – September 3, 2019
463	December 5, 2015 – June 3, 2016
335	November 1, 2018 – September 1, 2019

Pursuant to the time limitation in accruing SPE set forth by section 1387(a) of the California Code of Regulations, PSY #3 is required to complete all post-doctoral SPE between October 8, 2015 and April 8, 2018.

On June 3, 2016, PSY #3 went on maternity leave and returned to work part-time on January 30, 2017. PSB #3 is requesting for an extension because of the leave of absence and reduced work schedule upon returning to work.

The Board's records show that PSY #3 was approved to take the Examination for Professional Practice in Psychology (EPPP) on October 17, 2019 but no attempt has been made.

**Attachments:**

A: Letter of Request

**Action Requested:**

Review and consider the Licensure Committee's recommendation to grant the 17-month extension request to the 30-consecutive month limitation to accrue post-doctoral SPE.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(b) Attachment

PSY #3 Letters of Request

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Stephanie Cheung Licensing Manager
<b>SUBJECT</b>	<b>Agenda Item 9(c) – Psychologist Licensure Applicant (PSY) #1</b> Consideration of Licensure Committee Recommendations Regarding Supervision Agreement Plans for Supervised Professional Experience in Non-Mental Health Services Pursuant to Section 1387.3 of Title 16 of the California Code of Regulations

### Background:

California Code of Regulations (CCR), Title 16, section 1387.3 provides in part:

This section pertains only to those trainees who are preparing for practice, once licensed, in the non-mental health areas of the profession of psychology.

Due to lack of training sites and qualified supervisors, typically in the area of applied psychological research, industrial-organizational psychology, media and social-experimental psychology, but not including those involving direct mental health services, trainees in these areas of psychology shall submit a plan for supervised professional experience to the board for approval on a case-by-case basis as provided for in section 2914(c) of the code.

#### (a) Supervision Plan Required

The proposed supervision plan (“plan”) submitted by the trainee for approval shall be signed by all participants involved. It shall describe the qualifications and responsibilities of the supervisor (and co-supervisor, if appropriate) for supervision. The plan shall be developed for and shall demonstrate appropriate preparation of the trainee to practice effectively in non-mental health services, and within the specific non-mental health setting. The plan shall address how the quality of work done by the trainee working in a non-mental health role will be monitored and assure protection of the client. As used in this section, “trainee” means a psychology trainee working under the provisions of this section.

### PSY #1 – Requesting Review of the Alternate Plan for Supervised Professional Experience in Non-Mental Health Services.

PSY #1 will be supervised for teaching, research, clinical supervision, professional consultation, and direct psychoeducational assessment for k-12 youth conducted within PSY #1’s role as Associate Professor of School Psychology at a university in California. Please see attachments for details.



**Attachments:**

A: Proposed Supervision Plan

B: Supervision Agreement Form

**Action Requested:**

Review and consider the Licensure Committee's recommendation to grant the alternate plan for supervised professional experience in non-mental health area.

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(c) Attachment

PSY #1 Proposed Supervision Plan

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(c) Attachment

PSY #1 Supervision Agreement

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 9(d): Request for Continuing Education (CE) Exception pursuant to 16 CCR 1397.62(b)

### **Background:**

Pursuant to the continuing education course requirements set forth by Title 16 CCR section 1397.61(c), licensees are required to take CE courses provided by American Psychological Association (APA), or its approved sponsors, Continuing Medical Education (CME) courses specifically applicable and pertinent to the practice of psychology and that are accredited by the California Medical Association (CMA) or the Accreditation Council for Continuing Medical Education (ACCME), or provided by the California Psychological Association, or its approved sponsors.

16 CCR section 1397.62(b) provides in part:

(b) An exception to the requirements of Business and Professions Code section 2915(d) may be granted to licensed psychologists who are not engaged in the direct delivery of mental health services for whom there is an absence of available continuing education courses relevant to their specific area of practice.

- (1) An exception granted pursuant to this subsection means that the Board will accept continuing education courses that are not acceptable pursuant to section 1397.61(c) provided that they are directly related to the licensee's specific area of practice and offered by recognized professional organizations. The Board will review the licensee's area of practice, the subject matter of the course, and the provider on a case-by-case basis. This exception does not mean the licensee is exempt from completing the continuing education required by Business and Professions Code section 2915 and this article.
- (2) Licensees seeking this exception shall provide all necessary information to enable the Board to determine the lack of available approved continuing education and the relevance of each course to the continuing competence of the licensee. Such a request shall be submitted in writing and must include a clear statement as to the relevance of the course to the practice of psychology and the following information:
  - (A) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course), particularly as it relates to the practice of psychology.
  - (B) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience,

scope of practice, licenses held and length of experience and expertise in the relevant subject matter), particularly as it relates to the practice of psychology.

(C) Information that shows the course provider's qualifications to offer the type of course being offered (e.g., the provider's background, history, experience and similar courses previously offered by the provider), particularly as it relates to the practice of psychology.

(3) This subsection does not apply to licensees engaged in the direct delivery of mental health services.

As Board staff is not equipped to determine if Licensee #1 has fully met the requirements of 1397.62(b), staff requests that the Board review the exception request of Licensee #1 summarized below and the supporting documentation to determine if the applicant has satisfied the requirements of 1397.62(b).

### **Licensee #1 – Request for CE exception**

Licensee #1 is requesting a CE exception for 12 hours out of the required 36 CE hours. The CE exception is being requested for one CE course titled 'Heartwork: The Path of Self-Compassion', and one conference titled 'Language and Learning 2018: International Dyslexia Association Los Angeles (IDALA) Spring 2018 Conference'.

Licensee #1 specializes in neuropsychological & psychoeducational assessment of children adolescents and adults. Licensee #1 states the licensee:

“primarily assess children and adolescents with a range of learning, attentional, and emotional diagnoses such as learning disorders, ADHD, and anxiety. The main focus of such work includes properly diagnosing these individuals and providing individually tailored treatment recommendations such as accommodations and various forms of treatment in a report. The licensee does not administer such treatment, but rather provides referrals to other allied professionals.”

Regarding the IDALA conference, Licensee #1 states:

“The aforementioned courses taken at the IDALA annual conference were relevant to the continuing competence of this licensee by providing current information about the relationship between capacities assessed by this examiner (e.g. executive functioning, learning disorders, and anxiety), a deeper understanding of these individual symptoms presentations, as well as reliable and evidence-based treatment options and accommodations to provide in the recommendations section of the licensee’s diagnostic assessment reports. Attendance at this conference also enabled the licensee to connect with treatment providers to whom the licensee refers patients for treatment, such as educational therapists and psychiatrists.”

Regarding Heartwork: The path of Self-Compassion, Licensee #1 states:

“The licensee took this course with Dr. Weininger in order to fill a gap in clinical knowledge about how to appropriately support children who exhibited high degrees of perfectionism and performance anxiety during testing, which commonly impacts their ability to complete testing or perform commensurate to their potential due to these

interfering factors. This course provided practical tools to utilize during such times as well as practices to recommend for post evaluation care. The licensee also secondarily benefitted from utilizing practices taught during this course for self-care purposes to manage work related stressors.”

At the May 15, 2020, Licensure Committee meeting, the Committee recommended the Board **Deny** this request.

**Action Requested:**

Review and determine whether to grant or deny Licensee # 1's CE exception request.

Attachment A: Licensee CE Exemption Request

Attachment B: Licensee additional Narrative for Heartwork: The Path of Self-Compassion

Attachment C: Course Certificates

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(d) Attachment

CE Attachment A – Licensee CE Exemption Request

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(d) Attachment

CE Attachment B – Licensee Additional Narrative for Heartwork



**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 9(d) Attachment

CE Attachment C – Course Certificates

## MEMORANDUM

<b>DATE</b>	June 25, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Evan Gage Special Projects Analyst
<b>SUBJECT</b>	Agenda Item # 10 – Discussion and Possible Approval of the Board Administrative Procedure Manual

**Background:**

Attached is the draft of the Administrative Procedure Manual.

**Action Requested:**

Review and approve the draft of the Administrative Procedure Manual.

# Board of Psychology Administrative Procedure Manual

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DRAFT

## CHAPTER 1: INTRODUCTION

### Mission

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

### Vision

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

### Overview

The California Board of Psychology dates back to 1958, when the first psychologists were certified in the state. The Board of Psychology is one of 30 37 regulatory entities which that fall under the organizational structure of the Department of Consumer Affairs. The Board of Psychology exists solely to serve the public by:

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

### The Board:

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

### Composition

#### Business and Professions Code Sections 103, 2920, 2921, and 2922, and 2923

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

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

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

## CHAPTER 2: MANDATORY BOARD MEMBER TRAINING

### Ethics Training (Every Odd Year)

#### Government Code Section 11146 et seq.

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

### Sexual Harassment Prevention Training (Every Odd Year)

#### Department Policy EEO 12-01

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

### Defensive Driving Training (Every Four Years)

#### SAM 0752

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

### Information Security and Privacy Protection Awareness (Annually)

#### SAM 5300.3

All DCA Staff (including students)

### Board Member Orientation Training

#### Business and Professions Code Section 453

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

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

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

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

### **Non-Discrimination Acknowledgement**

To be signed annually

### **Sexual Harassment Acknowledgement**

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

## **CHAPTER 3: BOARD MEETING PROCEDURES**

### **Frequency of Meetings**

#### **Business and Professions Code Sections 2926**

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

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

### **Board Member Attendance at Board Meetings**

#### **Board Policy B-95-01**

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

### **Board Member Participation**

#### **Board Policy B-95-01**

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

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



## Public Notice/Information at Board Meetings

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

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

*See Appendix A.*

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

## Quorum

### **Business and Professions Code Section 2927**

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

## Agenda Items

### **Board Policy**

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

## Notice of Meetings

### **Government Code Section 11120 et seq.**

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

## Record of Board Meetings

### **Board Policy**

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

## Webcasting

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

## Meeting Rules

### Board Policy

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

## CHAPTER 3: TRAVEL AND SALARY POLICIES/PROCEDURES

### Travel Approval

#### Board Policy

##### Executive Order B-06-11

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

Non-mission critical travel might include:

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

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

*See Appendix B.*

### Travel Arrangements

#### Board Policy

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

## Out-of-State Travel

### **SAM Section 700 et seq.**

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

## Travel Claims

### **SAM section 700 et seq.**

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

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

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

*See Appendix C.*

## Per Diem

### **Business and Professions Code Section 103 and 2935**

Pursuant to Business and Professions Code Section 103, Board members shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

No public officer or employee shall receive per diem salary compensation for serving on those Boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment.<sup>2</sup>

*See Appendix D*

## Travel Reimbursement and Payment of Per Diem

### Board Policy B-95-01

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

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

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

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

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

Board members attending meetings or events to perform a substantial official service are paid per diem and reimbursed for travel-related expenses. Members must submit timesheet summary forms for actual work performed outside a Board meeting in order to be compensated.

## CHAPTER 4: OTHER POLICIES/PROCEDURES

### Appointment of Executive Officer

#### Business and Professions Code Sections 107 and 2933

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

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

### Strategic Plan

#### Board Policy B-94-01

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

*See Appendix E.*

### Improper/Unprofessional Board Member Conduct

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

### Removal of Board Members

#### Board Policy

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

**Commented [GE1]:** EO recommends removing this section because B&P grants authority for removal of Members.

#### Business and Professions Code Sections 106 and 2924

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

#### Business and Professions Code Section 106.5

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

### Resignation of Board Members

#### Government Code Section 1750

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

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

## Officers of the Board

**Business and Professions Code Section 2925; ~~Government Code Section 1750~~**

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

### Election of Officers

#### Board Policy

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

### Officer Vacancies

#### Board Policy

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

### Access to Board Files and Records

#### Board Policy

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

### Communications with Other Organizations/Individuals

#### Board Policy

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

### Board Staff

#### Board Policy

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

## Board Administration

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

## Examination Preparation

### Board Policy

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

## Correspondence

### Board Policy

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

## Statement of Economic Interest

### Government Code Section 81000 et.seq.

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

*See Appendix F.*

## Sexual Harassment Prevention Policy

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

*See Appendix G.*

## Contact with Licensees

### Board Policy

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

## Contact with Complainant/Respondent

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

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

## Gifts from Applicants, Registrants, or Licensees of the Board

### Board Policy

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

The Political Reform Act<sup>1</sup> (the “Act”) imposes limits on gifts, prohibits honoraria payments<sup>2</sup>, and imposes limits and other restrictions on the receipt of travel payments and personal loans by the following state officials:

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

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

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

A “gift” is any payment or other benefit that confers a personal benefit for which a public official does not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Government Code GC Section 82028.) (2 CCR § 18946 See FPPC Regulation 18946 for valuation guidelines.) A public official has “received” or “accepted” a gift when he or she has actual possession of the gift or when he or she takes any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are



accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (2 CCR § FPPC Regulation 18941.)

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

### Conflict of Interest

#### Government Code Section 87100

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

#### Board Policy B-96-02

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

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

### Board President

#### Board Policy

The President does at least the following:

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

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

*See Appendix H.*

### **Vice-President**

The Vice President does at least the following:

- If the President is temporarily unable or unwilling to perform assigned duties as President, the Vice President shall perform all of the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon, the President.
- Serve on the Sunset Review Committee with the Board President and key staff. Meet with staff to review draft reports to the Senate and Assembly Business and Professions committees and testify before the legislature.
- Coordinates with and maintains regular communications with the President as to regarding issues relevant to Board meetings, Board policy, and operational concerns.
- Aids and advises the President in preparing for and in the orderly conduct of quarterly Board meetings and issues as they present themselves throughout the year.

## CHAPTER 6: EXECUTIVE OFFICER

### Appointment

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

### Role

The Executive Officer implements the policies developed by the Board.

### Recruitment

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

### Selection

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

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

### Performance Appraisal of the Executive Officer

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

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

*See Appendix I.*

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

The Board evaluates its Executive Officer on an annual basis. Approximately two months before the final in-person Board meeting of the year, the President contacts the Department's Board & Bureau Services to obtain the current Executive Officer evaluation form and then distributes it to all Board members with instructions to complete their evaluations individually and forward them directly to the Board President. The President follows up as the meeting draws nearer to obtain any outstanding Board member responses to the extent possible. The Board member's individual evaluations are then collated by the President into a master summary for discussion at the last in-person Board meeting of the year by all of the Board members. At that time, the President solicits any additional input or comments. The Executive Officer then joins the meeting in closed session, unless otherwise dictated by law or regulation, to receive feedback and to solicit the Executive Officer's response, if any. Following the Board meeting, the Board President will create a final written summary of the ratings and comments for an in-person discussion with the Executive Officer, execution by the Executive Officer and the President, and submission to the Department.

**Government Code Section 11126**

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

## **CHAPTER 7: BOARD COMMITTEES**

### **Standing Committees**

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

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

### **Ad Hoc Committees (Active)**

The Board has three active ad hoc committees:

- Emergency Preparedness Committee
- Enforcement Committee
- Sunset Review Committee
- Telepsychology Committee

### **Ad Hoc Committees (Inactive)**

The Board has two inactive ad hoc committees:

- Applied Behavioral Analysis (ABA) Task Force

Commented [GE2]: Added June 25, 2020

- EPPP2 Task Force

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

### **Committee Appointments**

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

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

### **Report of Committee Meetings**

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

### **Outreach and Communications Committee**

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

### **Legislative and Regulatory Affairs Committee**

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

*See Appendix J.*

### **Licensure Committee**

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

### **Enforcement Committee**

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

### Sunset Review Committee

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

### Telepsychology Committee

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

### Applied Behavioral Analysis (ABA) Task Force

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

### EPPP2 Task Force

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

**Commented [GE3]:** Dr. Rodgers suggests adding descriptions of what each of these Task Forces do, in order to be consistent with the previous sections about the various committees and the roles they serve. Language will be written at a later date.

## CHAPTER 8: BOARD DELEGATIONS

### PILOT LEGISLATIVE COMMITTEE GUIDELINE

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

### Submission and Review Guidelines for Extension Requests

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

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

### Submission Guidelines

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

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

**Review Guidelines**

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

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

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

\*ADA - Americans with Disabilities Act

**CHAPTER 9: ASSOCIATION MEMBERSHIP**

**Association of State and Provincial Psychology Boards**

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

**Council on Licensure, Enforcement and Regulation (CLEAR)**

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

DRAFT



## APPENDICES

### Appendix A

Bagley-Keene Open Meeting Act:

[www.dca.ca.gov/publications/bagleykeene\\_meetingact.pdf](http://www.dca.ca.gov/publications/bagleykeene_meetingact.pdf)

### Appendix B

Department of Consumer Affairs (DCA) Travel Guide:

[inside.dca.ca.gov/offices/oas/accounting/travel\\_guide.pdf](http://inside.dca.ca.gov/offices/oas/accounting/travel_guide.pdf)

### Appendix C

Department of Human Resources 2014 2020 Mileage Reimbursement Rate

<https://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>

### Appendix D

Travel and Expense Per Diem Form

### Appendix E

2019-2023 Strategic Plan

### Appendix F

Form 700:

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

### Appendix G

Department Policy EEO 12-01:

[https://inside.dca.ca.gov/documents/eeo\\_1201.pdf](https://inside.dca.ca.gov/documents/eeo_1201.pdf)

### Appendix H

Board President Supervisory Expectations

### Appendix I

DCA Executive Officer Performance Evaluation Guide

[www.dpa.ca.gov/pv\\_obj\\_cache/pv\\_obj\\_id\\_EFF6E9241108A87DBEFCEFAF204DEC8F41C10700/filename/executive-officer-performance-evaluation-guide-dca.pdf](http://www.dpa.ca.gov/pv_obj_cache/pv_obj_id_EFF6E9241108A87DBEFCEFAF204DEC8F41C10700/filename/executive-officer-performance-evaluation-guide-dca.pdf)

### Appendix J

Overview of Legislative and Rulemaking Processes

[www.oal.ca.gov/res/docs/pdf/howtoparticipate.pdf](http://www.oal.ca.gov/res/docs/pdf/howtoparticipate.pdf)  
[senweb03.sen.ca.gov/ebrochure/SD34/SD34-Government-Life%20Cycle%20of%20Legislation.pdf](http://senweb03.sen.ca.gov/ebrochure/SD34/SD34-Government-Life%20Cycle%20of%20Legislation.pdf)

## MEMORANDUM

<b>DATE</b>	June 16, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	<b>Agenda Item 11(a)(1) - Pathways to Licensure Statutory Revisions – Amendments to:</b>  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 statutory changes which were previously approved by the Board, have been submitted to the Legislature for consideration as part of our Sunset bill.

Due to COVID-19, the Board of Psychology has received a one-year extension on our Sunset. The Board will now go through Sunset hearings in 2021. The bill containing the one-year extension is SB 1474 (Business Professions and Economic Development).

### **Action Requested:**

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

## MEMORANDUM

<b>DATE</b>	June 16, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(a)(2) – 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 directed 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, Senator 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.

On April 10, 2020, Staff was notified by Senator Pan's office that due to the need to reduce the bill load, Senator Pan will not be pursuing SB 275 this year.

On June 17, 2020 SB 275 was amended and is now titled:

SB 275 (Pan): Health Care and Essential Workers Protection Act: personal protective equipment.

**Action Requested:**

No action is required at this time. This is for informational purposes only. Staff will no longer watch SB 275 (Pan).

## MEMORANDUM

<b>DATE</b>	June 16, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(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 revise 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) Assembly Floor Alert

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

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## 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.

# 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.



## MEMORANDUM

<b>DATE</b>	June 16, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(b)(1)(B) – 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) Letter to Assembly Committee on Appropriations

Attachment B: SB 53 (Wilk) Bill Text

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

# 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.

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## MEMORANDUM

<b>DATE</b>	June 16, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(b)(1)(C) – SB 66 (Atkins) Medi-Cal: federally qualified health center and rural health clinic services

**Background:**

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

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

**Location:** 9/1/2019 Assembly Floor

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

**Action Requested:**

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

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

Attachment B: SB 66 (Atkins) Bill Text

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

# 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-~~ *scope of service* change, the adjusted reimbursement rate for that ~~scope-of-service-~~ *scope of service* change shall be made retroactive to the date the ~~scope-of-service-~~ *scope of service* change was initially implemented. ~~Scope-of-service-~~ *Scope of service* changes under this paragraph shall be required to be submitted within the later of 150 days after the adoption and issuance of the written instructions by the department, or 150 days after the end of the FQHC's or RHC's fiscal year ending in 2003.

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

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



payment. If an FQHC's or RHC's PPS rate is sufficient to cover its overall costs, including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

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

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

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

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

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

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

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

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

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

(B) Notwithstanding subdivision (e), if an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice, or a marriage and family therapist for the purposes of establishing its FQHC or RHC rate chooses to bill these services as a separate visit, the FQHC or RHC shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals or marriage and family therapists that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC's or RHC's rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist has been approved. Any approved increase or decrease in the provider's rate shall be made within six months after the date of receipt of the department's rate adjustment forms pursuant to this

subparagraph and shall be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but in no case shall the effective date be earlier than January 1, 2008.

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

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

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

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

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

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

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

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

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

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

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

(i) An audit in accordance with Section 14170.

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

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

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

(3) If an FQHC or RHC does not elect to have the PPS rate determined by a change in scope of service request, the FQHC or RHC shall have the reimbursement rate established for any of the entities identified

in paragraph (1) or (2) in accordance with one of the following methods at the election of the FQHC or RHC:

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

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

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

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

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

(5) The rate for any newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered benefits on a fee-for-service basis under its existing provider number until it is informed of its *new* FQHC or RHC ~~enrollment approval,~~ *provider number,* and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) (A) For an FQHC or RHC to receive reimbursement for Drug Medi-Cal services directly from the county or the department under contract with the FQHC or RHC pursuant to paragraph (4), costs associated with providing Drug Medi-Cal services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing Drug Medi-Cal services

shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering Drug Medi-Cal services the clinic uses different clinical staff at a different location.

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

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

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

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

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

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

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

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

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

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

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

(A) In a county that participates in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county or county designee and the

FQHC or RHC. If the county or county designee refuses to contract with the FQHC or RHC, the FQHC or RHC may follow the contract denial process set forth in the Special Terms and Conditions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



## MEMORANDUM

<b>DATE</b>	June 17, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(2)(A): 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.

At the June 12, 2020, Legislative and Regulatory Affairs Committee meeting, the Committee recommended the Board **Support** AB 1263 (Low).

**Location:** Senate Committee on Rules

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

**Action Requested:**

The Legislative and Regulatory Affairs Committee recommends the Board **Support** AB 1263 (Low).

Attachment A: Assembly Committee on Privacy and Consumer Protection Analysis

Attachment B: AB 1263 (Low) Bill Text

Date of Hearing: January 14, 2020

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Ed Chau, Chair

AB 1263 (Low) – As Amended January 6, 2020

**SUBJECT:** Contracts: consumer services: consumer complaints

**SUMMARY:** This bill would prohibit contracting for, or to propose to contract for, an agreement to not file a complaint with a licensing board or to participate in a license board's investigation into a licensee for a consumer service. Specifically, **this bill would:**

- 1) State that any waiver of the provisions of this section is contrary to public policy and is void and unenforceable.
- 2) Provide that violation of this section by a licensee shall constitute unprofessional conduct subject to discipline by the licensee's licensing board.
- 3) Define "consumer service" to mean any service which is obtained for use primarily for personal, family, or household purposes.
- 4) Define "licensing board" to mean 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.

**EXISTING LAW:**

- 1) Provides that certain contracts are unlawful if contrary to an express provision of law; contrary to the policy of an express law, though not expressly prohibited; or otherwise contrary to good morals. (Civ. Code Sec. 1667.)
- 2) Prohibits a contract or proposed contract for the sale or lease of consumer goods or services from including a provision waiving the consumer's right to make any statement regarding the seller or lessor or its employees or agents, or concerning the goods or services, and deems any waiver of that prohibition contrary to public policy and unenforceable. (Civ. Code Sec. 1670.8.)
- 3) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency. (Bus. & Prof. Code Sec. 100.)
- 4) Provides that the DCA is comprised of thirty-seven licensing boards, bureaus, committees, and commissions, each responsible for regulating various professionals. (Bus. & Prof. Code Sec. 101.)
- 5) Provides that all boards within the DCA are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. (Bus. & Prof. Code Sec. 101.6.)

- 6) States that it is the duty of the Director of Consumer Affairs to receive complaints from consumers concerning violations of provisions of this code relating to businesses and professions licensed by any agency of the DCA. (Bus. & Prof. Code Sec. 325.)
- 7) Establishes the State Bar of California as the entity responsible for regulating legal professionals. (Bus. & Prof. Code Sec. 6000 et seq.)
- 8) Establishes the Department of Real Estate as the entity responsible for regulating real estate professionals. (Bus. & Prof. Code Sec. 10000 et seq.)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Purpose of this bill:** This bill seeks to prohibit certain unconscionable provisions in consumer contracts. This bill is author-sponsored.
- 2) **Author's statement:** According to the author:

Existing law has already been enacted with the intent to prohibit non-disparagement clauses in consumer contracts. This bill has been introduced [because] companies providing professional services are nevertheless seeking to restrict their customer's authority to make substantiated complaints to regulatory boards through refund agreements and other contracts. This bill would expressly prohibit these provisions in any contract governing the provision of professional services that are subject to licensure and oversight by the state.

- 3) **Background:** During the 2019 sunset review of the Dental Board of California by the Senate and Assembly Committees on Business and Professions Committee, it was uncovered that certain companies offering direct-to-consumer orthodontics products were providing dental services using a lesser standard of diagnostic review than traditional dental offices. Presumably, as a way of preventing consumers from making complaints about any adverse outcomes relating to this service model, one of the larger companies was requiring customers who sought a refund to sign an agreement that they would not disparage the company. The agreement was intended to be kept confidential and required the patient to promise not to "make public, disseminate, release or otherwise reference, allude to, suggest to any person, agency or other entity ... the terms or existence of this General Release."
- 4) **Limitations on contracting for secrecy to further the public interest:** Secret settlements, non-disparagement, and non-disclosure clauses frequently raise public policy concerns with requiring an individual to waive their right to speak or report misconduct to authorities. Existing law disfavors the secret settlement of certain civil actions in which the public has a strong interest in the rights of the individual to disclose certain information about businesses and licensees.

As a general matter, a contract should be interpreted in a manner that will make it lawful, operative, definite, reasonable, and capable of being carried into effect, if it can be done without violating the intention of the parties. At the same time, "a contract provision unlawful if it is contrary to an express provision of law; contrary to the policy of express law,

though not expressly prohibited; or, otherwise contrary to good morals.” (Civ. Code Sec. 1667.)

Increasingly, the Legislature has scrutinized, and prohibited nondisclosure agreements when countervailing public policy supports individual rights to both settle legitimate claims and also make public if desired, the basis for the claims. In 2018, the Legislature passed SB 820 (Leyva, Ch. 953, Stats. 2018) to prohibit contracting for secrecy imposed on individuals who settle claims for specified sexual assault or harassment offenses. It also passed AB 3109 (Stone, Ch. 949, Stats. 2018) to prohibit contracting for a party to waive the right to testifying in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment of a party to the contract. Similarly, in 2016, the Legislature prohibited gag clauses in settling a civil case of sexual abuse of a minor, or an elder or dependent adult. In the same vein, the State Bar has the authority to investigate an attorney who advises (or demands) that a party or client sign a confidential settlement agreement in a civil action in specified cases.

The Legislature’s actions to explicitly bar certain contracting activity serves to ensure that unenforceable contracts are not entered into in the first place, thereby protecting consumers and providing redress for consumers if companies and their legal counsel include in their contracts provisions that are contrary to public policy. Additionally, declaring that certain contractual provisions are void and unenforceable ensures compliance and thwarts attempts to keep unlawful contracts secret due to confidentiality clauses. The effect is to promote integrity in contracting generally.

This bill seeks to accomplish a similar purpose by establishing that a licensee regulated by the State should not be permitted to suppress misconduct or other potentially embarrassing information by limiting an individual’s ability to report the activity about a licensee’s business practice to authorities. Too often, companies settling disputes bargain for secrecy as a matter of course. The bargaining power generally weighs in favor of the companies, who typically draft settlement agreements and ultimately can compensate the individual or require litigation. This bill shifts this power to permit the consumer to both settle valid claims and report misconduct to licensing authorities.

- 5) **Regulation of speech on matters of public concern:** Libel laws exist to protect companies from false and malicious speech. To the extent that a person makes statements of fact that are false and which harm the reputation of the identifiable licensee or company, the laws of defamation stand to provide redress for the defamed. (Civ. Code Secs. 44-46.) That being said, when the State regulates a person’s professional activity through licensing boards, that person agrees to be subject to scrutiny to maintain their license. For this reason, suppressing any claim of misconduct or preventing a consumer from reporting to a licensing entity potential misconduct, is contrary to public policy and the purpose of licensing generally. Indeed, free speech principles support reporting unlawful activity. The right to speak freely in public forums on public matters is enshrined in California’s constitution and laws, including the state’s anti-SLAPP statute. (Code Civ. Proc. Sec. 425.16.)

A SLAPP suit is a “Strategic Lawsuits against Public Participation;” a lawsuit that seeks to use the court to squash speech that is of public concern. Under the anti-SLAPP statute, lawsuits that hinder a person’s right of petition or free speech are subject to a special motion to strike which stays litigation and demands the prompt resolution of the SLAPP motion.

The findings and declarations of the anti-SLAPP statute provide that “it is in the public interest to encourage continued participation in matters of public significance.” The anti-SLAPP statute seeks to ensure that this public participation “should not be chilled by abuse of the judicial process.” It encompasses activities protected under the First Amendment and California’s constitution, including petitioning the government for the redress of grievances.

Contract provisions that prevent individuals from reporting to government entities important information of misconduct are subject to scrutiny under anti-SLAPP laws. This bill, like the anti-SLAPP law, seeks to ensure that nondisclosure agreements will not chill public participation in matters of public significance.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Nichole Rocha / P. & C.P. / (916) 319-2200

# 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

<b>DATE</b>	June 18, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(b)(2)(B) – AB 2112 (Ramos) Suicide prevention

**Background:**

This bill would authorize the State Department of Public Health to establish the Office of Suicide Prevention within the department and would specify authorized responsibilities of the office if established, including, among other things, providing strategic guidance to statewide and regional partners regarding best practices on suicide prevention and reporting to the Legislature on progress to reduce rates of suicide. The bill would authorize the office to apply for and use federal grants.

This bill is consistent with the Board's previous advocacy addressing suicide prevention efforts. AB 89 (Levine, Chapter 182, Statutes of 2017) was a Board-sponsored bill which required psychologists to obtain or provide verification of six hours of training in suicide assessment and intervention.

At the June 12, 2020 Legislative and Regulatory Affairs Committee meeting, the Committee approved a **Support** recommendation to go to the full Board for consideration.

**Location:** 6/11/2020 Senate

**Status:** 6/11/2020 In Senate. Read first time. To Committee on Rules for assignment.

**Action Requested:**

The Legislative and Regulatory Affairs Committee recommends the Board **Support** AB 2112 (Ramos).

Attachment A: AB 2112 (Ramos) Assembly Floor Analysis

Attachment B: AB 2112 (Ramos) Bill Text

## ASSEMBLY THIRD READING

AB 2112 (Ramos)

As Amended June 4, 2020

Majority vote

**SUMMARY:**

Authorizes the Department of Public Health (DPH) to establish the Office of Suicide Prevention (OSP) to address suicide and suicide prevention. Provides that if established, DPH may focus resources on groups with the highest risk, including the youth and Native Americans.

**COMMENTS:**

Suicide is the act of intentionally causing one's own death. In 2017, the most recent data available for California, the state's suicide rate is 10.7 suicides per 100,000 residents and 4,323 violent deaths were due to suicide, with 10,048 hospitalizations and 34,371 emergency department visits associated with suicide. Homicide and suicide are leading causes of premature death and are major contributors of years of life lost due to their significant impact on young people. Suicide is the second leading cause of death among adolescents and young adults ages 15-24 in California. In addition to human tragedies, based on only medical and work-loss costs, suicide result in estimates costs of \$4.9 billion.

Rates of suicide vary greatly across the state, and suicide rates are highest in Northern California and along the eastern portions of the state, which are predominantly rural counties. The rate of suicide among males is over three times the rate among females. Suicide rates also peak at multiple stages throughout the lifespan, first among young adults (ages 25-29), followed by middle age (ages 50-64), and are highest at ages 85 and above. The highest suicide rate (45.1) is among older adult males, ages 85 and above. According to DPH, the public health approach to violence prevention focuses on the following four-step process: define and monitor the problem; identify risk and protective factors; develop and test prevention strategies; and, assure widespread dissemination of effective practices.

The Mental Health Services Oversight and Accountability Commission (MHSOAC), through its 2019 report entitled "Striving for Zero: California's Strategic Plan for Suicide Prevention 2020-2025," recommended the state create the Office of Suicide Prevention within DPH, expand the California Electronic Violent Death Reporting System by allocating local assistance funding to supplement federal funding, require standardized suicide prevention training to providers in all hospital settings and expand current requirement to screen for suicide risk in health, mental health, and substance use disorder care settings; and require all hospitals to develop and implement written uniform policies for discharge after a person has received suicide-related services.

**According to the Author:**

Establishes the OSP within DPH to address suicide and suicide prevention.

**Arguments in Support:**

The California Alliance of Child and Family Services, the sponsor of this bill, states that California has programs and funding streams targeted to suicide prevention; but what we don't have is one coordinating agency to give these efforts focus, to support local efforts, and to be accountable for results. This bill would implement a central recommendation in the 2019 report from MHSOAC.



The California Children's Hospital Association states that there is a need to address the needs of youth at risk of suicide requires statewide commitment, cooperation, and leadership.

**Arguments in Support if Amended**

The California Psychological Association has a support if amended position on this bill and asks to expressly include mental health professionals in the list of experts who are included in the policy making

**Arguments in Opposition:**

The California Right to Life Committee has an oppose position and questions whether the establishment of a new bureaucracy under DPH will actually address the concerns society has about Californians who attempt and/or succeed in ending their lives.

**FISCAL COMMENTS:**

According to the Assembly Appropriation Committee, cost pressure in the hundreds of thousands of dollars or higher for DPH to establish and operate the OSP.

**VOTES:****ASM HEALTH: 15-0-0**

**YES:** Wood, Mayes, Aguiar-Curry, Bigelow, Bonta, Burke, Carrillo, Flora, Limón, McCarty, Nazarian, Ramos, Rodriguez, Santiago, Waldron

**ASM APPROPRIATIONS: 18-0-0**

**YES:** Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

**UPDATED:**

VERSION: June 4, 2020

CONSULTANT: Rosielyn Pulmano / HEALTH / (916) 319-2097

FN: 0002965

# **AB 2112 - (A) Amends the Law**

## **SECTION 1.**

*The Legislature hereby finds and declares all of the following:*

- (a) Suicide is a public health crisis that has warranted response from the state.*
- (b) Suicide risk is a lifespan issue, with a variety of groups at significant risk of death by suicide. The federal Centers for Disease Control and Prevention has identified groups with the greatest risk, including youth, older adults, veterans and LGBTQ people.*
- (c) Suicide risk is especially acute for young people. Suicide is the second leading cause of death for youth from 10 to 24 years of age, inclusive.*
- (d) The state has sought to address the causes of suicide, including research and development of a statewide strategic plan on suicide prevention. The state has further sought to address the causes of suicide through specific suicide prevention policies and programs.*
- (e) The state has an obligation to focus resources on combating the crisis of suicide.*

## **SEC. 2.**

*Chapter 3 (commencing with Section 131300) is added to Part 1 of Division 112 of the Health and Safety Code, to read:*

### **CHAPTER 3. The Office of Suicide Prevention**

#### **131300.**

*(a) The State Department of Public Health is hereby authorized to establish the Office of Suicide Prevention in the department pursuant to this chapter. The responsibilities of the office, if established, may include all of the following:*

- (1) Providing strategic guidance to statewide and regional partners regarding best practices on suicide prevention.*
- (2) Conducting state level evaluation of regional and statewide suicide prevention policies and practices, including other states' suicide prevention policies, and including specific metrics and domains as appropriate.*
- (3) Using data to identify opportunities to reduce suicide, including utilizing data elements documenting interrupted or aborted suicide attempts and crisis service interventions.*
- (4) Marshaling the insights and energy of medical professionals with mental health experience or expertise, scientists, and other academic experts, as well as public health experts, public servants, and everyday Californians to address the crisis of suicide.*
- (5) Disseminating information to advance statewide progress, including coordinated, targeted, and culturally appropriate campaigns to reach populations with high rates of suicide.*
- (6) Reporting to the Legislature on progress to reduce rates of suicide.*

*(b) If established, the office may focus resources on groups with the highest risk, including youth, Native American youth, older adults, veterans, and LGBTQ people.*

**131305.**

*If established, the Office of Suicide Prevention may share and receive data from state entities with data relevant to the responsibilities and objectives of the office.*

**131310.**

*If established, the Office of Suicide Prevention may apply for and utilize federal grants.*

## MEMORANDUM

<b>DATE</b>	June 19, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(2)(C): AB 2164 (Robert Rivas) Telehealth

### **Background:**

This bill would provide that an Federally Qualified Health Center (FQHC) or Rural Health Clinic (RHC) “visit” includes an encounter between an FQHC or RHC patient and a health care provider using telehealth by synchronous real time or asynchronous store and forward. The bill would clarify, for purposes of an FQHC or RHC visit, that face-to-face contact between a health care provider and a patient is not required for an FQHC or RHC to bill for telehealth by synchronous real time or asynchronous store and forward if specified requirements are met, including that a billable provider in the Medical program, and who is employed by the FQHC or RHC, supervises or provides the services for that patient via telehealth by synchronous real time or asynchronous store and forward.

Section 174132.100(g)(1) of the Welfare and Institutions Code defines “visit” as:

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.

**Location:** Senate Committee on Rules

**Status:** 6/11/20 In Senate. Read first time. To Committee on Rules for assignment.

### **Action Requested:**

Staff recommends the Board **Support** AB 2164 (Robert Rivas).

Attachment A: Assembly Floor Analysis

Attachment B: AB 2164 (Robert Rivas) Bill text

ASSEMBLY THIRD READING  
AB 2164 (Robert Rivas and Salas)  
As Amended June 4, 2020  
Majority vote

## **SUMMARY:**

Prohibits face-to-face contact between a health care provider and a Medi-Cal eligible patient from being required for a federally qualified health center (FQHC) or rural health clinic (RHC) to establish a patient at any time, including during an initial telehealth visit, or to render and bill for services by telehealth, subject to specified requirements.

### **Major Provisions**

- 1) Requires, if FQHC services and RHC services involve telehealth by synchronous real time or asynchronous store and forward, all of the following to apply:
- 2) Prohibits face-to-face contact between a health care provider and a Medi-Cal eligible patient, from being required for the FQHC or RHC to establish the patient at any time, including during an initial telehealth visit by synchronous real time or asynchronous store and forward, as a patient of record of the FQHC or RHC or to render and bill for services by telehealth synchronous real time or asynchronous store and forward services, if all of the following requirements are met: a) a licensed non-billable Medi-Cal provider, who is employed by the billing FQHC or RHC, is physically present with the patient at the originating site, as defined in existing law; b) the billing provider is also an employee of the FQHC or RHC; c) the patient is at an originating site that is a licensed FQHC or RHC or an intermittent clinic site of the FQHC or RHC, and is located within the FQHC's or RHC's federally designated service area; and, d) a billable provider in the Medi-Cal program, and who is employed by the FQHC or RHC, supervises or provides the health services for that patient via telehealth by synchronous real time or asynchronous store and forward.
- 3) Permits a patient relationship with the FQHC or RHC to be established at any time, including during an initial visit that includes telehealth by synchronous real time or asynchronous store and forward.
- 4) Defines, for purposes of FQHC and RHC reimbursement provisions under what is known as the Prospective Payment System (PPS), an FQHC or RHC "visit" to include a visit using telehealth by synchronous real time or asynchronous store and forward.
- 5) Defines a "patient" as an individual enrolled in the Medi-Cal program who may or may not have an established patient of record relationship with the FQHC or RHC.
- 6) Permits the Department of Health Care Services (DHCS) to implement, interpret, and make specific the Medi-Cal telehealth provisions of this bill by means of all-county letters, provider bulletins, and similar instructions.

## **COMMENTS:**

FQHCs and RHCs are federally designated clinics that are required to serve medically underserved populations that provide primary care services. There are over 1,000 FQHCs and approximately 283 RHCs in California. Medi-Cal reimbursement to FQHCs and RHCs is

governed by state and federal law. FQHCs and RHCs are reimbursed by Medi-Cal on a cost-based per-visit rate under the PPS. For Medi-Cal managed care plan patients, DHCS reimburses FQHCs and RHCs for the difference between its per-visit PPS rate and the payment made by the plan. The mean and median PPS rate paid to an FQHC and an RHC is considerably higher than the most common primary care visit fee-for-service reimbursement rates in Medi-Cal.

DHCS considers telehealth a cost-effective alternative to health care provided in-person, particularly to underserved areas. Telehealth is not a distinct service, but a way that providers deliver health care to their patients that approximates in-person care. The standard of care is the same whether the patient is seen in-person or through telehealth. DHCS's coverage and reimbursement policies for telehealth align with the California Telehealth Advancement Act of 2011 and federal regulations. State law defines telehealth as "the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site." Medi-Cal complies with federal regulations for telehealth, which are the same for Medicaid as they are for Medicare. Medicaid regulations authorize telehealth using "interactive communications" and asynchronous store and forward technologies. Interactive telecommunications must include, at a minimum, audio and video equipment permitting real-time two-way communication, according to the Centers for Medicare and Medicaid Services (CMS). DHCS recently revised the Medi-Cal telehealth policy to allow providers increased flexibility in their use of telehealth as a modality for delivering medically necessary services to their patients. The policy is effective July 1, 2019, and fee-for-service providers must submit claims for services provided via telehealth according to the new policy. However, DHCS has a more restrictive telehealth policy for FQHC and RHCs, as described below.

In February 2020, DHCS revised its Medi-Cal FQHC and RHC reimbursement policies in its Provider Manual for telehealth, with separate telehealth guidance for FQHCs and RHCs. For FQHCs and RHCs, the policies define what is an "established patient" for purposes of telehealth policy as one or more of the following:

- 1) The patient must have a health record with the FQHC or RHC that was created or updated during a visit that occurred in the clinic or during a synchronous telehealth visit in a patient's residence or home with a clinic provider and a billable provider at the clinic. The patient's health record must have been created or updated within the previous three years.
- 2) The patient is homeless, homebound or a migratory or seasonal worker (HHMS) and has an established health record that was created from a visit occurring within the last three years that was provided outside the originating site clinic, but within the FQHC's or RHC's service area. A consent for telehealth services for these patients must be documented.
- 3) The patient is assigned to the FQHC or RHC by their Medi-Cal managed care plan pursuant to a written agreement between the plan and the FQHC or RHC.

DHCS guidance prohibits a patient from being "established" on an asynchronous store and forward service, with the exception of HHMS. This bill would change this and instead permit an FQHC or RHC to establish a patient at any time, including during an initial telehealth visit by synchronous real time or asynchronous store and forward, or to render and bill for services by telehealth synchronous real time or asynchronous store and forward services, subject to specified

requirements, thereby over-riding several DHCS telehealth policy restrictions for both asynchronous store and forward and synchronous interactions.

As described below, DHCS has requested a waiver of the "established patient" requirements via a Social Security Act Section 1135 waiver and State Plan Amendment (SPA). This telehealth policy change would enable the Virtual Dental Home program to be used for patients who are not established patients of the FQHC. Under the Virtual Dental Home, a registered dental assistant (RDA), registered dental hygienist (RDH) or RDH in alternative practice (RDHAP) used portable imaging equipment and an internet-based dental record system to collect electronic dental records such as X-rays, photographs, charts of dental findings, and dental and medical histories, and uploads the information to a secure website, where they are reviewed by a collaborating dentist. The dentist reviews the patient's information and creates a tentative dental treatment plan. The RDHAP, RDH or RDA then carries out the aspects of the treatment plan that can be conducted in the community setting. After the dentist reviews the electronic dental records, the RDHAP, RDH or RDA refers patients to dental offices for procedures that require the skills of a dentist. However, the allied dental professionals in the HWPP 172 demonstration project were allowed to place interim therapeutic restorations (ITRs are temporary fillings) under general supervision of dentists. When these visits occur, the patient arrives with health history and consent arrangements completed, a diagnosis and treatment plan already determined, preventive practices in place and preventive procedures having been performed. AB 1174 (Bocanegra), Chapter 662, Statutes of 2014 codified the scope of practice expansion of certain allied dental professionals and prohibited Medi-Cal from requiring a face-to-face visit between a patient and provider before allowing for teledentistry services as a Medi-Cal billable service. However, the established patient requirement for FQHCs limits the use of teledentistry as dental hygienists performing x-rays and transmitting them via "store and forward" and treating children in a school-based setting is not reimbursable if they are not an established patient of the FQHC.

On March 26, 2020, DHCS wrote to CMS requesting approval for the multiple detailed additional flexibilities under Social Security Act Section 1135. When the President declares a disaster or emergency under the Stafford Act or National Emergencies Act and the federal Department of Health and Human Services (DHHS) Secretary declares a public health emergency, the Secretary of DHHS is authorized to take certain actions in addition to her regular authorities. For example, under Social Security Act Section 1135, they may temporarily waive or modify certain Medicare, Medicaid, and Children's Health Insurance Program requirements to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in Social Security Act programs in the emergency area and time periods and that providers who provide such services in good faith can be reimbursed and exempted from sanctions.

Related to this bill, DHCS requested a waiver of the face-to-face encounter requirement for reimbursement in specified federal regulations relative to covered services via telehealth provided by clinic providers, and to allow flexibility to provide these covered services via telehealth without regard to date of last visit and for new or established clinic patients.

DHCS followed up on April 3, 2020, with a letter to CMS requesting a SPA 20-0024, that when the treating health care practitioner of the FQHCs/RHCs satisfies all of the procedural and technical components of the Medi-Cal covered service or benefit being provided except for the face-to-face component, reimbursement to occur to an FQHC or RHC at the PPS rate for new or

established patients, irrespective of date of last visit. DHCS seeks to align this SPA with the duration of the emergency period, starting with the effective date of March 1, 2020.

**According to the Author:**

California's community health centers serve the state's most vulnerable populations. One in six Californians are seen in an FQHC in California today for their healthcare needs and one in three of these patients are covered by Medi-Cal. The COVID-19 pandemic has underscored the importance of utilizing telehealth to ensure the delivery of reliable care to the most vulnerable populations and underserved areas of the state. Telehealth has proven to be an invaluable tool to ensure that patients, especially those who are low-income and living in underserved areas, get the medical, dental, and mental healthcare they need. Health centers are recognized as central to primary care delivery in California and need to be supported to integrate virtual care innovation and technology into their clinical workflow and assist with staff and provider education and training. It is essential that we make it easier to provide care to people who wouldn't get it otherwise. The authors conclude that this bill would expand access for the most vulnerable populations by enabling FQHCs and RHCs, which are critical sources of care that serve as safety net for the most vulnerable populations, to establish patients via telehealth at community sites, such as schools, early learning sites and nursing homes.

**Arguments in Support:**

This bill is jointly sponsored by CaliforniaHealth+Advocates, the California Dental Association, the Children's Partnership and Children Now, writing that with an expansion of telehealth, California can further address access barriers for children by ensuring community health centers are able to bring care to where children are, through innovative solutions like telehealth. Supporters argue this bill supports health centers' ability to establish and serve patients by bringing health care to safe and trusted community sites within their designated service areas, such as schools and early learning sites, using effective telehealth models. The sponsors state, one evidence-based example is the virtual dental home, in which specially trained dental hygienists and assistants go to schools and other community sites to provide diagnostic, preventive, and early intervention dental care in partnership with a collaborating dentist. Additionally, parents do not need to take time off of work and a child does not need to miss school to get timely and needed care. When schools across California reopen after this time of emergency, students will need access to mental and behavioral health resources more than ever. In recent years, the Legislature has looked to telehealth as one key strategy in addressing the barriers faced by students in accessing mental and behavioral health care in their communities. This bill will ensure that as the need for care delivered via telehealth continues to grow, we will have policies in place to support these innovative solutions to provide safe, high-quality care to California's most vulnerable populations.

**Support if Amended:**

The California Association of Physician Assistants write, in a previous version of this bill, that by law, physician assistants (PAs) work in collaboration and under the supervision of the physicians mentioned in this bill. As this bill is laudably intended to expand access to services, especially during a pandemic, and as PAs work with the physicians mentioned in the bill, this bill would be strengthened by including PAs. Recent amendments struck out relevant provisions of this bill.



**FISCAL COMMENTS:**

According to the Assembly Appropriations Committee, unknown, likely significant Medi-Cal costs for an increase in visits, associated with the ability of a clinic to allow a patient to be established through telehealth without a face-to-face visit. DHCS also notes if this change is allowed on a longer-term basis, it could lead to additional change in scope-of-service requests. Additional requests result in administrative costs to recalculate PPS rates and result in higher PPS rates paid per visit for all future visits.

**VOTES:****ASM HEALTH: 15-0-0**

**YES:** Wood, Mayes, Aguiar-Curry, Bigelow, Bonta, Burke, Carrillo, Flora, Limón, McCarty, Nazarian, Ramos, Rodriguez, Santiago, Waldron

**ASM APPROPRIATIONS: 18-0-0**

**YES:** Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

**UPDATED:**

VERSION: June 4, 2020

CONSULTANT: Kristene Mapile / HEALTH / (916) 319-2097

FN: 0002968

# AB 2164 - (A) Amends the Law

## SECTION 1.

*The Legislature finds and declares the following:*

*(a) Telehealth, or the delivery of health care services through electronic information technology, is an effective means to ensure patients, regardless of location, can access safe and effective health care. One method of telehealth to better serve patients and improve primary care providers' scope of practice are e-consults, which are asynchronous electronic consultations between health care providers—often a specialist and primary care provider.*

*(b) E-consults help patients avoid long wait times, traveling great distances, and missed income or childcare expenditures, issues that have a greater impact on the safety net population. Growth of e-consult services improve access to specialty care, expand specialists' bandwidth, and further educate primary care physicians at relatively low cost.*

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

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

### 14132.100.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A change in costs is not, in and of itself, 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 413.1) 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 change. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal year.

(4) An FQHC or RHC may submit requests for scope-of-service changes 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 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 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 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 change, the adjusted reimbursement rate for that scope-of-service change shall be made retroactive to the date the scope-of-service change was initially implemented. 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 adjustments described in subdivision (e). Extraordinary circumstances include, but are not limited to, acts of nature, changes in applicable requirements in the Health and Safety Code, changes in applicable licensure requirements, and changes in applicable rules or regulations. Mere inflation of costs alone, absent extraordinary circumstances, shall not be grounds for supplemental payment. If an FQHC's or RHC's PPS rate is sufficient to cover its overall costs, including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

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

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

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

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

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

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

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

(g) (1) An FQHC or RHC "visit" means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse. For purposes of this section, "physician" shall be interpreted in a manner consistent with the federal Centers for Medicare and Medicaid Services' Medicare Rural Health Clinic and Federally Qualified Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a physician and surgeon, osteopath, podiatrist, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive

perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan's definition of an FQHC or RHC visit.

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

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

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

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

*(4) A visit shall also include an encounter between an FQHC or RHC patient and a health care provider using telehealth, either in synchronous real time or asynchronous store and forward, as described in Section 14132.726.*

(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~~ *scope-of-service* request if both of the following requirements are met:

(i) The change in ~~scope-of-service~~ *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~~ *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~~ *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~~ *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, 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 FQHC or RHC enrollment approval, and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

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

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

(3) This subdivision does not preclude ~~or otherwise~~ ~~nor~~ limit the right of the FQHC or RHC to request a scope-of-service adjustment to the rate.

(k) An FQHC or RHC may elect to have pharmacy or dental services reimbursed on a fee-for-service basis, utilizing the current fee schedules established for those services. These costs shall be adjusted out of the FQHC's or RHC's clinic base rate as scope-of-service changes. 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 adjustments as provided in subdivision (e).

(l) 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 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 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 change under this subdivision only within 90 days following the beginning of the FQHC's or RHC's fiscal year. ~~Any~~ A 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 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 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 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 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" has the same meaning as set forth in subdivision (o) of Section 14184.10.

(m) 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 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 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 change under this subdivision only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any scope-of-service change request under this subdivision approved by the department is 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 the effective date shall not 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-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 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 adjustments as provided for in subdivision (e).

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

(n) FQHCs and RHCs may appeal a grievance or complaint concerning ratesetting, 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.

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

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

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

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

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

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

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

### **SEC. 3.**

*Section 14132.726 is added to the Welfare and Institutions Code, to read:*

#### **14132.726.**

*If federally qualified health center (FQHC) services and rural health clinic (RHC) services, as described in Section 1396d(a)(2) of Title 42 of the United States Code and Section 14132.100, involve telehealth by synchronous real time or asynchronous store and forward, all of the following apply:*

*(a) Face-to-face contact between a health care provider and a patient is not required for the FQHC or RHC to establish the patient at any time, including during an initial telehealth visit by synchronous real time or asynchronous store and forward, as a patient of record of the FQHC or RHC or to render and bill for services by telehealth synchronous real time or asynchronous store and forward services pursuant to subdivisions (c) and (g) of Section 14132.100, if all of the following requirements are met:*

*(1) A licensed nonbillable Medi-Cal provider, who is employed by the billing FQHC or RHC, is physically present with the patient at the originating site, as defined in paragraph (4) of subdivision (a) of Section 2290.5 of the Business and Professions Code.*

*(2) The billing provider is also an employee of the FQHC or RHC.*

*(3) The patient is at an originating site, as defined in paragraph (4) of subdivision (a) of Section 2290.5 of the Business and Professions Code, that is a licensed FQHC or RHC or an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, of the FQHC or RHC, and is located within the FQHC's or RHC's federally designated service area.*

*(4) A billable provider in the Medi-Cal program, and who is employed by the FQHC or RHC, supervises a licensed provider or provides the health services for that patient via telehealth by synchronous real time or asynchronous store and forward.*

*(b) A patient relationship with the FQHC or RHC may be established at any time, including during an initial visit that includes telehealth by synchronous real time or asynchronous store and forward.*

*(c) (1) For purposes of this section and pursuant to paragraph (4) of subdivision (g) of Section 14132.100, an FQHC or RHC "visit" includes a visit using telehealth by synchronous real time or asynchronous store and forward pursuant to Section 14132.726.*

*(2) For purposes of this section, a "patient" is an individual enrolled in the Medi-Cal program who may or may not have an established patient of record relationship with the FQHC or RHC.*

*(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions. By July 1, 2022, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Beginning six months after the effective date of this section, and notwithstanding Section 10231.5 of the Government Code, the department shall provide a status report to the Legislature on a semiannual basis until regulations have been adopted.*

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## MEMORANDUM

<b>DATE</b>	June 22, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(b)(2)(D)– 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.

Board staff was advised that Assembly Member Patterson will not be pursuing this bill.

**Location:** Assembly Committee on Business and Professions

**Status:** 5/14/2020 Referred to Committee on Business and Professions

**Action Requested:**

No Action is requested at this time. Staff will continue to Watch AB 2185.

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

# 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 another state or jurisdiction 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 gained licensure in the other state and holds that license in good standing, and those requirements are deemed similar to the standards required for licensure in this state by the appropriate licensing board.*

*(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 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 or any other board that currently authorizes license portability as a component of qualifying for licensure in this state, and the Board of Behavioral Sciences or any other board that has a mandatory license portability requirement in statute. License portability is defined as either providing a license by endorsement with verification of an out-of-state license in good standing, or exempting state-specific requirements to facilitate a practitioner's ability to obtain a license and practice in multiple jurisdictions.*

*(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

<b>DATE</b>	June 22, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(2)(E): 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 board to submit to the department for approval draft regulations necessary to administer these provisions by January 1, 2022. The bill would exempt from these provisions a board that has a process in place by which an out-of-state licensed applicant in good standing who 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 is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year.

**Location:** Senate Committee on Rules

**Status:** 6/11/2020 In Senate. Read first time. To Committee on Rules for assignment.

### **Action Requested:**

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

Attachment A: Assembly Floor Analysis  
Attachment B: AB 2549 (Salas) Bill Text

## ASSEMBLY THIRD READING

AB 2549 (Salas)

As Amended May 18, 2020

Majority vote

**SUMMARY:**

Adds specified licensing boards to the list of boards under the Department of Consumer Affairs (DCA) that are required to issue temporary licenses to military spouses, requires boards under the requirement to promulgate regulations, as specified, and makes other technical changes.

**Major Provisions**

- 1) Adds the following boards to the existing requirement to issue temporary licenses to specified military spouses:
  - a) The Dental Board of California.
  - b) The Dental Hygiene Board of California.
  - c) The California State Board of Pharmacy.
  - d) The State Board of Barbering and Cosmetology.
  - e) The Board of Psychology.
  - f) The California Board of Occupational Therapy.
  - g) The Physical Therapy Board of California.
  - h) The California Board of Accountancy.
- 2) Specifies that the revenues from fees for temporary licenses issued by the California Board of Accountancy shall be credited to the Accountancy Fund.
- 3) Clarifies that the boards required to issue temporary licenses shall issue the license within 30 days of receiving the required documentation.
- 4) Requires the boards required to issue temporary licenses to submit to the DCA for approval draft regulations necessary to administer the temporary license programs by January 1, 2022, and specifies that the regulations shall be adopted pursuant to the Administrative Procedure Act.
- 5) Exempts boards from the temporary license requirements if the board already has a similar process in place.

**COMMENTS:**

In California, many professions require a license to legally practice. The majority of professional licensing programs are administered by licensing boards, bureaus, and other entities within the DCA. The DCA licensing entities are established to protect the people of California through



adequate regulation of businesses and professions that engage in activities that risk harm to the health, safety, and welfare of the public.

The licensing entities establish the minimum level of competency required to engage in the occupations they regulate. As a result, an applicant seeking a license to practice from a licensing authority must demonstrate the ability to provide safe and effective services to the public. However, to avoid creating unnecessary barriers to entering a profession, the requirements should not require more than the minimum amount of training, education, and experience necessary to practice safely.

*Temporary licenses.* Temporary licenses are typically issued to applicants seeking licensure within a professional occupation who are able to immediately demonstrate meeting some of the qualifications required for licensure. This allows them to practice while the remainder of the qualifications are obtained or verified. For example, applicants who hold an active professional license in another state and have passed a national licensing examination may still have educational requirements to meet in order to become licensed in California.

Currently, eight boards are required to issue temporary licenses. These include registered nurse licenses by the Board of Registered Nursing, vocational nurse and psychiatric technician licenses issued by the Board of Vocational Nursing and Psychiatric Technicians, Speech-language pathologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, Veterinarian license issued by the Veterinary Medical Board, all licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists, and all licenses issued by the Medical Board of California.

This bill would additionally require, at the request of the bill's supporters, temporary licenses be expanded to all licenses issued by the Dental Board, the Dental Hygiene Board, the State Board of Pharmacy, the Board of Accountancy, the Veterinary Medical Board, the State Board of Barbering and Cosmetology, the Board of Psychology, the Board of Occupational Therapy, and the Physical Therapy Board.

**According to the Author:**

"We must do more for military spouses, who are six times more likely to be unemployed, find a job so that they can put food on the table. Transferring professional licenses that spouses have already earned should be a seamless process that allows spouses to quickly find well-paying jobs in their field. This program has already worked for 6 years, and by expanding it to include more common occupations of military spouses we can ensure our military families will thrive in California."

**Arguments in Support:**

*The American Legion, Department of California, AMVETS, Department of California, California State Commanders Veterans Council, Military Officers Association of America, California Council of Chapters, and the Vietnam Veterans of America, California State Council,* write in support, "Military families face many challenges as they navigate through deployments, relocations, and the costs associated with frequent, unexpected lifestyle changes. Just the financial burden of moving can be a huge setback for a military family. There may be a need for new child care services in short order, they must pay for the delivery of all their possessions, or they may have to rent vehicles. All of these costs add up quickly and could even occur multiple times in a single year. A 2019 report from the National Foundation for Credit Counseling found that almost 90% of service members and 84 percent of spouses or partners have worries about

their personal finances. These worries are growing, with service members being more than twice as likely to not be able to pay all their bills on time compared to just 5 years ago.

A 2012 Department of Defense report found that jobs such as accountants, auditors, and dental assistants rank among the top occupations for military spouses, yet these licenses are not covered by the program that AB 186 created. [This bill] expands the amount of licenses that military spouses are likely to benefit from in order to increase the efficacy of this program and ease the burdens placed on military spouses and military families."

The *United States (U.S.) Department of Defense* writes in support, "Addressing licensure issues for the spouses of our military Service members has been a priority for the Department for several years. Military spouses are disproportionately affected by state-specific licensure requirements that can cause delays and gaps in employment, with over 34 percent of the working population requiring state licensure to practice in their professions and an annual cross-state relocation rate 10 times higher than their civilian counterparts. Consequently, military spouses experience unemployment and underemployment at significantly higher rates than their civilian peers.

State policies that enhance existing licensure provisions for military spouses relieve one of the many stressors of frequent military moves by enabling spouses to more quickly transfer their licenses in order to obtain employment in a new state. These policies facilitate greater career sustainability for military spouses, improving their families' financial security and overall resilience. The need for such policies in California is underscored by the fact that California hosts over 62,000 active duty military spouses, the highest in the U.S. This number represents over 11 percent of military spouses, DoD-wide."

#### **Arguments in Opposition:**

None on file

#### **FISCAL COMMENTS:**

According to the Assembly Appropriations Committee:

- 1) Estimated cost to the Board of Pharmacy of \$150,000 in fiscal year (Fiscal Year (FY)) 2021-22, and \$142,000 (special funds) in FY 2022-23 for one position to develop and promulgate regulations, update application forms, develop internal processes, partner and with OIS on programming changes and testing, developing education and outreach materials among other activities. The board indicates, depending on the workload generated, the position may need to be permanent.
- 2) Estimated costs to the Board of Psychology of \$125,000 in FY 2020-21, and \$117,000 (special funds) ongoing for one position to implement the provisions of this bill and review and approve applications within 30 days of receiving required documentation. The board anticipates a significant volume of applications per year.
- 3) Estimated costs to the Dental Hygiene Board of \$125,000 in FY 2020-21, and \$117,000 (special funds) ongoing for one position to implement the provisions of the bill and review and approve applications within 30 days of receiving required documentation. The board anticipates a significant volume of applications per year.
- 4) Minor and absorbable costs for the remaining boards.

**VOTES:**

**ASM BUSINESS AND PROFESSIONS: 19-0-0**

**YES:** Low, Brough, Arambula, Bloom, Chen, Chiu, Cunningham, Eggman, Fong, Gipson, Gloria, Grayson, Holden, Irwin, McCarty, Medina, Mullin, Obernolte, Ting

**ASM APPROPRIATIONS: 18-0-0**

**YES:** Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

**UPDATED:**

VERSION: May 18, 2020

CONSULTANT: Vincent Chee / B. & P. / (916) 319-3301

FN: 0002808

# 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- Except as provided in subdivision (h), 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 board shall submit to the department for approval draft regulations necessary to administer this section by January 1, 2022. These regulations shall be adopted 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).*

*(h) This section shall not apply to a board that has a process in place by which an out-of-state licensed applicant in good standing who 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 is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year.*

## **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

<b>DATE</b>	June 22, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(b)(2)(F) – 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.”

At the June 12, 2020 Legislative and Regulatory Affairs Committee meeting, the Committee approved a **Support** recommendation to go to the full Board for consideration.

**Location:** Assembly Committee on Public Safety

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

### **Action Requested:**

The Legislative and Regulatory Affairs Committee recommends the Board **Support** AB 2630 (Flora).

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.

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## MEMORANDUM

<b>DATE</b>	June 22, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item # 11(b)(2)(G) – AB 2856 (Committee on Business and Professions) Board of Psychology

**Background:**

This is the original Sunset extension bill for the Board of Psychology.

As currently written this bill would specify that each appointing authority has the authority to remove from office at any time any member of the Board appointed by that authority. The bill would make other changes to the provisions requiring the board to enforce and administer the law and authorizing the board to make expenditures to carry out the law, including that authorized expenditures be necessary to carry out those provisions.

Due to COVID-19, the Board will receive a one-year extension to our sunset provision. This change will be reflected in SB 1474 (Committee on Business Professions and Economic Development).

**Location:** Assembly Committee on Business and Professions

**Status:** 3/05/2020 Referred to Committee on Business and Professions

**Action Requested:**

No action is requested at this time. Staff will continue to watch AB 2856 (Committee on Business and Professions).

Attachment A: AB 2856 (Committee on Business and Professions) Bill Text

# AB 2856 - (I) Amends the Law

## SECTION 1.

Section 2920 of the Business and Professions Code is amended to read:

2920.

(a) The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

(c) Notwithstanding any other law, the repeal of this section ~~renders~~ *shall render* the board subject to review by the appropriate policy committees of the Legislature.

## SEC. 2.

Section 2922 of the Business and Professions Code is amended to read:

2922.

(a) In appointing the members of the board, except the public members, the Governor shall use ~~his or her~~ *their* judgment to select psychologists who represent, as widely as possible, the varied professional interests of psychologists in California.

(b) The Governor shall appoint two of the public members and the five licensed members of the board qualified as provided in Section 2923. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

*(c) Each appointing authority shall have the authority to remove from office at any time any member of the board appointed by that authority.*

## SEC. 3.

Section 2933 of the Business and Professions Code is amended to read:

2933.

(a) Except as provided by Section 159.5, the board shall employ and shall make available to the board within the limits of the funds received by the board all personnel necessary to carry out this chapter. The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology. The board shall make all expenditures *that are necessary* to carry out this chapter. The board may accept contributions to effectuate the purposes of this chapter.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

## MEMORANDUM

<b>DATE</b>	May 27, 2020
<b>TO</b>	Legislative and Regulatory Affairs Committee
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(b)(2)(H) – 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 a license 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.

At the June 12, 2020 Legislative and Regulatory Affairs Committee meeting, the Committee approved an **Oppose** recommendation to go to the full Board for consideration.

**Location:** Senate Committee on Rules

**Status:** 6/11/2020 In Senate. Read first time. To Committee on Rules for assignment.

### **Action Requested:**

The Legislative and Regulatory Affairs Committee recommends the Board **Oppose** 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

<b>Author:</b> Gray	<b>Bill Number:</b> AB 3045	<b>Related Bills:</b>
<b>Sponsor:</b> Author	<b>Version:</b> Introduced	
<b>Subject:</b> 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	
<b>Legislative &amp; Regulatory Affairs Committee Position:</b>	<b>Full Board Position:</b>
<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: _____	Date: _____
Vote: _____	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**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 11(b)(2)(H) Attachment

AB 3045 Utah Military Exemption Letter Attachment B

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 11(b)(2)(H) Attachment

AB 3045 Washington Endorsement Info - Attachment C

# 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.*

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## MEMORANDUM

<b>DATE</b>	June 22, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #11(b)(2)(I) – SB 1474 (Committee on Business Professions and Economic Development) Business and Professions

**Background:**

This bill would modify the Board's Sunset date to January 1, 2022.

At the June 12, 2020 Legislative and Regulatory Affairs Committee meeting, the Committee approved a **Support** recommendation to go to the full Board for consideration.

**Location:** Senate Floor

**Status:** 6/18/2020 Read second time and amended. Ordered to second reading.

**Action Requested:**

The Legislative and Regulatory Affairs Committee recommends the Board **Support** SB 1474 (Committee on Business Professions and Economic Development).

Attachment A: SB 1474 (Committee on Business Professions and Economic Development) Applicable Bill Text

# SB 1474 - (A) Amends the Law

...

## **SEC. 19.**

*Section 2920 of the Business and Professions Code is amended to read:*

2920.

(a) The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.

(b) This section shall remain in effect only until January 1, ~~2021~~, 2022, and as of that date is repealed.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

## **SEC. 20.**

*Section 2933 of the Business and Professions Code is amended to read:*

2933.

(a) Except as provided by Section 159.5, the board shall employ and shall make available to the board within the limits of the funds received by the board all personnel necessary to carry out this chapter. The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology. The board shall make all expenditures to carry out this chapter. The board may accept contributions to effectuate the purposes of this chapter.

(b) This section shall remain in effect only until January 1, ~~2021~~, 2022, and as of that date is repealed.

## MEMORANDUM

<b>DATE</b>	June 22, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(A): 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:** 1/28/2020: 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. Staff will continue to Watch AB 499 (Mayes).

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

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(B): AB 613 (Low) Professions and vocations: regulatory fees

**Background:**

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

**Location:** Assembly Committee on Appropriations

**Status:** 7/1/2019: In committee: Testimony taken. Hearing postponed by committee.

**Action Requested:**

No action is required at this time. This item is for informational purposes only. Staff will continue to Watch AB 613 (Low).

Attachment A: AB 613 (Low) Bill Text

# AB 613 - (I) Amends the Law

## SECTION 1.

*Section 101.1 is added to the Business and Professions Code, to read:*

*101.1.*

*(a) Notwithstanding any other law, no more than once every four years, any board listed in Section 101 may increase any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code, for the preceding four years in accordance with the following:*

*(1) The board shall provide its calculations and proposed fee, rounded to the nearest whole dollar, to the director and the director shall approve the fee increase unless any of the following apply:*

*(A) The board has unencumbered funds in an amount that is equal to more than the board's operating budget for the next two fiscal years.*

*(B) The fee would exceed the reasonable regulatory costs to the board in administering the provisions for which the fee is authorized.*

*(C) The director determines that the fee increase would be injurious to the public health, safety, or welfare.*

*(2) The adjustment of fees and publication of the adjusted fee list is not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) of the Government Code.*

*(b) For purposes of this section, "fee" includes any fees authorized to be imposed by a board for regulatory costs. "Fee" does not include administrative fines, civil penalties, or criminal penalties.*

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(C): AB 798 (Cervantes) Maternal mental health

**Background:**

This bill would declare the intent of the Legislature to address the shortage of treatment options for women suffering from maternal mental health disorders, including postpartum depression and anxiety disorders. This bill would create a pilot program, in the 10 largest counties by population, designed to increase the capacity of health care providers that serve pregnant and postpartum women up to one year after delivery to effectively prevent, identify, and manage postpartum depression and other mental health conditions. The pilot program would be coordinated by the State Department of Public Health and be privately funded. The bill would require the department to submit a report to the Legislature regarding the pilot program 6 months after the results of the pilot program are reported, as specified. The bill would repeal these provisions on January 1, 2025. Because the bill would require the 10 largest counties by population to participate in the program, the bill would impose a state-mandated local program.

**Location:** Senate Committee on Appropriations

**Status:** 6/24/2019: In committee: Set, first hearing. Hearing canceled at the request of author

**Action Requested:**

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

Attachment A: AB 798 (Cervantes) Bill Text

# AB 798 - (A) Amends the Law

## SECTION 1.

*It is the intent of the Legislature to address the shortage of treatment options for women suffering from maternal mental health disorders, including postpartum depression and anxiety disorders.*

## SEC. 2.

*Section 131120 is added to the Health and Safety Code, to read:*

### 131120.

*(a) There is hereby created a pilot program, in the 10 largest counties by population, including the County of Riverside, to increase the capacity of health care providers that serve pregnant and postpartum women up to one year after delivery to effectively prevent, identify, and manage postpartum depression and other mental health conditions. The pilot program shall be coordinated by the State Department of Public Health and shall be privately funded. The pilot program may include a provider-to-provider or patient-to-provider consultation program and utilize telehealth or e-consult technologies. The pilot program may include the following elements:*

- (1) Training and toolkits on screening, assessment, and the range of treatment options.*
- (2) Coordination of care to link women with individual services in their communities.*
- (3) Access to perinatal psychiatric consultations.*

*(b) Within six months after the results of the pilot program are reported, the State Department of Public Health, in consultation with the California Task Force on the Status of Maternal Mental Health Care and state entities, shall submit a report to the Legislature, in accordance with the requirements of Section 9795 of the Government Code, regarding the pilot program described in subdivision (a). The report shall do all of the following:*

- (1) Document the impact of the pilot program on increasing the number of women who were screened, assessed, and treated for maternal mental health disorders.*
  - (2) Identify methods to expand the pilot program to additional counties or statewide.*
  - (3) Identify funding opportunities to support the expansion of the pilot program, including federal funding, state funding, and surcharges.*
- (c) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.*

## SEC. 3.

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

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(D): 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. Staff will continue to Watch AB 1616 (Low).

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

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(E): 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

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(F): AB 2028 (Aguiar-Curry) State agencies: meetings.

### **Background:**

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by 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. The bill would require these writings and materials to be made available on the internet website, and to people who so request in writing, on the same day as they are provided to members of the state body or at least 48 hours in advance of the meeting, whichever is earlier. 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. The bill would except writings or materials relating to matters to be discussed in a closed session from its requirements and would authorize a state body to post and provide additional time-sensitive materials related to certain active legislation, as specified, as they become available, after the prescribed deadlines. The bill would specify that its provisions do not authorize a state body to remove writings and materials from an internet website.

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:** Senate Committee on Rules

**Status:** 6/09/20 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 2028 (Aguiar-Curry) Bill Text

# AB 2028 - (A) 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 website* 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 website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body, or at least 48 hours in advance of the meeting, whichever is earlier.*

*(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.*

*(5) If the writings or materials described in paragraph (1) on an agenda for discussion at a meeting of the state body are related to legislation that is before the Legislature in a current legislative session, a state body is entitled to post online, and shall provide upon request, additional materials related to that active legislation with additional time-sensitive information as it becomes available after the deadlines in this subdivision. The state body shall make clear what date the new or changed writings or materials are posted and, when applicable, what changes have been made in materials already posted.*

*(6) This subdivision does not authorize state bodies to remove any of the writings or materials described in paragraph (1) from the internet website.*

~~(d)~~ (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.

~~(e)~~ (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.

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

~~(g)~~ (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

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(G): 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

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(H): 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. Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited licensure under this bill shall meet all applicable statutory and regulatory licensure requirements. The bill would authorize a board to adopt regulations necessary to administer these provisions.

**Location:** Senate Committee on Rules

**Status:** 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 2113 (Low) Bill Text



# AB 2113 - (A) 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) Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.*

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

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(I): AB 2138 (Chau) California Public Records Act

**Background:**

This bill would recodify and reorganize the provisions of the Public Records Act. The bill would include provisions to govern the effect of recodification and state that the bill is intended to be entirely non-substantive in effect. The bill would contain related legislative findings and declarations. The bill would become operative on January 1, 2022.

**Location:** Assembly Committee on Judiciary

**Status:** 5/05/20 Re-referred to Committee on Judiciary.

**Action Requested:**

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

Attachment A: AB 2138 (Chau) Bill Text

# AB 2138 - (A) Amends the Law

## SECTION 1.

*Article 3 (commencing with Section 6276.50) is added to Chapter 3.5 of Division 7 of Title 1 of the Government Code, to read:*

### **Article 3. Repeal**

*6276.50.*

*This chapter shall remain in effect only until January 1, 2022, and as of that date is repealed.*

## SEC. 2.

*Division 10 (commencing with Section 7920.000) is added to Title 1 of the Government Code, to read:*

### **DIVISION 10. ACCESS TO PUBLIC RECORDS**

#### **PART 1. GENERAL PROVISIONS**

#### **CHAPTER 1. Preliminary Provisions**

#### **Article 1. Short Titles**

*7920.000.*

*This division shall be known and may be cited as the California Public Records Act.*

*7920.005.*

*This division recodifies the provisions of former Chapter 3.5 (commencing with Section 6250) of Division 7 of this title. The act that added this division, and the act that consists of conforming revisions to reflect the addition of this division, shall be known and may be cited as the "CPRA Recodification Act of 2020."*

#### **Article 2. Effect of Recodification**

*7920.100.*

*Nothing in the CPRA Recodification Act of 2020 is intended to substantively change the law relating to inspection of public records. The act is intended to be entirely nonsubstantive in effect. Every provision of this division and every other provision of this act, including, without limitation, every cross-reference in every provision of the act, shall be interpreted consistent with the nonsubstantive intent of the act.*

*7920.105.*

*(a) A provision of this division, or any other provision of the CPRA Recodification Act of 2020, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment.*

*(b) A reference in a statute to a previously existing provision that is restated and continued in this division, or in any other provision of the CPRA Recodification Act of 2020, shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.*

*(c) A reference in a statute to a provision of this division, or any other provision of the CPRA Recodification Act of 2020, which is substantially the same as a previously existing provision, shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.*

**7920.110.**

*(a) A judicial decision interpreting a previously existing provision is relevant in interpreting any provision of this division, or any other provision of the CPRA Recodification Act of 2020, which restates and continues that previously existing provision.*

*(b) However, in enacting the CPRA Recodification Act of 2020, the Legislature has not evaluated the correctness of any judicial decision interpreting a provision affected by the act.*

*(c) The CPRA Recodification Act of 2020 is not intended to, and does not, reflect any assessment of any judicial decision interpreting any provision affected by the act.*

**7920.115.**

*(a) An opinion of the Attorney General interpreting a previously existing provision is relevant in interpreting any provision of this division, or any other provision of the CPRA Recodification Act of 2020, which restates and continues that previously existing provision.*

*(b) However, in enacting the CPRA Recodification Act of 2020, the Legislature has not evaluated the correctness of any Attorney General opinion interpreting a provision affected by the act.*

*(c) The CPRA Recodification Act of 2020 is not intended to, and does not, reflect any assessment of any Attorney General opinion interpreting any provision affected by the act.*

**7920.120.**

*(a) A judicial decision or Attorney General opinion on the constitutionality of a previously existing provision is relevant in determining the constitutionality of any provision of this division, or any other provision of the CPRA Recodification Act of 2020, which restates and continues that previously existing provision.*

*(b) However, in enacting the CPRA Recodification Act of 2020, the Legislature has not evaluated the constitutionality of any provision affected by the act, or the correctness of any judicial decision or Attorney General opinion on the constitutionality of any provision affected by the act.*

*(c) The CPRA Recodification Act of 2020 is not intended to, and does not, reflect any determination of the constitutionality of any provision affected by the act.*

**Article 3. Effect of Division**

**7920.200.**

*The provisions of this division shall not be deemed in any manner to affect the status of judicial records as it existed immediately before the effective date of the provision that is continued in this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.*

**CHAPTER 2. Definitions**

**7920.500.**

*For purposes of Article 3 (commencing with Section 7928.200) of Chapter 14 of Part 5, "elected or appointed official" includes, but is not limited to, all of the following:*

- (a) A state constitutional officer.*
- (b) A member of the Legislature.*
- (c) A judge or court commissioner.*
- (d) A district attorney.*
- (e) A public defender.*
- (f) A member of a city council.*
- (g) A member of a board of supervisors.*
- (h) An appointee of the Governor.*
- (i) An appointee of the Legislature.*
- (j) A mayor.*
- (k) A city attorney.*
- (l) A police chief or sheriff.*
- (m) A public safety official.*
- (n) A state administrative law judge.*
- (o) A federal judge or federal defender.*
- (p) A member of the United States Congress or appointee of the President of the United States.*

**7920.505.**

*(a) The following provisions are continuations of provisions that were included in former Section 6254 as that section read when it was repealed by the CPRA Recodification Act of 2020:*

- (1) Section 7921.500.*
- (2) Sections 7923.600 to 7923.625, inclusive.*
- (3) Section 7923.700.*
- (4) Sections 7923.800 and 7923.805.*
- (5) Section 7924.505.*
- (6) Section 7925.000.*
- (7) Section 7925.005.*
- (8) Section 7925.010.*
- (9) Section 7926.000.*
- (10) Section 7926.100.*
- (11) Section 7926.200.*

- (12) Section 7926.210.*
  - (13) Section 7926.220, except the continuation of former Section 6254.14(b).*
  - (14) Section 7926.225, except the continuation of former Section 6254.14(b).*
  - (15) Section 7926.230, except the continuation of former Section 6254.14(b).*
  - (16) Section 7926.235.*
  - (17) Section 7927.000.*
  - (18) Section 7927.100.*
  - (19) Section 7927.200.*
  - (20) Section 7927.300.*
  - (21) Section 7927.500.*
  - (22) Section 7927.700.*
  - (23) Section 7927.705.*
  - (24) Section 7928.000.*
  - (25) Section 7928.100.*
  - (26) Sections 7928.405 and 7928.410.*
  - (27) Section 7928.705.*
  - (28) Section 7929.000.*
  - (29) Section 7929.200.*
  - (30) Section 7929.205.*
  - (31) Chapter 18 (commencing with Section 7929.400) of Part 5.*
  - (32) Section 7929.605.*
- (b) The provisions listed in subdivision (a) may be referred to as “former Section 6254 provisions.”*
- (c) Subdivision (a) does not include any provision that was first codified in one of the specified numerical ranges after the effective date of the CPRA Recodification Act of 2020.*

**7920.510.**

*As used in this division, “local agency” includes any of the following:*

- (a) A county.*
- (b) A city, whether general law or chartered.*
- (c) A city and county.*
- (d) A school district.*
- (e) A municipal corporation.*
- (f) A district.*
- (g) A political subdivision.*

*(h) Any board, commission, or agency of the foregoing.*

*(i) Another local public agency.*

*(j) An entity that is a legislative body of a local agency pursuant to subdivision (c) or (d) of Section 54952.*

**7920.515.**

*As used in this division, "member of the public" means any person other than a member, agent, officer, or employee of a federal, state, or local agency who is acting within the scope of that membership, agency, office, or employment.*

**7920.520.**

*As used in this division, "person" includes any natural person, corporation, partnership, limited liability company, firm, or association.*

**7920.525.**

*(a) As used in this division, "public agency" means any state or local agency.*

*(b) As used in Article 5 (commencing with Section 7926.400) of Chapter 5 of Part 5, "public agency" means an entity specified in subdivision (c) of Section 7926.400.*

**7920.530.**

*(a) As used in this division, "public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.*

*(b) "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.*

**7920.535.**

*As used in this division, "public safety official" means the following parties, whether active or retired:*

*(a) A peace officer as defined in Sections 830 to 830.65, inclusive, of the Penal Code, or a person who is not a peace officer, but may exercise the powers of arrest during the course and within the scope of the person's employment pursuant to Section 830.7 of the Penal Code.*

*(b) A public officer or other person listed in Section 1808.2 or 1808.6 of the Vehicle Code.*

*(c) An "elected or appointed official" as defined in Section 7920.500.*

*(d) An attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender, the United States Attorney, or the Federal Public Defender.*

*(e) A city attorney and an attorney who represents cities in criminal matters.*

*(f) An employee of the Department of Corrections and Rehabilitation who supervises inmates or is required to have care or custody of a prisoner.*

*(g) A sworn or nonsworn employee who supervises inmates in a city police department, a county sheriff's office, the Department of the California Highway Patrol, federal, state, or a local detention facility, or a local juvenile hall, camp, ranch, or home, and a probation officer as defined in Section 830.5 of the Penal Code.*

*(h) A federal prosecutor, a federal criminal investigator, and a National Park Service Ranger working in California.*

*(i) The surviving spouse or child of a peace officer defined in Section 830 of the Penal Code, if the peace officer died in the line of duty.*

*(j) State and federal judges and court commissioners.*

*(k) An employee of the Attorney General, a district attorney, or a public defender who submits verification from the Attorney General, district attorney, or public defender that the employee represents the Attorney General, district attorney, or public defender in matters that routinely place that employee in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts.*

*(l) A nonsworn employee of the Department of Justice or a police department or sheriff's office that, in the course of employment, is responsible for collecting, documenting, and preserving physical evidence at crime scenes, testifying in court as an expert witness, and other technical duties, and a nonsworn employee that, in the course of employment, performs a variety of standardized and advanced laboratory procedures in the examination of physical crime evidence, determines their results, and provides expert testimony in court.*

**7920.540.**

*(a) As used in this division, "state agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.*

*(b) Notwithstanding subdivision (a) or any other law, "state agency" also means the State Bar of California, as described in Section 6001 of the Business and Professions Code.*

**7920.545.**

*As used in this division, "writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.*

## **PART 2. DISCLOSURE AND EXEMPTIONS GENERALLY**

### **CHAPTER 1. Right of Access to Public Records**

**7921.000.**

*In enacting this division, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.*

**7921.005.**

*A state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure pursuant to this division.*

**7921.010.**



*(a) Notwithstanding any other provision of law, no state or local agency shall sell, exchange, furnish, or otherwise provide a public record subject to disclosure pursuant to this division to a private entity in a manner that prevents a state or local agency from providing the record directly pursuant to this division.*

*(b) Nothing in this section requires a state or local agency to use the State Printer to print public records.*

*(c) Nothing in this section prevents the destruction of a public record pursuant to law.*

*(d) This section shall not apply to contracts entered into before January 1, 1996, between the County of Santa Clara and a private entity, for the provision of public records subject to disclosure under this division.*

## **CHAPTER 2. General Rules Governing Disclosure**

### **Article 1. Nondiscrimination**

**7921.300.**

*This division does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.*

**7921.305.**

*(a) Notwithstanding the definition of "member of the public" in Section 7920.515, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.*

*(b) This section does not constitute a change in, but is declaratory of, existing law.*

**7921.310.**

*Notwithstanding Section 7921.305 or any other provision of law, when the members of a legislative body of a local agency are authorized to access a writing of the body or of the agency as permitted by law in the administration of their duties, the local agency, as defined in Section 54951, shall not discriminate between or among any of those members as to which writing or portion thereof is made available or when it is made available.*

### **Article 2. Voluntary Disclosure**

**7921.500.**

*Unless disclosure is otherwise prohibited by law, the provisions listed in Section 7920.505 do not prevent any agency from opening its records concerning the administration of the agency to public inspection.*

**7921.505.**

*(a) As used in this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of that membership, agency, office, or employment.*

*(b) Notwithstanding any other law, if a state or local agency discloses to a member of the public a public record that is otherwise exempt from this division, this disclosure constitutes a waiver of the exemptions specified in:*

*(1) The provisions listed in Section 7920.505.*

(2) Sections 7924.510 and 7924.700.

(3) Other similar provisions of law.

(c) This section, however, does not apply to any of the following disclosures:

(1) A disclosure made pursuant to the Information Practices Act (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) or a discovery proceeding.

(2) A disclosure made through other legal proceedings or as otherwise required by law.

(3) A disclosure within the scope of disclosure of a statute that limits disclosure of specified writings to certain purposes.

(4) A disclosure not required by law, and prohibited by formal action of an elected legislative body of the local agency that retains the writing.

(5) A disclosure made to a governmental agency that agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes that are consistent with existing law.

(6) A disclosure of records relating to a financial institution or an affiliate thereof, if the disclosure is made to the financial institution or affiliate by a state agency responsible for regulation or supervision of the financial institution or affiliate.

(7) A disclosure of records relating to a person who is subject to the jurisdiction of the Department of Business Oversight, if the disclosure is made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Business Oversight.

(8) A disclosure made by the Commissioner of Business Oversight under Section 450, 452, 8009, or 18396 of the Financial Code.

(9) A disclosure of records relating to a person who is subject to the jurisdiction of the Department of Managed Health Care, if the disclosure is made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Managed Health Care.

### **Article 3. Disclosure to District Attorney and Related Matters**

**7921.700.**

*A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this division when requested by a district attorney.*

**7921.705.**

*(a) If a district attorney makes a request to a state or local agency to inspect or receive a copy of a public record or class of public records not exempted by this division, and the state or local agency fails or refuses to allow inspection or copying within 10 working days of that request, the district attorney may petition a court of competent jurisdiction to require the state or local agency to allow the requested inspection or copying.*

*(b) Unless the public interest or good cause in withholding the requested records clearly outweighs the public interest in disclosure, the court may require the public agency to allow the district attorney to inspect or copy those records.*

7921.710.

*Disclosure of records to a district attorney under the provisions of this division shall effect no change in the status of the records under any other provision of law.*

### **CHAPTER 3. General Rules Governing Exemptions from Disclosure**

#### **Article 1. Justification for Withholding of Record**

7922.000.

*An agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.*

#### **Article 2. Social Security Numbers and Related Matters**

7922.200.

*(a) It is the intent of the Legislature that, in order to protect against the risk of identity theft, a local agency shall redact social security numbers from a record before disclosing the record to the public pursuant to this division.*

*(b) Nothing in this division shall be construed to require a local agency to disclose a social security number.*

*(c) This section does not apply to a record maintained by a county recorder.*

7922.205.

*Nothing in this division shall be construed to require the disclosure by a county recorder of any "official record," if a "public record" version of that record is available pursuant to Article 3.5 (commencing with Section 27300) of Chapter 6 of Part 3 of Division 2 of Title 3.*

7922.210.

*Nothing in this division shall be construed to require the disclosure by a filing office of any "official filing," if a "public filing" version of that record is available pursuant to Section 9526.5 of the Commercial Code.*

### **PART 3. PROCEDURES AND RELATED MATTERS**

#### **CHAPTER 1. Request for a Public Record**

##### **Article 1. General Principles**

7922.500.

*Nothing in this division shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.*

7922.505.

*Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this division.*

## **Article 2. Procedural Requirements Generally**

### **Article 2.**

7922.525.

*(a) Public records are open to inspection at all times during the office hours of a state or local agency and every person has a right to inspect any public record, exempted as otherwise provided.*

*(b) Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.*

7922.530.

*(a) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.*

*(b) A requester who inspects a disclosable record on the premises of the agency has the right to use the requester's equipment on those premises, without being charged any fees or costs, to photograph or otherwise copy or reproduce the record in a manner that does not require the equipment to make physical contact with the record, unless the means of copy or reproduction would result in either of the following:*

*(1) Damage to the record.*

*(2) Unauthorized access to the agency's computer systems or secured networks by using software, equipment, or any other technology capable of accessing, altering, or compromising the agency's electronic records.*

*(c) The agency may impose any reasonable limits on the use of the requester's equipment that are necessary to protect the safety of the records or to prevent the copying of records from being an unreasonable burden to the orderly function of the agency and its employees. In addition, the agency may impose any limit that is necessary to maintain the integrity of, or ensure the long-term preservation of, historic or high-value records.*

7922.535.

*(a) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. If the agency determines that the request seeks disclosable public records, the agency shall also state the estimated date and time when the records will be made available.*

*(b) In unusual circumstances, the time limit prescribed in this article and Article 1 (commencing with Section 7922.500) may be extended by written notice from the head of the agency or a designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days.*

*(c) As used in this section, “unusual circumstances” means the following, but only to the extent reasonably necessary to the proper processing of the particular request:*

*(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.*

*(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.*

*(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.*

*(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.*

**7922.540.**

*(a) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.*

*(b) The notification of denial shall set forth the names and titles or positions of each person responsible for the denial.*

*(c) An agency shall justify withholding any record by complying with Section 7922.000.*

**7922.545.**

*(a) In addition to maintaining public records for public inspection during its office hours, a public agency may comply with Section 7922.525 by posting any public record on its internet website and, in response to a request for a public record posted on the internet website, directing a member of the public to the location on the internet website where the public record is posted.*

*(b) However, if after the public agency directs a member of the public to the internet website, the member of the public requesting the public record requests a copy of the public record due to an inability to access or reproduce the public record from the internet website, the public agency shall promptly provide a copy of the public record pursuant to subdivision (a) of Section 7922.530.*

### **Article 3. Information in Electronic Format**

**7922.570.**

*(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this division that is in an electronic format shall make that information available in an electronic format when requested by any person.*

*(b) When applicable, the agency shall do the following:*

*(1) The agency shall make the information available in any electronic format in which it holds the information.*

*(2) The agency shall provide a copy of an electronic record in the format requested if the requested format is one that the agency has used to create copies for its own use or for provision to other agencies.*

*(c) If a request is for information in other than electronic format, and the information also is in electronic format, an agency may inform the requester that the information is available in electronic format.*

**7922.575.**

*(a) The cost of duplication of an electronic record pursuant to paragraph (2) of subdivision (b) of Section 7922.570 shall be limited to the direct cost of producing a copy of a record in an electronic format.*

*(b) Notwithstanding subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:*

*(1) In order to comply with subdivisions (a) and (b) of Section 7922.570, the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.*

*(2) The request would require data compilation, extraction, or programming to produce the record.*

**7922.580.**

*(a) Nothing in Section 7922.570 or 7922.575 shall be construed to require a public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.*

*(b) Nothing in Section 7922.570 or 7922.575 shall be construed to permit an agency to make information available only in an electronic format.*

*(c) Nothing in Section 7922.570 or 7922.575 shall be construed to require a public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.*

*(d) Nothing in Section 7922.570 or 7922.575 shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.*

**7922.585.**

*(a) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.*

*(b) Computer software developed by a state or local agency is not itself a public record under this division. The agency may sell, lease, or license the software for commercial or noncommercial use.*

*(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.*

*(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this division.*

*(e) Nothing in this section is intended to limit any copyright protections.*

**Article 4. Duty to Assist in Formulating Request**

**7922.600.**

*(a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:*

*(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.*

*(2) Describe the information technology and physical location in which the records exist.*

*(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.*

*(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.*

*(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Article 1 (commencing with Section 7922.500) or Article 2 (commencing with Section 7922.525).*

**7922.605.**

*This article shall not apply to a request for public records if any of the following applies:*

*(a) The public agency makes the requested records available pursuant to Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525).*

*(b) The public agency makes an index of its records available.*

*(c) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 7920.505.*

## **CHAPTER 2. Agency Regulations, Guidelines, Systems, and Similar Matters**

### **Article 1. Agency Regulations and Guidelines**

**7922.630.**

*Every agency may adopt regulations in accordance with this article stating the procedures to be followed when making its records available.*

**7922.635.**

*(a) The following state and local bodies shall establish written guidelines for accessibility of records:*

*(1) All regional water quality control boards.*

*(2) Bay Area Air Pollution Control District.*

*(3) Bureau of Real Estate.*

*(4) California Coastal Commission.*

*(5) Department of Business Oversight.*

*(6) Department of Consumer Affairs.*

*(7) Department of Corrections and Rehabilitation.*

*(8) Department of General Services.*

*(9) Department of Industrial Relations.*

*(10) Department of Insurance.*

*(11) Department of Justice.*

*(12) Department of Managed Health Care.*

*(13) Department of Motor Vehicles.*

- (14) Department of Parks and Recreation.*
- (15) Department of Toxic Substances Control.*
- (16) Department of Veterans Affairs.*
- (17) Department of Water Resources.*
- (18) Division of Juvenile Justice.*
- (19) Employment Development Department.*
- (20) Golden Gate Bridge, Highway and Transportation District.*
- (21) Los Angeles County Air Pollution Control District.*
- (22) Office of Environmental Health Hazard Assessment.*
- (23) Public Employees' Retirement System.*
- (24) Public Utilities Commission.*
- (25) San Francisco Bay Area Rapid Transit District.*
- (26) San Francisco Bay Conservation and Development Commission.*
- (27) Secretary of State.*
- (28) State Air Resources Board.*
- (29) State Board of Equalization.*
- (30) State Department of Developmental Services.*
- (31) State Department of Health Care Services.*
- (32) State Department of Public Health.*
- (33) State Department of Social Services.*
- (34) State Department of State Hospitals.*
- (35) State Water Resources Control Board.*
- (36) Teachers' Retirement Board.*
- (37) Transportation Agency.*

*(b) A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request, free of charge, to any person requesting that body's records.*

**7922.640.**

*(a) Guidelines and regulations adopted pursuant to this article shall be consistent with all other sections of this division and shall reflect the intention of the Legislature to make the records accessible to the public.*

*(b) Guidelines and regulations adopted pursuant to this article shall not operate to limit the hours public records are open for inspection as prescribed in Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525).*

## **Article 2. Internet Resources**



7922.680.

*If a local agency, except a school district, maintains an internet resource, including, but not limited to, an internet website, internet web page, or internet web portal, which the local agency describes or titles as "open data," and the local agency voluntarily posts a public record on that internet resource, the local agency shall post the public record in an open format that meets all of the following requirements:*

*(a) Retrievable, downloadable, indexable, and electronically searchable by commonly used internet search applications.*

*(b) Platform independent and machine readable.*

*(c) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the public record.*

*(d) Retains the data definitions and structure present when the data was compiled, if applicable.*

### **Article 3. Catalog of Enterprise Systems**

7922.700.

*For purposes of this article:*

*(a) "Enterprise system" means a software application or computer system that satisfies all of the following conditions:*

*(1) It collects, stores, exchanges, and analyzes information that the agency uses.*

*(2) It is a multidepartmental system or a system that contains information collected about the public.*

*(3) It is a system of record.*

*(b) An "enterprise system" does not include any of the following:*

*(1) Information technology security systems, including firewalls and other cybersecurity systems.*

*(2) Physical access control systems, employee identification management systems, video monitoring, and other physical control systems.*

*(3) Infrastructure and mechanical control systems, including those that control or manage street lights, electrical, natural gas, or water or sewer functions.*

*(4) Systems related to 911 dispatch and operation or emergency services.*

*(5) Systems that would be restricted from disclosure pursuant to Section 7929.210.*

*(6) The specific records that the information technology system collects, stores, exchanges, or analyzes.*

7922.705.

*For purposes of this article, "system of record" means a system that serves as an original source of data within an agency.*

7922.710.

*(a) In implementing this division, each local agency, except a local educational agency, shall create a catalog of enterprise systems.*

*(b) The local agency shall complete and post the catalog as required by this article by July 1, 2016, and thereafter shall update the catalog annually.*

7922.715.

*(a) The catalog of enterprise systems required by Section 7922.710 shall be made publicly available upon request in the office of the person or officer designated by the agency's legislative body.*

*(b) If the agency has an internet website, the catalog shall be posted in a prominent location on the agency's internet website.*

7922.720.

*(a) The catalog of enterprise systems required by Section 7922.710 shall disclose a list of the enterprise systems utilized by the agency.*

*(b) For each system, the catalog shall also disclose all of the following:*

*(1) Current system vendor.*

*(2) Current system product.*

*(3) A brief statement of the system's purpose.*

*(4) A general description of categories or types of data.*

*(5) The department that serves as the system's primary custodian.*

*(6) How frequently system data is collected.*

*(7) How frequently system data is updated.*

*(c) If, on the facts of the particular case, the public interest served by not disclosing the information described in paragraph (1) or (2) of subdivision (b) clearly outweighs the public interest served by disclosure of the record, the local agency may instead provide a system name, brief title, or identifier of the system.*

7922.725.

*(a) This article shall not be interpreted to limit a person's right to inspect public records pursuant to this division.*

*(b) Nothing in this article shall be construed to permit public access to records held by an agency to which access is otherwise restricted by statute or to alter the process for requesting a public record, as set forth in this division.*

#### **PART 4. ENFORCEMENT**

##### **CHAPTER 1. General Principles**

7923.000.

*Any person may institute a proceeding for injunctive or declarative relief, or for a writ of mandate, in any court of competent jurisdiction, to enforce that person's right under this division to inspect or receive a copy of any public record or class of public records.*

7923.005.

*In a proceeding under Section 7923.000, the court shall set the times for hearings and responsive pleadings with the object of securing a decision as to the matters at issue at the earliest possible time.*

## **CHAPTER 2. Enforcement Procedure**

### **Article 1. Petition to Superior Court**

7923.100.

*Whenever it is made to appear, by verified petition to the superior court of the county where the records or some part thereof are situated, that certain public records are being improperly withheld from a member of the public, the court shall order the officer or other person charged with withholding the records to disclose those records or show cause why that person should not do so.*

7923.105.

*The court shall decide the case after the court does all of the following:*

- (a) Examine the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code.*
- (b) Examine any papers filed by the parties.*
- (c) Consider any oral argument and additional evidence as the court may allow.*

7923.110.

*(a) If the court finds that the public official's decision to refuse disclosure is not justified under Section 7922.000 or any provision listed in Section 7920.505, the court shall order the public official to make the record public.*

*(b) If the court finds that the public official was justified in refusing to make the record public, the court shall return the record to the public official without disclosing its content, together with an order supporting the decision refusing disclosure.*

7923.115.

*(a) If the requester prevails in litigation filed pursuant to this chapter, the court shall award court costs and reasonable attorney's fees to the requester. The costs and fees shall be paid by the public agency and shall not become a personal liability of the public official involved.*

*(b) If the court finds that a requester's case pursuant to this chapter is clearly frivolous, the court shall award court costs and reasonable attorney's fees to the public agency.*

*(c) This article does not limit a requester's right to obtain fees and costs pursuant to this section or any other law.*

### **Article 2. Writ Review and Contempt**

7923.500.

*(a) An order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.*

*(b) Upon entry of any order pursuant to this chapter, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon the party of a written notice of entry of the order, or within a further time, not exceeding an additional 20 days, as the trial court may for good cause allow.*

*(c) If the notice is served by mail, the period within which to file the petition shall be increased by five days.*

*(d) A stay of an order or judgment shall not be granted unless the petitioning party demonstrates that the party will otherwise sustain irreparable damage and probable success on the merits.*

*(e) Any person who fails to obey the order of the court shall be cited to show cause why that person is not in contempt of court.*

## **PART 5. SPECIFIC TYPES OF PUBLIC RECORDS**

### **CHAPTER 1. Crimes, Weapons, and Law Enforcement**

#### **Article 1. Law Enforcement Records Generally**

##### **Article 1.**

###### **7923.600.**

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes.*

*(b) A customer list that an alarm or security company provides to a state or local police agency at the agency's request is a record subject to this article.*

###### **7923.605.**

*(a) Notwithstanding Section 7923.600, a state or local law enforcement agency shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger either of the following:*

*(1) The safety of a witness or other person involved in the investigation.*

*(2) The successful completion of the investigation or a related investigation.*

*(b) However, this article does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.*

###### **7923.610.**

*Notwithstanding any other provision of this article, a state or local law enforcement agency shall make public all of the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:*

*(a) The full name and occupation of every individual arrested by the agency.*

*(b) The individual's physical description including date of birth, color of eyes and hair, sex, height, and weight.*

*(c) The time and date of arrest.*

*(d) The time and date of booking.*

*(e) The location of the arrest.*

*(f) The factual circumstances surrounding the arrest.*

*(g) The amount of bail set.*

*(h) The time and manner of release or the location where the individual is currently being held.*

*(i) All charges the individual is being held upon, including any outstanding warrants from other jurisdictions, parole holds, and probation holds.*

**7923.615.**

*(a) (1) Notwithstanding any other provision of this article, a state or local law enforcement agency shall make public the information described in paragraph (2), except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation.*

*(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, paragraph (1) applies to the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded:*

*(A) The time, date, and location of occurrence.*

*(B) The time and date of the report.*

*(C) The name and age of the victim.*

*(D) The factual circumstances surrounding the crime or incident.*

*(E) A general description of any injuries, property, or weapons involved.*

*(b) (1) The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 287, 288, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of, or former Section 288a of, the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.*

*(2) When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this article may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this section.*

*(c) (1) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim's request until the investigation or any subsequent prosecution is complete.*

*(2) For purposes of this article, "immediate family" has the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.*

7923.620.

*(a) Notwithstanding any other provision of this article, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, a state or local law enforcement agency shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:*

*(1) Subject to the restrictions of Section 841.5 of the Penal Code and this article, the current address of every individual arrested by the agency.*

*(2) Subject to the restrictions of Section 841.5 of the Penal Code and this article, the current address of the victim of a crime. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 287, 288, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of, or former Section 288a of, the Penal Code shall remain confidential.*

*(b) Address information obtained pursuant to this section shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.*

*(c) This section shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this section.*

7923.625.

*Notwithstanding any other provision of this article, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subdivision (e), may be withheld only as follows:*

*(a) (1) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this section, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.*

*(2) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this paragraph, the agency shall promptly provide in writing to the requester the specific basis for the agency's determination that the interest in preventing interference with an active investigation outweighs the public interest in disclosure and provide the estimated date for the disclosure. The agency shall reassess withholding and notify the requester every 30 days. A recording withheld by the agency shall be disclosed promptly when the specific basis for withholding is resolved.*

*(b) (1) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that protect that interest. However, the redaction*

shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(2) Except as provided in paragraph (3), if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction as described in paragraph (1) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in paragraph (1) or unredacted, shall be disclosed promptly, upon request, to any of the following:

(A) The subject of the recording whose privacy is to be protected, or the subject's authorized representative.

(B) If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.

(C) If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.

(3) If disclosure pursuant to paragraph (2) would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the estimated date for the disclosure of the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in paragraph (2) of subdivision (a).

(c) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this section.

(d) For purposes of this section, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.

(e) For purposes of this section, a video or audio recording relates to a critical incident if it depicts any of the following incidents:

(1) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(2) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

(f) This section does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subdivision (e).

7923.630.

(a) Immediately before the CPRA Recodification Act of 2020, the other provisions in this article comprised a single subdivision of former Section 6254 (subdivision (f) of Section 29 of Chapter 385 of the Statutes of 2019).

(b) Dividing the substance of those provisions into multiple code sections was not intended to affect the construction of those provisions or their relation to each other.

## **Article 2. Obtaining Access to Law Enforcement Records**

7923.650.

The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under Article 1 (commencing with Section 7923.600) shall not apply when a district attorney requests inspection of those records.

7923.655.

*(a) A state or local law enforcement agency shall not require a victim of an incident, or an authorized representative of a victim, to show proof of the victim's legal presence in the United States in order to obtain the information required to be disclosed by that law enforcement agency pursuant to Article 1 (commencing with Section 7923.600).*

*(b) If, for identification purposes, a state or local law enforcement agency requires a victim of an incident, or an authorized representative of a victim, to provide identification in order to obtain information required to be disclosed by that law enforcement agency pursuant to Article 1 (commencing with Section 7923.600), the agency shall at a minimum accept any of the following:*

*(1) A current driver's license or identification card issued by any state in the United States.*

*(2) A current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship.*

*(3) A current Matricula Consular card.*

### **Article 3. Records of Emergency Communications to Public Safety Authorities**

7923.700.

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of a record obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.*

### **Article 4. Records Specifically Relating to Crime Victims**

7923.750.

*(a) This division does not require disclosure of a video or audio recording that was created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident depicted in the recording. An agency shall justify withholding that type of video or audio recording by demonstrating, pursuant to Section 7922.000 and subdivision (a) of Section 7922.540, that on the facts of the particular case, the public interest served by not disclosing the recording clearly outweighs the public interest served by disclosure of the recording.*

*(b) When balancing the public interests as required by this section, an agency shall consider both of the following:*

*(1) The constitutional right to privacy of the person or persons depicted in the recording.*

*(2) Whether the potential harm to the victim caused by disclosing the recording may be mitigated by redacting the recording to obscure images showing intimate body parts and personally identifying characteristics of the victim or by distorting portions of the recording containing the victim's voice, provided that the redaction does not prevent a viewer from being able to fully and accurately perceive the events captured on the recording. The recording shall not otherwise be edited or altered.*

*(c) A victim of a crime described in subdivision (a) who is a subject of a recording, the parent or legal guardian of a minor subject, a deceased subject's next of kin, or a subject's legally authorized designee, shall be permitted to inspect the recording and to obtain a copy of the recording. Disclosure under this subdivision does not require that the record be made available to the public pursuant to Section 7921.505.*

*(d) Nothing in this section shall be construed to affect any other exemption provided by this division.*



7923.755.

*(a) This division does not require disclosure of a record of the California Victim Compensation Board that relates to a request for assistance under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2.*

*(b) This section shall not apply to a disclosure of the following information, if no information is disclosed that connects the information to a specific victim, derivative victim, or applicant under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2:*

*(1) The amount of money paid to a specific provider of services.*

*(2) Summary data concerning the types of crimes for which assistance is provided.*

#### **Article 5. Firearm Licenses and Related Records**

7923.800.

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of any of the following information contained in an application for a license to carry a firearm, issued by the sheriff of a county or the chief or other head of a municipal police department pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code:*

*(a) Information that indicates when or where the applicant is vulnerable to attack.*

*(b) Information that concerns the applicant's medical or psychological history, or that of members of the applicant's family.*

7923.805.

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of the home address or telephone number of any of the following individuals, as set forth in an application for a license to carry a firearm, or in a license to carry a firearm, issued by the sheriff of a county or the chief or other head of a municipal police department, pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code:*

*(a) A prosecutor.*

*(b) A public defender.*

*(c) A peace officer.*

*(d) A judge.*

*(e) A court commissioner.*

*(f) A magistrate.*

### **CHAPTER 2. Election Materials and Petitions**

#### **Article 1. Voter Information**

7924.000.

*(a) Except as provided in Section 2194 of the Elections Code, both of the following are confidential and shall not be disclosed to any person:*

(1) *The home address, telephone number, email address, precinct number, or other number specified by the Secretary of State for voter registration purposes.*

(2) *Prior registration information shown on an affidavit of registration.*

(b) *The California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on an affidavit of registration, or added to the voter registration records to comply with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.), are confidential and shall not be disclosed to any person.*

(c) *The signature of the voter that is shown on an affidavit of registration is confidential and shall not be disclosed to any person.*

(d) *For purposes of this section, "home address" means street address only, and does not include an individual's city or post office address.*

**7924.005.**

(a) *Notwithstanding Sections 7920.510, 7920.515, 7920.520, 7920.530, 7920.540, 7920.545, 7922.545, subdivision (a) of Section 7920.525, subdivision (b) of Section 7922.540, and Sections 7922.500 to 7922.535, inclusive, information compiled by a public officer or public employee that reveals the identity of a person who has requested a bilingual ballot or ballot pamphlet, in accordance with any federal or state law, or other data that would reveal the identity of the requester, is not a public record and shall not be provided to any person other than a public officer or public employee who is responsible for receiving the request and processing it.*

(b) *Subdivision (a) does not prohibit a person, otherwise authorized by law, from examining election materials, including, but not limited to, an affidavit of registration, provided that a request for a bilingual ballot or ballot pamphlet is subject to the restrictions in subdivision (a).*

## **Article 2. Initiative, Referendum, Recall, and Other Petitions and Related Materials**

**7924.100.**

*As used in this article, "petition" means any petition to which a registered voter has affixed the voter's own signature.*

**7924.105.**

*As used in this article, "proponent of the petition" means the following:*

(a) *For a statewide initiative or referendum measure, the person who submits a draft of a petition proposing the measure to the Attorney General with a request that the Attorney General prepare a title and summary of the chief purpose and points of the proposed measure.*

(b) *For other initiative and referendum measures, the person who publishes a notice of intention to circulate a petition, or, where publication is not required, who files the petition with an elections official.*

(c) *For a recall measure, the person defined in Section 343 of the Elections Code.*

(d) *For a petition circulated pursuant to Section 5091 of the Education Code, the person having charge of the petition who submits the petition to the county superintendent of schools.*

(e) *For a petition circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of Division 3 of Title 2 of the Education Code, the person designated as chief petitioner under Section 35701 of the Education Code.*

*(f) For a petition circulated pursuant to Part 46 (commencing with Section 74000) of Division 7 of Title 3 of the Education Code, the person designated as chief petitioner under Section 74102, 74133, or 74152 of the Education Code.*

**7924.110.**

*(a) Notwithstanding Sections 7920.510, 7920.515, 7920.520, 7920.530, 7920.540, 7920.545, 7922.545, subdivision (a) of Section 7920.525, subdivision (b) of Section 7922.540, and Sections 7922.500 to 7922.535, inclusive, the following are not public records:*

*(1) A statewide, county, city, or district initiative, referendum, or recall petition.*

*(2) A petition circulated pursuant to Section 5091 of the Education Code.*

*(3) A petition for reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of Division 3 of Title 2 of the Education Code.*

*(4) A petition for reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of Division 7 of Title 3 of the Education Code.*

*(5) A memorandum prepared by a county elections official in the examination of a petition, indicating which registered voters signed that particular petition.*

*(b) The materials described in subdivision (a) shall not be open to inspection except by the following persons:*

*(1) A public officer or public employee who has the duty of receiving, examining, or preserving the petition, or who is responsible for preparation of the memorandum.*

*(2) If a petition is found to be insufficient, by the proponent of the petition and a representative of the proponent as may be designated by the proponent in writing, in order to determine which signatures were disqualified and the reasons therefor.*

*(c) Notwithstanding subdivisions (a) and (b), the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a city attorney, a school district attorney, and a community college district attorney shall be permitted to examine the materials described in subdivision (a) upon approval of the appropriate superior court.*

*(d) If the proponent of a petition is permitted to examine a petition and a memorandum pursuant to subdivision (b), the examination shall commence not later than 21 days after certification of insufficiency, and the county elections official shall retain the documents as prescribed in Section 17200 of the Elections Code.*

### **CHAPTER 3. Environmental Protection, Building Standards, and Safety Requirements**

#### **Article 1. Pesticide Safety and Efficacy Information Disclosable Under the Federal Insecticide, Fungicide, and Rodenticide Act**

**7924.300.**

*If both of the following conditions are satisfied, nothing in this division exempts from public disclosure the same categories of pesticide safety and efficacy information that are disclosable under Section 10(d)(1) of the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)):*

*(a) The individual requesting the information is not an officer, employee, or agent specified in subdivision (a) of Section 7924.310.*

*(b) The individual signs the affirmation specified in subdivision (b) of Section 7924.310.*

7924.305.

(a) The Director of Pesticide Regulation, upon the Director's initiative, or upon receipt of a request pursuant to this division for the release of data submitted and designated as a trade secret by a registrant or applicant, shall determine whether any or all of the data so submitted is a properly designated trade secret. In order to assure that the interested public has an opportunity to obtain and review pesticide safety and efficacy data and to comment before the expiration of the public comment period on a proposed pesticide registration, the director shall provide notice to interested persons when an application for registration enters the registration evaluation process.

(b) If the director determines that the data is not a trade secret, the director shall notify the registrant or applicant by certified mail.

(c) The registrant or applicant shall have 30 days after receipt of this notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(d) The director shall determine whether the data is protected as a trade secret within 15 days after receipt of the justification and statement or, if no justification and statement is filed, within 45 days of the original notice. The director shall notify the registrant or applicant and any party who has requested the data pursuant to this division of that determination by certified mail. If the director determines that the data is not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to any person requesting information pursuant to Section 7924.300.

(e) This article does not prohibit any person from maintaining a civil action for wrongful disclosure of a trade secret.

(f) "Trade secret" means data that is nondisclosable under Section 10(d)(1) of the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)).

7924.310.

(a) Unless the applicant or registrant consents to disclosure of information that the applicant or registrant submits to the state pursuant to Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of the Food and Agricultural Code, the Director of Pesticide Regulation shall not knowingly disclose any of that information to any of the following:

(1) An officer, employee, or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in a country other than the United States, or in a country in addition to the United States.

(2) Any other person who intends to deliver this information to any foreign or multinational business or entity.

(b) To implement this section, the director shall require a person requesting information described in subdivision (a) to sign the following affirmation:

**AFFIRMATION OF STATUS**

This affirmation is required by Article 1 (commencing with Section 7924.300) of Chapter 3 of Part 5 of Division 10 of Title 1 of the Government Code.

I have requested access to information submitted to the Department of Pesticide Regulation (or previously submitted to the Department of Food and Agriculture) by a pesticide applicant or registrant pursuant to the California Food and Agricultural Code. I hereby affirm all of the following statements:

*(1) I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity, including the business or entity of which I am an officer, employee, or agent, engaged in the production, sale, or distribution of pesticides in a country other than the United States or in a country in addition to the United States, or to an officer, employee, or agent of such a business or entity.*

*(2) I will not purposefully deliver or negligently cause the data to be delivered to a business or entity specified in paragraph (1) or its officers, employees, or agents.*

*I am aware that I may be subject to criminal penalties under Section 118 of the Penal Code if I make any statement of material facts knowing that the statement is false or if I willfully conceal any material fact.*

Name of Requester

Name of  
Requester's  
Organization

Signature of Requester

Address of  
Requester

Date

Request No.

Telephone Number  
of Requester

*Name, Address, and Telephone Number of Requester's Client, if the requester has requested access to the information on behalf of someone other than the requester or the requester's organization listed above.*

*(c) Section 118 of the Penal Code applies to any affirmation made pursuant to this article.*

**7924.315.**

*Notwithstanding any other provision of this article, if the Director of Pesticide Regulation determines that information submitted by an applicant or registrant is needed to determine whether a pesticide, or any ingredient of any pesticide, causes unreasonable adverse effects on health or the environment, the director may disclose that information to any person in connection with a public proceeding conducted under law or regulation.*

**7924.320.**

*The Director of Pesticide Regulation shall maintain records of the names of persons to whom data is disclosed pursuant to this article and the persons or organizations they represent and shall inform the applicant or registrant of the names and the affiliation of these persons.*

**7924.325.**

*The Director of Pesticide Regulation may limit an individual to one request per month pursuant to this article if the director determines that a person has made a frivolous request within the past 12-month period.*

**7924.330.**

*(a) Any officer or employee of the state, or former officer or employee of the state, who, because of this employment or official position, obtains possession of, or has access to, material which is prohibited from disclosure by this article, and who, knowing that disclosure of this material is prohibited by this article, willfully discloses the material in any manner to any person not entitled to receive it, shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.*

*(b) For purposes of this section, any contractor with the state who is furnished information pursuant to this article, or any employee of any contractor, shall be considered an employee of the state.*

7924.335.

*This article shall be operative only so long as, and to the extent that, enforcement of Section 10(d)(1) of the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)) has not been enjoined by federal court order. If a final and unappealable federal court judgment or decision holds that paragraph invalid, this article shall become inoperative, to the extent of the invalidity.*

## **Article 2. Pollution**

7924.500.

*Nothing in this division requires the disclosure of records that relate to volatile organic compound or chemical substance information received or compiled by an air pollution control officer pursuant to Section 42303.2 of the Health and Safety Code.*

7924.505.

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of financial data contained in an application for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, if an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain a guarantee from the United States Small Business Administration.*

*(b) The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this division.*

7924.510.

*(a) Any information, analysis, plan, or specification that discloses the nature, extent, quantity, or degree of an air contaminant or other pollution that any article, machine, equipment, or other contrivance will produce, which any air pollution control district or air quality management district, or any other state or local agency or district, requires any applicant to provide before the applicant builds, erects, alters, replaces, operates, sells, rents, or uses the article, machine, equipment, or other contrivance, is a public record.*

*(b) All air or other pollution monitoring data, including data compiled from a stationary source, are public records.*

*(c) Except as otherwise provided in subdivision (d) and Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code, a trade secret is not a public record under this section or Section 7924.700.*

*(d) Notwithstanding any other provision of law, all air pollution emission data, including those emission data that constitute trade secrets as defined in subdivision (f), are public records. Data used to calculate emission data are not emission data for the purposes of this subdivision and data that constitute trade secrets and that are used to calculate emission data are not public records.*

*(e) Data used to calculate the costs of obtaining emissions offsets are not public records. At the time that an air pollution control district or air quality management district issues a permit to construct to an applicant who is required to obtain offsets pursuant to district rules and regulations, data obtained from the applicant consisting of the year the offset transaction occurred, the amount of offsets purchased, by pollutant, and the total cost, by pollutant, of the offsets purchased is a public record. If an application is denied, the data shall not be a public record.*

*(f) As used in this section, "trade secret" may include, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information that satisfies all of the following requirements:*

*(1) It is not patented.*

*(2) It is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value.*

*(3) It gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.*

### **Article 3. Building Standards and Safety Requirements**

**7924.700.**

*(a) A record of a notice or an order that is directed to the owner of any building and relates to violation of a housing or building code, ordinance, statute, or regulation that constitutes a violation of a standard provided in Section 1941.1 of the Civil Code is a public record.*

*(b) A record of subsequent action with respect to a notice or order described in subdivision (a) is a public record.*

### **Article 4. Enforcement Orders**

**7924.900.**

*(a) Every final enforcement order issued by an agency listed in subdivision (b) under any provision of law that is administered by an entity listed in subdivision (b), shall be displayed on the entity's internet website, if the final enforcement order is a public record that is not exempt from disclosure pursuant to this division.*

*(b) This section applies to the California Environmental Protection Agency and to all of the following entities within the agency:*

*(1) The State Air Resources Board.*

*(2) The California Integrated Waste Management Board.*

*(3) The State Water Resources Control Board, and each California regional water quality control board.*

*(4) The Department of Pesticide Regulation.*

*(5) The Department of Toxic Substances Control.*

*(c) (1) Except as provided in paragraph (2), for purposes of this section, an enforcement order is final when the time for judicial review has expired on or after January 1, 2001, or when all means of judicial review have been exhausted on or after January 1, 2001.*

*(2) In addition to the requirements of paragraph (1), with regard to a final enforcement order issued by the State Water Resources Control Board or a California regional water quality control board, this section shall apply only to a final enforcement order adopted by that entity at a public meeting.*

*(d) An order posted pursuant to this section shall be posted for not less than one year.*

*(e) The California Environmental Protection Agency shall oversee the implementation of this section.*

### **CHAPTER 4. Financial Records and Tax Records**

**7925.000.**

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of information required from any taxpayer in connection with the collection of local taxes if that information is received in confidence and disclosure of it to other persons would result in unfair competitive disadvantage to the person supplying the information.*

**7925.005.**

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of a statement of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish the applicant's personal qualification for the license, certificate, or permit requested.*

**7925.010.**

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of any of the following records:*

*(a) Financial data contained in an application for registration, or registration renewal, as a service contractor, which is filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth.*

*(b) Financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.*

**CHAPTER 5. Health Care**

**Article 1. Accreditation**

**7926.000.**

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of a final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Public Health pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.*

**Article 2. Advance Health Care Directive and Related Matters**

**7926.100.**

*(a) Except as provided in subdivision (b) and in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of any information that a person provides to the Secretary of State for the purpose of registration in the Advance Health Care Directive Registry.*

*(b) The information described in subdivision (a) shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.*

**Article 3. Contracts and Negotiations**

**7926.200.**



*The provisions listed in Section 7920.505 do not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).*

**7926.205.**

*(a) Nothing in this division or any other provision of law requires disclosure of records of a health plan that is 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) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with providers of health care for alternative rates for a period of three years after the contract is fully executed.*

*(b) Transmission of the records described in subdivision (a), or the information contained therein in an alternative form, to the board of supervisors is not a waiver of exemption from disclosure. The records and information once transmitted to the board of supervisors remain subject to the exemption described in subdivision (a).*

*(c) (1) This section does not prevent the Joint Legislative Audit Committee from accessing any records in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2.*

*(2) This section does not prevent the Department of Managed Health Care from accessing any records in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.*

**7926.210.**

*(a) Except as provided in subdivision (b) or in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of any records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4, that relate to a contract with an insurer or a nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code.*

*(b) A record described in subdivision (a) shall be open to inspection within one year after the contract is fully executed.*

**7926.215.**

*(a) Except as provided in Sections 7924.510, 7924.700, and the provisions listed in Section 7920.505, this division does not require disclosure of records of the Department of Corrections and Rehabilitation that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations, such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.*

*(b) (1) Except for the portion that contains the rates of payment, a contract for health services entered into by the Department of Corrections and Rehabilitation or the California Medical Assistance Commission on or after July 1, 1993, shall be open to inspection one year after it is fully executed.*

*(2) If a contract for health services was entered into before July 1, 1993, and amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it is fully executed.*

*(c) Three years after a contract or amendment is open to inspection under this section, the portion of the contract or amendment containing the rates of payment shall be open to inspection.*

*(d) (1) Notwithstanding any other provision of law, including, but not limited to, Section 1060 of the Evidence Code, the entire contract or amendment shall be open to inspection by the California State Auditor's Office, the Joint Legislative Audit Committee, and the Legislative Analyst's Office.*

*(2) The California State Auditor's Office, the Joint Legislative Audit Committee, and the Legislative Analyst's Office shall maintain the confidentiality of each contract or amendment until the contract or amendment is fully open to inspection by the public.*

*(e) It is the intent of the Legislature that the confidentiality of health care provider contracts, and of the contracting process as provided in this section, shall protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.*

**7926.220.**

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of a state agency related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), or Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.*

*(b) (1) Except for the portion containing the rates of payment, a contract for inpatient services entered into pursuant to one of these articles, on or after April 1, 1984, shall be open to inspection one year after it is fully executed.*

*(2) If a contract for inpatient services was entered into before April 1, 1984, and amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed.*

*(3) If the California Medical Assistance Commission enters into a contract with a health care provider for other than inpatient hospital services, the contract shall be open to inspection one year after it is fully executed.*

*(c) Three years after a contract or amendment is open to inspection under this section, the portion of the contract or amendment containing the rates of payment shall be open to inspection.*

*(d) (1) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the California State Auditor's Office, the Joint Legislative Audit Committee, and the Legislative Analyst's Office.*

*(2) The California State Auditor's Office, the Joint Legislative Audit Committee, and the Legislative Analyst's Office shall maintain the confidentiality of each contract or amendment until the contract or amendment is fully open to inspection by the public.*

**7926.225.**

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services that relate to activities governed by former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), former Part 6.6 (commencing with Section 12739.5),*

or former Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(1) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(2) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(b) (1) Except for the portion that contains the rates of payment, a contract entered into pursuant to former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), former Part 6.6 (commencing with Section 12739.5), or former Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after its effective date.

(2) If a contract was entered into before July 1, 1991, and amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(c) Three years after a contract or amendment is open to inspection pursuant to this section, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(d) (1) Notwithstanding any other law, the entire contract or amendment to a contract shall be open to inspection by the California State Auditor's Office, the Joint Legislative Audit Committee, and the Legislative Analyst's Office.

(2) The California State Auditor's Office, the Joint Legislative Audit Committee, and the Legislative Analyst's Office shall maintain the confidentiality of each contract or amendment until the contract or amendment is open to inspection pursuant to subdivision (c).

7926.230.

(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:

(1) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.

(2) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.

(b) (1) Except for the portion that contains the rates of payment, a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter

3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after its effective date.

(2) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(c) Three years after a contract or amendment is open to inspection pursuant to this section, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(d) (1) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the California State Auditor's Office, the Joint Legislative Audit Committee, and the Legislative Analyst's Office.

(2) The California State Auditor's Office, the Joint Legislative Audit Committee, and the Legislative Analyst's Office shall maintain the confidentiality of each contract or amendment until the contract or amendment is open to inspection pursuant to subdivision (b) or (c).

(e) The exemption from disclosure provided pursuant to this section for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code.

7926.235.

(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of the Managed Risk Medical Insurance Board that relate to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(b) Except for the portion that contains the rates of payment, a contract for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after it has been fully executed.

(c) (1) Notwithstanding any other law, the entire contract or amendment to a contract shall be open to inspection by the Joint Legislative Audit Committee.

(2) The committee shall maintain the confidentiality of each contract or amendment until the contract or amendment is open to inspection pursuant to subdivision (b).

#### **Article 4. In-Home Supportive Services and Personal Care Services**

7926.300.

(a) Notwithstanding any other provision of this division, information regarding persons paid by the state to provide 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 personal care services pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code, is not subject to public disclosure pursuant to this division, except as provided in subdivision (b).

*(b) Copies of names, addresses, home telephone numbers, personal cellular telephone numbers, and personal email addresses of persons described in subdivision (a) shall be made available, upon request, to an exclusive bargaining agent and to any labor organization seeking representation rights pursuant to subdivision (c) of Section 12301.6, or Section 12302.5, of the Welfare and Institutions Code or Chapter 10 (commencing with Section 3500) of Division 4. This information shall not be used by the receiving entity for any purpose other than the employee organizing, representation, and assistance activities of the labor organization.*

*(c) This section applies solely to individuals who provide services under the In-Home Supportive Services Program (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code), the Personal Care Services Program pursuant to Section 14132.95 of the Welfare and Institutions Code, the In-Home Supportive Services Plus Option Program pursuant to Section 14132.952 of the Welfare and Institutions Code, the Community First Choice Option Program pursuant to Section 14132.956 of the Welfare and Institutions Code, or the Waiver Personal Care Services Program pursuant to Section 14132.97 of the Welfare and Institutions Code.*

*(d) This section does not alter the rights of parties under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4) or any other labor relations law.*

#### **Article 5. Reproductive Health Services Facility**

7926.400.

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

*(a) "Contractor" means an individual or entity that contracts with a reproductive health services facility for services related to patient care.*

*(b) "Personal information" means any of the following information related to an individual that is maintained by a public agency:*

*(1) Social security number.*

*(2) Physical description.*

*(3) Home address.*

*(4) Home telephone number.*

*(5) Statements of personal worth or personal financial data filed pursuant to Section 7925.005.*

*(6) Personal medical history.*

*(7) Employment history.*

*(8) Electronic mail address.*

*(9) Information that reveals any electronic network location or identity.*

*(c) "Public agency" means all of the following:*

*(1) The Department of Consumer Affairs.*

*(2) The Department of Managed Health Care.*

*(3) The State Department of Health Care Services.*

*(4) The State Department of Public Health.*

*(d) "Reproductive health services facility" means the office of a licensed physician and surgeon whose specialty is family medicine, obstetrics, or gynecology, or a licensed clinic, where at least 50 percent of the patients of the physician or the clinic are provided with family planning or abortion services.*

**7926.405.**

*This division does not require disclosure of any personal information received, collected, or compiled by a public agency regarding the employees, volunteers, board members, owners, partners, officers, or contractors of a reproductive health services facility who have notified the public agency pursuant to Section 7926.415 if the personal information is contained in a document that relates to the facility.*

**7926.410.**

*(a) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to obtain access to employment history information of a reproductive health services facility pursuant to Part 4 (commencing with Section 7923.000).*

*(b) If the court finds, based on the facts of a particular case, that the public interest served by disclosure of employment history information of a reproductive health services facility clearly outweighs the public interest served by not disclosing the information, the court shall order the officer or person charged with withholding the information to disclose employment history information or show cause why that officer or person should not disclose pursuant to Chapter 2 (commencing with Section 7923.100) of Part 4.*

**7926.415.**

*(a) In order for this article to apply to an individual who is an employee, volunteer, board member, officer, or contractor of a reproductive health services facility, the individual shall notify the public agency to which the individual's personal information is being submitted or has been submitted that the individual falls within the application of this article.*

*(b) Notification pursuant to subdivision (a) is valid if it complies with all of the following:*

*(1) It is on the official letterhead of the facility.*

*(2) It is clearly separate from any other language present on the same page and is executed by a signature that serves no other purpose than to execute the notification.*

*(3) It is signed and dated by both of the following:*

*(A) The individual whose information is being submitted.*

*(B) The executive officer of the reproductive health services facility or designee of the executive officer.*

*(c) A reproductive health services facility shall retain a copy of all notifications submitted pursuant to this article.*

**7926.420.**

*The privacy protections for personal information authorized pursuant to this article are effective from the time of notification pursuant to Section 7926.415 until either one of the following occurs:*

*(a) Six months after the date of separation from a reproductive health services facility for an individual who has served for not more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.*

*(b) One year after the date of separation from a reproductive health services facility for an individual who has served for more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.*

7926.425.

*Within 90 days of separation of an employee, contractor, volunteer, board member, or officer of the reproductive health services facility who has provided notice to a public agency pursuant to Section 7926.415, the facility shall provide notice of the separation to the relevant agency or agencies.*

7926.430.

*This section does not prevent a government agency from disclosing data regarding the age, race, ethnicity, national origin, or gender of individuals whose personal information is protected pursuant to this article if the data does not contain individually identifiable information.*

## **Article 6. Websites and Related Matters**

7926.500.

*In implementing this division, each health care district shall maintain an internet website in accordance with subdivision (b) of Section 32139 of the Health and Safety Code.*

## **CHAPTER 6. Historically or Culturally Significant Matters**

7927.000.

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of any of the following:*

*(a) Records of Native American graves, cemeteries, and sacred places.*

*(b) Records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code, which are maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.*

7927.005.

*Nothing in this division requires disclosure of records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency.*

## **CHAPTER 7. Library Records and Similar Matters**

7927.100.

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes.*

*(b) The exemption in this section does not apply to records of fines imposed on the borrowers.*

7927.105.

*(a) As used in this section, the term "patron use records" includes both of the following:*

(1) Any written or electronic record that is used to identify a library patron and is provided by the patron to become eligible to borrow or use books and other materials. This includes, but is not limited to, a patron's name, address, telephone number, or email address.

(2) Any written record or electronic transaction that identifies a patron's borrowing information or use of library information resources. This includes, but is not limited to, database search records, borrowing records, class records, and any other personally identifiable uses of library resources information requests, or inquiries.

(b) This section does not apply to either of the following:

(1) Statistical reports of patron use.

(2) Records of fines collected by a library.

(c) All patron use records of a library that is in whole or in part supported by public funds shall remain confidential. A public agency, or a private actor that maintains or stores patron use records on behalf of a public agency, shall not disclose those records to any person, local agency, or state agency, except as follows:

(1) By a person acting within the scope of the person's duties within the administration of the library.

(2) By a person authorized in writing to inspect the records. The authorization shall be from the individual to whom the records pertain.

(3) By order of the appropriate superior court.

## **CHAPTER 8. Litigation Records and Similar Matters**

### **7927.200.**

Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of any of the following records:

(a) Records pertaining to pending litigation to which the public agency is a party, until the pending litigation has been finally adjudicated or otherwise settled.

(b) Records pertaining to a claim made pursuant to Division 3.6 (commencing with Section 810), until the pending claim has been finally adjudicated or otherwise settled.

### **7927.205.**

Nothing in this division or any other provision of law requires disclosure of a memorandum submitted to a state body or to the legislative body of a local agency by its legal counsel pursuant to subdivision (e) of Section 11126 or Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum is protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

## **CHAPTER 9. Miscellaneous Public Records**

### **7927.300.**

Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

### **7927.305.**



*(a) Notwithstanding any other provision of this division to the contrary, information regarding family childcare providers, as defined in subdivision (b) of Section 8431 of the Education Code, shall not be subject to public disclosure pursuant to this division, except as provided in subdivisions (b) and (c).*

*(b) Consistent with Section 8432 of the Education Code, copies of names, home and mailing addresses, county, home, if known, work, and cellular telephone numbers, and email addresses of persons described in subdivision (a) shall be made available, upon request, to provider organizations that have been determined to be a provider organization pursuant to subdivision (a) of Section 8432 of the Education Code. Information shall be made available consistent with the deadlines set in Section 8432 of the Education Code. This information shall not be used by the receiving entity for any purpose other than for purposes of organizing, representing, and assisting family childcare providers.*

*(c) Consistent with Section 8432 of the Education Code, copies of names, home and mailing addresses, county, home, if known, work, and cellular telephone numbers, and email addresses of persons described in subdivision (a) shall be made available to a certified provider organization, as defined in subdivision (a) of Section 8431 of the Education Code. Information shall be made available consistent with the deadlines set in Section 8432 of the Education Code. This information shall not be used by the receiving entity for any purpose other than for purposes of organizing, representing, and assisting family childcare providers.*

*(d) This section does not prohibit or limit the disclosure of information otherwise required to be disclosed by the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70) of, Chapter 3.5 (commencing with Section 1596.90) of, and Chapter 3.6 (commencing with Section 1597.30) of, Division 2 of the Health and Safety Code), or to an officer or employee of another state public agency for performance of their official duties under state law.*

*(e) All confidentiality requirements applicable to recipients of information pursuant to Section 1596.86 of the Health and Safety Code shall apply to protect the personal information of providers of small family daycare homes, as defined in Section 1596.78 of the Health and Safety Code, that is disclosed pursuant to subdivisions (b) and (c).*

*(f) A family childcare provider, as defined by subdivision (b) of Section 8431 of the Education Code, may opt out of disclosure of their home and mailing address, home, work, and cellular telephone numbers, and email address from the lists described in subdivisions (c) and (d) of Section 8432 of the Education Code by complying with the procedure set forth in subdivision (k) of Section 8432 of the Education Code.*

## **CHAPTER 10. Personal Information and Customer Records**

### **7927.400.**

*Nothing in this division requires the disclosure of records that relate to electronically collected personal information, as defined by Section 11015.5, that is received, collected, or compiled by a state agency.*

### **7927.405.**

*Nothing in this division requires the disclosure of the residence or mailing address of any person in any record of the Department of Motor Vehicles except in accordance with Section 1808.21 of the Vehicle Code.*

### **7927.410.**

*Nothing in this division requires the disclosure of the name, credit history, utility usage data, home address, or telephone number of a utility customer of a local agency, except that disclosure of the name, utility usage data, and the home address of a utility customer of a local agency shall be made available upon request as follows:*

*(a) To an agent or authorized family member of the person to whom the information pertains.*

*(b) To an officer or employee of another governmental agency when necessary for the performance of its official duties.*

*(c) Upon court order or the request of a law enforcement agency relative to an ongoing investigation.*

*(d) Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.*

*(e) Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without the official's consent.*

*(f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.*

**7927.415.**

*Except as provided in Sections 7924.510 and 7924.700, nothing in this division requires disclosure of records that are the residence address of any person contained in the records of the Department of Housing and Community Development, if the person has requested confidentiality of that information, in accordance with Section 18081 of the Health and Safety Code.*

**7927.420.**

*Notwithstanding paragraph (2) of subdivision (a) of Section 827 of the Welfare and Institutions Code, after the death of a foster child who is a minor, the name, date of birth, and date of death of the child shall be subject to disclosure by the county child welfare agency pursuant to this division.*

## **CHAPTER 11. Preliminary Drafts and Similar Materials**

**7927.500.**

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of any preliminary drafts, notes, or interagency or intraagency memoranda that are not retained by a public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.*

## **CHAPTER 12. Private Industry**

**7927.600.**

*Whenever a city and county or a joint powers agency, pursuant to a mandatory statute or charter provision to collect private industry wage data for salary setting purposes, or a contract entered to implement that mandate, is provided this data by the United States Bureau of Labor Statistics on the basis that the identity of private industry employers shall remain confidential, the identity of the employers shall not be open to the public or be admitted as evidence in any action or special proceeding.*

**7927.605.**

*(a) Nothing in this division requires the disclosure of records that are any of the following: corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California.*

*(b) Except as provided in subdivision (c), incentives offered by a state or a local government agency, if any, shall be disclosed upon communication to the agency or the public of a decision to stay, locate, relocate, or expand, by a company, or upon application by that company to a governmental agency for a general plan amendment, rezone, use permit, building permit, or any other permit, whichever occurs first.*

*(c) Before publicly disclosing a record that describes state or local incentives offered by an agency to a private business to retain, locate, relocate, or expand the business within California, the agency shall delete information that is exempt pursuant to this section.*

### **CHAPTER 13. Private Records, Privileged Materials, and Other Records Protected by Law From Disclosure**

**7927.700.**

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.*

**7927.705.**

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.*

### **CHAPTER 14. Public Employee or Official**

#### **Article 1. The Governor**

**7928.000.**

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary.*

*(b) Public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this division.*

**7928.005.**

*(a) When the Governor leaves office, either voluntarily or involuntarily, public records in the custody or control of the Governor shall be transferred to the State Archives as soon as practical.*

*(b) Notwithstanding any other law, the Governor, by written instrument, the terms of which shall be made public, may restrict public access to any of the transferred public records, or any other writings the Governor may transfer that have not already been made accessible to the public.*

*(c) With respect to public records, public access, as otherwise provided for by this division, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later, nor shall there be any restriction whatsoever with respect to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition in cases that have been closed for a period of at least 25 years. Subject to any restrictions permitted by this section or Section 7928.010, the Secretary of State, as custodian of the State Archives, shall make all those public records and other writings available to the public as otherwise provided for in this division.*

**7928.010.**

*(a) (1) For a Governor who held office between 1974 and 1988, Section 7928.005 does not apply to public records or other writings that were in the Governor's direct custody or control at the time of leaving office, except to the extent that the Governor may voluntarily transfer those records or other writings to the State Archives.*

*(2) Subdivision (a) does not apply to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition.*

*(b) (1) Notwithstanding any other law, the public records and other writings of any Governor who held office between 1974 and 1988 may be transferred to any educational or research institution in California. With respect to public records, however, public access, as otherwise provided for by this division, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later.*

*(2) Records or writings shall not be transferred pursuant to this subdivision unless the institution receiving them agrees to maintain, and does maintain, the materials according to commonly accepted archival standards.*

*(3) An institution receiving public records pursuant to this subdivision shall not destroy any of those records without first receiving the written approval of the Secretary of State, as custodian of the State Archives. The Secretary of State may require that the records be placed in the State Archives rather than being destroyed.*

*(4) An institution receiving records or writings pursuant to this subdivision shall allow the Secretary of State, as custodian of the State Archives, to copy, at state expense, and to make available to the public, any and all public records, and inventories, indices, or finding aids relating to those records that the institution makes available to the public generally. Copies of those records in the custody of the State Archives shall be given the same legal effect as is given to the originals.*

**7928.015.**

*(a) The Secretary of State may appraise and manage new or existing records that are subject to Section 7928.005 or 7928.010 to determine whether the records are appropriate for preservation in the State Archives.*

*(b) For purposes of this section, the Secretary of State shall use professional archival practices, including, but not limited to, appraising the historic value of the records, arranging and describing the records, rehousing the records in appropriate storage containers, or providing any conservation treatment that the records require.*

## **Article 2. The Legislature**

**7928.100.**

*(a) Except as provided in subdivision (b) and in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of any records that are in the custody of, or maintained by, the Legislative Counsel.*

*(b) Subdivision (a) does not apply to records in the public database maintained by the Legislative Counsel that are described in Section 10248.*

## **Article 3. Online Posting or Sale of Personal Information of Elected or Appointed Official**

**7928.200.**

*(a) Nothing in this article is intended to preclude punishment instead under Section 69, 76, or 422 of the Penal Code, or any other law.*

*(b) An interactive computer service or access software provider, as defined in Section 230(f) of Title 47 of the United States Code, shall not be liable under this article unless the service or provider intends to abet or cause imminent great bodily harm that is likely to occur or threatens to cause imminent great bodily harm to an elected or appointed official.*

**7928.205.**

*No state or local agency shall post the home address or telephone number of any elected or appointed official on the internet without first obtaining the written permission of that individual.*

**7928.210.**

*(a) No person shall knowingly post the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child, on the internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual.*

*(b) A violation of this section is a misdemeanor.*

*(c) A violation of this section that leads to the bodily injury of the official, or the official's residing spouse or child, is a misdemeanor or a felony.*

**7928.215.**

*(a) For purposes of this section, "publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.*

*(b) No person, business, or association shall publicly post or publicly display on the internet the home address or telephone number of any elected or appointed official if that official has, either directly or through an agent designated under Section 7928.220, made a written demand of that person, business, or association to not disclose the official's home address or telephone number.*

*(c) A written demand made under this section by a state constitutional officer, a mayor, or a Member of the Legislature, a city council, or a board of supervisors shall include a statement describing a threat or fear for the safety of that official or of any person residing at the official's home address.*

*(d) A written demand made under this section by an elected official shall be effective for four years, regardless of whether the official's term has expired before the end of the four-year period.*

*(e) (1) A person, business, or association that receives the written demand of an elected or appointed official pursuant to this section shall remove the official's home address or telephone number from public display on the internet, including information provided to cellular telephone applications, within 48 hours of delivery of the written demand, and shall continue to ensure that this information is not reposted on the same internet website, subsidiary site, or any other internet website maintained by the recipient of the written demand.*

*(2) After receiving the elected or appointed official's written demand, the person, business, or association shall not transfer the appointed or elected official's home address or telephone number to any other person, business, or association through any other medium.*

*(3) Paragraph (2) does not prohibit a telephone corporation, as defined in Section 234 of the Public Utilities Code, or its affiliate, from transferring the elected or appointed official's home address or telephone number to any person, business, or association, if the transfer is authorized by federal or state law, regulation, order, or tariff, or necessary in the event of an emergency, or to collect a debt owed by the elected or appointed official to the telephone corporation or its affiliate.*

**7928.220.**

*(a) An elected or appointed official may designate in writing the official's employer, a related governmental entity, or any voluntary professional association of similar officials to act, on behalf of that official, as that official's agent with regard to making a written demand pursuant to this article.*

*(b) An appointed official who is a district attorney, a deputy district attorney, or a peace officer, as defined in Sections 830 to 830.65, inclusive, of the Penal Code, may also designate the official's recognized collective bargaining representative to make a written demand on the official's behalf pursuant to this article.*

*(c) A written demand made by an agent pursuant to Section 7928.215 shall include a statement describing a threat or fear for the safety of that official or of any person residing at the official's home address.*

**7928.225.**

*(a) An official whose home address or telephone number is made public as a result of a violation of Section 7928.215 may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction.*

*(b) If a court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the official court costs and reasonable attorney's fees.*

*(c) A fine not exceeding one thousand dollars (\$1,000) may be imposed for a violation of the court's order for an injunction or declarative relief obtained pursuant to this section.*

**7928.230.**

*(a) No person, business, or association shall solicit, sell, or trade on the internet the home address or telephone number of an elected or appointed official with the intent to cause imminent great bodily harm to the official or to any person residing at the official's home address.*

*(b) Notwithstanding any other law, an official whose home address or telephone number is solicited, sold, or traded in violation of subdivision (a) may bring an action in any court of competent jurisdiction.*

*(c) If a jury or court finds that a violation has occurred, it shall award damages to that official in an amount up to a maximum of three times the actual damages but in no case less than four thousand dollars (\$4,000).*

**Article 4. Personal Information of Agency Employee**

**7928.300.**

*(a) The home addresses, home telephone numbers, personal cellular telephone numbers, and birth dates of all employees of a public agency shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:*

*(1) To an agent, or a family member of the individual to whom the information pertains.*

*(2) To an officer or employee of another public agency when necessary for the performance of its official duties.*

*(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and any phone numbers on file with the employer of employees performing law enforcement-related functions, and the birth date of any employee, shall not be disclosed.*

*(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to public agencies and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.*

*(b) (1) Unless used by the employee to conduct public business, or necessary to identify a person in an otherwise disclosable communication, the personal email addresses of all employees of a public agency shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as specified in paragraphs (1) to (4), inclusive, of subdivision (a).*

*(2) This subdivision shall not be construed to limit the public's right to access the content of an employee's personal email that is used to conduct public business, as decided by the Supreme Court in City of San Jose v. Superior Court (2017) 2 Cal.5th 608.*

*(c) Upon written request of any employee, a public agency shall not disclose the employee's home address, home telephone number, personal cellular telephone number, personal email address, or birth date pursuant to paragraph (3) of subdivision (a) and an agency shall remove the employee's home address, home telephone number, and personal cellular telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.*

## **Article 5. Employment Contracts of Government Employees and Related Matters**

**7928.400.**

*Every employment contract between a state or local agency and any public official or public employee is a public record that is not subject to Section 7922.000 and the provisions listed in Section 7920.505.*

**7928.405.**

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, and Article 19.5 (commencing with Section 8430) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters.*

*(b) This section shall not be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this section.*

**7928.410.**

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of records of local agencies related to activities governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter.*

*(b) This section shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this section.*

## **CHAPTER 15. Public Entity Spending, Finances, and Oversight**

### **Article 1. Access in General**

**7928.700.**

*Notwithstanding any contract term to the contrary, a contract entered into by a state or local agency subject to this division, including the University of California, that requires a private entity to review, audit, or report on any aspect of that agency shall be public to the extent the contract is otherwise subject to disclosure under this division.*

**7928.705.**

*(a) Except as provided in subdivision (b) and in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by a state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained.*

*(b) This section does not affect the law of eminent domain.*

**7928.710.**

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

*(1) "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or absolute return fund.*

*(2) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which the public investment fund invests in portfolio companies.*

*(3) "Portfolio positions" means individual portfolio investments made by the alternative investment vehicles.*

*(4) "Public investment fund" means any public pension or retirement system, any public endowment or foundation, or a public bank, as defined in Section 57600.*

*(b) Notwithstanding any provision of this division or other law, the following records regarding alternative investments in which public investment funds invest are not subject to disclosure pursuant to this division, unless the information has already been publicly released by the keeper of the information:*

*(1) Due diligence materials that are proprietary to the public investment fund or the alternative investment vehicle.*

*(2) Quarterly and annual financial statements of alternative investment vehicles.*

*(3) Meeting materials of alternative investment vehicles.*

*(4) Records containing information regarding the portfolio positions in which alternative investment funds invest.*

*(5) Capital call and distribution notices.*

*(6) Alternative investment agreements and all related documents.*

*(c) Notwithstanding subdivision (b), the following information contained in records described in subdivision (b) regarding alternative investments in which public investment funds invest is subject to disclosure pursuant to this division and shall not be considered a trade secret exempt from disclosure:*

*(1) The name, address, and vintage year of each alternative investment vehicle.*

*(2) The dollar amount of the commitment made to each alternative investment vehicle by the public investment fund since inception.*



*(3) The dollar amount of cash contributions made by the public investment fund to each alternative investment vehicle since inception.*

*(4) The dollar amount, on a fiscal year-end basis, of cash distributions received by the public investment fund from each alternative investment vehicle.*

*(5) The dollar amount, on a fiscal year-end basis, of cash distributions received by the public investment fund plus remaining value of partnership assets attributable to the public investment fund's investment in each alternative investment vehicle.*

*(6) The net internal rate of return of each alternative investment vehicle since inception.*

*(7) The investment multiple of each alternative investment vehicle since inception.*

*(8) The dollar amount of the total management fees and costs paid on an annual fiscal year-end basis, by the public investment fund to each alternative investment vehicle.*

*(9) The dollar amount of cash profit received by public investment funds from each alternative investment vehicle on a fiscal year-end basis.*

**7928.715.**

*Nothing in this division requires disclosure of an identification number, alphanumeric character, or other unique identifying code that a public agency uses to identify a vendor or contractor, or an affiliate of a vendor or contractor, unless the identification number, alphanumeric character, or other unique identifying code is used in a public bidding or an audit involving the public agency.*

**7928.720.**

*Notwithstanding Sections 7920.510, 7920.515, 7920.520, 7920.530, 7920.540, and 7920.545, and subdivision (a) of Section 7920.525, an itemized statement of the total expenditures and disbursements of any agency provided for in Article VI of the California Constitution shall be open for inspection.*

## **Article 2. Requirements Specific to Online Access**

**7928.800.**

*In implementing this division, each independent special district shall maintain an internet website in accordance with Section 53087.8.*

## **CHAPTER 16. Regulation of Financial Institutions and Securities**

**7929.000.**

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records contained in, or related to, any of the following:*

*(a) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.*

*(b) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in subdivision (a).*

*(c) Preliminary drafts, notes, or interagency or intraagency communications prepared by, on behalf of, or for the use of, any state agency referred to in subdivision (a).*

*(d) Information received in confidence by any state agency referred to in subdivision (a).*

**7929.005.**

*(a) Any information reported to the North American Securities Administrators Association/Financial Industry Regulatory Authority and compiled as disciplinary records that are made available to the Department of Business Oversight through a computer system constitutes a public record.*

*(b) Notwithstanding any other provision of law, upon written or oral request pursuant to Section 25247 of the Corporations Code, the Department of Business Oversight may disclose any of the following:*

- (1) The information described in subdivision (a).*
- (2) The current license status of a broker-dealer.*
- (3) The year of issuance of the license of a broker-dealer.*

**7929.010.**

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

*(1) "Customer" means a person or entity that has transacted or is transacting business with or has used or is using the services of a public bank or a person or entity for whom the public bank has acted as a fiduciary with respect to trust property.*

*(2) "Investment recipient" means an entity in which the public bank invests.*

*(3) "Loan recipient" means an entity or individual that has received a loan from the public bank.*

*(4) "Personal data" means social security numbers, tax identification numbers, physical descriptions, home addresses, home telephone numbers, statements of personal worth or any other personal financial data, employment histories, electronic mail addresses, and information that reveals any electronic network location or identity.*

*(5) "Public bank" has the same meaning as defined in Section 57600.*

*(b) Notwithstanding any other provision of this division, the following information and records of a public bank and the related decisions of the directors, officers, and managers of a public bank are not subject to disclosure pursuant to this division, unless the information has already been publicly released by the custodian of the information:*

- (1) Due diligence materials that are proprietary to the public bank.*
- (2) A memorandum or letter produced and distributed internally by the public bank.*
- (3) A commercial or personal financial statement or other financial data received from an actual or potential customer, loan recipient, or investment recipient.*
- (4) Meeting materials of a closed-session meeting, or a closed-session portion of a meeting, of the board of directors, a committee of the board of directors, or executives of a public bank.*
- (5) A record containing information regarding a portfolio position in which the public bank invests.*
- (6) A record containing information regarding a specific loan amount or loan term, or information received from a loan recipient or customer pertaining to a loan or an application for a loan.*
- (7) A capital call or distribution notice, or a notice to a loan recipient or customer regarding a loan or account with the public bank.*
- (8) An investment agreement, loan agreement, deposit agreement, or a related document.*
- (9) Specific account information or other personal data received by the public bank from an actual or potential customer, investment recipient, or loan recipient.*

(10) A memorandum or letter produced and distributed for purposes of meetings with a federal or state banking regulator.

(11) A memorandum or letter received from a federal or state banking regulator.

(12) Meeting materials of the internal audit committee, the compliance committee, or the governance committee of the board of directors of a public bank.

(c) Notwithstanding subdivision (b), the following information contained in records described in subdivision (b) is subject to disclosure pursuant to this division and is not a trade secret exempt from disclosure:

(1) The name, title, and appointment year of each director and executive of the public bank.

(2) The name and address of each current investment recipient in which the public bank currently invests.

(3) General internal performance metrics of the public bank and financial statements of the bank, as specified or required by the public bank's charter or as required by federal law.

(4) Final audit reports of the public bank's independent auditors, although disclosure to an independent auditor of any information described in subdivision (b) shall not be construed to permit public disclosure of that information provided to the auditor.

## **CHAPTER 17. Security Measures and Related Matters**

### **7929.200.**

Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of a document prepared by or for a state or local agency that satisfies both of the following conditions:

(a) It assesses the agency's vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operation.

(b) It is for distribution or consideration in a closed session.

### **7929.205.**

(a) As used in this section, "voluntarily submitted" means submitted without the Office of Emergency Services exercising any legal authority to compel access to, or submission of, critical infrastructure information.

(b) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who, or entity that, voluntarily submitted the information.

(c) This section does not affect the status of information in the possession of any other state or local governmental agency.

### **7929.210.**

(a) Nothing in this division requires the disclosure of an information security record of a public agency, if, on the facts of the particular case, disclosure of that record would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency.

(b) Nothing in this section limits public disclosure of records stored within an information technology system of a public agency that are not otherwise exempt from disclosure pursuant to this division or any other law.

7929.215.

*Nothing in this division or any other law requires disclosure of a risk assessment or railroad infrastructure protection program filed with the Public Utilities Commission, the Director of Homeland Security, and the Office of Emergency Services pursuant to Article 7.3 (commencing with Section 7665) of Chapter 1 of Division 4 of the Public Utilities Code.*

## **CHAPTER 18. State Compensation Insurance Fund**

7929.400.

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of the State Compensation Insurance Fund that relate to claims pursuant to Chapter 1 (commencing with Section 3200) of Part 1 of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.*

7929.405.

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of the State Compensation Insurance Fund that relate to discussions, communications, or any other portion of negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.*

7929.410.

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of the State Compensation Insurance Fund that relate to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.*

7929.415.

*Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of the State Compensation Insurance Fund obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, all of the following:*

*(a) Any medical claims information.*

*(b) Policyholder information, provided that this section shall not be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker.*

*(c) Information on rates, pricing, and claims handling received from brokers.*

7929.420.

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records of the State Compensation Insurance Fund that are trade secrets pursuant to Section 7930.205, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including, without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.*

*(b) Notwithstanding subdivision (a), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.*

**7929.425.**

*(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of internal audits of the State Compensation Insurance Fund containing proprietary information, or the following records of the State Compensation Insurance Fund that are related to an internal audit:*

*(1) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that the person's papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.*

*(2) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.*

*(b) Notwithstanding subdivision (a), the portions of records containing proprietary information, or any information specified in subdivision (a), shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.*

**7929.430.**

*(a) For purposes of this section, "fully executed" means the point in time when all of the necessary parties to a contract have signed the contract.*

*(b) Except as provided in subdivision (d), records of the State Compensation Insurance Fund that are contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.*

*(c) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.*

*(d) Three years after a contract or amendment is open to inspection pursuant to this section, the portion of the contract or amendment containing the rates of payment shall be open to inspection.*

*(e) Notwithstanding any other law, the entire contract or amendment to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contract or amendment thereto until the contract or amendment is open to inspection pursuant to this section.*

*(f) This section does not apply to a document related to a contract with a public entity that is not otherwise expressly confidential as to that public entity.*

## **CHAPTER 19. Test Materials, Test Results, and Related Matters**

**7929.600.**

*Nothing in this division requires the disclosure of the results of a test undertaken pursuant to Section 12804.8 of the Vehicle Code.*

**7929.605.**

Except as provided in Sections 7924.510, 7924.700, and 7929.610, and in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code, this division does not require disclosure of test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination.

**7929.610.**

(a) Notwithstanding the provisions listed in Section 7920.505, upon the request of any Member of the Legislature or upon request of the Governor or the Governor's designee, test questions or materials that would be used to administer an examination and are provided by the State Department of Education and administered as part of a statewide testing program of pupils enrolled in the public schools shall be disclosed to the requester.

(b) The questions or materials described in subdivision (a) may not include an individual examination that has been administered to a pupil and scored.

(c) The requester may not take physical possession of the questions or materials described in subdivision (a), but may view the questions or materials at a location selected by the department.

(d) Upon viewing this information, the requester shall keep the materials that the requester has seen confidential.

## **PART 6. OTHER EXEMPTIONS FROM DISCLOSURE**

### **CHAPTER 1. Introductory Provisions**

**7930.000.**

(a) It is the intent of the Legislature to assist members of the public and state and local agencies in identifying exemptions to the California Public Records Act. It is the intent of the Legislature that, after January 1, 1999, each addition or amendment to a statute that exempts any information contained in a public record from disclosure pursuant to Section 7927.705 shall be listed and described in Chapter 2 (commencing with Section 7930.100) pursuant to a bill authorized by a standing committee of the Legislature to be introduced during the first year of each session of the Legislature.

(b) The statutes and constitutional provisions listed in Chapter 2 (commencing with Section 7930.100) may operate to exempt certain records, or portions thereof, from disclosure. The statutes and constitutional provisions listed and described may not be inclusive of all exemptions. The listing of a statute or constitutional provision in Chapter 2 (commencing with Section 7930.100) does not itself create an exemption. Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, in light of the circumstances surrounding the request, exempts public records from disclosure.

**7930.005.**

Records or information not required to be disclosed pursuant to Section 7927.705 may include, but shall not be limited to, records or information identified in statutes listed in Chapter 2 (commencing with Section 7930.100).

### **CHAPTER 2. Alphabetical List**

**7930.100.**

The following constitutional provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:

*Crime victims, confidential information or records, The Victims' Bill of Rights Act of 2008: Marsy's Law, Section 28 of Article I of the California Constitution.*

*Privacy, inalienable right, Section 1 of Article I of the California Constitution.*

**7930.105.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Acquired immunodeficiency syndrome, blood test results, written authorization not necessary for disclosure, Section 121010, Health and Safety Code.*

*Acquired immunodeficiency syndrome, blood test subject, compelling identity of, Section 120975, Health and Safety Code.*

*Acquired immunodeficiency syndrome, confidentiality of personal data of patients in State Department of Public Health programs, Section 120820, Health and Safety Code.*

*Acquired immunodeficiency syndrome, confidentiality of research records, Sections 121090, 121095, 121115, and 121120, Health and Safety Code.*

*Acquired immunodeficiency syndrome, confidentiality of vaccine volunteers, Section 121280, Health and Safety Code.*

*Acquired immunodeficiency syndrome, confidentiality of information obtained in prevention programs at correctional facilities and law enforcement agencies, Sections 7552 and 7554, Penal Code.*

*Acquired immunodeficiency syndrome, disclosure of results of HIV test, penalties, Section 120980, Health and Safety Code.*

*Acquired immunodeficiency syndrome, personal information, insurers tests, confidentiality of, Section 799, Insurance Code.*

*Acquired immunodeficiency syndrome, public safety and testing disclosure, Sections 121065 and 121070, Health and Safety Code.*

*Acquired Immune Deficiency Syndrome Research and Confidentiality Act, production or discovery of records for use in criminal or civil proceedings against subject prohibited, Section 121100, Health and Safety Code.*

*Acquired Immune Deficiency Syndrome Public Health Records Confidentiality Act, personally identifying information confidentiality, Section 121025, Health and Safety Code.*

*Acquired immunodeficiency syndrome, test of criminal defendant pursuant to search warrant requested by victim, confidentiality of, Section 1524.1, Penal Code.*

*Acquired immunodeficiency syndrome, test results, disclosure to patient's spouse and others, Section 121015, Health and Safety Code.*

*Acquired immunodeficiency syndrome, test of person under Youth Authority, disclosure of results, Section 1768.9, Welfare and Institutions Code.*

*Acquired Immune Deficiency Syndrome Research and Confidentiality Act, financial audits or program evaluations, Section 121085, Health and Safety Code.*

*Acquired Immune Deficiency Syndrome Research and Confidentiality Act, violations, Section 121100, Health and Safety Code.*

*Acquired Immune Deficiency Syndrome Research and Confidentiality Act, personally identifying research records not to be disclosed, Section 121075, Health and Safety Code.*

*Acquired Immune Deficiency Syndrome Research and Confidentiality Act, permittee disclosure, Section 121080, Health and Safety Code.*

*Administrative procedure, adjudicatory hearings, interpreters, Section 11513, this code.*

*Adoption records, confidentiality of, Section 102730, Health and Safety Code.*

*Advance Health Care Directive Registry, exemption from disclosure for registration information provided to the Secretary of State, Section 7926.100, this code.*

**7930.110.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Aeronautics Act, reports of investigations and hearings, Section 21693, Public Utilities Code.*

*Agricultural producers marketing, access to records, Section 59616, Food and Agricultural Code.*

*Aiding disabled voters, Section 14282, Elections Code.*

*Air pollution data, confidentiality of trade secrets, Sections 7924.510 and 7924.700, this code, and Sections 42303.2 and 43206, Health and Safety Code.*

*Air toxics emissions inventory plans, protection of trade secrets, Section 44346, Health and Safety Code.*

*Alcohol and drug abuse records and records of communicable diseases, confidentiality of, Section 123125, Health and Safety Code.*

*Alcoholic beverage licensees, confidentiality of corporate proprietary information, Section 25205, Business and Professions Code.*

*Ambulatory Surgery Data Record, confidentiality of identifying information, Section 128737, Health and Safety Code.*

*Apiary registration information, confidentiality of, Section 29041, Food and Agricultural Code.*

*Archaeological site information and reports maintained by state and local agencies, disclosure not required, Section 7927.005, this code.*

*Arrest not resulting in conviction, disclosure or use of records, Sections 432.7 and 432.8, Labor Code.*

*Arsonists, registered, confidentiality of certain information, Section 457.1, Penal Code.*

*Assessor's records, confidentiality of information in, Section 408, Revenue and Taxation Code.*

*Assessor's records, confidentiality of information in, Section 451, Revenue and Taxation Code.*

*Assessor's records, display of documents relating to business affairs or property of another, Section 408.2, Revenue and Taxation Code.*

*Assigned risk plans, rejected applicants, confidentiality of information, Section 11624, Insurance Code.*

*Attorney applicant, investigation by State Bar, confidentiality of, Section 6060.2, Business and Professions Code.*

*Attorney applicant, information submitted by applicant and State Bar admission records, confidentiality of, Section 6060.25, Business and Professions Code.*

*Attorney-client confidential communication, Section 6068, Business and Professions Code, and Sections 952 and 954, Evidence Code.*



*Attorney, disciplinary proceedings, confidentiality before formal proceedings, Section 6086.1, Business and Professions Code.*

*Attorney, disciplinary proceeding, State Bar access to nonpublic court records, Section 6090.6, Business and Professions Code.*

*Attorney, law corporation, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.*

*Attorney work product confidentiality in administrative adjudication, Section 11507.6, this code.*

*Attorney, work product, confidentiality of, Section 6202, Business and Professions Code.*

*Attorney work product, discovery, Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4, Code of Civil Procedure.*

*Automated forward facing parking control devices, confidentiality of video imaging records from the devices, Section 40240, Vehicle Code.*

*Automated traffic enforcement system, confidentiality of photographic records made by the system, Section 21455.5, Vehicle Code.*

*Automobile Insurance Claims Depository, confidentiality of information, Section 1876.3, Insurance Code.*

*Automobile insurance, investigation of fraudulent claims, confidential information, Section 1872.8, Insurance Code.*

*Avocado handler transaction records, confidentiality of information, Section 44984, Food and Agricultural Code.*

**7930.115.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Bank and Corporation Tax, disclosure of information, Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2, Revenue and Taxation Code.*

*Bank employees, confidentiality of criminal history information, Section 4990, Financial Code.*

*Bank reports, confidentiality of, Section 459, Financial Code.*

*Basic Property Insurance Inspection and Placement Plan, confidential reports, Section 10097, Insurance Code.*

*Beef Council of California, confidentiality of fee transactions information, Section 64691.1, Food and Agricultural Code.*

*Bids, confidentiality of, Section 10304, Public Contract Code.*

*Birth, death, and marriage licenses, confidential information contained in, Sections 102100, 102110, and 102230, Health and Safety Code.*

*Birth defects, monitoring, confidentiality of information collected, Section 103850, Health and Safety Code.*

*Birth, live, confidential portion of certificate, Sections 102430, 102475, 103525, and 103590, Health and Safety Code.*

*Blood tests, confidentiality of hepatitis and AIDS carriers, Section 1603.1, Health and Safety Code.*

*Blood-alcohol percentage test results, vehicular offenses, confidentiality of, Section 1804, Vehicle Code.*

*Business and professions licensee exemption for social security number, Section 30, Business and Professions Code.*

*7930.120.*

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Cable television subscriber information, confidentiality of, Section 637.5, Penal Code.*

*CalFresh, disclosure of information, Section 18909, Welfare and Institutions Code.*

*California AIDS Program, personal data, confidentiality, Section 120820, Health and Safety Code.*

*California Apple Commission, confidentiality of lists of persons, Section 75598, Food and Agricultural Code.*

*California Apple Commission, confidentiality of proprietary information from producers or handlers, Section 75633, Food and Agricultural Code.*

*California Asparagus Commission, confidentiality of lists of producers, Section 78262, Food and Agricultural Code.*

*California Asparagus Commission, confidentiality of proprietary information from producers, Section 78288, Food and Agricultural Code.*

*California Avocado Commission, confidentiality of information from handlers, Section 67094, Food and Agricultural Code.*

*California Avocado Commission, confidentiality of proprietary information from handlers, Section 67104, Food and Agricultural Code.*

*California Cherry Commission, confidentiality of proprietary information from producers, processors, shippers, or grower-handlers, Section 76144, Food and Agricultural Code.*

*California Children's Services Program, confidentiality of factor replacement therapy contracts, Section 123853, Health and Safety Code.*

*California Cut Flower Commission, confidentiality of lists of producers, Section 77963, Food and Agricultural Code.*

*California Cut Flower Commission, confidentiality of proprietary information from producers, Section 77988, Food and Agricultural Code.*

*California Date Commission, confidentiality of proprietary information from producers and grower-handlers, Section 77843, Food and Agricultural Code.*

*California Egg Commission, confidentiality of proprietary information from handlers or distributors, Section 75134, Food and Agricultural Code.*

*California Forest Products Commission, confidentiality of lists of persons, Section 77589, Food and Agricultural Code.*

*California Forest Products Commission, confidentiality of proprietary information from producers, Section 77624, Food and Agricultural Code.*

*California Iceberg Lettuce Commission, confidentiality of information from handlers, Section 66624, Food and Agricultural Code.*

*California Kiwifruit Commission, confidentiality of proprietary information from producers or handlers, Section 68104, Food and Agricultural Code.*

*California Navel Orange Commission, confidentiality of proprietary information from producers or handlers and lists of producers and handlers, Section 73257, Food and Agricultural Code.*

*California Pepper Commission, confidentiality of lists of producers and handlers, Section 77298, Food and Agricultural Code.*

*California Pepper Commission, confidentiality of proprietary information from producers or handlers, Section 77334, Food and Agricultural Code.*

*California Pistachio Commission, confidentiality of proprietary information from producers or processors, Section 69045, Food and Agricultural Code.*

*California Salmon Council, confidentiality of fee transactions records, Section 76901.5 of the Food and Agricultural Code.*

*California Salmon Council, confidentiality of request for list of commercial salmon vessel operators, Section 76950 of the Food and Agricultural Code.*

*California Seafood Council, confidentiality of fee transaction records, Section 78553, Food and Agricultural Code.*

*California Seafood Council, confidentiality of information on volume of fish landed, Section 78575, Food and Agricultural Code.*

*California Sheep Commission, confidentiality of proprietary information from producers or handlers and lists of producers, Section 76343, Food and Agricultural Code.*

*California State University contract law, bids, questionnaires, and financial statements, Section 10763, Public Contract Code.*

*California State University Investigation of Reported Improper Governmental Activities Act, confidentiality of investigative audits completed pursuant to the act, Section 89574, Education Code.*

*California Table Grape Commission, confidentiality of information from shippers, Section 65603, Food and Agricultural Code.*

*California Tomato Commission, confidentiality of lists of producers, handlers, and others, Section 78679, Food and Agricultural Code.*

*California Tomato Commission, confidentiality of proprietary information, Section 78704, Food and Agricultural Code.*

*California Tourism Marketing Act, confidentiality of information pertaining to businesses paying the assessment under the act, Section 13995.54, this code.*

*California Victim Compensation Board, disclosure not required of records relating to assistance requests under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2 of this code, Section 7923.755, this code.*

*California Walnut Commission, confidentiality of lists of producers, Section 77101, Food and Agricultural Code.*

*California Walnut Commission, confidentiality of proprietary information from producers or handlers, Section 77154, Food and Agricultural Code.*

*California Wheat Commission, confidentiality of proprietary information from handlers and lists of producers, Section 72104, Food and Agricultural Code.*

*California Wheat Commission, confidentiality of requests for assessment refund, Section 72109, Food and Agricultural Code.*

*California Wine Commission, confidentiality of proprietary information from producers or vintners, Section 74655, Food and Agricultural Code.*

*California Winegrape Growers Commission, confidentiality of proprietary information from producers and vintners, Section 74955, Food and Agricultural Code.*

**7930.125.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Cancer registries, confidentiality of information, Section 103885, Health and Safety Code.*

*Candidate for local nonpartisan elective office, confidentiality of ballot statement, Section 13311, Elections Code.*

*Child abuse information, exchange by multidisciplinary personnel teams, Section 830, Welfare and Institutions Code.*

*Child abuse report and those making report, confidentiality of, Sections 11167 and 11167.5, Penal Code.*

*Child care liability insurance, confidentiality of information, Section 1864, Insurance Code.*

*Child concealer, confidentiality of address, Section 278.7, Penal Code.*

*Child custody investigation report, confidentiality of, Section 3111, Family Code.*

*Child day care facility, nondisclosure of complaint, Section 1596.853, Health and Safety Code.*

*Child health and disability prevention, confidentiality of health screening and evaluation results, Section 124110, Health and Safety Code.*

*Child sexual abuse reports, confidentiality of reports filed in a contested proceeding involving child custody or visitation rights, Section 3118, Family Code.*

*Child support, confidentiality of income tax return, Section 3552, Family Code.*

*Child support, promise to pay, confidentiality of, Section 7614, Family Code.*

*Childhood lead poisoning prevention, confidentiality of blood lead findings, Section 124130, Health and Safety Code.*

*Children and families commission, local, confidentiality of individually identifiable information, Section 130140.1, Health and Safety Code.*

*Cigarette tax, confidential information, Section 30455, Revenue and Taxation Code.*

*Civil actions, delayed disclosure for 30 days after complaint filed, Section 482.050, Code of Civil Procedure.*

*Closed sessions, document assessing vulnerability of state or local agency to disruption by terrorist or other criminal acts, Section 7929.200, this code.*

*Closed sessions, meetings of local governments, pending litigation, Section 54956.9, this code.*

*Colorado River Board, confidential information and records, Section 12519, Water Code.*

*Commercial fishing licensee, confidentiality of records, Section 7923, Fish and Game Code.*

*Commercial fishing reports, Section 8022, Fish and Game Code.*

*Community care facilities, confidentiality of client information, Section 1557.5, Health and Safety Code.*

*Community college employee, candidate examination records, confidentiality of, Section 88093, Education Code.*

*Community college employee, notice and reasons for nonreemployment, confidentiality, Section 87740, Education Code.*

**7930.130.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Conservatee, confidentiality of the conservatee's report, Section 1826, Probate Code.*

*Conservatee, estate plan of, confidentiality of, Section 2586, Probate Code.*

*Conservatee with disability, confidentiality of report, Section 1827.5, Probate Code.*

*Conservator, confidentiality of conservator's birthdate and driver's license number, Section 1834, Probate Code.*

*Conservator, supplemental information, confidentiality of, Section 1821, Probate Code.*

*Conservatorship, court review of, confidentiality of report, Section 1851, Probate Code.*

*Consumer fraud investigations, access to complaints and investigations, Section 26509, this code.*

*Consumption or utilization of mineral materials, disclosure of, Section 2207.1, Public Resources Code.*

*Contractor, evaluations and contractor responses, confidentiality of, Section 10370, Public Contract Code.*

*Controlled Substance Law violations, confidential information, Section 818.7, this code.*

*Controlled substance offenders, confidentiality of registration information, Section 11594, Health and Safety Code.*

*Cooperative Marketing Association, confidential information disclosed to conciliator, Section 54453, Food and Agricultural Code.*

*Coroner, inquests, subpoena duces tecum, Section 27491.8, this code.*

*County aid and relief to indigents, confidentiality of investigation, supervision, relief, and rehabilitation records, Section 17006, Welfare and Institutions Code.*

*County alcohol programs, confidential information and records, Section 11812, Health and Safety Code.*

*County Employees' Retirement, confidential statements and records, Section 31532, this code.*

*County mental health system, confidentiality of client information, Section 5610, Welfare and Institutions Code.*

*County social services, investigation of applicant, confidentiality, Section 18491, Welfare and Institutions Code.*

*County social services rendered by volunteers, confidentiality of records of recipients, Section 10810, Welfare and Institutions Code.*

*County special commissions, disclosure of health care peer review and quality assessment records not required, Section 14087.58, Welfare and Institutions Code.*

*County special commissions, disclosure of records relating to the commission's rates of payment for publicly assisted medical care not required, Section 14087.58, Welfare and Institutions Code.*

*Court files, access to, restricted for 60 days, Section 1161.2, Code of Civil Procedure.*

*Court files, access to, restricted for 60 days, Section 1708.85, Civil Code.*

*Court reporters, confidentiality of records and reporters, Section 68525, this code.*

*Court-appointed special advocates, confidentiality of information acquired or reviewed, Section 105, Welfare and Institutions Code.*

*Crane employers, previous business identities, confidentiality of, Section 7383, Labor Code.*

*Credit unions, confidentiality of investigation and examination reports, Section 14257, Financial Code.*

*Credit unions, confidentiality of employee criminal history information, Section 14409.2, Financial Code.*

*Criminal defendant, indigent, confidentiality of request for funds for investigators and experts, Section 987.9, Penal Code.*

*Criminal offender record information, access to, Sections 11076 and 13202, Penal Code.*

*Crop reports, confidential, Section 7927.300, this code.*

*Customer list of chemical manufacturers, formulators, suppliers, distributors, importers, and their agents, the quantities and dates of shipments, and the proportion of a specified chemical within a mixture, confidential, Section 147.2, Labor Code.*

*Customer list of employment agency, trade secret, Section 16607, Business and Professions Code.*

*Customer list of telephone answering service, trade secret, Section 16606, Business and Professions Code.*

7930.135.

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Dairy Council of California, confidentiality of ballots, Section 64323, Food and Agricultural Code.*

*Death, report that physician's or podiatrist's negligence or incompetence may be cause, confidentiality of, Section 802.5, Business and Professions Code.*

*Dental hygienist drug and alcohol diversion program, confidentiality of records pertaining to treatment, Section 1966.5, Business and Professions Code.*

*Dentist advertising and referral contract exemption, Section 650.2, Business and Professions Code.*

*Dentist, alcohol or dangerous drug rehabilitation and diversion, confidentiality of records, Section 1698, Business and Professions Code.*

*Department of Consumer Affairs licensee exemption for alcohol or dangerous drug treatment and rehabilitation records, Section 156.1, Business and Professions Code.*

*Department of Human Resources, confidentiality of pay data furnished to, Section 19826.5, this code.*

*Department of Motor Vehicles, confidentiality of information provided by an insurer, Section 4750.4, Vehicle Code.*

*Department of Motor Vehicles, confidentiality of the home address of specified persons in the records of the Department of Motor Vehicles, Section 1808.6, Vehicle Code.*

*Developmentally disabled conservatee, confidentiality of reports and records, Sections 416.8 and 416.18, Health and Safety Code.*

*Developmentally disabled person, access to information provided by family member, Section 4727, Welfare and Institutions Code.*

*Developmentally disabled person and person with mental illness, access to and release of information about, by protection and advocacy agency, Section 4903, Welfare and Institutions Code.*

*Developmentally disabled person, confidentiality of patient records, state agencies, Section 4552.5, Welfare and Institutions Code.*

*Developmentally disabled person, confidentiality of records and information, Sections 4514 and 4518, Welfare and Institutions Code.*

*Diesel Fuel Tax information, disclosure prohibited, Section 60609, Revenue and Taxation Code.*

*Disability compensation, confidential medical records, Section 2714, Unemployment Insurance Code.*

*Disability insurance, access to registered information, Section 789.7, Insurance Code.*

*Discrimination complaint to Division of Labor Standards Enforcement, confidentiality of witnesses, Section 98.7, Labor Code.*

*Dispute resolution participants confidentiality, Section 471.5, Business and Professions Code.*

*Division of Workers' Compensation, confidentiality of data obtained by the administrative director and derivative works created by the division, Sections 3201.5, 3201.7, and 3201.9, Labor Code.*

*Division of Workers' Compensation, individually identifiable information and residence addresses obtained or maintained by the division on workers' compensation claims, confidentiality of, Section 138.7, Labor Code.*

*Division of Workers' Compensation, individually identifiable information of health care organization patients, confidentiality of, Section 4600.5, Labor Code.*

*Division of Workers' Compensation, individual workers' compensation claim files and auditor's working papers, confidentiality of, Section 129, Labor Code.*

*Division of Workers' Compensation, peer review proceedings and employee medical records, confidentiality of, Section 4600.6, Labor Code.*

*Domestic violence counselor and victim, confidentiality of communication, Sections 1037.2 and 1037.5, Evidence Code.*

*Driver arrested for traffic violation, notice of reexamination for evidence of incapacity, confidentiality of, Section 40313, Vehicle Code.*

*Driving school and driving instructor licensee records, confidentiality of, Section 11108, Vehicle Code.*

**7930.140.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Educational psychologist-patient, privileged communication, Section 1010.5, Evidence Code.*

*Electronic and appliance repair dealer, service contractor, financial data in applications, Section 7925.010, this code.*

*Electronic Recording Delivery Act of 2004, exemption from disclosure for computer security reports, Section 27394, this code.*

*Emergency Care Data Record, exemption from disclosure for identifying information, Section 128736, Health and Safety Code.*

*Emergency Medical Services Fund, patient named, Section 1797.98c, Health and Safety Code.*

*Emergency medical technicians, confidentiality of disciplinary investigation information, Section 1798.200, Health and Safety Code.*

*Emergency Medical Technician-Paramedic (EMT-P), exemption from disclosure for records relating to personnel actions against, or resignation of, an EMT-P for disciplinary cause or reason, Section 1799.112, Health and Safety Code.*

*Eminent domain proceedings, use of state tax returns, Section 1263.520, Code of Civil Procedure.*

*Employment agency, confidentiality of customer list, Section 16607, Business and Professions Code.*

*Employment application, nondisclosure of arrest record or certain convictions, Sections 432.7 and 432.8, Labor Code.*

*Employment Development Department, furnishing materials, Section 307, Unemployment Insurance Code.*

*Enteral nutrition products, confidentiality of contracts by the State Department of Health Care Services with manufacturers of enteral nutrition products, Section 14105.8, Welfare and Institutions Code.*

*Equal wage rate violation, confidentiality of complaint, Section 1197.5, Labor Code.*

*Equalization, State Board of, prohibition against divulging information, Section 15619, this code.*

*Escrow Agents' Fidelity Corporation, confidentiality of examination and investigation reports, Section 17336, Financial Code.*

*Escrow agents' confidentiality of reports on violations, Section 17414, Financial Code.*

*Escrow agents' confidentiality of state summary criminal history information, Section 17414.1, Financial Code.*

*Estate tax, confidential records and information, Section 14251, Revenue and Taxation Code.*

*Excessive rates or complaints, reports, Section 1857.9, Insurance Code.*

*Executive Department, closed sessions and the record of topics discussed, Sections 11126 and 11126.1, this code.*

*Executive Department, investigations and hearings, confidential nature of information acquired, Section 11183, this code.*

**7930.145.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Family court records, Section 1818, Family Code.*

*Farm product processor license, confidentiality of financial statements, Section 55523.6, Food and Agricultural Code.*

*Farm product processor licensee, confidentiality of grape purchases, Section 55601.5, Food and Agricultural Code.*

*Fee payer information, prohibition against disclosure by the State Board of Equalization and others, Section 55381, Revenue and Taxation Code.*

*Financial institutions, issuance of securities, reports and records of state agencies, Section 7929.000, this code.*



*Financial statements of insurers, confidentiality of information received, Section 925.3, Insurance Code.*

*Financial statements and questionnaires, of prospective bidders for the state, confidentiality of, Section 10165, Public Contract Code.*

*Financial statements and questionnaires, of prospective bidders for California State University contracts, confidentiality of, Section 10763, Public Contract Code.*

*Firearms, centralized list of exempted federal firearms licensees, disclosure of information compiled from, Sections 28475 and 28480, Penal Code.*

*Firearms, centralized list of dealers and licensees, disclosure of information compiled from, Section 26715, Penal Code.*

*Firearm license applications, Sections 7923.800 and 7923.805, this code.*

*Firearm sale or transfer, confidentiality of records, Section 28060, Penal Code.*

*Fishing and hunting licenses, confidentiality of names and addresses contained in records submitted to the Department of Fish and Wildlife to obtain recreational fishing and hunting licenses, Section 1050.6, Fish and Game Code.*

*Foreign marketing of agricultural products, confidentiality of financial information, Section 58577, Food and Agricultural Code.*

*Forest fires, anonymity of informants, Section 4417, Public Resources Code.*

*Foster homes, identifying information, Section 1536, Health and Safety Code.*

*Franchise Tax Board, access to Franchise Tax Board information by the State Department of Social Services, Section 11025, Welfare and Institutions Code.*

*Franchise Tax Board, auditing, confidentiality of, Section 90005, this code.*

*Franchises, applications, and reports filed with Commissioner of Business Oversight, disclosure and withholding from public inspection, Section 31504, Corporations Code.*

**7930.150.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Gambling Control Act, exemption from disclosure for records of the California Gambling Control Commission and the Department of Justice, Sections 19819 and 19821, Business and Professions Code.*

*Genetically Handicapped Persons Program, confidentiality of factor replacement therapy contracts, Section 125191, Health and Safety Code.*

*Governor, correspondence of and to Governor and Governor's office, Section 7928.000, this code.*

*Governor, transfer of public records in control of, restrictions on public access, Sections 7928.005 and 7928.010, this code.*

*Grand jury, confidentiality of request for special counsel, Section 936.7, Penal Code.*

*Grand jury, confidentiality of transcription of indictment or accusation, Section 938.1, Penal Code.*

*Group Insurance, public employees, Section 53202.25, this code.*

*Guardianship, confidentiality of report regarding the suitability of the proposed guardian, Section 1543, Probate Code.*

*Guardianship, disclosure of report and recommendation concerning proposed guardianship of person or estate, Section 1513, Probate Code.*

*7930.155.*

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Hazardous substance tax information, prohibition against disclosure, Section 43651, Revenue and Taxation Code.*

*Hazardous waste control, business plans, public inspection, Section 25509, Health and Safety Code.*

*Hazardous waste control, notice of unlawful hazardous waste disposal, Section 25180.5, Health and Safety Code.*

*Hazardous waste control, trade secrets, disclosure of information, Sections 25512, 25512.1, and 25538, Health and Safety Code.*

*Hazardous waste control, trade secrets, procedures for release of information, Section 25358.2, Health and Safety Code.*

*Hazardous waste generator report, protection of trade secrets, Sections 25244.21 and 25244.23, Health and Safety Code.*

*Hazardous waste licenseholder disclosure statement, confidentiality of, Section 25186.5, Health and Safety Code.*

*Hazardous waste recycling, information clearinghouse, confidentiality of trade secrets, Section 25170, Health and Safety Code.*

*Hazardous waste recycling, list of specified hazardous wastes, trade secrets, Section 25175, Health and Safety Code.*

*Hazardous waste recycling, trade secrets, confidential nature, Sections 25173 and 25180.5, Health and Safety Code.*

*Healing arts licensees, central files, confidentiality, Section 800, Business and Professions Code.*

*Health authorities, special county, confidentiality of records, Sections 14087.35, 14087.36, and 14087.38, Welfare and Institutions Code.*

*Health care provider disciplinary proceeding, confidentiality of documents, Section 805.1, Business and Professions Code.*

*Health care service plans, review of quality of care, privileged communications, Sections 1370 and 1380, Health and Safety Code.*

*Health commissions, special county, confidentiality of peer review proceedings, rates of payment, and trade secrets, Section 14087.31, Welfare and Institutions Code.*

*Health facilities, patient's rights of confidentiality, subdivision (c) of Section 128745 and Sections 128735, 128736, 128737, 128755, and 128765, Health and Safety Code.*

*Health personnel, data collection by the Office of Statewide Health Planning and Development, confidentiality of information on individual licentiates, Section 127780, Health and Safety Code.*

*Health plan governed by a county board of supervisors, exemption from disclosure for records relating to provider rates or payments for a three-year period after execution of the provider contract, Sections 7926.205 and 54956.87, this code.*

*Hereditary Disorders Act, legislative finding and declaration, confidential information, Sections 124975 and 124980, Health and Safety Code.*

*Hereditary Disorders Act, rules, regulations, and standards, breach of confidentiality, Section 124980, Health and Safety Code.*

*HIV, disclosures to blood banks by department or county health officers, Section 1603.1, Health and Safety Code.*

*Home address of public employees and officers in Department of Motor Vehicles, records, confidentiality of, Sections 1808.2 and 1808.4, Vehicle Code.*

*Horse racing, horses, blood or urine test sample, confidentiality, Section 19577, Business and Professions Code.*

*Hospital district and municipal hospital records relating to contracts with insurers and service plans, Section 7926.210, this code.*

*Hospital final accreditation report, Section 7926.000, this code.*

*Housing authorities, confidentiality of rosters of tenants, Section 34283, Health and Safety Code.*

*Housing authorities, confidentiality of applications by prospective or current tenants, Section 34332, Health and Safety Code.*

**7930.160.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Improper governmental activities reporting, confidentiality of identity of person providing information, Section 8547.5, this code.*

*Improper governmental activities reporting, disclosure of information, Section 8547.6, this code.*

*Industrial loan companies, confidentiality of financial information, Section 18496, Financial Code.*

*Industrial loan companies, confidentiality of investigation and examination reports, Section 18394, Financial Code.*

*Influenza vaccine, trade secret information and information relating to recipient of vaccine, Section 120160, Health and Safety Code.*

*In forma pauperis litigant, rules governing confidentiality of financial information, Section 68633, this code.*

*Infrastructure information, exemption from disclosure for information voluntarily submitted to the Office of Emergency Services, Section 7929.205, this code.*

*In-Home Supportive Services Program, exemption from disclosure for information regarding persons paid by the state to provide in-home supportive services, Section 7926.300, this code.*

*Initiative, referendum, recall, and other petitions, confidentiality of names of signers, Sections 7924.100, 7924.105, and 7924.110, this code.*

*Insurance claims analysis, confidentiality of information, Section 1875.16, Insurance Code.*

*Insurance Commissioner, confidential information, Sections 735.5, 1067.11, 1077.3, and 12919, Insurance Code.*

*Insurance Commissioner, informal conciliation of complaints, confidential communications, Section 1858.02, Insurance Code.*

*Insurance Commissioner, information from examination or investigation, confidentiality of, Sections 1215.8, 1433, and 1759.3, Insurance Code.*

*Insurance Commissioner, writings filed with nondisclosure, Section 855, Insurance Code.*

*Insurance fraud reporting, information acquired not part of public record, Section 1873.1, Insurance Code.*

*Insurance licensee, confidential information, Section 1666.5, Insurance Code.*

*Insurer application information, confidentiality of, Section 925.3, Insurance Code.*

*Insurer financial analysis ratios and examination synopses, confidentiality of, Section 933, Insurance Code.*

*Department of Resources Recycling and Recovery information, prohibition against disclosure, Section 45982, Revenue and Taxation Code.*

*International wills, confidentiality of registration information filed with the Secretary of State, Section 6389, Probate Code.*

*Intervention in regulatory and ratemaking proceedings, audit of customer seeking and award, Section 1804, Public Utilities Code.*

*Investigation and security records, exemption from disclosure for records of the Attorney General, the Department of Justice, the Office of Emergency Services, and state and local police agencies, Sections 7923.600 to 7923.630, inclusive, this code.*

*Investigative consumer reporting agency, limitations on furnishing an investigative consumer report, Section 1786.12, Civil Code.*

**7930.165.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Joint Legislative Ethics Committee, confidentiality of reports and records, Section 8953, this code.*

*Judicial candidates, confidentiality of communications concerning, Section 12011.5, this code.*

*Judicial proceedings, confidentiality of employer records of employee absences, Section 230.2, Labor Code.*

*Jurors' lists, lists of registered voters and licensed drivers as source for, Section 197, Code of Civil Procedure.*

*Juvenile court proceedings to adjudge a person a dependent child of court, sealing records of, Section 389, Welfare and Institutions Code.*

*Juvenile criminal records, dissemination to schools, Section 828.1, Welfare and Institutions Code.*

*Juvenile delinquents, notification of chief of police or sheriff of escape of minor from secure detention facility, Section 1155, Welfare and Institutions Code.*

*Labor dispute, investigation and mediation records, confidentiality of, Section 3601, this code.*

*Lanterman-Petris-Short Act, mental health services recipients, confidentiality of information and records, mental health advocate, Sections 5540, 5541, 5542, and 5550, Welfare and Institutions Code.*

*Law enforcement vehicles, registration disclosure, Section 5003, Vehicle Code.*

*Legislative Counsel records, Section 7928.100, this code.*

*Library circulation records and other materials, Sections 7925.000 and 7927.105, this code.*

*Life and disability insurers, actuarial information, confidentiality of, Section 10489.15, Insurance Code.*

*Litigation, confidentiality of settlement information, Section 68513, this code.*

*Local agency legislative body, closed sessions, disclosure of materials, Section 54956.9, this code.*

*Local government employees, confidentiality of records and claims relating to group insurance, Section 53202.25, this code.*

*Local summary criminal history information, confidentiality of, Sections 13300 and 13305, Penal Code.*

*Local agency legislative body, closed session, nondisclosure of minute book, Section 54957.2, this code.*

*Local agency legislative body, meeting, disclosure of agenda, Section 54957.5, this code.*

*Long-term health facilities, confidentiality of complaints against, Section 1419, Health and Safety Code.*

*Long-term health facilities, confidentiality of records retained by State Department of Public Health, Section 1439, Health and Safety Code.*

*Los Angeles County Tourism Marketing Commission, confidentiality of information obtained from businesses to determine their assessment, Section 13995.108, this code.*

**7930.170.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Managed Risk Medical Insurance Board, negotiations with entities contracting or seeking to contract with the board, Sections 7926.225 and 7926.230, this code.*

*Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975, Health and Safety Code.*

*Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Sections 1603.1, 1603.3, and 121022, Health and Safety Code.*

*Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015, Health and Safety Code.*

*Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081, Health and Safety Code.*

*Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987, Evidence Code.*

*Market reports, confidential, Section 7927.300, this code.*

*Marketing of commodities, confidentiality of financial information, Section 58781, Food and Agricultural Code.*

*Marketing orders, confidentiality of processors' or distributors' information, Section 59202, Food and Agricultural Code.*

*Marriage, confidential, certificate, Section 511, Family Code.*

*Medi-Cal Benefits Program, confidentiality of information, Section 14100.2, Welfare and Institutions Code.*

*Medi-Cal Benefits Program, request of department for records or information, Section 14124.89, Welfare and Institutions Code.*

*Medi-Cal Fraud Bureau, confidentiality of complaints, Section 12528, this code.*

*Medi-Cal managed care program, exemption from disclosure for financial and utilization data submitted by Medi-Cal managed care health plans to establish rates, Section 14301.1, Welfare and Institutions Code.*

*Medi-Cal program, exemption from disclosure for best price contracts between the State Department of Health Care Services and drug manufacturers, Section 14105.33, Welfare and Institutions Code.*

*Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16, Civil Code.*

*Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30, Civil Code.*

*Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157, Evidence Code.*

*Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828, Business and Professions Code.*

*Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5, Business and Professions Code.*

*Meetings of state agencies, disclosure of agenda, Section 11125.1, this code.*

*Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135, Welfare and Institutions Code.*

*Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620, Penal Code.*

*Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202, Welfare and Institutions Code.*

*Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4, Welfare and Institutions Code.*

*Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9, Welfare and Institutions Code.*

*Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103, Welfare and Institutions Code.*

*Milk marketing, confidentiality of records, Section 61443, Food and Agricultural Code.*

*Milk product certification, confidentiality of, Section 62121, Food and Agricultural Code.*

*Milk, market milk, confidential records and reports, Section 62243, Food and Agricultural Code.*

*Milk product registration, confidentiality of information, Section 38946, Food and Agricultural Code.*

*Milk equalization pool plan, confidentiality of producers' voting, Section 62716, Food and Agricultural Code.*

*Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207, Public Resources Code.*

*Minor, criminal proceeding testimony closed to public, Section 859.1, Penal Code.*

*Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5, Labor Code.*

*Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5, Penal Code.*

*Monetary instrument transaction records, confidentiality of, Section 14167, Penal Code.*

*Missing persons' information, disclosure of, Sections 14204 and 14205, Penal Code.*

*Morbidity and mortality studies, confidentiality of records, Section 100330, Health and Safety Code.*

*Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014, Vehicle Code.*

*Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, Vehicle Code.*

*Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3, Insurance Code.*

*Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628, Insurance Code.*

*Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8, this code.*

**7930.175.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Narcotic and drug abuse patients, confidentiality of records, Section 11845.5, Health and Safety Code.*

*Native American graves, cemeteries, and sacred places, records of, Section 7927.000, this code.*

*Notary public, confidentiality of application for appointment and commission, Section 8201.5, this code.*

*Nurse, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 2770.12, Business and Professions Code.*

*Obscene matter, defense of scientific or other purpose, confidentiality of recipients, Section 311.8, Penal Code.*

*Occupational safety and health investigations, confidentiality of complaints and complainants, Section 6309, Labor Code.*

*Occupational safety and health investigations, confidentiality of trade secrets, Section 6322, Labor Code.*

*Official information acquired in confidence by public employee, disclosure of, Sections 1040 and 1041, Evidence Code.*

*Oil and gas, confidentiality of proposals for the drilling of a well, Section 3724.4, Public Resources Code.*

*Oil and gas, disclosure of onshore and offshore exploratory well records, Section 3234, Public Resources Code.*

*Oil and gas, disclosure of well records, Section 3752, Public Resources Code.*

*Oil and gas leases, surveys for permits, confidentiality of information, Section 6826, Public Resources Code.*

*Oil spill feepayer information, prohibition against disclosure, Section 46751, Revenue and Taxation Code.*

*Older adults receiving county services, providing information between county agencies, confidentiality of, Section 9401, Welfare and Institutions Code.*

*Organic food certification organization records, release of, Section 110845, Health and Safety Code.*

*Osteopathic physician and surgeon, rehabilitation and diversion records, confidentiality of, Section 2369, Business and Professions Code.*

**7930.180.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Parole revocation proceedings, confidentiality of information in reports, Section 3063.5, Penal Code.*

*Passenger fishing boat licenses, records, Section 7923, Fish and Game Code.*

*Paternity, acknowledgment, confidentiality of records, Section 102760, Health and Safety Code.*

*Patient-physician confidential communication, Sections 992 and 994, Evidence Code.*

*Patient records, confidentiality of, Section 123135, Health and Safety Code.*

*Payroll records, confidentiality of, Section 1776, Labor Code.*

*Peace officer personnel records, confidentiality of, Sections 832.7 and 832.8, Penal Code.*

*Penitential communication between penitent and clergy, Sections 1032 and 1033, Evidence Code.*

*Personal Care Services Program, exemption from disclosure for information regarding persons paid by the state to provide personal care services, Section 7926.300, this code.*

*Personal Income Tax, disclosure of information, Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2, Revenue and Taxation Code.*

*Personal information, Information Practices Act, prohibitions against disclosure by state agencies, Sections 1798.24 and 1798.75, Civil Code.*

*Personal information, subpoena of records containing, Section 1985.4, Code of Civil Procedure.*

*Personal representative, confidentiality of personal representative's birth date and driver's license number, Section 8404, Probate Code.*

*Persons formerly classified as mentally abnormal sex offenders committed to a state hospital, confidentiality of records, Section 4135, Welfare and Institutions Code.*

*Persons with mental health disorders, court-ordered evaluation, confidentiality of reports, Section 5202, Welfare and Institutions Code.*

*Persons with mental health disorders, confidentiality of written consent to detainment, Section 5326.4, Welfare and Institutions Code.*

*Persons with mental health disorders voluntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9, Welfare and Institutions Code.*

*Persons with mental health disorders, weapons restrictions, confidentiality of information about, Section 8103, Welfare and Institutions Code.*

*Petition signatures, Section 18650, Elections Code.*

*Petroleum supply and pricing, confidential information, Sections 25364 and 25366, Public Resources Code.*



*Pharmacist, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 4372, Business and Professions Code.*

*Physical therapist or assistant, records of dangerous drug or alcohol diversion and rehabilitation, confidentiality of, Section 2667, Business and Professions Code.*

*Physical or mental condition or conviction of controlled substance offense, records in Department of Motor Vehicles, confidentiality of, Section 1808.5, Vehicle Code.*

*Physician assistant, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 3534.7, Business and Professions Code.*

*Physician competency examination, confidentiality of reports, Section 2294, Business and Professions Code.*

*Physicians and surgeons, confidentiality of reports of patients with a lapse of consciousness disorder, Section 103900, Health and Safety Code.*

*Physician Services Account, confidentiality of patient names in claims, Section 16956, Welfare and Institutions Code.*

*Pilots, confidentiality of personal information, Section 1157.1, Harbors and Navigation Code.*

*Pollution Control Financing Authority, financial data submitted to, Section 7924.505, this code.*

*Postmortem or autopsy photos, Section 129, Code of Civil Procedure.*

**7930.185.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Pregnancy tests by local public health agencies, confidentiality of, Section 123380, Health and Safety Code.*

*Pregnant women, confidentiality of blood tests, Section 125105, Health and Safety Code.*

*Prehospital emergency medical care, release of information, Sections 1797.188 and 1797.189, Health and Safety Code.*

*Prenatal syphilis tests, confidentiality of, Section 120705, Health and Safety Code.*

*Prescription drug discounts, confidentiality of corporate proprietary information, Section 130506, Health and Safety Code.*

*Prisoners, behavioral research on, confidential personal information, Section 3515, Penal Code.*

*Prisoners, confidentiality of blood tests, Section 7530, Penal Code.*

*Prisoners, medical testing, confidentiality of records, Sections 7517 and 7540, Penal Code.*

*Prisoners, transfer from county facility for mental treatment and evaluation, confidentiality of written reasons, Section 4011.6, Penal Code.*

*Private industry wage data collected by public entity, confidentiality of, Section 7927.600, this code.*

*Private railroad car tax, confidentiality of information, Section 11655, Revenue and Taxation Code.*

*Probate referee, disclosure of materials, Section 8908, Probate Code.*

*Probation officer reports, inspection of, Section 1203.05, Penal Code.*

*Produce dealer, confidentiality of financial statements, Section 56254, Food and Agricultural Code.*

*Products liability insurers, transmission of information, Section 1857.9, Insurance Code.*

*Professional corporations, financial statements, confidentiality of, Section 13406, Corporations Code.*

*Property on loan to museum, notice of intent to preserve an interest in, not subject to disclosure, Section 1899.5, Civil Code.*

*Property taxation, confidentiality of change of ownership, Section 481, Revenue and Taxation Code.*

*Property taxation, confidentiality of exemption claims, Sections 63.1, 69.5, and 408.2, Revenue and Taxation Code.*

*Property taxation, confidentiality of property information, Section 15641, Government Code and Section 833, Revenue and Taxation Code.*

*Proprietary information, availability only to the director and other persons authorized by the operator and the owner, Section 2778, Public Resources Code.*

*Psychologist and client, confidential relations and communications, Section 2918, Business and Professions Code.*

*Psychotherapist-patient confidential communication, Sections 1012 and 1014, Evidence Code.*

*Public employees' home addresses and telephone numbers, confidentiality of, Section 7928.300, this code.*

*Public Employees' Medical and Hospital Care Act, confidentiality of data relating to health care services rendered by participating hospitals to members and annuitants, Section 22854.5, this code.*

*Public Employees' Retirement System, confidentiality of data filed by member or beneficiary with board of administration, Section 20230, this code.*

*Public investment funds, exemption from disclosure for records regarding alternative investments, Section 7928.710, this code.*

*Public school employees organization, confidentiality of proof of majority support submitted to Public Employment Relations Board, Sections 3544, 3544.1, and 3544.5, this code.*

*Public social services, confidentiality of digest of decisions, Section 10964, Welfare and Institutions Code.*

*Public social services, confidentiality of information regarding child abuse or elder or dependent persons abuse, Section 10850.1, Welfare and Institutions Code.*

*Public social services, confidentiality of information regarding eligibility, Section 10850.2, Welfare and Institutions Code.*

*Public social services, confidentiality of records, Section 10850, Welfare and Institutions Code.*

*Public social services, disclosure of information to law enforcement agencies, Section 10850.3, Welfare and Institutions Code.*

*Public social services, disclosure of information to law enforcement agencies regarding deceased applicant or recipient, Section 10850.7, Welfare and Institutions Code.*

*Public utilities, confidentiality of information, Section 583, Public Utilities Code.*

*Pupil, confidentiality of personal information, Section 45345, Education Code.*

*Pupil drug and alcohol use questionnaires, confidentiality of, Section 11605, Health and Safety Code.*

*Pupil, expulsion hearing, disclosure of testimony of witness and closed session of district board, Section 48918, Education Code.*

*Pupil, personal information disclosed to school counselor, confidentiality of, Section 49602, Education Code.*

*Pupil record contents, records of administrative hearing to change contents, confidentiality of, Section 49070, Education Code.*

*Pupil records, access authorized for specified parties, Section 49076, Education Code.*

*Pupil records, disclosure in hearing to dismiss or suspend school employee, Section 44944.3, Education Code.*

*Pupil records, release of directory information to private entities, Sections 49073 and 49073.5, Education Code.*

**7930.190.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Radioactive materials, dissemination of information about transportation of, Section 33002, Vehicle Code.*

*Railroad infrastructure protection program, disclosure not required for risk assessments filed with the Public Utilities Commission, the Director of Emergency Services, or the Office of Emergency Services, Section 7929.215, this code.*

*Real estate broker, annual report to Bureau of Real Estate of financial information, confidentiality of, Section 10232.2, Business and Professions Code.*

*Real property, acquisition by state or local government, information relating to feasibility, Section 7928.705, this code.*

*Real property, change in ownership statement, confidentiality of, Section 27280, this code.*

*Records described in Section 1620, Penal Code.*

*Records of contract purchasers, inspection by public prohibited, Section 85, Military and Veterans Code.*

*Records of persons committed to a state hospital pursuant to Section 4135, Welfare and Institutions Code.*

*Registered public obligations, inspection of records of security interests in, Section 5060, this code.*

*Registration of exempt vehicles, nondisclosure of name of person involved in alleged violation, Section 5003, Vehicle Code.*

*Rehabilitation, Department of, confidential information, Section 19016, Welfare and Institutions Code.*

*Reinsurance intermediary-broker license information, confidentiality of, Section 1781.3, Insurance Code.*

*Relocation assistance, confidential records submitted to a public entity by a business or farm operation, Section 7262, this code.*

*Rent control ordinance, confidentiality of information concerning accommodations sought to be withdrawn from, Section 7060.4, this code.*

*Report of probation officer, inspection, copies, Section 1203.05, Penal Code.*

*Repossession agency licensee application, confidentiality of information, Sections 7503, 7504, and 7506.5, Business and Professions Code.*

*Reproductive health facilities, disclosure not required for personal information regarding employees, volunteers, board members, owners, partners, officers, and contractors of a reproductive health services facility who have provided requisite notification, Sections 7926.400 to 7926.430, inclusive, this code.*

*Residence address in any record of Department of Housing and Community Development, confidentiality of, Section 7927.415, this code.*

*Residence address in any record of Department of Motor Vehicles, confidentiality of, Section 7927.405, this code, and Section 1808.21, Vehicle Code.*

*Residence and mailing addresses in records of Department of Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.*

*Residential care facilities, confidentiality of resident information, Section 1568.08, Health and Safety Code.*

*Residential care facilities for the elderly, confidentiality of client information, Section 1569.315, Health and Safety Code.*

*Resource families, identifying information, Section 16519.55, Welfare and Institutions Code.*

*Respiratory care practitioner, professional competency examination reports, confidentiality of, Section 3756, Business and Professions Code.*

*Restraint of trade, civil action by district attorney, confidential memorandum, Section 16750, Business and Professions Code.*

*Reward by Governor for information leading to arrest and conviction, confidentiality of person supplying information, Section 1547, Penal Code.*

**7930.195.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Safe surrender site, confidentiality of information pertaining to a parent or individual surrendering a child, Section 1255.7, Health and Safety Code.*

*Sales and use tax, disclosure of information, Section 7056, Revenue and Taxation Code.*

*Santa Barbara Regional Health Authority, exemption from disclosure for records maintained by the authority regarding negotiated rates for the California Medical Assistance Program, Section 14499.6, Welfare and Institutions Code.*

*Savings association employees, disclosure of criminal history information, Section 6525, Financial Code.*

*Savings associations, inspection of records by shareholders, Section 6050, Financial Code.*

*School district governing board, disciplinary action, disclosure of pupil information, Section 35146, Education Code.*

*School employee, merit system examination records, confidentiality of, Section 45274, Education Code.*

*School employee, notice and reasons for hearing on nonreemployment of employee, confidentiality of, Sections 44948.5 and 44949, Education Code.*

*School meals for needy pupils, confidentiality of records, Section 49558, Education Code.*

*Sealed records, arrest for misdemeanor, Section 851.7, Penal Code.*

*Sealed records, misdemeanor convictions, Section 1203.45, Penal Code.*

*Sealing and destruction of arrest records, determination of innocence, Section 851.8, Penal Code.*

*Search warrants, special master, Section 1524, Penal Code.*

*Sex change, confidentiality of birth certificate, Section 103440, Health and Safety Code.*

*Sex offenders, registration form, Section 290.021, Penal Code.*

*Sexual assault forms, confidentiality of, Section 13823.5, Penal Code.*

*Sexual assault counselor and victim, confidential communication, Sections 1035.2, 1035.4, and 1035.8, Evidence Code.*

*Shorthand reporter's complaint, Section 8010, Business and Professions Code.*

*Small family day care homes, identifying information, Section 1596.86, Health and Safety Code.*

*Social security number, applicant for driver's license or identification card, nondisclosure of, Section 1653.5, Vehicle Code, and Section 7922.200, this code.*

*Social security number, official record or official filing, nondisclosure of, Section 9526.5, Commercial Code, and Sections 7922.205 and 7922.210, this code.*

*Social Security Number Truncation Program, Article 3.5 (commencing with Section 27300) of Chapter 6 of Part 3 of Division 2 of Title 3, this code.*

*Social security numbers within records of local agencies, nondisclosure of, Section 7922.200, this code.*

*7930.200.*

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*State agency activities relating to unrepresented employees, Section 7928.405, this code.*

*State agency activities relating to providers of health care, Section 7927.500, this code.*

*State Auditor, access to barred records, Section 8545.2, this code.*

*State Auditor, confidentiality of records, Sections 8545, 8545.1, and 8545.3, this code.*

*State civil service employee, confidentiality of appeal to state personnel board, Section 18952, this code.*

*State civil service employees, confidentiality of reports, Section 18573, this code.*

*State civil service examination, confidentiality of application and examination materials, Section 18934, this code.*

*State Compensation Insurance Fund, exemption from disclosure for various records maintained by the State Compensation Insurance Fund, Sections 7929.400 to 7929.430, inclusive, this code.*

*State Contract Act, bids, questionnaires and financial statements, Section 10165, Public Contract Code.*

*State Contract Act, bids, sealing, opening, and reading bids, Section 10304, Public Contract Code.*

*State Energy Resources Conservation and Development Commission, confidentiality of proprietary information submitted to, Section 25223, Public Resources Code.*

*State hospital patients, information and records in possession of Superintendent of Public Instruction, confidentiality of, Section 56863, Education Code.*

*State Long-Term Care Ombudsman, access to government agency records, Section 9723, Welfare and Institutions Code.*

*State Long-Term Care Ombudsman office, confidentiality of records and files, Section 9725, Welfare and Institutions Code.*

*State Long-Term Care Ombudsman office, disclosure of information or communications, Section 9715, Welfare and Institutions Code.*

*State Lottery Evaluation Report, disclosure, Section 8880.46, this code.*

*State prisoners, exemption from disclosure for surveys by the California Research Bureau of children of female prisoners, Section 7443, Penal Code.*

*State summary criminal history information, confidentiality of information, Sections 11105, 11105.1, 11105.3, and 11105.4, Penal Code.*

*State Teachers' Retirement System, confidentiality of information filed with the system by a member, participant, or beneficiary, Section 22306, Education Code.*

*Sterilization of disabled, confidentiality of evaluation report, Section 1955, Probate Code.*

*Strawberry marketing information, confidentiality of, Section 63124, Food and Agricultural Code.*

*Structural pest control licensee records relating to pesticide use, confidentiality of, Section 15205, Food and Agricultural Code.*

*Student driver, records of physical or mental condition, confidentiality of, Section 12661, Vehicle Code.*

*Student, community college, information received by school counselor, confidentiality of, Section 72621, Education Code.*

*Student, community college, records, limitations on release, Section 76243, Education Code.*

*Student, community college, record contents, records of administrative hearing to change contents, confidentiality of, Section 76232, Education Code.*

*Student, sexual assault on private higher education institution campus, confidentiality of information, Section 94385, Education Code.*

*Student, sexual assault on public college or university, confidentiality of information, Section 67385, Education Code.*

*Sturgeon egg processors, records, Section 10004, Fish and Game Code.*

**7930.205.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Taxpayer information, confidentiality, local taxes, Section 7925.000, this code.*

*Tax preparer, disclosure of information obtained in business of preparing tax returns, Section 17530.5, Business and Professions Code.*

*Teacher, credential holder or applicant, information provided to Commission on Teacher Credentialing, confidentiality of, Section 44341, Education Code.*

*Teacher, certified school personnel examination results, confidentiality of, Section 44289, Education Code.*

*Telephone answering service customer list, trade secret, Section 16606, Business and Professions Code.*

*Timber yield tax, disclosure to county assessor, Section 38706, Revenue and Taxation Code.*

*Timber yield tax, disclosure of information, Section 38705, Revenue and Taxation Code.*

*Title insurers, confidentiality of notice of noncompliance, Section 12414.14, Insurance Code.*

*Tobacco products, exemption from disclosure for distribution information provided to the State Department of Public Health, Section 22954, Business and Professions Code.*

*Tow truck driver, information in records of the Department of the California Highway Patrol, Department of Motor Vehicles, or other agencies, confidentiality of, Sections 2431 and 2432.3, Vehicle Code.*

*Toxic Substances Control, Department of, inspection of records of, Section 25152.5, Health and Safety Code.*

*Trade secrets, Section 1060, Evidence Code.*

*Trade secrets, confidentiality of, occupational safety and health inspections, Section 6322, Labor Code.*

*Trade secrets, disclosure of public records, Section 3426.7, Civil Code.*

*Trade secrets, food, drugs, cosmetics, nondisclosure, Sections 110165 and 110370, Health and Safety Code.*

*Trade secrets, protection by Director of Pesticide Regulation, Sections 7924.300 to 7924.335, inclusive, this code.*

*Trade secrets and proprietary information relating to pesticides, confidentiality of, Sections 14022 and 14023, Food and Agricultural Code.*

*Trade secrets, protection by Director of Industrial Relations, Section 6396, Labor Code.*

*Trade secrets relating to hazardous substances, disclosure of, Sections 25358.2 and 25358.7, Health and Safety Code.*

*Traffic violator school licensee records, confidentiality of, Section 11212, Vehicle Code.*

*Traffic offense, dismissed for participation in driving school or program, record of, confidentiality of, Section 1808.7, Vehicle Code.*

*Transit districts, questionnaire and financial statement information in bids, Section 99154, Public Utilities Code.*

*Tribal-state gaming compacts, exemption from disclosure for records of an Indian tribe relating to securitization of annual payments, Section 63048.63, this code.*

*Trust companies, disclosure of private trust confidential information, Section 1602, Financial Code.*

**7930.210.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Unclaimed property, Controller records of, disclosure, Section 1582, Code of Civil Procedure.*

*Unemployment compensation, disclosure of confidential information, Section 2111, Unemployment Insurance Code.*

*Unemployment compensation, information obtained in administration of code, Section 1094, Unemployment Insurance Code.*

*Unemployment fund contributions, publication of annual tax paid, Section 989, Unemployment Insurance Code.*

*University of California, exemption from disclosure for information submitted by bidders for award of best value contracts, Section 10506.6, Public Contract Code.*

*Unsafe working condition, confidentiality of complainant, Section 6309, Labor Code.*

*Use fuel tax information, disclosure prohibited, Section 9255, Revenue and Taxation Code.*

*Utility systems development, confidential information, Section 7927.300, this code.*

*Utility user tax return and payment records, exemption from disclosure, Section 7284.6, Revenue and Taxation Code.*

*Vehicle registration, confidentiality of information, Section 4750.4, Vehicle Code.*

*Vehicle accident reports, disclosure of, Sections 16005, 20012, and 20014, Vehicle Code and Section 27177, Streets and Highways Code.*

*Vehicular offense, record of, confidentiality five years after conviction, Section 1807.5, Vehicle Code.*

*Veterans Affairs, Department of, confidentiality of records of contract purchasers, Section 85, Military and Veterans Code.*

*Veterinarian or animal health technician, alcohol or dangerous drugs diversion and rehabilitation records, confidentiality of, Section 4871, Business and Professions Code.*

*Victims' Legal Resource Center, confidentiality of information and records retained, Section 13897.2, Penal Code.*

*Voter, affidavit or registration, confidentiality of information contained in, Section 7924.000, this code.*

*Voter, registration by confidential affidavit, Section 2194, Elections Code.*

*Voting, secrecy, Section 1050, Evidence Code.*

**7930.215.**

*The following provisions may operate to exempt certain records, or portions thereof, from disclosure pursuant to this division:*

*Wards and dependent children, inspection of juvenile court documents, Section 827, Welfare and Institutions Code.*

*Wards, petition for sealing records, Section 781, Welfare and Institutions Code.*

*Winegrowers of California Commission, confidentiality of producers' or vintners' proprietary information, Sections 74655 and 74955, Food and Agricultural Code.*

*Workers' Compensation Appeals Board, injury or illness report, confidentiality of, Section 6412, Labor Code.*

*Workers' compensation insurance, dividend payment to policyholder, confidentiality of information, Section 11739, Insurance Code.*

*Workers' compensation insurance fraud reporting, confidentiality of information, Section 1877.4, Insurance Code.*

*Workers' compensation insurer or rating organization, confidentiality of notice of noncompliance, Section 11754, Insurance Code.*

*Workers' compensation insurer, rating information, confidentiality of, Section 11752.7, Insurance Code.*

*Workers' compensation, notice to correct noncompliance, Section 11754, Insurance Code.*



*Workers' compensation, release of information to other governmental agencies, Section 11752.5, Insurance Code.*

*Workers' compensation, self-insured employers, confidentiality of financial information, Section 3742, Labor Code.*

*Workplace inspection photographs, confidentiality of, Section 6314, Labor Code.*

*Youth Authority, parole revocation proceedings, confidentiality of, Section 1767.6, Welfare and Institutions Code.*

*Youth Authority, release of information in possession of Youth Authority for offenses under Sections 676, 1764.1, and 1764.2, Welfare and Institutions Code.*

**PART 7. Operative Date**

**7931.000.**

*This division shall become operative on January 1, 2022.*

**SEC. 3.**

*This act would recodify the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) in a more user-friendly manner without changing its substance, and make conforming revisions. Consistent with subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature finds and declares:*

*(a) This act continues the existing substantive balance between the public's right of access to information concerning the conduct of public business and competing interests. This act does not impose any new limitation on the public's right of access, which would require findings demonstrating the interest protected by the new limitation and the need for protecting that interest.*

*(b) By making the California Public Records Act more user-friendly, this act furthers the public's right of access to information concerning the conduct of public business.*

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(J): AB 2253 (Low) Professional Licensure

**Background:**

This bill would clarify that, in an exempt setting, experience that constitutes qualifying experience for licensure, or experience required for licensure, as applicable, is determined by reference to the act regulating the profession.

**Location:** Senate Committee on Rules

**Status:** 6/09/20 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 2253 (Low)

# AB 2253 - (I) Amends the Law

## SECTION 1.

Section 1277 of the Health and Safety Code is amended to read:

1277.

(a) No license shall be issued by the department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.

(b) (1) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7100) of, the Welfare and Institutions Code or any other law to the contrary, ~~except Sections 2072 and 2073 of the Business and Professions Code, the~~ licensure requirements for professional personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, marriage and family therapists, pharmacists, registered nurses, clinical social workers, and professional clinical counselors in the state and other governmental health facilities licensed by the department shall not be less than for those professional personnel in health facilities under private ownership.

(2) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same state or other governmental health facility licensed by the department, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of paragraph (1).

(3) (A) The requirements of paragraph (1) may be waived by the department solely for persons in the professions of psychology, marriage and family therapy, clinical social work, or professional clinical counseling who are gaining qualifying experience for licensure in ~~such that~~ profession in this state. A waiver granted pursuant to this paragraph shall not exceed four years from commencement of the employment in this ~~state,~~ *state in a position that includes qualifying experience*, at which time licensure shall have been obtained or the employment shall be terminated, except that an extension of a waiver of licensure may be granted for one additional year, based on extenuating circumstances determined by the department pursuant to subdivision (e). For persons employed as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years in the case of clinical social workers, marriage and family therapists, or professional clinical counselors, or five years in the case of psychologists.

*(B) For the purposes of this paragraph, "qualifying experience" means experience that satisfies the requirements of subdivision (d) of Section 2914 of, or Section 4980.43, 4996.23, or 4999.46 of, the Business and Professions Code.*

(4) The durational limitation upon waivers pursuant to paragraph (3) shall not apply to any of the following:

(A) Active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of this training.

(B) Active candidates for a doctoral degree in marriage and family therapy who are enrolled at a school, college, or university, specified in subdivision (b) of Section 4980.36 of, or subdivision (b) of Section

4980.37 of, the Business and Professions Code, but the limitations shall apply following completion of the training.

(C) Active candidates for a doctoral degree in professional clinical counseling who are enrolled at a school, college, or university, specified in subdivision (b) of Section 4999.32 of, or subdivision (b) of Section 4999.33 of, the Business and Professions Code, but the limitations shall apply following the completion of the training.

(5) A waiver pursuant to paragraph (3) shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of ~~his or her~~ *the employee's* employment. If the employee does not pass the examination at that time, ~~he or she~~ *the employee* shall have a second opportunity to pass the next possible examination, subject to the one-year limit.

(c) A special permit shall be issued by the department when it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.

(d) The department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership, including standards specifying the level of training and supervision of all unlicensed practitioners. Except for psychologists, the department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon extenuating circumstances as determined by the department pursuant to subdivision (e).

(e) The department shall grant a request for an extension of a waiver based on extenuating circumstances, pursuant to subdivision (b) or (d), if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event that may impair the person's ability to qualify for and pass the license examination. Those events may include, but are not limited to, significant hardship caused by a natural disaster, serious and prolonged illness of the person, serious and prolonged illness or death of a child, spouse, or parent, or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist that substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship that the department, in its discretion, determines to warrant the extension.

## **SEC. 2.**

Section 5068.5 of the Penal Code is amended to read:

### **5068.5.**

(a) Notwithstanding any other law, except as provided in subdivisions (b) and (c), any person employed or under contract to provide diagnostic, treatment, or other mental health services in the state or to supervise or provide consultation on these services in the state correctional system shall be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state.

(b) Notwithstanding Section 5068 or Section 704 of the Welfare and Institutions Code, the following persons are exempt from the requirements of subdivision (a), so long as they continue in employment in the same class and in the same department:

(1) Persons employed on January 1, 1985, as psychologists to provide diagnostic or treatment services, including those persons on authorized leave, but not including intermittent personnel.

(2) Persons employed on January 1, 1989, to supervise or provide consultation on the diagnostic or treatment services, including persons on authorized leave, but not including intermittent personnel.

(c) (1) (A) The requirements of subdivision (a) may be waived by the secretary solely for persons in the professions of psychology or clinical social work who are gaining qualifying experience for licensure in those professions in this state. Providers working in a licensed health care facility operated by the department shall receive a waiver in accordance with Section 1277 of the Health and Safety Code.

*(B) For the purposes of this paragraph, "qualifying experience" means experience that satisfies the requirements of subdivision (d) of Section 2914 of, or Section 4996.23 of, the Business and Professions Code.*

(2) A waiver granted pursuant to this subdivision shall not exceed four years from commencement of the employment in this ~~state~~, *state in a position that includes qualifying experience*, at which time licensure shall have been obtained or the employment shall be terminated, except that an extension of a waiver of licensure may be granted for one additional year, based on extenuating circumstances determined by the department pursuant to subdivision (d). For persons employed as psychologists or clinical social workers less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years in the case of clinical social workers or five years in the case of psychologists. However, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of that training.

(3) A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensure examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of ~~his or her~~ *the employee's* employment, and if the employee does not pass the examination at that time, ~~he or she~~ *the employee* shall have a second opportunity to pass the next possible examination, subject to the one-year limit.

(d) The department shall grant a request for an extension of a waiver of licensure pursuant to subdivision (c) based on extenuating circumstances if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event that may impair the person's ability to qualify for and pass the licensure examination. Those events may include, but are not limited to, significant hardship caused by a natural disaster; serious and prolonged illness of the person; serious and prolonged illness or death of a child, spouse, or parent; or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist that substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship that the department, in its discretion, determines to warrant the extension.

### **SEC. 3.**

Section 5751.2 of the Welfare and Institutions Code is amended to read:

**5751.2.**

(a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, shall be subject to all applicable requirements of law regarding professional licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which a license is required, unless the person possesses a valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a).

(c) (1) While registered with the licensing board of jurisdiction for the purpose of acquiring the experience required for licensure, persons employed or under contract to provide mental health services pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (Commencing with Section 14700) of, Part 3 of Division 9, as clinical social workers, marriage and family therapists, or professional clinical counselors shall be exempt from subdivision (a). Registration shall be subject to regulations adopted by the appropriate licensing board.

*(2) For the purposes of this paragraph, "experience required for licensure" means experience that satisfies the requirements of Section 4996.23, 4980.43, or 4999.46 of the Business and Professions Code.*

(d) (1) The requirements of subdivision (a) shall be waived by the State Department of Health Care Services for persons employed or under contract to provide mental health services as psychologists pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, who are gaining the experience required for licensure. A waiver granted under this subdivision shall not exceed five years from the date of employment by, or contract with, a local mental health program for persons in the profession of psychology.

*(2) For the purposes of this subdivision, "experience required for licensure" means experience that satisfies the requirements of subdivision (d) of Section 2914 of the Business and Professions Code.*

(e) The requirements of subdivision (a) shall be waived by the State Department of Health Care Services for persons employed or under contract to provide mental health services as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, who have been recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination. A waiver granted under this subdivision shall not exceed five years from the date of employment by, or contract with, a local mental health program for persons in these four professions who are recruited from outside this state.

(f) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of information notices, plan or provider bulletins, or similar instructions until the time that regulations are adopted.

(2) The department shall adopt regulations on or before December 31, 2020, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(K): AB 2360 (Maienschein) Telehealth: mental health

### **Background:**

This bill would require health care service plans and health insurers, by January 1, 2021, to establish a telehealth consultation program that provides providers who treat children and pregnant and postpartum persons with access to a psychiatrist, as specified, in order to more quickly diagnose and treat children and pregnant and postpartum persons suffering from mental illness. The bill would require the consultation to be done by telephone or telehealth video, and would authorize the consultation to include guidance on providing triage services and referrals to evidence-based treatment options, including psychotherapy. The bill would require health care service plans and insurers to communicate information relating to the telehealth program at least twice a year in writing. The bill would require health care service plans and health insurers to maintain records and data pertaining to the utilization of the program and the availability of psychiatrists in order to facilitate ongoing changes and improvements, as necessary. The bill would exempt certain specialized health care service plans and health insurers from these provisions. Because a willful violation of the bill's requirement by a health care service plan would be a crime, the bill would impose a state-mandated local program.

**Location:** Senate Committee on Rules

**Status:** 6/11/20 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 2360 (Maienschein)

# AB 2360 - (A) Amends the Law

## SECTION 1.

Section 1367.626 is added to the Health and Safety Code, to read:

1367.626.

*(a) In order to more quickly diagnose and treat children and pregnant and postpartum persons suffering from mental illness, by January 1, 2021, a health care service plan shall establish a telehealth consultation program that provides providers who treat children and pregnant and postpartum persons with access to a psychiatrist during standard provider hours, which may include evenings and weekends. The telehealth consultation program shall provide consultation by telephone or telehealth video, and may include guidance on providing triage services and referrals to evidence-based treatment options, including psychotherapy.*

*(b) A health care service plan shall communicate information relating to the telehealth program and its availability to contracting medical providers who treat children and pregnant and postpartum persons, including pediatricians, obstetricians, and primary care providers, at least twice a year in writing.*

*(c) A health care service plan shall maintain records and data pertaining to the utilization of its telehealth consultation program and the availability of psychiatrists in order to facilitate ongoing changes and improvements to the program, as necessary.*

*(d) This section does not apply to a specialized health care service plan, except a specialized behavioral health-only plan offering professional mental health services.*

## SEC. 2.

Section 10123.868 is added to the Insurance Code, to read:

10123.868.

*(a) In order to more quickly diagnose and treat children and pregnant and postpartum persons suffering from mental illness, by January 1, 2021, a health insurer shall establish a telehealth consultation program that provides providers who treat children and pregnant and postpartum persons with access to a psychiatrist during standard provider hours, which may include evenings and weekends. The telehealth consultation program shall provide consultation by telephone or telehealth video, and may include guidance on providing triage services and referrals to evidence-based treatment options, including psychotherapy.*

*(b) A health insurer shall communicate information relating to the telehealth program and its availability to contracting medical providers who treat children and pregnant and postpartum persons, including pediatricians, obstetricians, and primary care providers, at least twice a year in writing.*

*(c) A health insurer shall maintain records and data pertaining to the utilization of its telehealth consultation program and the availability of psychiatrists in order to facilitate ongoing changes and improvements to the program, as necessary.*

*(d) This section does not apply to a specialized health insurer, except a specialized behavioral health-only insurer offering professional mental health services.*

SEC. 3.



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

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(L): 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.

As the bill text for AB 2438 (Chau) is over 800 pages, staff was unable to include the text with the meeting materials.

**Location:** Assembly Committee on Judiciary

**Status:** 5/4/20 In committee: Set, first hearing. Hearing canceled at the request of the author.

**Action Requested:**

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

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(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 non-substantive 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

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(N): 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

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(O): AB 2704 (Ting) Healing arts: licensees: data collection

### **Background:**

Existing law requires the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California to regulate and oversee the practice of healing arts within their respective jurisdictions and to, among other things, collect and report specific demographic data relating to their licensees, subject to a licensee's discretion to report their race or ethnicity, to the Office of Statewide Health Planning and Development. Existing law requires these boards to collect this data at least biennially, at the times of both issuing an initial license and issuing a renewal license. Existing law also authorizes the Board of Registered Nursing to expend \$145,000 to implement these provisions.

This bill would repeal the provisions applicable only to the licensees of those boards and, instead, would require all boards that oversee healing arts licensees to collect at the time of electronic application for a license and license renewal, or at least biennially, specified demographic information and to post the information on the internet websites that they each maintain. The bill would also require each board, or the Department of Consumer Affairs on its behalf, beginning on July 1, 2021, to 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:** 5/18/20 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 - (A) 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 workforce data from its licensees as specified in subdivision (b) for future workforce planning. The data may be collected at the time of electronic application for a license and 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 or gender identity.*

*(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, or the Department of Consumer Affairs on its behalf, shall, beginning on July 1, 2021, and annually thereafter, 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.

~~2717.~~

~~(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

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(P): SB 806 (Grove) Worker status: employees: independent contractors

### **Background:**

Existing law exempts specified occupations and business relationships from the application of Dynamex and these provisions. Existing law instead provides that these exempt relationships are governed by the test adopted in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

This bill would repeal these statutory provisions. The bill would, instead, establish a new test that, for purposes of specific provisions of the Labor Code governing the relationship of employer and employees, a person providing labor or services for remuneration is considered an employee rather than an independent contractor, unless the hiring entity demonstrates that the person is (1) free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact, determined by a preponderance of factors, with no single factor of control being determinative, and either that (2) the person performs work that is outside the usual course of the hiring entity's business, or the work performed is outside the place of business of the hiring entity, or the worker is responsible for the costs of the place of the business where the work is performed, or that (3) the person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed. The bill would apply the new test to all pending claims, whether in civil court or as an administrative action, filed on or after January 1, 2018, that relate to the classification of workers in this state.

**Location:** Senate Committee on Labor, Public Employment, and Retirement

**Status:** 5/18/20 May 14 set for first hearing. Failed passage in committee. Reconsideration granted.

### **Action Requested:**

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

# SB 806 - (A) Amends the Law

## SECTION 1.

*The Legislature finds and declares all of the following:*

*(a) On April 30, 2018, the California Supreme Court issued a landmark decision in *Dynamex Operations W. v. Superior Court*, (2018) 4 Cal.5th 903 (*Dynamex*) by overturning 29 years of precedent established in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.*

*(b) The decision created a new, one-size-fits-all and far more restrictive ABC test consisting of just three factors, of which all must be met in order for an individual to be classified as an independent contractor.*

*(c) Prior to this decision, the ABC test never existed in California statute or regulation.*

*(d) Such a momentous policy change should not be made by judicial fiat; instead, it should be made by the Legislature.*

*(e) Accordingly, the Legislature acted by passing Assembly Bill 5 (Chapter 296 of the Statutes of 2019), thereby codifying the *Dynamex* decision, as well as 57 carveouts for various industries, professions, and businesses.*

*(f) With the exception of independent contractor relationships within the various industries, professions, and businesses that received a carveout in Assembly Bill 5, most freelancers no longer have the freedom to work as independent contractors.*

*(g) Codifying the *Dynamex* decision with carveouts for some industries, professions, and businesses was not the only option available to the Legislature. The Legislature could have acted to protect the livelihood of the millions of Californians who choose to work as independent contractors and whose livelihoods were put at risk by the *Dynamex* decision.*

*(h) Assembly Bill 5 represents a lost opportunity for independent contractors and other freelancers by eliminating the choice that more and more Californians are making for their work and quality of life.*

*(i) The *Dynamex* decision and Assembly Bill 5 do not accurately reflect today's economic and worklife balance realities, including the changing demands of the modern workplace.*

*(j) Of the 22 states that utilize an ABC test, only California and Massachusetts apply the ABC factors in such a narrow and inflexible way, and only 7 apply these factors for wage and hour purposes, while all others apply an ABC test for unemployment insurance purposes only.*

*(k) Economic freedom is foundational to the American way of life, and the *Dynamex* decision and Assembly Bill 5 delivered a destructive blow to this foundation.*

*(l) The right to earn a living is a natural right reserved to the people, and the *Dynamex* decision and Assembly Bill 5 undermine this natural right.*

*(m) According to numbers provided by the Legislative Analyst's Office, Assembly Bill 5 threatens the livelihoods of roughly one million independent contractors who will no longer be able to work as freelancers.*

*(n) It is intent of the Legislature that Senate Bill 806 overturn the *Dynamex* decision and repeal and replace Assembly Bill 5 with a broad, flexible and workable test for determining independent contractor status.*

*(o) It is also the intent of the Legislature that the new ABC test in Senate Bill 806 provide maximum flexibility in allowing for independent contractor relationships in order to ensure that all those industries, businesses, and professions that legally and appropriately enjoyed independent contracting relationships prior to the *Dynamex* decision and Assembly Bill 5 can continue to do so now and in the future.*

*(p) It is also the intent of the Legislature that, for any industry, profession, or business that had legally and appropriately enjoyed independent contractor relationships prior to the Dynamex decision and Assembly Bill 5, but that may struggle to meet the new ABC test in Senate Bill 806, subsequent legislation to amend Senate Bill 806 shall be enacted to ensure that others can continue to enjoy independent contracting relationships.*

## **SEC. 2.**

Section 2750.3 of the Labor Code is repealed.

### ~~2750.3.~~

~~(a) (1) For purposes of the provisions of this code and the Unemployment Insurance Code, and for the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:~~

~~(A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.~~

~~(B) The person performs work that is outside the usual course of the hiring entity's business.~~

~~(C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.~~

~~(2) Notwithstanding paragraph (1), any exceptions to the terms "employee," "employer," "employ," or "independent contractor," and any extensions of employer status or liability, that are expressly made by a provision of this code, the Unemployment Insurance Code, or in an applicable order of the Industrial Welfare Commission, including, but not limited to, the definition of "employee" in subdivision 2(E) of Wage Order No. 2, shall remain in effect for the purposes set forth therein.~~

~~(3) If a court of law rules that the three-part test in paragraph (1) cannot be applied to a particular context based on grounds other than an express exception to employment status as provided under paragraph (2), then the determination of employee or independent contractor status in that context shall instead be governed by the California Supreme Court's decision in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341 (Borello).~~

~~(b) Subdivision (a) and the holding in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903 (Dynamex), do not apply to the following occupations as defined in the paragraphs below, and instead, the determination of employee or independent contractor status for individuals in those occupations shall be governed by Borello:~~

~~(1) A person or organization who is licensed by the Department of Insurance pursuant to Chapter 5 (commencing with Section 1621), Chapter 6 (commencing with Section 1760), or Chapter 8 (commencing with Section 1831) of Part 2 of Division 1 of the Insurance Code.~~

~~(2) A physician and surgeon, dentist, podiatrist, psychologist, or veterinarian licensed by the State of California pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, performing professional or medical services provided to or by a health care entity, including an entity organized as a sole proprietorship, partnership, or professional corporation as defined in Section 13401 of the Corporations Code. Nothing in this subdivision shall apply to the employment settings currently or potentially governed by collective bargaining agreements for the licensees identified in this paragraph.~~

~~(3) An individual who holds an active license from the State of California and is practicing one of the following recognized professions: lawyer, architect, engineer, private investigator, or accountant.~~

~~(4) A securities broker-dealer or investment adviser or their agents and representatives that are registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority or licensed by the State of California under Chapter 2 (commencing with Section 25210) or Chapter 3 (commencing with Section 25230) of Division 1 of Part 3 of Title 4 of the Corporations Code.~~

~~(5) A direct sales salesperson as described in Section 650 of the Unemployment Insurance Code, so long as the conditions for exclusion from employment under that section are met.~~

~~(6) A commercial fisherman working on an American vessel as defined in subparagraph (A) below.~~

~~(A) For the purposes of this paragraph:~~

~~(i) "American vessel" has the same meaning as defined in Section 125.5 of the Unemployment Insurance Code.~~

~~(ii) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.~~

~~(iii) "Working on an American vessel" means the taking or the attempt to take fish, shellfish, or other fishery resources of the state by any means, and includes each individual aboard an American vessel operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, including maintaining the vessel or equipment used aboard the vessel. However, "working on an American vessel" does not apply to anyone aboard a licensed commercial fishing vessel as a visitor or guest who does not directly or indirectly participate in the taking.~~

~~(B) For the purposes of this paragraph, a commercial fisherman working on an American vessel is eligible for unemployment insurance benefits if they meet the definition of "employment" in Section 609 of the Unemployment Insurance Code and are otherwise eligible for those benefits pursuant to the provisions of the Unemployment Insurance Code.~~

~~(C) On or before March 1, 2021, and each March 1 thereafter, the Employment Development Department shall issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. This report shall include, but not be limited to, reporting the number of commercial fishermen who apply for unemployment insurance benefits, the number of commercial fishermen who have their claims disputed, the number of commercial fishermen who have their claims denied, and the number of commercial fishermen who receive unemployment insurance benefits. The report required by this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(D) This paragraph shall become inoperative on January 1, 2023, unless extended by the Legislature.~~

~~(7) A newspaper distributor working under contract with a newspaper publisher, as defined in subparagraph (A), and a newspaper carrier working under contract either with a newspaper publisher or newspaper distributor.~~

~~(A) For purposes of this paragraph:~~

~~(i) "Newspaper" means a newspaper of general circulation, as defined in Section 6000 of the Government Code, and any other publication circulated to the community in general as an extension of or substitute for that newspaper's own publication, whether that publication be designated a "shoppers' guide," as a zoned edition, or otherwise.~~

~~(ii) "Publisher" means the natural or corporate person that manages the newspaper's business operations, including circulation.~~

~~(iii) "Newspaper distributor" means a person or entity that contracts with a publisher to distribute newspapers to the community.~~

~~(iv) "Carrier" means a person who effects physical delivery of the newspaper to the customer or reader.~~

~~(B) This paragraph shall become inoperative on January 1, 2021, unless extended by the Legislature.~~

~~(c) (1) Subdivision (a) and the holding in Dynamex do not apply to a contract for “professional services” as defined below, and instead the determination of whether the individual is an employee or independent contractor shall be governed by Borello if the hiring entity demonstrates that all of the following factors are satisfied:~~

~~(A) The individual maintains a business location, which may include the individual's residence, that is separate from the hiring entity. Nothing in this subdivision prohibits an individual from choosing to perform services at the location of the hiring entity.~~

~~(B) If work is performed more than six months after the effective date of this section, the individual has a business license, in addition to any required professional licenses or permits for the individual to practice in their profession.~~

~~(C) The individual has the ability to set or negotiate their own rates for the services performed.~~

~~(D) Outside of project completion dates and reasonable business hours, the individual has the ability to set the individual's own hours.~~

~~(E) The individual is customarily engaged in the same type of work performed under contract with another hiring entity or holds themselves out to other potential customers as available to perform the same type of work.~~

~~(F) The individual customarily and regularly exercises discretion and independent judgment in the performance of the services.~~

~~(2) For purposes of this subdivision:~~

~~(A) An “individual” includes an individual providing services through a sole proprietorship or other business entity.~~

~~(B) “Professional services” means services that meet any of the following:~~

~~(i) Marketing, provided that the contracted work is original and creative in character and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the contracted work.~~

~~(ii) Administrator of human resources, provided that the contracted work is predominantly intellectual and varied in character and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.~~

~~(iii) Travel agent services provided by either of the following: (I) a person regulated by the Attorney General under Article 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, or (II) an individual who is a seller of travel within the meaning of subdivision (a) of Section 17550.1 of the Business and Professions Code and who is exempt from the registration under subdivision (g) of Section 17550.20 of the Business and Professions Code.~~

~~(iv) Graphic design.~~

~~(v) Grant writer.~~

~~(vi) Fine artist.~~

~~(vii) Services provided by an enrolled agent who is licensed by the United States Department of the Treasury to practice before the Internal Revenue Service pursuant to Part 10 of Subtitle A of Title 31 of the Code of Federal Regulations.~~

~~(viii) Payment processing agent through an independent sales organization.~~

~~(ix) Services provided by a still photographer or photojournalist who do not license content submissions to the putative employer more than 35 times per year. This clause is not applicable to an individual who works on motion pictures, which includes, but is not limited to, projects produced for theatrical, television,~~



~~internet streaming for any device, commercial productions, broadcast news, music videos, and live shows, whether distributed live or recorded for later broadcast, regardless of the distribution platform. For purposes of this clause a "submission" is one or more items or forms of content produced by a still photographer or photojournalist that: (I) pertains to a specific event or specific subject; (II) is provided for in a contract that defines the scope of the work; and (III) is accepted by and licensed to the publication or stock photography company and published or posted. Nothing in this section shall prevent a photographer or artist from displaying their work product for sale.~~

~~(x) Services provided by a freelance writer, editor, or newspaper cartoonist who does not provide content submissions to the putative employer more than 35 times per year. Items of content produced on a recurring basis related to a general topic shall be considered separate submissions for purposes of calculating the 35 times per year. For purposes of this clause, a "submission" is one or more items or forms of content by a freelance journalist that: (I) pertains to a specific event or topic; (II) is provided for in a contract that defines the scope of the work; (III) is accepted by the publication or company and published or posted for sale.~~

~~(xi) Services provided by a licensed esthetician, licensed electrologist, licensed manicurist, licensed barber, or licensed cosmetologist provided that the individual:~~

~~(I) Sets their own rates, processes their own payments, and is paid directly by clients.~~

~~(II) Sets their own hours of work and has sole discretion to decide the number of clients and which clients for whom they will provide services.~~

~~(III) Has their own book of business and schedules their own appointments.~~

~~(IV) Maintains their own business license for the services offered to clients.~~

~~(V) If the individual is performing services at the location of the hiring entity, then the individual issues a Form 1099 to the salon or business owner from which they rent their business space.~~

~~(VI) This subdivision shall become inoperative, with respect to licensed manicurists, on January 1, 2022.~~

~~(d) Subdivision (a) and the holding in Dynamex do not apply to the following, which are subject to the Business and Professions Code:~~

~~(1) A real estate licensee licensed by the State of California pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, for whom the determination of employee or independent contractor status shall be governed by subdivision (b) of Section 10032 of the Business and Professions Code. If that section is not applicable, then this determination shall be governed as follows: (A) for purposes of unemployment insurance by Section 650 of the Unemployment Insurance Code; (B) for purposes of workers compensation by Section 3200 et seq.; and (C) for all other purposes in the Labor Code by Borello. The statutorily imposed duties of a responsible broker under Section 10015.1 of the Business and Professions Code are not factors to be considered under the Borello test.~~

~~(2) A repossession agency licensed pursuant to Section 7500.2 of the Business and Professions Code, for whom the determination of employee or independent contractor status shall be governed by Section 7500.2 of the Business and Professions Code, if the repossession agency is free from the control and direction of the hiring person or entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.~~

~~(e) Subdivision (a) and the holding in Dynamex do not apply to a bona fide business-to-business contracting relationship, as defined below, under the following conditions:~~

~~(1) If a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation ("business service provider") contracts to provide services to another such business ("contracting business"), the determination of employee or independent contractor status of the business services provider shall be governed by Borello, if the contracting business demonstrates that all of the following criteria are satisfied:~~

~~(A) The business service provider is free from the control and direction of the contracting business entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.~~

~~(B) The business service provider is providing services directly to the contracting business rather than to customers of the contracting business.~~

~~(C) The contract with the business service provider is in writing.~~

~~(D) If the work is performed in a jurisdiction that requires the business service provider to have a business license or business tax registration, the business service provider has the required business license or business tax registration.~~

~~(E) The business service provider maintains a business location that is separate from the business or work location of the contracting business.~~

~~(F) The business service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed.~~

~~(G) The business service provider actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from the hiring entity.~~

~~(H) The business service provider advertises and holds itself out to the public as available to provide the same or similar services.~~

~~(I) The business service provider provides its own tools, vehicles, and equipment to perform the services.~~

~~(J) The business service provider can negotiate its own rates.~~

~~(K) Consistent with the nature of the work, the business service provider can set its own hours and location of work.~~

~~(L) The business service provider is not performing the type of work for which a license from the Contractor's State License Board is required, pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.~~

~~(2) This subdivision does not apply to an individual worker, as opposed to a business entity, who performs labor or services for a contracting business.~~

~~(3) The determination of whether an individual working for a business service provider is an employee or independent contractor of the business service provider is governed by paragraph (1) of subdivision (a).~~

~~(4) This subdivision does not alter or supersede any existing rights under Section 2810.3.~~

~~(f) Subdivision (a) and the holding in *Dynamex* do not apply to the relationship between a contractor and an individual performing work pursuant to a subcontract in the construction industry, and instead the determination of whether the individual is an employee of the contractor shall be governed by Section 2750.5 and by *Borello*, if the contractor demonstrates that all the following criteria are satisfied:~~

~~(1) The subcontract is in writing.~~

~~(2) The subcontractor is licensed by the Contractors State License Board and the work is within the scope of that license.~~

~~(3) If the subcontractor is domiciled in a jurisdiction that requires the subcontractor to have a business license or business tax registration, the subcontractor has the required business license or business tax registration.~~

~~(4) The subcontractor maintains a business location that is separate from the business or work location of the contractor.~~

~~(5) The subcontractor has the authority to hire and to fire other persons to provide or to assist in providing the services.~~

~~(6) The subcontractor assumes financial responsibility for errors or omissions in labor or services as evidenced by insurance, legally authorized indemnity obligations, performance bonds, or warranties relating to the labor or services being provided.~~

~~(7) The subcontractor is customarily engaged in an independently established business of the same nature as that involved in the work performed.~~

~~(8) (A) Paragraph (2) shall not apply to a subcontractor providing construction trucking services for which a contractor's license is not required by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, provided that all of the following criteria are satisfied:~~

~~(i) The subcontractor is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation.~~

~~(ii) For work performed after January 1, 2020, the subcontractor is registered with the Department of Industrial Relations as a public works contractor pursuant to Section 1725.5, regardless of whether the subcontract involves public work.~~

~~(iii) The subcontractor utilizes its own employees to perform the construction trucking services, unless the subcontractor is a sole proprietor who operates their own truck to perform the entire subcontract and holds a valid motor carrier permit issued by the Department of Motor Vehicles.~~

~~(iv) The subcontractor negotiates and contracts with, and is compensated directly by, the licensed contractor.~~

~~(B) For work performed after January 1, 2020, any business entity that provides construction trucking services to a licensed contractor utilizing more than one truck shall be deemed the employer for all drivers of those trucks.~~

~~(C) For purposes of this paragraph, "construction trucking services" mean hauling and trucking services provided in the construction industry pursuant to a contract with a licensed contractor utilizing vehicles that require a commercial driver's license to operate or have a gross vehicle weight rating of 26,001 or more pounds.~~

~~(D) This paragraph shall only apply to work performed before January 1, 2022.~~

~~(E) Nothing in this paragraph prohibits an individual who owns their truck from working as an employee of a trucking company and utilizing that truck in the scope of that employment. An individual employee providing their own truck for use by an employer trucking company shall be reimbursed by the trucking company for the reasonable expense incurred for the use of the employee owned truck.~~

~~(g) Subdivision (a) and the holding in Dynamex do not apply to the relationship between a referral agency and a service provider, as defined below, under the following conditions:~~

~~(1) If a business entity formed as a sole proprietor, partnership, limited liability company, limited liability partnership, or corporation ("service provider") provides services to clients through a referral agency, the determination whether the service provider is an employee of the referral agency shall be governed by Borello, if the referral agency demonstrates that all of the following criteria are satisfied:~~

~~(A) The service provider is free from the control and direction of the referral agency in connection with the performance of the work for the client, both as a matter of contract and in fact.~~

~~(B) If the work for the client is performed in a jurisdiction that requires the service provider to have a business license or business tax registration, the service provider has the required business license or business tax registration.~~

~~(C) If the work for the client requires the service provider to hold a state contractor's license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, the service provider has the required contractor's license.~~

~~(D) The service provider delivers services to the client under service provider's name, rather than under the name of the referral agency.~~

~~(E) The service provider provides its own tools and supplies to perform the services.~~

~~(F) The service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed for the client.~~

~~(G) The service provider maintains a clientele without any restrictions from the referral agency and the service provider is free to seek work elsewhere, including through a competing agency.~~

~~(H) The service provider sets its own hours and terms of work and is free to accept or reject clients and contracts.~~

~~(I) The service provider sets its own rates for services performed, without deduction by the referral agency.~~

~~(J) The service provider is not penalized in any form for rejecting clients or contracts. This subparagraph does not apply if the service provider accepts a client or contract and then fails to fulfill any of its contractual obligations.~~

~~(2) For purposes of this subdivision, the following definitions apply:~~

~~(A) "Animal services" means services related to daytime and nighttime pet care including pet boarding under Section 122380 of the Health and Safety Code.~~

~~(B) "Client" means a person or business that engages a service contractor through a referral agency.~~

~~(C) "Referral agency" is a business that connects clients with service providers that provide graphic design, photography, tutoring, event planning, minor home repair, moving, home cleaning, errands, furniture assembly, animal services, dog walking, dog grooming, web design, picture hanging, pool cleaning, or yard cleanup.~~

~~(D) "Referral agency contract" is the agency's contract with clients and service contractors governing the use of its intermediary services described in subparagraph (C).~~

~~(E) "Service provider" means a person or business who agrees to the referral agency's contract and uses the referral agency to connect with clients.~~

~~(F) "Tutor" means a person who develops and teaches their own curriculum. A "tutor" does not include a person who teaches a curriculum created by a public school or who contracts with a public school through a referral company for purposes of teaching students of a public school.~~

~~(3) This subdivision does not apply to an individual worker, as opposed to a business entity, who performs services for a client through a referral agency. The determination whether such an individual is an employee of a referral agency is governed by subdivision (a).~~

~~(h) Subdivision (a) and the holding in Dynamex do not apply to the relationship between a motor club holding a certificate of authority issued pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code and an individual performing services pursuant to a contract between the motor club and a third party to provide motor club services utilizing the employees and vehicles of the third party and, instead, the determination whether such an individual is an employee of the motor club shall be governed by Borello, if the motor club demonstrates that the third party is a separate and independent business from the motor club.~~

~~(i) (1) The addition of subdivision (a) to this section of the Labor Code by this act does not constitute a change in, but is declaratory of, existing law with regard to wage orders of the Industrial Welfare Commission and violations of the Labor Code relating to wage orders.~~

~~(2) Insofar as the application of subdivisions (b), (c), (d), (e), (f), (g), and (h) of this section would relieve an employer from liability, those subdivisions shall apply retroactively to existing claims and actions to the maximum extent permitted by law.~~

~~(3) Except as provided in paragraphs (1) and (2) of this subdivision, the provisions of this section of the Labor Code shall apply to work performed on or after January 1, 2020.~~

~~(j) In addition to any other remedies available, an action for injunctive relief to prevent the continued misclassification of employees as independent contractors may be prosecuted against the putative employer in a court of competent jurisdiction by the Attorney General or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association.~~

### **SEC. 3.**

*Section 2750.3 is added to the Labor Code, to read:*

#### **2750.3.**

*(a) For purposes of this division, a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor, unless the hiring entity demonstrates that the person meets both the requirement of paragraph (1) and the requirement of either paragraph (2) or (3):*

*(1) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact. For purposes of this paragraph, a preponderance of factors, with no single factor of control being determinative, shall determine whether a worker is free from the direct control of the hiring entity.*

*(2) The person performs work that is either outside the usual course of the hiring entity's business, or that the work performed is outside the place of business of the hiring entity, or the worker is responsible for the costs of the place of the business where the work is performed.*

*(3) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.*

*(b) Subdivision (a) shall apply to all pending claims, whether in civil court or as an administrative action, filed on or after January 1, 2018, that relate to the classification of workers in this state.*

### **SEC. 4.**

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

*Due to the unprecedented disruption of the economy because of the COVID-19 virus outbreak, it is necessary that this measure take effect immediately.*

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item 11(b)(3)(Q): 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, beginning July 1, 2021, would require each board within the department that issues licenses, on at least a quarterly basis, to prominently display on its internet website either the current average timeframes for processing initial and renewal license applications or the combined current average timeframe for processing both initial and renewal license applications. The bill would also require each board to prominently display on its internet website either the current average timeframes for processing each license type that the board administers or the combined current average timeframe for processing all license types that the board administers.

**Location:** Senate Floor

**Status:** 6/22/20 Read second time. Ordered to third reading.

**Action Requested:**

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

Attachment A: SB 878 (Jones) Bill Text

# SB 878 - (A) Amends the Law

## SECTION 1.

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

*139.5.*

*Beginning July 1, 2021, each board, as defined in Section 22, within the department that issues a license shall do both of the following on at least a quarterly basis:*

*(a) Prominently display on its internet website one of the following:*

- (1) The current average timeframes for processing initial and renewal license applications.*
- (2) The combined current average timeframe for processing both initial and renewal license applications.*

*(b) Prominently display on its internet website one of the following:*

- (1) The current average timeframes for processing each license type that the board administers.*
- (2) The combined current average timeframe for processing all license types that the board administers.*

## MEMORANDUM

<b>DATE</b>	June 20, 2020
<b>TO</b>	Psychology Board Members
<b>FROM</b>	Sandra Monterrubio, Enforcement Program Manager Board of Psychology
<b>SUBJECT</b>	Enforcement Report, Agenda Item 13

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

The Enforcement Unit currently has two vacancies. One is the Enforcement Technician (OT) and the other is an Enforcement Analyst (Analyst). The OT opens complaints, assigns cases to experts and provides office support to enforcement staff. The Analyst performs desk investigations, works closely with the Division of Investigation and refers cases to the Office of the Attorney General for formal discipline. The Board will be actively looking to recruit an Enforcement Technician (OT) within the next 90 days but the Analyst position will remain vacant until February 2021.

### Complaint Program

Since July 1, 2019, the Board has received 1,092 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 75 cases to the Office of the Attorney General for formal discipline.

### Probation Program

Enforcement staff is currently monitoring forty-five (45) probationers. Of the forty-five (45) probationers, one (1) is 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

<b>License &amp; Registration</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>*19/20</b>
Psychologist	20,227	20,024	20,580	21,116	21,960
Registered Psychologist	272	278	250	129	119
Psychological Assistant	1,580	1,446	1,446	1,361	1,319
<b>Cases Opened</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>*19/20</b>
Complaints Received	798	1,042	1,097	1,093	1,092
Arrest Reports**	50	39	53	40	43
Investigations Opened	602	771	805	862	829
Cases referred to DA	0	0	0	0	0
Cases referred to AG	33	45	70	56	75
<b>Filings</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>*19/20</b>
Accusations	23	27	15	31	47
Statement of Issues	5	7	6	4	10
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
<b>Filing Withdrawals/Dismissals</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>*19/20</b>
Accusations Withdrawn	5	0	0	3	1
Accusations Dismissed	4	1	0	4	0
Statement of Issues Withdrawn	0	1	3	0	3
<b>Citations</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>*19/20</b>
Citations Ordered	27	32	46	47	35
<b>Disciplinary Decisions</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>*19/20</b>
Revocations	4	2	9	1	9
Revocation, Stayed, Probation	24	16	7	11	16
Revoked, Stayed, Probation, Susp.	0	0	0	0	0
Surrender	12	26	11	9	12
Reprovals	3	3	4	1	2
ISO/TRO/PC23 Ordered	2	1	2	1	2
Statement of Issues-License Denied	0	0	0	0	0
<b>Total Disciplinary Decisions</b>	<b>45</b>	<b>48</b>	<b>33</b>	<b>23</b>	<b>41</b>
<b>Other Decisions</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>*19/20</b>
Statement of Issues-License Granted	1	0	0	3	0
Petitions for Penalty Relief Denied	0	2	4	7	3
Petitions for Penalty Relief Granted	0	1	2	3	2
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
<b>Total Other Decisions</b>	<b>2</b>	<b>5</b>	<b>12</b>	<b>15</b>	<b>8</b>
<b>Violation Types</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>*19/20</b>
Gross Negligence/Incompetence	23	29	20	20	28
Improper Supervision	1	0	1	0	0
Repeated Negligent Acts	22	31	21	13	15
Self-Abuse of Drugs or Alcohol	7	15	7	3	1
Dishonest/Corrupt/Fraudulent Act	6	8	9	6	10
Mental Illness	4	5	2	2	1
Aiding Unlicensed Practice	1	0	0	0	0
General Unprofessional Conduct	5	2	13	8	25
Probation Violation	3	26	29	12	6
Sexual Misconduct	6	14	2	3	4
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	3

\*\*Enforcement data pulled on June 17, 2020

## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board Members
<b>FROM</b>	Mai Xiong Licensing and BreZE Coordinator
<b>SUBJECT</b>	<b>Agenda Item 14</b> Licensing Report

### License/Registration Data by Fiscal Year:

License & Registration	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20**
<b>Psychologist*</b>	21,527	22,020	22,688	***	20,575	20,227	20,024	20,580	21,116	21,960
<b>Psychological Assistant</b>	1,507	1,635	1,727	***	1,701	1,580	1,446	1,446	1,361	1,319
<b>Registered Psychologist</b>	312	320	349	***	280	272	278	250	129	119

\*Current and Current Inactive

\*\*As of June 22, 2020

\*\*\*Statistics unavailable

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

### Application Workload Reports:

The attached reports provide statistics from December 2019 thru May 2020 on the application status by month for each of the license and registration types (see Attachment B). On each report, the type of transaction is indicated on the x-axis of the graphs. The different types of transactions and the meaning of the transaction status are explained below for the Board's reference.

#### Psychologist Application Workload Report

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

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

“CPLEE Retake Transaction” is a process for applicants who need to retake the CPLEE due to an unsuccessful attempt. This process is also created for licensees who are

required to take the CPLEE due to probation. An application with an “open” status means it is deficient, pending review, or an applicant is waiting for approval to re-take the examination when the new form becomes available in the next quarter.

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

### Psychological Assistant Application Workload Report

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

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

### Registered Psychologist Application Workload Report

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

### **Examination Statistics:**

Examination statistics (Attachment D) shows a significant decrease of the number of candidates in April 2020 for both the EPPP and CPLEE. The reduced number of exam candidates is due to the closed of testing centers as a result of the novel coronavirus (COVID-19) pandemic. Even with the reduced number of exam candidates, there is no substantial differences with the passing rate and percentage of first time passed.

### **Attachments:**

- A. Licensing Population Report as of June 19, 2020
- B. Application Workload Reports as of June 22, 2020
- C. Applications Received June 2019 – May 2020 as of June 23, 2020
- D. Examination Statistics May 2019 – April 2020 as of June 22, 2020

### **Action:**

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



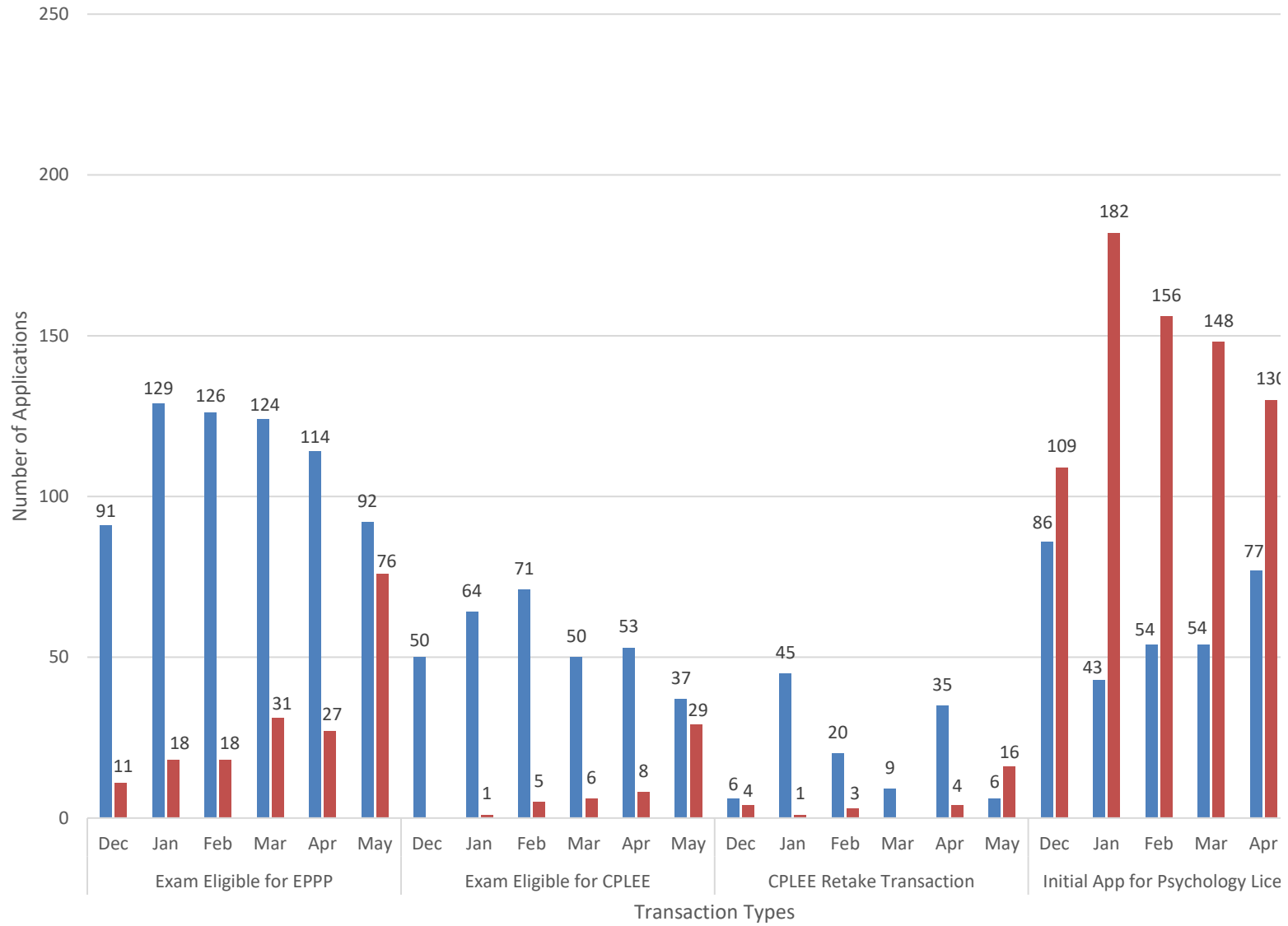
STATE DEPARTMENT OF CONSUMER AFFAIRS  
BREEZE SYSTEM

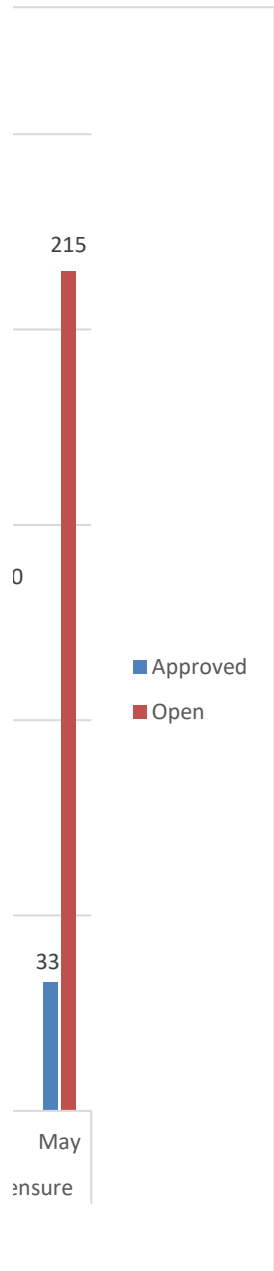


LICENSING POPULATION REPORT  
BOARD OF PSYCHOLOGY  
AS OF 6/19/2020

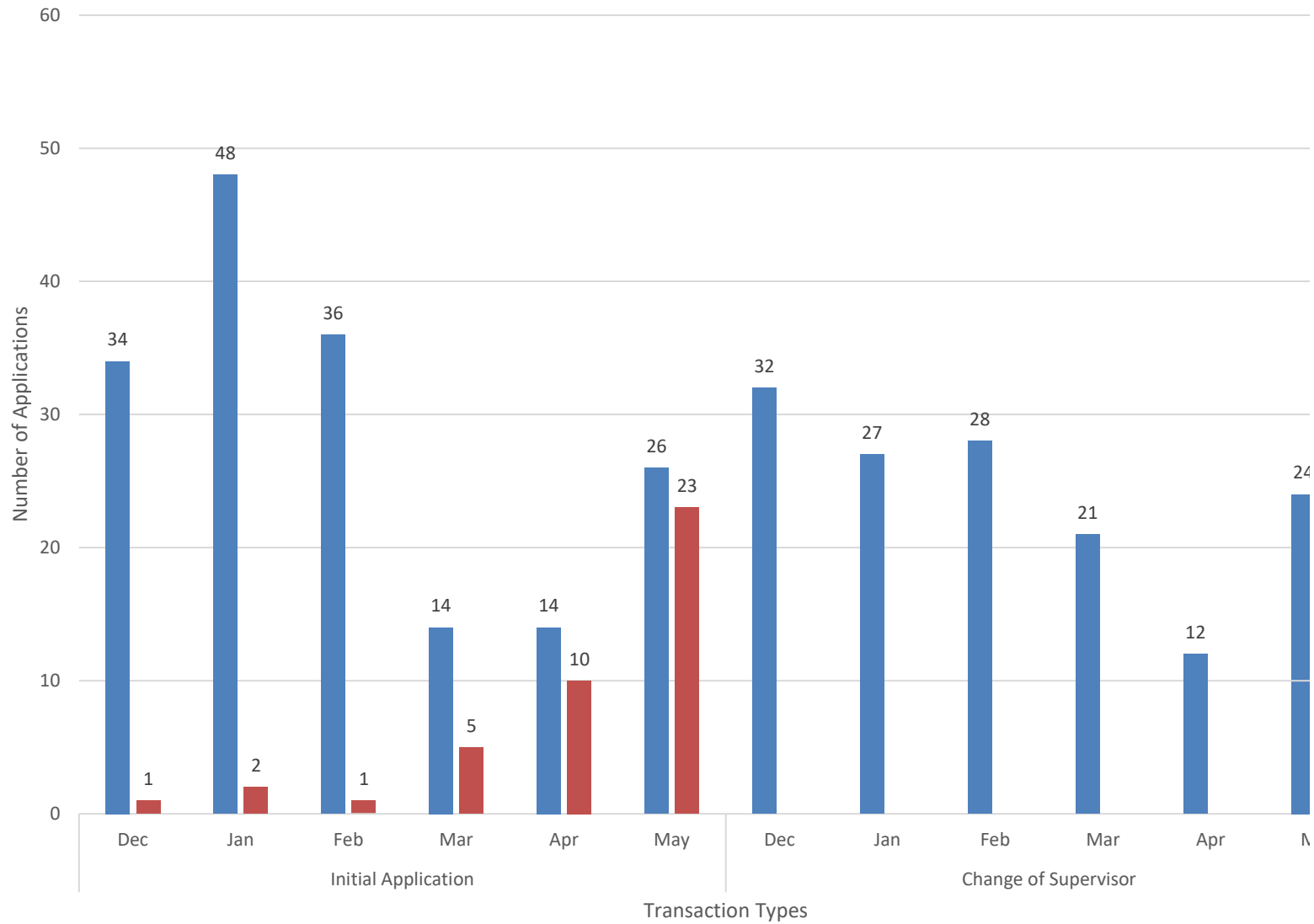
License Type	License Status							Total
	Licensing					Enforcement		
	Current	Inactive	Delinquent	Cancelled	Deceased	Surrendered	Revoked	
Psychologist	19,104	2,856	1,300	6,450	1,012	227	153	31,102
Psychological Assistant	1,319	0	92	21,836	8	11	8	23,274
Registered Psychologist	119	0	0	4,553	1	0	0	4,673
<b>Total</b>	<b>20,542</b>	<b>2,856</b>	<b>1,392</b>	<b>32,839</b>	<b>1,021</b>	<b>238</b>	<b>161</b>	<b>59,049</b>

### Psychologist Application Workload Report December 1, 2019 to May 31, 2020

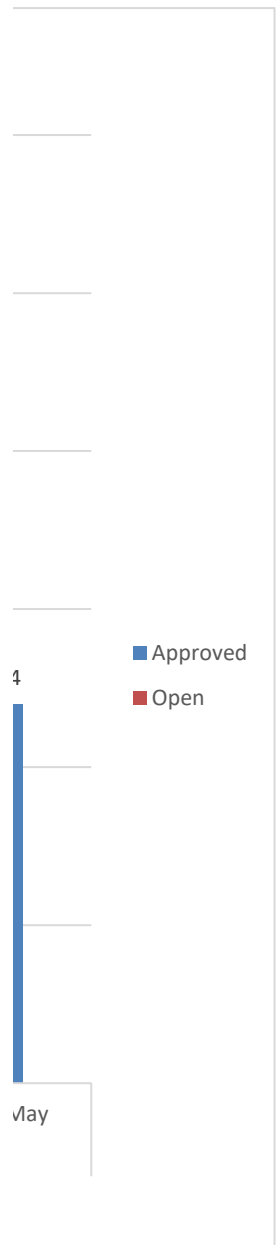




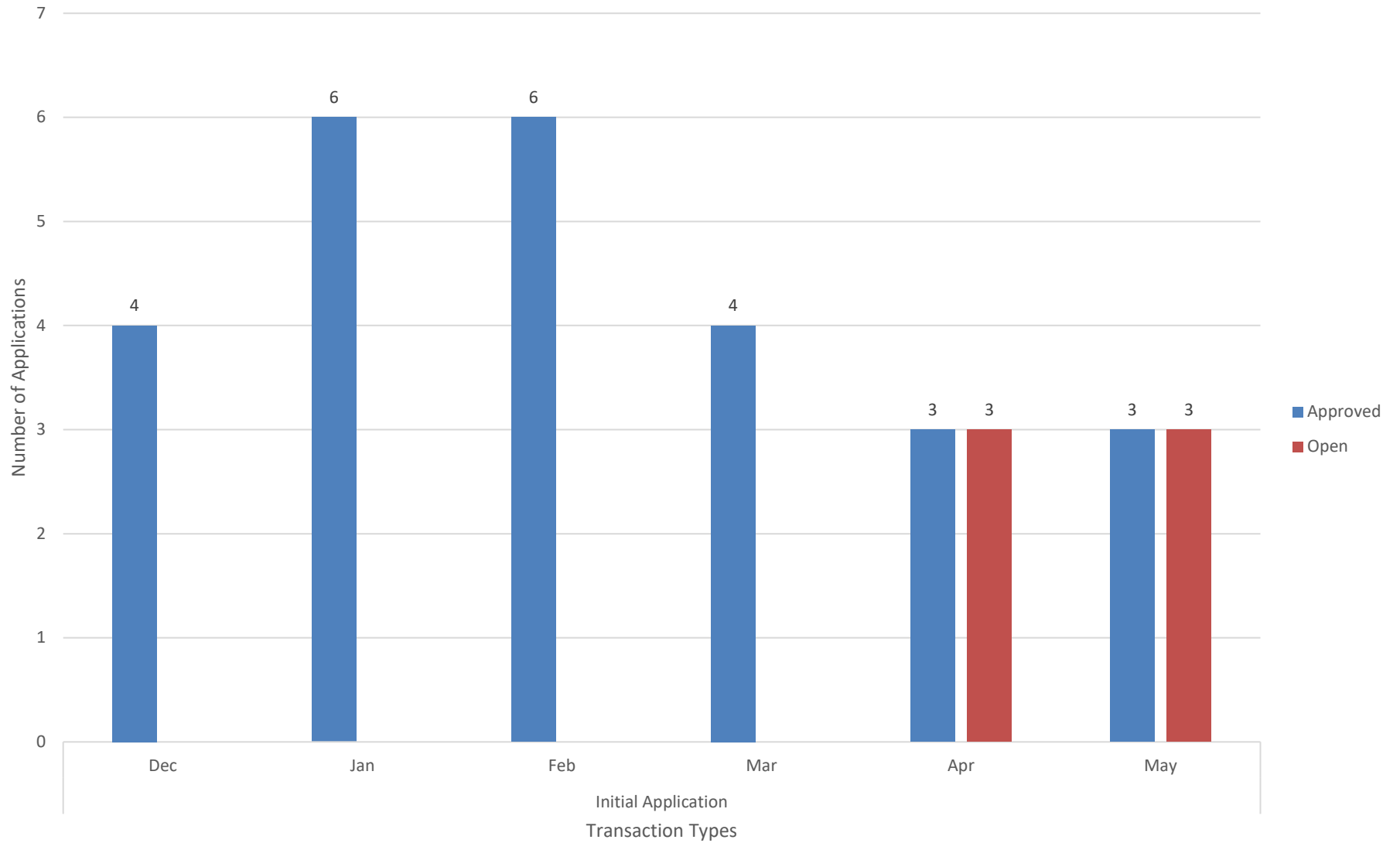
### Psychological Assistant Application Workload Report December 1, 2019 to May 31, 2020



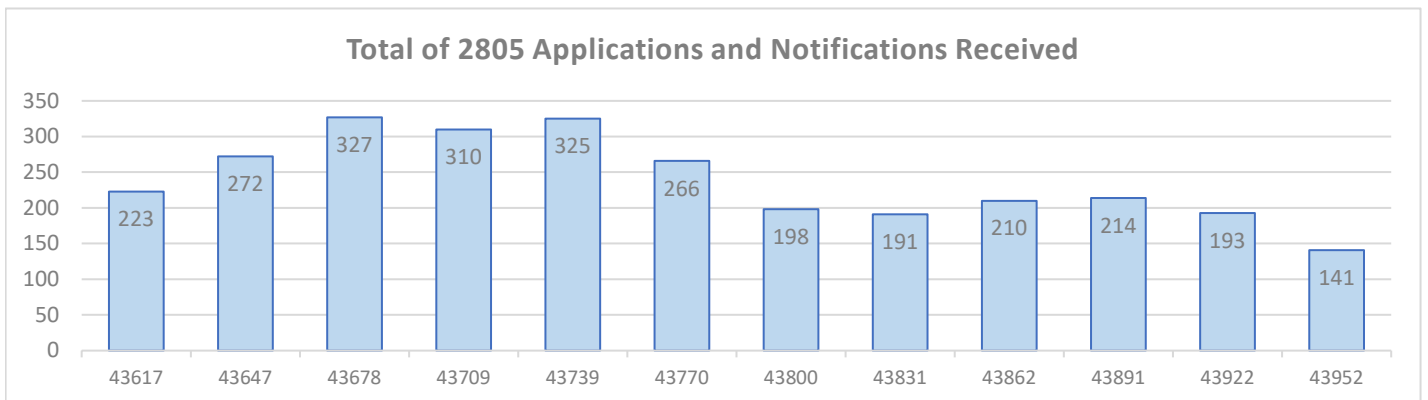
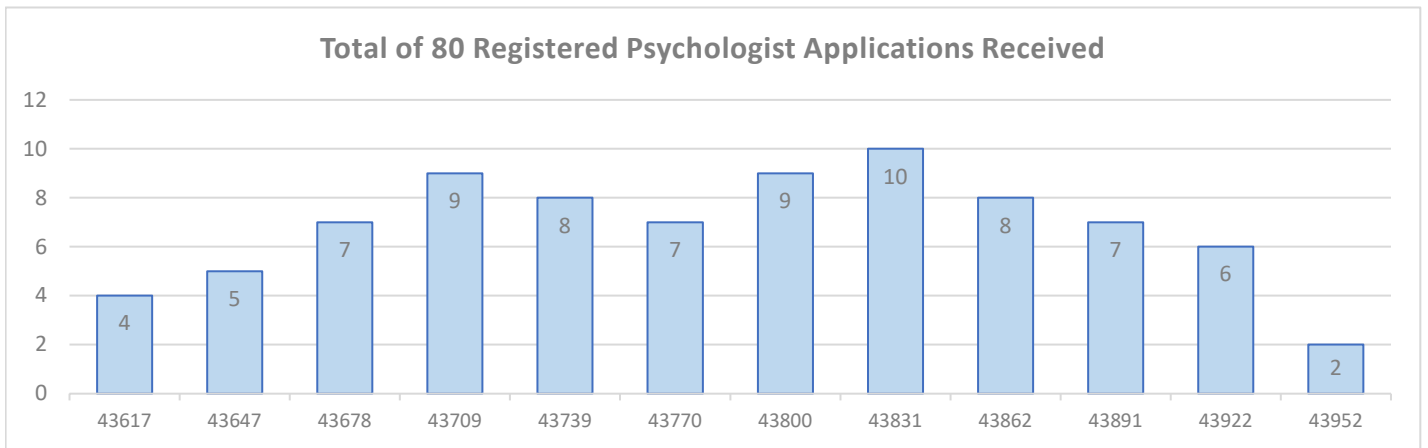
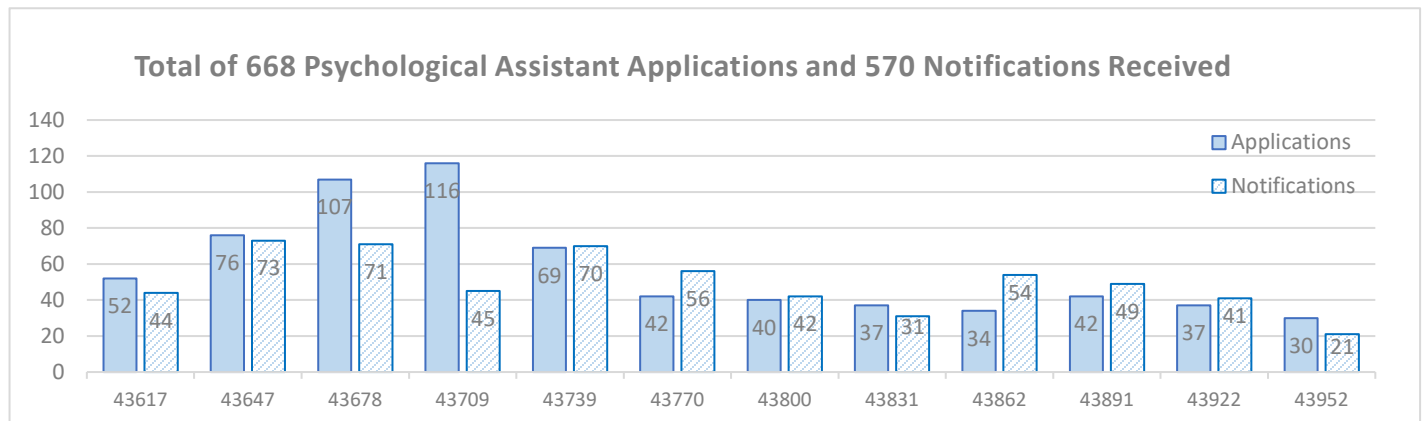
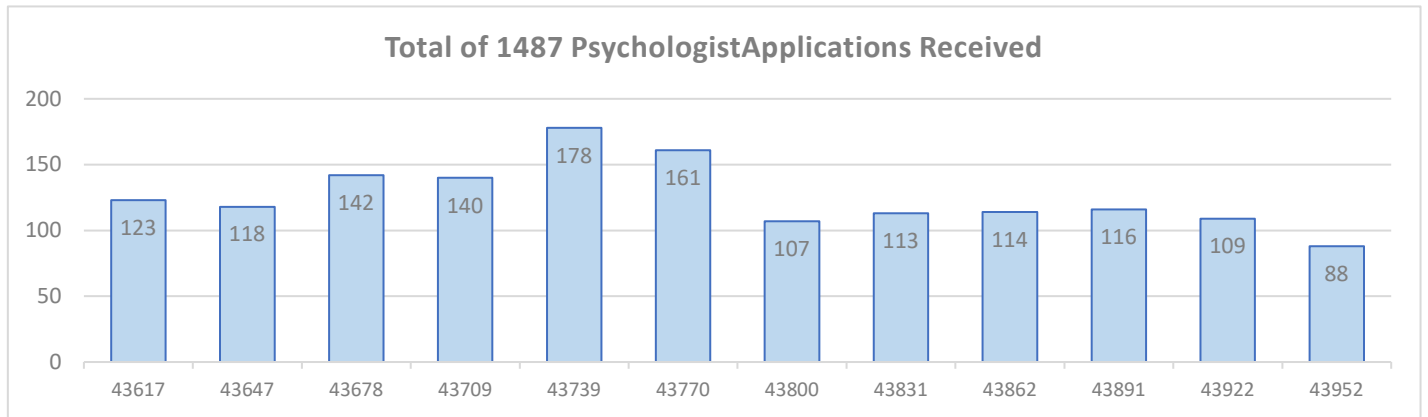




### Registered Psychologist Application Workload Report December 1, 2019 to May 31, 2020







Applications and Notifications Received from June 2019 to May 2020  
As of June 23, 2020

Attachment C

**Examination Statistics May 2019 – April 2020  
As of June 22, 2020**

**2019/2020 Monthly EPPP Examination Statistics**

<b>Month</b>	<b># of Candidates</b>	<b># Passed</b>	<b>% Passed</b>	<b>Total First Timers</b>	<b>First Time Passed</b>	<b>% First Time Passed</b>
May 2019	173	84	48.55	95	66	69.47
June 2019	148	69	46.62	83	56	67.47
July 2019	172	79	45.93	91	56	61.54
August 2019	158	71	44.94	86	50	58.14
September 2019	115	47	40.87	47	28	59.57
October 2019	137	69	50.36	60	40	66.67
November 2019	130	63	48.46	65	43	66.15
December 2019	186	64	34.41	79	45	56.96
January 2020	107	54	47.66	64	37	57.81
February 2020	103	45	43.69	45	31	68.89
March 2020	89	46	51.69	53	36	67.92
April 2020	23	11	47.83	17	10	58.82
<b>Total</b>	<b>1541</b>	<b>702</b>	<b>45.92</b>	<b>785</b>	<b>498</b>	<b>63.28</b>

**2019/2020 Monthly CPLEE Examination Statistics**

<b>Month</b>	<b># of Candidates</b>	<b># Passed</b>	<b>% Passed</b>	<b>Total First Timers</b>	<b>First Time Passed</b>	<b>% First Time Passed</b>
May 2019	79	60	75.95	53	38	71.7
June 2019	114	78	68.42	92	65	70.65
July 2019	106	84	79.25	76	60	78.95
August 2019	151	124	82.12	121	100	82.64
September 2019	154	121	78.57	130	105	80.77
October 2019	83	62	74.7	56	47	83.93
November 2019	90	73	81.11	57	48	84.21
December 2019	108	78	72.22	84	61	72.62
January 2020	58	45	77.59	41	31	75.61
February 2020	72	53	73.61	54	40	74.07
March 2020	64	50	78.13	51	41	80.39
April 2020	26	18	69.23	18	13	72.22
<b>Total</b>	<b>1105</b>	<b>846</b>	<b>75.91</b>	<b>833</b>	<b>649</b>	<b>77.31</b>

## MEMORANDUM

<b>DATE</b>	June 24, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Liezel McCockran Continuing Education and Renewals Coordinator
<b>SUBJECT</b>	Agenda Item #15 – Continuing Education and Renewals Report

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

- A. CE Audit 2018
- B. CE Audit 2019 (January – March)
- C. Reasons for Not Passing CE Audit
- D. Psychologist and Psychological Assistant Renewal Applications Processed:  
January 2020 – June 22, 2020
- E. Online vs. Mailed In Renewals Processed
- F. Pass and Fail Rate 2014-2017
- G. Pass and Fail Rate 2018
- H. Pass and Fail Rates for 2<sup>nd</sup> Audits
- I. Renewal Postcard

CE audits have been sent out for the months of January 2018 through September 2018. To date, the pass rate is 83 percent. Audits for October, November, December 2018 and January, February, and March 2019 were sent out on January 3, 2020. The due date for those audits were March 3, 2020.

For January 2020 through June 22, 2020, an average of 920 renewal applications were processed per month, with 79 percent of Psychologists renewing as Active. Approximately 81 percent of Psychologists and Psychological Assistants renewed their license online per month. The pass rate from 2014-2017 has been consistently over 80 percent. The pass rate for 2<sup>nd</sup> audits has risen from 68 percent in 2016 to 82 percent in 2018.

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

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

**Action Requested:**

These items are for information purposes only. No action requested

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

CE Audits – January, 2018 to December, 2018 - Attachment A



**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

CE Audits – January, 2019 to March, 2019 Attachment B

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

Reasons for Not Passing CE Audits –  
January, 2018 to December, 2018 - Attachment A

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

Renewal Applications Processed –  
January, 2020 to June 22, 2020

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

Online vs. Mailed-In Renewals –  
January, 2020 to June 22, 2020 – Attachment E

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

Pass and Fail Rate – 2014-2017 – Attachment F

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

Pass and Fail Rate – 2018 – Attachment G

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

Pass and Fail Rate for Second Audits – Attachment H

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 15 Attachment

Renewal Postcard – Attachment I



## MEMORANDUM

<b>DATE</b>	June 23, 2020
<b>TO</b>	Board of Psychology
<b>FROM</b>	Jason Glasspiegel Central Services Manager
<b>SUBJECT</b>	Agenda Item #16 – 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 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.

**b) 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.

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

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package 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.

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

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package 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.

e) **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.

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
------------------------------	-----------------------------	-----------------------------	-------------------------------------	------------------------------------	---------------------------	------------------------------	---------------------------------------

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 notice

period for the initial and modified text ended at the end of the day on April 7, 2020. The hearing for this proposal took place on April 8, 2020, and the Board approved the modified language as written on April 17, 2020. Board staff completed the final documentation including the Updated Informative Digest and Final Statement of Reasons, and resubmitted the package to DCA for final review on June 19, 2020.

**Action Requested:**

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

## MEMORANDUM

<b>DATE</b>	June 22, 2020
<b>TO</b>	Psychology Board Members
<b>FROM</b>	Sandra Monterrubio, Enforcement Program Manager
<b>SUBJECT</b>	Agenda Item 19(a)(1) Enforcement Committee Report-Child Custody Stakeholder Meeting Implementation Plan Update

The Enforcement Committee met in May 2020 to review the attached Child Custody Stakeholder Meeting Implementation Plan. Items one, two, three, and four have been completed. The Committee did discuss item 5 but additional information was needed for further discussion. The Committee will continue discussing item 5 at the next Enforcement Committee Meeting.

### **Action Requested**

This item is for informational purposes only.

### **Attachment:**

Child Custody Stakeholder Meeting Implementation Plan

# Child Custody Stakeholder Meeting Implementation Plan

Item	Action Items	How to Implement	Implementation Timeframe
1	Mandate Child Abuse/ Domestic Violence Education for Subject Matter Experts	Child Custody Subject Matter Experts will be required to take 6 hours of continuing education in child abuse and 6 hours in domestic violence every three years (contract term for experts).	2020/2021
2	Screen Child Custody Subject Matter Experts that Subscribe to Parental Alienation Syndrome	The Expert Application will include the following question: "Do you believe parental alienation syndrome should be included in the DSM? Why or why not?" Depending on the answer given, further review will be undertaken on a case-by-case basis.	2020/2021
3	Educate Public on Clear and Convincing Evidence	A definition of clear and convincing evidence is provided on the Complaint Fact Sheet, which will be posted on the Board's website. In addition, the Board will post a link to Senior Assistant Attorney General Gloria Castro's presentation on clear and convincing evidence.	2019
4	Create a Complaint Fact Sheet	The Committee amended the Complaint Fact Sheet, which will be posted on the Board's website by early November.	2019
5	Review and Consider Statutory Language related to documentation considered for child custody complaints	This item is on the agenda for the Enforcement Committee and will be presented at a future Board Meeting.	2021

## MEMORANDUM

<b>DATE</b>	June 24, 2020
<b>TO</b>	Psychology Board Members
<b>FROM</b>	Sandra Monterrubio, Enforcement Program Manager
<b>SUBJECT</b>	Agenda Item 19(b) Proposed Amendments to 16 CCR Sections 1394 – Substantial Relationship Criteria; 1395 – Rehabilitation Criteria for Denials and Reinstatements; 1395.1 – Rehabilitation Criteria for Suspensions or Revocations; Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees

### **Background**

Staff reviewed and made changes to the Disciplinary Guidelines, which are highlighted in yellow, to reflect the implementation language for AB 2138 and the Uniform Standards for Substance Abusing Licensees. The implementation language for AB 2138 was previously reviewed and approved by the Board. In 2008, the Legislature passed SB 1441, which changed the Uniform Standards for Substance Abusing Probationers, and all boards were tasked with promulgating changes to their Disciplinary Guidelines to address the Uniform Standards and provide a follow up report regarding how the Uniform Standards were going and if the testing frequency needed to be readdressed. The Department of Consumer Affairs coordinated a Substance Abuse Coordination Committee made up of executive officers from different programs to see how the Uniform Standards were working for the programs. This Committee agreed to amendments regarding testing frequency and addressing testing when a probationer returns from travel.

### **Action Requested**

The Enforcement Committee recommends the Board amend the highlighted changes to the CCR sections and Uniform Standard language as attached.

### **Attachments:**

16 CCR Sections 1394 – Substantial Relationship Criteria; 1395 – Rehabilitation Criteria for Denials and Reinstatements; 1395.1 – Rehabilitation Criteria for

Suspensions or Revocations; Disciplinary Guidelines and Uniform Standards  
Related to Substance Abusing Licensees

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**§ 1395.2. Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees.**

(a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Psychology shall consider and apply the “Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees (~~4/15~~)[\[Date Board approves language\]](#),” which is hereby incorporated by reference.

(b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all other relevant terms and conditions contained in the Disciplinary Guidelines, the terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees shall apply as written and be used in the order placing the license on probation.

(c) Deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board of Psychology in its sole discretion determines that the facts of the particular case warrant such a deviation; for example: the presence of mitigating or aggravating factors; the age of the case; or evidentiary issues.

NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 2936, 2960, 2960.05, 2960.1, 2960.5, 2960.6, 2961, 2962, 2963, 2964, 2964.3, 2964.5, 2964.6, 2965, 2966 and 2969, Business and Professions Code; and Section 11425.50(e), Government Code.



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**STATE OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**BOARD OF PSYCHOLOGY**



**DISCIPLINARY GUIDELINES AND  
UNIFORM STANDARDS RELATED TO  
SUBSTANCE-ABUSING LICENSEES**

**ADOPTED 11/92 - EFFECTIVE 1/1/93 –  
AMENDED 7/1/96, AMENDED 4/1/99, AMENDED 9/1/02,  
AMENDED 2/07, AMENDED 4/15, AMENDED**

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**DISCIPLINARY GUIDELINES AND UNIFORM STANDARDS  
RELATED TO SUBSTANCE-ABUSING LICENSEES**

**Article 7. Standards Related to Denial, Discipline, and Reinstatement of Licenses**

**§ 1395.2. Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees.**

(a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Psychology shall consider and apply the “Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees (~~4/15~~ [Date Board approves language],” which is hereby incorporated by reference.

(b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all other relevant terms and conditions contained in the Disciplinary Guidelines, the terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees shall apply as written and be used in the order placing the license on probation.

(c) Deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board of Psychology in its sole discretion determines that the facts of the particular case warrant such a deviation; for example: the presence of mitigating or aggravating factors; the age of the case; or evidentiary issues.

NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 2936, 2960, 2960.05, 2960.1, 2960.5, 2960.6, 2961, 2962, 2963, 2964, 2964.3, 2964.5, 2964.6, 2965, 2966 and 2969, Business and Professions Code; and Section 11425.50(e), Government Code.

151 **I. INTRODUCTION**

152  
153 The Board of Psychology of the California Department of Consumer Affairs (hereinafter “the  
154 Board”) is a ~~consumer protection~~ regulatory agency ~~with the priority of~~ responsible for  
155 protecting consumers of psychological services from unsafe, incompetent, or negligent  
156 practitioners, ~~in exercising its licensing, regulatory, and disciplinary functions.~~ By statute,  
157 protection of the public is the Board’s highest priority in exercising its licensing, regulatory, and  
158 disciplinary functions. In keeping with its statutory mandate, ~~to this particularly vulnerable~~  
159 ~~population,~~ the Board has adopted the following recommended guidelines for disciplinary orders  
160 and conditions of probation for violations of the Psychology Licensing Law (Business and  
161 Professions Code section 2900 et seq. and Title 16 of the California Code of Regulations section  
162 1380 et seq.). This document, designed for use by administrative law judges, attorneys,  
163 psychologists, registered psychologists, psychological assistants, others involved in the  
164 disciplinary process, and ultimately the Board, may be revised from time to time.

165  
166 For purposes of this document, in addition to licensure as a psychologist, the term “license”  
167 includes a psychological assistant registration and registered psychologist registration. The term  
168 “Board” refers to the Executive Officer, Assistant Executive Officer, Enforcement Program  
169 Manager, and Probation Monitor, of the Board of Psychology. The terms and conditions of  
170 probation are divided into two general categories:

- 171  
172 (1) Standard Terms and Conditions are those conditions of probation ~~which that will~~  
173 ~~generally~~ appear in all cases involving probation ~~as a standard term and condition~~; and  
174 (2) Optional Terms and Conditions are those conditions that address the specific  
175 circumstances of the case and require discretion to be exercised depending on the nature  
176 and circumstances of a particular case.

177  
178 The Board of Psychology’s Uniform Standards Related to Substance-Abusing Licensees, which  
179 are derived from the Department of Consumer Affairs’ Substance Abuse Coordination  
180 Committee’s “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (4/11)”  
181 pursuant to section 315 of the Business and Professions Code (Code), describe those terms or  
182 conditions that shall be applied to a substance-abusing licensee, and are incorporated into the  
183 terms and conditions of probation. These standards and the rationale therefore appear in the  
184 optional terms and conditions of probation and are fully set forth in section VI of these  
185 guidelines.

186  
187 The Board recognizes that an individual case may necessitate a departure from these guidelines  
188 for disciplinary orders. However, in such a case, the mitigating or aggravating circumstances  
189 must be detailed in the “Finding of Fact,” which is in every Proposed Decision, so that the  
190 circumstances can be better understood and evaluated by the Board before final action is taken.

191  
192 If at the time of hearing, the Administrative Law Judge finds that ~~the~~ respondent, for any reason,  
193 is not capable of safe practice, the Board expects outright revocation or denial of the license.  
194 This is particularly true in any case of ~~patient~~ client sexual abuse or sexual misconduct with the  
195 client. In less egregious cases, a stayed revocation with probation pursuant to the attached  
196 ~~Penalty~~ Disciplinary Guidelines would be appropriate.

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## II. DISCIPLINARY GUIDELINES

### A. GENERAL CONSIDERATIONS

~~Factors to be considered~~— In determining whether revocation, suspension, or probation is to be imposed in a given case, ~~factors such as the following should be considered~~ the Board must consider the following:

Substantial Relationship Criteria set forth in 16 CCR section 1394:

- ~~1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.~~
- ~~2. Actual or potential harm to any consumer, client, or the public.~~
- ~~3. Prior record of discipline or citations.~~
- ~~4. Number and/or variety of current violations.~~
- ~~5. Mitigation and aggravation evidence.~~
- ~~6. Rehabilitation evidence.~~
- ~~7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.~~
- ~~8. Overall criminal record.~~
- ~~9. Time passed since the act(s) or offense(s) occurred.~~
- ~~10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.~~
- ~~11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.~~

(a) For the purposes of denial, suspension, or revocation of a license or registration pursuant to

2960.6 of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license or registration under the Psychology Licensing Law (Chapter 6.6 of Division 2 of the Code), if to a substantial degree it evidences present or potential unfitness of a person holding a license or registration to perform the functions authorized by the license or registration, or in a manner consistent with the public health, safety, or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the offense;

- 243 (2) The number of years elapsed since the date of the offense; and  
244 (3) The nature and duties of the profession in which the applicant seeks licensure or in which the  
245 licensee is licensed.
- 246  
247 (c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts  
248 shall include, but are not limited to, the following:  
249 (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
250 violation of or conspiring to violate any provision or term of the Psychology Licensing Law.  
251 (2) Conviction or act involving fiscal dishonesty.  
252 (3) Conviction or act involving child abuse.  
253 (4) A conviction requiring a person to register as a sex offender pursuant to section 290 of the  
254 Penal Code.  
255 (5) Conviction or act involving lewd conduct or sexual impropriety.  
256 (6) Conviction or act involving assault, battery, or other violence.  
257 (7) Conviction or act involving the use of drugs or alcohol to an extent or in a manner dangerous  
258 to the individual or the public.  
259 (8) Conviction or act involving harassment, trespass, or stalking.

260  
261 **Rehabilitation Criteria for Suspensions or Revocations as set forth in 16 CCR section 1395.1:**

262  
263 When considering the suspension or revocation of a license or registration of a person holding a  
264 license or registration under the Psychology Licensing Law (chapter 6.6 of division 2 of the  
265 Code), the Board will evaluate whether the licensee or registrant has made a showing of  
266 rehabilitation and is presently fit for a license or registration.

267 (a) Where the basis for discipline is the conviction of a crime, the Board shall consider whether  
268 the licensee or registrant has made a showing of rehabilitation if the person completed the  
269 criminal sentence without a violation of parole or probation. In making this determination, the  
270 Board shall use the following criteria in (1) through (5), as available. If there is a violation of  
271 parole or probation or no showing of rehabilitation based on these criteria, the Board shall  
272 evaluate rehabilitation under subdivision (b).

- 273 (1) Nature and gravity of the crime(s).  
274 (2) The reason for granting and the length(s) of the applicable parole or probation period(s).  
275 (3) The extent to which the applicable parole or probation period was shortened or lengthened,  
276 and the reason(s) the period was modified.  
277 (4) The terms or conditions of parole or probation and the extent to which they bear on the  
278 licensee's or registrant's rehabilitation.  
279 (5) The extent to which the terms or conditions of parole or probation were modified, and the  
280 reason(s) for modification.

281  
282 (b) Where the basis for discipline is not based on a conviction, or was based upon professional  
283 misconduct, or unprofessional conduct under 2960 or 2960.6, or the Board determines that the  
284 licensee or registrant did not make a showing of rehabilitation based on subdivision (a), the  
285 Board shall apply the following criteria in evaluating the licensee's or registrant's rehabilitation:

- 286 (1) Total criminal record and/or record of discipline or other enforcement action, including the  
287 nature and gravity of the acts underlying the discipline or enforcement action.  
288 (2) The time that has elapsed since commission of the act(s) or crime(s).

**Commented [MN1]:** What about for denials and reinstatements? I know it's down below, but I'm not sure if it makes sense to put this up here, and rehab criteria for denials at the end.

- 289 (3) Whether the licensee or registrant has complied with any terms of parole, probation,  
290 restitution or any other sanctions lawfully imposed against such person.  
291 (4) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal  
292 Code.  
293 (5) The criteria in subdivision (a)(1)-(5), as applicable.  
294 (6) Evidence, if any, of rehabilitation submitted by the licensee or registrant demonstrating that  
295 he or she has a mature, measured appreciation of the gravity of the misconduct, and remorse for  
296 the harm caused, and showing a demonstrated course of conduct by the licensee or registrant  
297 that convinces and assures the Board that the public will be safe if the person is permitted to  
298 remain licensed or registered to practice psychology.

299 Pursuant to section 2960.1 of the Code (~~set out below in the Penalty Guidelines~~), any ~~p~~Proposed  
300 ~~d~~Decision or ~~d~~Decision that contains any ~~f~~Finding of ~~f~~Fact that the licensee or ~~r~~registrant  
301 ~~r~~registrant engaged in any act of sexual contact, when that act is with a ~~p~~atient/~~c~~lient, or with a  
302 former ~~p~~atient/~~c~~lient within two (2) years following termination of ~~t~~herapy/~~p~~sychotherapy,  
303 ~~s~~hall ~~m~~ust contain an order of revocation. The revocation ~~s~~hall ~~m~~ust not be stayed by the  
304 Administrative Law Judge.

305  
306 Pursuant to section 2964.3 of the Code, any person required to register as a sex offender pursuant  
307 to ~~s~~ection 290 of the Penal Code is not eligible for licensure or ~~r~~egistration by the Board.  
308  
309

310 Except where an order is required by statute, deviation from the Disciplinary Guidelines,  
311 including the standard terms of probation, is appropriate where the Board determines that the  
312 facts of the particular case warrant such a deviation. The Board may impose more restrictive  
313 terms and conditions if necessary to protect the public.

## 314 **B. PENALTY GUIDELINES FOR DISCIPLINARY ACTIONS**

315  
316 The ~~g~~eneral ~~s~~tatutory bases for discipline are listed ~~b~~elow, ~~a~~long ~~w~~ith ~~b~~y ~~s~~tatute ~~n~~umber ~~i~~n ~~t~~he  
317 ~~B~~usiness & ~~P~~rofessions Code. ~~A~~n ~~a~~ccusation, ~~s~~Statement of ~~i~~ssues, or other charging  
318 ~~d~~ocument may also allege violations of other related statutes or regulations. The bases are  
319 ~~f~~ollowed by the Board determined ~~p~~enalty/~~d~~iscipline, including the names and numbers for the  
320 ~~a~~pplicable optional terms and conditions. The standard terms of probation as stated shall be  
321 included in all ~~d~~ecisions ~~a~~nd orders. An Accusation, Statement of Issues, or other charging  
322 document may also allege violations of other statutes or regulations. Except where there is a  
323 finding that respondent is a substance-abusing licensee, the Board recognizes that the  
324 ~~p~~enalties/~~t~~erms and conditions of probation listed are merely guidelines and that individual cases  
325 will necessitate variations that take into account unique circumstances.

326  
327 ~~I~~f there are deviations or omissions from the guidelines in formulating a Proposed Decision, the  
328 ~~B~~oard requires that ~~t~~he Administrative Law Judge hearing the case ~~m~~ust include an explanation  
329 of ~~t~~he ~~a~~ny deviations or omissions from the ~~D~~isciplinary Guidelines in the Proposed Decision so  
330 that the circumstances can be better understood by the Board during its review and consideration  
331 of the Proposed Decision ~~f~~or ~~f~~inal action.

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### Business and Professions Code § 2960

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336 **2960 GENERAL UNPROFESSIONAL CONDUCT**  
337  
338 MAXIMUM: Revocation; denial of license ~~or registration~~.  
339  
340 ~~MINIMUM: Revocation stayed, depending upon the circumstances, up to 5-year~~  
341 ~~probation, psychological evaluation and/or therapy if appropriate (2) and~~  
342 ~~(6), California Psychology Law and Ethics Examination (CPLÉE) (7), and~~  
343 ~~standard terms and conditions (14-31)~~  
344  
345 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
346 on the circumstances, five (5) years probation, and California Psychology  
347 Law and Ethics Examination (CPLÉE)(6).  
348  
349 **2960(a) CONVICTION OF A CRIME SUBSTANTIALLY RELATED TO THE**  
350 **PRACTICE OF PSYCHOLOGY**  
351  
352 MAXIMUM: Revocation; denial of license ~~or registration~~.  
353  
354 ~~MINIMUM: Revocation stayed, 5-year probation, billing monitor (if financial crime)~~  
355 ~~(3), therapy/psychotherapy (6), CPLÉE (7), restitution (if appropriate) (8),~~  
356 ~~and standard terms and conditions (14-31).~~  
357  
358 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
359 on the circumstances, five (5) years probation, billing monitor (if financial  
360 crime)(3), restitution (if appropriate)(7), psychotherapy(5), and California  
361 Psychology Law and Ethics Examination (CPLÉE)(6).  
362  
363  
364 **2960(b) USE OF CONTROLLED SUBSTANCE OR ALCOHOL IN A**  
365 **DANGEROUS MANNER**  
366  
367 MAXIMUM: Revocation; denial of license ~~or registration~~.  
368  
369 ~~MINIMUM: Revocation stayed, 5-year probation, physical examination (if appropriate)~~  
370 ~~(3), practice monitor (4), psychological evaluation and ongoing~~  
371 ~~therapy/psychotherapy (if appropriate) (2) and (6), clinical diagnostic~~  
372 ~~evaluation (9), participation in an alcohol/drug abuse treatment program~~  
373 ~~(10) and ongoing support group (11), abstain from all non-prescribed,~~  
374 ~~controlled drugs and alcohol, /biological fluid and specimen testing~~  
375 ~~[required for substance-abusing licensees] (12), and standard terms and~~  
376 ~~conditions (14-31).~~  
377  
378 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
379 on the circumstances, five (5) years probation, physical examination (if  
380 appropriate)(2), worksite monitor(3), psychotherapy (if recommended by



381 psychological evaluator)(5), clinical diagnostic evaluation(8), participation  
382 in an alcohol/drug abuse treatment program(9), ongoing support  
383 group(10), abstain from drugs and alcohol, and submit to tests and  
384 samples(11).  
385  
386

387 **2960(c) FRAUDULENTLY OR NEGLECTFULLY MISREPRESENTING THE**  
388 **TYPE OR STATUS OF LICENSE OR REGISTRATION ACTUALLY**  
389 **HELD**

390  
391 MAXIMUM: Revocation; denial of license ~~or registration~~.

392  
393 ~~MINIMUM: Revocation stayed, 5 years probation, and standard terms and conditions~~  
394 ~~(14-31).~~

395  
396 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
397 on the circumstances, five (5) years probation, and California Psychology  
398 Law and Ethics Examination (CPLÉE)(6).  
399

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401  
402 **2960(d) IMPERSONATING ANOTHER PERSON HOLDING A PSYCHOLOGY**  
403 **LICENSE OR ALLOWING ANOTHER PERSON TO USE HIS OR HER**  
404 **LICENSE OR REGISTRATION**

405  
406 MAXIMUM: Revocation; denial of license ~~or registration~~.

407  
408 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
409 on the circumstances, five (5)-years probation, ~~psychological evaluation~~  
410 (2), CPLÉE (7-6), and ~~standard terms and conditions (14-31).~~  
411

412 **2960(e) PROCURING APPLYING FOR A LICENSE OR PASSING AN**  
413 **EXAMINATION BY FRAUD OR DECEPTION**

414  
415 ~~PenaltyDiscipline:~~ Revocation is the only suitable ~~penaltydiscipline~~ inasmuch as the  
416 license would not have been issued but for the fraud or deception. If the  
417 fraud is substantiated prior to issuance of the license ~~or registration~~, then  
418 denial of the application is the only suitable ~~penaltydiscipline~~.  
419

420 **2960(f) ACCEPTING REMUNERATION OR PAYING FOR REFERRALS TO**  
421 **OTHER PROFESSIONALS OFFERING OR ACCEPTING PAYMENT,**  
422 **MONETARY OR OTHERWISE, FOR REFERRAL OF CLIENTS**

423  
424 MAXIMUM: Revocation; denial of license ~~or registration~~.  
425

426 MINIMUM: Revocation stayed, standard terms and conditions (14-32), depending on  
427 the circumstances, up to five (5)-years probation, billing monitor (43),  
428 CPLÉE (76); and standard terms and conditions (14-31).

429  
430 **2960(g) VIOLATING SECTION 17500 OF THE BUSINESS AND PROFESSIONS**  
431 **CODE REGARDING ADVERTISING**

432 ~~Penalty~~DISCIPLINE: Revocation stayed, standard terms and conditions (14-32),  
433 depending on the circumstances, up to five (5)-years probation, and  
434 standard terms and conditions (14-31).

436  
437 **2960(h) VIOLATION OF CONFIDENTIALITY**

438  
439 MAXIMUM: Revocation; denial of license ~~or registration.~~

440  
441 MINIMUM: Revocation stayed, standard terms and conditions (14-32), depending on  
442 the circumstances, up to five (5)-years probation, practice monitor (43),  
443 CPLÉE (76); and standard terms and conditions (14-31).

444  
445 **2960(i) VIOLATION OF RULES OF PROFESSIONAL CONDUCT**

446  
447 MAXIMUM: Revocation; denial of license ~~or registration.~~

448  
449 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
450 upon the circumstances, up to five (5)-years probation, ~~psychological~~  
451 evaluation and/or therapy if appropriate (2) and (6), CPLÉE (76); and  
452 standard terms and conditions (14-31).

453  
454 **2960(j) GROSS NEGLIGENCE IN THE PRACTICE OF PSYCHOLOGY**

455  
456 MAXIMUM: Revocation; denial of license ~~or registration.~~

457  
458 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
459 on the circumstances, up to five (5)-years probation, ~~psychological~~  
460 evaluation prior to resumption of practice (condition precedent) (2),  
461 practice monitor/~~billing monitor (43), patient population restriction of~~  
462 practice (if appropriate ~~recommended~~) (54), therapy/~~psychotherapy (65),~~  
463 examination(s) CPLÉE (76), and standard terms and conditions (14-31).

464  
465 **2960(k) VIOLATING ANY PROVISION OF THE PSYCHOLOGY LICENSING**  
466 **LAW OR RELATED REGULATIONS THIS CHAPTER OR**  
467 **REGULATIONS DULY ADOPTED THEREUNDER**

468  
469 Refer to underlying statute or regulation.

470  
471 **2960(l) AIDING OR ABETTING UNLICENSED PRACTICE**

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MAXIMUM: Revocation; denial of license ~~or registration~~.

MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending on the circumstances, up to five (5)-years probation, CPLEE (76), ~~and standard terms and conditions (14-31).~~

**2960(m)/2960.6 DISCIPLINARY ACTION BY ANOTHER AGENCY, STATE, OR COUNTRY AGAINST A LICENSE OR REGISTRATION**

DISCIPLINE: In evaluating the appropriate ~~penalty~~ discipline, identify the comparable California statute(s) or regulation(s), and corresponding ~~penalty(s)~~ discipline.

**2960(n) DISHONEST, CORRUPT, OR FRAUDULENT ACT**

MAXIMUM: Revocation; denial of license ~~or registration~~.

MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending on the circumstances, up to five (5)-years probation, ~~psychological evaluation and ongoing therapy~~ psychotherapy if appropriate (2)(5), billing monitor (43), CPLEE (76), full restitution (87), ~~and standard terms and conditions (14-31).~~

**2960(o); 726; 729 ANY ACT OF SEXUAL ABUSE, OR SEXUAL RELATIONS WITH A PATIENT CLIENT OR FORMER PATIENT CLIENT WITHIN TWO YEARS FOLLOWING TERMINATION OF THERAPY, SEXUAL EXPLOITATION, OR SEXUAL MISCONDUCT THAT IS SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS OR DUTIES OF A PSYCHOLOGIST OR PSYCHOLOGICAL ASSISTANT OR REGISTERED PSYCHOLOGIST.**

Penalty DISCIPLINE: ~~When a finding of sexual misconduct occurs, r~~Revocation or surrender of license/~~registration~~ and/or denial of license ~~or registration~~ MUST ~~must~~ be the ~~penalty~~ discipline ordered by the Administrative Law Judge.

**NO MINIMUM PENALTY.**

NOTE: ~~Business and Professions Code~~ Section 2960.1 of the Code states: “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 acts of sexual contact, as defined in Section 728, when that act is with a patient client, or with a former patient client within two years following termination of therapy,

517 shall contain an order of revocation. The revocation shall not be stayed by the Administrative  
518 Law Judge.”

519

520 **2960(p) FUNCTIONING OUTSIDE FIELD(S) OF COMPETENCE**

521

522 MAXIMUM: Revocation; denial of license ~~or registration.~~

523

524 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
525 on the circumstances, up to five (5)-years probation, practice monitor (4~~3~~),  
526 patient population restriction (5) restriction of practice (4), CPLEE  
527 examination(s) (76), and standard terms and conditions (14-31).

528

529 **2960(q) WILLFUL FAILURE TO VERIFY AN APPLICANT’S SUPERVISED**  
530 **EXPERIENCE**

531

532 ~~Penalty~~DISCIPLINE: Revocation stayed, standard terms and conditions (14-32), five (5)-  
533 years probation and standard terms and conditions (14-31).

534

535 **2960(r) REPEATED NEGLIGENT ACTS**

536

537 MAXIMUM: Revocation; denial of license ~~or registration.~~

538

539 MINIMUM: Revocation stayed, standard terms and conditions (14-32), and depending  
540 on the circumstances, up to five (5)-years probation, ~~psychological~~  
541 ~~evaluation prior to resumption of practice (condition precedent) (2),~~  
542 practice monitor (4-3), CPLEE examination(s) (76), and standard terms  
543 and conditions (14-31).

544

545 **III. TERMS AND CONDITIONS OF PROBATION**

546

547 Terms and conditions of probation are divided into two categories. The first category consists of  
548 **optional terms and conditions** that may be appropriate as demonstrated in the ~~Penalty~~  
549 Disciplinary Guidelines depending on the nature and circumstances of each particular case. The  
550 second category consists of the **standard terms and conditions**, which must appear in all  
551 Proposed Decisions and Stipulated Settlements.

552

553 To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional  
554 terms and conditions (1-13) that are being imposed be listed first in sequence followed  
555 immediately by all of the **standard terms and conditions**, which includes cost recovery (15-31  
556 15-33).

557

558 **A. OPTIONAL TERMS AND CONDITIONS OF PROBATION**

559

560 Listed below are optional terms and conditions of probation that the Board would expect to be  
561 included in any Proposed Decision or Stipulated Settlement as appropriate.

562

563 **1. Actual Suspension**

564  
565 As part of probation, respondent is suspended from the practice of psychology for \_\_\_\_\_  
566 days beginning with the effective date of this Decision. During the suspension, any  
567 probation period is tolled and will not commence again until the suspension is completed.

568  
569 **RATIONALE: A suspension longer than six (6) months is not effective, and a violation**  
570 **or violations warranting a longer suspension should result in revocation, not stayed.**

571  
572 **2. Psychological Evaluation**

573  
574 ~~Within ninety (90) days of the effective date of this Decision and on a periodic basis~~  
575 ~~thereafter as may be required by the Board or its designee, respondent shall undergo a~~  
576 ~~psychological evaluation (and psychological testing, if deemed necessary) by a Board-~~  
577 ~~appointed California licensed psychologist. Respondent shall sign a release that authorizes~~  
578 ~~the evaluator to furnish the Board a current DSM V diagnosis and a written report regarding~~  
579 ~~the respondent's judgment and/or ability to function independently as a psychologist with~~  
580 ~~safety to the public, and whatever other information the Board deems relevant to the case.~~  
581 ~~The completed evaluation is the sole property of the Board. The evaluation should not be~~  
582 ~~disclosed to anyone not authorized by the Board or by court order.~~

583  
584 ~~If the Board concludes from the results of the evaluation that respondent is unable to~~  
585 ~~practice independently and safely, upon written notice from the Board, respondent shall~~  
586 ~~immediately cease accepting new patients and, in accordance with professional standards,~~  
587 ~~shall appropriately refer/terminate existing patients within thirty (30) days and shall not~~  
588 ~~resume practice until a Board appointed evaluator determines that respondent is safe to~~  
589 ~~practice. The term of probation shall be extended by this period of time that he or she was~~  
590 ~~ordered to cease practice.~~

591  
592 ~~If not otherwise ordered herein, if ongoing psychotherapy is recommended in the~~  
593 ~~psychological evaluation, the Board will notify respondent in writing to submit to such~~  
594 ~~therapy and to select a psychotherapist for approval by the Board or its designee within~~  
595 ~~thirty (30) days of such notification. The therapist shall (1) be a California licensed~~  
596 ~~psychologist with a clear and current license; (2) have no previous business, professional,~~  
597 ~~personal or other relationship with respondent; (3) not be the same person as respondent's~~  
598 ~~practice or billing monitor. Frequency of psychotherapy shall be determined upon~~  
599 ~~recommendation of the treating psychotherapist with approval by the Board or its designee.~~  
600 ~~Respondent shall continue psychotherapy until released by the approved psychologist and~~  
601 ~~approved by the Board or its designee. The Board or its designee may order a re-evaluation~~  
602 ~~upon receipt of the therapist's recommendation.~~

603  
604 ~~Respondent shall execute a release authorizing the therapist to provide to the Board any~~  
605 ~~information the Board or its designee deems appropriate, including quarterly reports of~~  
606 ~~respondent's therapeutic progress. Respondent shall furnish a copy of this Decision to the~~  
607 ~~therapist. If the therapist determines that the respondent cannot continue to independently~~

608 render psychological services, with safety to the public, he/she shall notify the Board  
609 immediately.

610  
611 Respondent shall pay all costs associated with the psychological evaluation and ongoing  
612 psychotherapy. Failure to pay costs will be considered a violation of the probation order.  
613

614 **Option of Evaluation as a Condition Precedent:**

615  
616 ~~In some cases, the psychological evaluation may be imposed as either a condition  
617 precedent to the continued practice of psychology, or to the issuance or reinstatement  
618 of a license, so that the respondent or petitioner is not entitled to begin or continue  
619 practice until found to be safe to do so. In such cases, the following language shall be  
620 used as the first sentence of the first paragraph of this term:~~

621  
622 As a condition precedent to the [continued practice of psychology][issuance of a license]  
623 [reinstatement of a license], within ninety (90) days of the effective date of this Decision,  
624 and on a periodic basis thereafter as may be required by the Board or its designee,  
625 Respondent shall undergo a psychological evaluation (and psychological testing, if deemed  
626 necessary) by a Board-appointed California-licensed psychologist. The term of probation  
627 shall be extended by the period of time during which respondent is not entitled to practice.  
628

629 ~~In addition, the following language shall also be used as the first sentence of the second  
630 paragraph of this term:~~

631  
632 If the Board concludes from the results of the evaluation that [respondent][petitioner] is  
633 unable to practice independently and safely, upon written notice from the Board [respondent  
634 shall, in accordance with professional standards, appropriately refer/terminate existing  
635 patients within thirty (30) days and shall not resume practice until a Board-appointed  
636 evaluator determines that respondent is safe to practice][respondent or petitioner shall not be  
637 issued or have reinstated a license until a Board-appointed evaluator determines that  
638 respondent or petitioner is safe to practice].

639  
640 ~~**RATIONALE:** Psychological evaluations shall be utilized when an offense calls into  
641 question the judgment and/or emotional and/or mental condition of the respondent or  
642 where there has been a history of abuse or dependency of alcohol or controlled  
643 substances. When appropriate, respondent shall be barred from rendering  
644 psychological services under the terms of probation until he or she has undergone an  
645 evaluation, the evaluator has recommended resumption of practice, and the Board has  
646 accepted and approved the evaluation.~~

647 **23. Physical Examination**

648  
649  
650 Within ~~ninety (90)~~ forty-five (45) days of the effective date of this Decision, respondent  
651 shall undergo a physical examination by a ~~physician and surgeon (physician)~~ medical  
652 evaluator licensed in California and approved by the Board.  
653

654 For purposes of these guidelines, a “medical evaluator” means a physician and surgeon, a  
655 physician’s assistant or a nurse practitioner holding a current license in good standing, as  
656 issued by the appropriate agency within the Department of Consumer Affairs.

657  
658 The medical evaluator shall have no current or former financial, personal, familial, or other  
659 relationship with respondent that could reasonably be expected to compromise the ability of  
660 the medical evaluator to render impartial and unbiased reports to the Board.

661 Respondent shall sign a release authorizing the ~~physician~~ medical evaluator to furnish the  
662 Board with a report that shall provide an assessment of respondent’s physical condition and  
663 ~~capability~~ ability to safely provide psychological services to the public. If the ~~evaluating~~  
664 ~~physician~~ medical evaluator determines that respondent’s physical condition prevents safe  
665 practice, or that ~~he or she~~ respondent can only practice with restrictions, the ~~physician~~  
666 medical evaluator shall notify the Board, in writing, within five (5) working days.

667  
668  
669 The Board shall notify respondent in writing of the ~~physician’s~~ medical evaluator’s  
670 determination of unfitness to practice, and shall order ~~the~~ respondent to cease practice or  
671 place restrictions on respondent’s practice. Respondent shall comply with any order to cease  
672 practice or restriction of ~~his or her~~ their practice, and shall immediately cease accepting new  
673 ~~patients~~ clients and, in accordance with professional standards, shall appropriately  
674 refer/terminate existing ~~patients~~ clients within thirty (30) days. Respondent shall not resume  
675 practice until a Board ~~appointed~~ approved evaluator determines that respondent is safe to  
676 practice, and the Board is satisfied of respondent’s fitness to practice safely and has so  
677 notified respondent in writing. The term of probation shall be extended by the period of time  
678 during which respondent is ordered to cease practice. If the ~~evaluating physician~~ medical  
679 evaluator determines it to be necessary, a recommended treatment program will be instituted  
680 and followed by ~~the~~ respondent with ~~the physician~~ an appropriately-licensed healthcare  
681 practitioner providing written progress reports to the Board on a quarterly basis, or as  
682 otherwise determined by the Board ~~or its designee~~.

683  
684 It shall be ~~the~~ respondent’s responsibility to assure that the required quarterly progress  
685 reports are filed by ~~the treating physician~~ the appropriately-licensed healthcare practitioner  
686 in a timely manner. Respondent shall pay all costs of such examination(s). Failure to pay  
687 these costs shall be considered a violation of probation.

688  
689 **RATIONALE: This condition permits the Board to require ~~the probationer~~ respondent**  
690 **to obtain appropriate treatment for physical ~~problems/disabilities~~ conditions that could**  
691 **affect the safe practice of psychology. The physical examination can also be conducted**  
692 **to ensure that there is no physical evidence of alcohol/drug abuse.**

693  
694 **34. Practice Monitor/Billing Monitor/Worksite Monitor**

695  
696 Within ~~ninety (90)~~ thirty (30) days of the effective date of this Decision, respondent shall  
697 submit to the Board ~~or its designee~~ for prior approval, the name and qualifications of a  
698 psychologist who has agreed to serve as a [practice monitor][billing monitor][worksite  
699 monitor]. The [practice monitor][billing monitor] shall (1) be a California-licensed

700 psychologist with a clear and current license of at least five (5) years duration; (2) have no  
701 prior business, professional, personal, or other relationship with respondent current or  
702 former financial, personal, familial, or other relationship with respondent that could  
703 reasonably be expected to compromise the ability of the monitor to render fair and unbiased  
704 reports to the Board; and (3) not be the same person as respondent's therapist have  
705 completed six (6) hours of supervision coursework. The monitor's education and experience  
706 shall be in the same field of practice as that of ~~the~~ respondent. The [practice monitor][billing  
707 monitor] may also serve as a worksite monitor, **if ordered for a substance-abusing**  
708 **licensee**, as long as ~~he or she~~ the monitor also meets the requirements for a worksite monitor.  
709

710 Once approved, the monitor(s) shall submit to the Board ~~or its designee~~ a plan by which  
711 respondent's [practice][billing] shall be monitored. The Board may amend the plan to  
712 increase or decrease the frequency of monitoring sessions with notice to both the monitor  
713 and respondent. Monitoring frequency shall consist of at least one hour per week of  
714 individual in person face-to-face meetings and shall continue during the entire probationary  
715 period unless modified or terminated by the Board ~~or its designee~~. ~~The R~~respondent shall  
716 provide the [practice][billing] monitor with a copy of this Decision and access to  
717 respondent's fiscal and/or ~~patient~~client records. Respondent shall obtain any necessary  
718 ~~patient~~client releases to enable the [practice][billing] monitor to review records and to make  
719 direct contact with ~~patients~~clients. Respondent shall execute a release authorizing the  
720 monitor to divulge any information that the Board may request. It shall be respondent's  
721 responsibility to assure that the monitor submits written reports to the Board ~~or its designee~~  
722 on a quarterly basis verifying that monitoring has taken place and providing an evaluation of  
723 respondent's performance.  
724

725 Respondent shall secure releases from the clients for second-party review of the entirety of  
726 their clients records, consistent with the releases obtained, including, but not limited to,  
727 billing and charge records. Records for review are presented in their original format so the  
728 monitor may select and review records at respondent's worksite. If respondent has more  
729 than one worksite, all worksites shall be made available for review. It may be necessary for  
730 respondent to have more than one monitor in some instances.  
731

732 Respondent shall notify all current and potential ~~patients~~clients of any term or condition of  
733 probation that will affect their ~~therapy~~psychotherapy or the confidentiality of their records  
734 (such as this condition, which requires a [practice monitor][billing monitor]). Such  
735 notifications shall be signed by each ~~patient~~client prior to continuing or commencing  
736 treatment.  
737

738 **The following paragraph regarding billing monitoring must be included in the Order,**  
739 **if a billing monitor has been ordered:**  
740

741 The Board may require an annual audit of respondent's billings. Within sixty (60) days of a  
742 notice requiring an audit, respondent shall provide the Board with the names and  
743 qualifications of three (3) auditors, who must be certified public accountants authorized to  
744 practice in this State; the auditor will be selected by the Board. The auditor shall not have a  
745 current or former financial, personal, familial, or other relationship with respondent that



746 could reasonably be expected to compromise the ability of the auditor to render an impartial  
747 audit. Respondent shall obtain any necessary client releases to enable the auditor to perform  
748 the audit. The audit shall include randomly selected client billing records. Within one  
749 hundred-eighty (180) days of the Board's approval of the auditor, a final audit report shall  
750 be completed and submitted to the billing monitor and the Board. The cost of the audits  
751 shall be borne by respondent. Failure to timely complete, report, or pay for an audit shall  
752 constitute a violation of probation.

753 **The following paragraphs Add the language of the next 3 paragraphs regarding**  
754 **reporting by a worksite monitor, if one is ordered, for a substance-abusing licensee**  
755 **must be included in the Order:**  
756

757  
758 The worksite monitor shall not have a ~~current or former financial, personal, or familial~~  
759 ~~relationship with the licensee, or other relationship~~ current or former financial, personal,  
760 familial, or other relationship with respondent that could reasonably be expected to  
761 compromise the ability of the monitor to render impartial and unbiased reports to the Board.  
762 All other requirements for a worksite monitor shall meet the requirements of a worksite  
763 monitor under Uniform Standards #7. Reporting by the worksite monitor to the Board shall  
764 be as follows:

765  
766 Any suspected substance abuse must be orally reported to the Board and ~~the~~  
767 ~~licensee's~~ respondent's employer within one (1) business day of occurrence. If the  
768 occurrence is not during the Board's normal business hours, the oral report must be  
769 within one (1) hour of the next business day. A written report shall be submitted to the  
770 Board within forty-eight (48) hours of occurrence.

771  
772 The worksite monitor shall complete and submit a written report ~~every monthly~~ or as  
773 directed by the Board. The report shall include: ~~the licensee's~~ respondent's name; license  
774 number; worksite monitor's name and signature; worksite monitor's license number;  
775 worksite location(s); dates ~~licensee~~ respondent had in-person face-to-face contact with  
776 monitor; worksite staff interviewed as applicable; attendance report; any change in  
777 behavior and/or personal habits; and any indicators that can lead to suspected substance  
778 abuse.

779  
780 ~~The licensee~~ Respondent shall complete the required consent forms and sign an  
781 agreement with the worksite monitor and the Board to allow the Board to communicate  
782 with the worksite monitor.

783  
784 If the monitor(s) quit(s) or is otherwise no longer available, respondent shall notify the  
785 Board within ten (10) days and get approval from the Board for a new monitor within  
786 thirty (30) days. If no new monitor is approved within thirty (30) days, respondent shall  
787 not practice until a new monitor has been approved by the Board ~~or its designee~~. The  
788 term of probation shall be extended by the period of time during which respondent is  
789 ordered to cease practice. Respondent shall pay all costs associated with this monitoring  
790 requirement. Failure to pay these costs shall be considered a violation of probation.  
791

792 **RATIONALE and APPLICATION OF UNIFORM STANDARD #7: Monitoring shall**  
793 **be utilized when respondent's ability to function independently is in doubt or when**  
794 **fiscal improprieties have occurred, as a result of a deficiency in knowledge or skills, or**  
795 **as a result of questionable judgment. A worksite monitor may be ordered where the**  
796 **Uniform Standards Related to a Substance-Abusing Licensee apply, if necessary, for**  
797 **the protection of the public.**

799 **45. Restriction of Patient Population-Practice Restriction**

800  
801 Respondent's practice shall be [~~limited to~~]restricted to exclude patients/clients who are  
802 \_\_\_\_\_ ] for [~~months/years~~]. Within thirty (30) days from the effective date of the  
803 ~~Decision~~, respondent shall submit to the Board ~~or its designee~~, for prior approval, a plan to  
804 implement this restriction. Respondent shall submit ~~proof~~ satisfactory proof to the Board ~~or~~  
805 ~~its designee~~ of compliance with this term of probation. Respondent shall notify their  
806 supervisor, if they have one, of the restrictions imposed on their practice.

807  
808 **RATIONALE: In cases wherein some factor of the respondent's patient/client population at**  
809 **large (e.g. age, gender, practice setting) may ~~put a~~ expose a patient/client to a risk if in**  
810 **therapy with the respondent, language appropriate to the case may be developed to restrict**  
811 **such a population, ~~or setting, or psychological service~~. The language would be tailored to**  
812 **each specific case, vary greatly by case.**

814 **56. Psychotherapy**

815  
816 Within ~~ninety (90)~~ thirty (30) days of the effective date of this Decision, a psychotherapist  
817 shall be selected by ~~the~~ respondent for approval by the Board. The psychotherapist shall (1)  
818 be a California-licensed psychologist with a clear and current license; (2) have no ~~previous~~  
819 ~~business, professional, personal, or other relationship with respondent~~ current or former  
820 financial, personal, familial, or other relationship with respondent; and (3) not be the same  
821 person as respondent's practice, billing, or worksite monitor. Respondent shall furnish a  
822 copy of this Decision to the psychotherapist. Psychotherapy shall, at a minimum, consist of  
823 one (1) hour per week over a period of fifty-two (52) consecutive weeks after which it may  
824 continue or terminate upon the written recommendation of the psychotherapist with written  
825 approval by the Board ~~or its designee~~. The Board ~~or its designee~~ may order a psychological  
826 evaluation upon receipt of the psychotherapist's recommendation.

827  
828 Respondent shall execute a release authorizing the psychotherapist to provide to the Board  
829 ~~or its designee~~ any information the Board deems appropriate, including quarterly reports of  
830 respondent's therapeutic progress. It shall be respondent's responsibility to assure that the  
831 required quarterly reports are filed by the psychotherapist in a timely manner. If the  
832 psychotherapist notifies the Board that ~~the therapist believes the~~ respondent cannot continue  
833 to safely render psychological services, ~~upon notification from the Board, the Board shall~~  
834 order respondent shall to immediately cease accepting new patients/clients and, in  
835 accordance with professional standards, ~~shall~~ appropriately refer/terminate existing  
836 patients/clients within thirty (30) days and shall not resume practice until a Board-  
837 ~~appointed~~ approved evaluator determines that respondent is again safe to practice. The term

838 of probation shall be extended by the period of time during which respondent is ordered to  
839 cease practice.

840  
841 If, prior to the termination of probation, respondent is found not to be mentally fit to resume  
842 the practice of psychology without restrictions, the Board shall retain continuing jurisdiction  
843 over ~~the~~ respondent's license and the term of probation shall be extended until the Board ~~or~~  
844 ~~its designee~~ determines that ~~the~~ respondent is mentally fit to resume the practice of  
845 psychology without restrictions.

846  
847 Cost of psychotherapy is to be paid by ~~the~~ respondent.

848  
849 **RATIONALE: The need for psychotherapy may be determined pursuant to a**  
850 **psychological evaluation or as evident from the facts of the case. The frequency of**  
851 **psychotherapy shall be related to the offense involved and the extent to which the**  
852 **offense calls into question the judgment, motivation, and emotional and/or mental**  
853 **condition of ~~the~~ respondent.**

854  
855 **67. Examination(s)**

856  
857 **Examination for Professional Practice in Psychology (EPPP) or California Psychology**  
858 **Law and Ethics Examination (CPLÉE) Term ~~MUST INCLUDE~~ must include either**  
859 **Option 1 or Option 2:**

860  
861 Option 1 (Condition Subsequent)

862  
863 Within ninety (90) days of the effective date of the ~~d~~Decision, respondent shall take and  
864 pass the [EPPP][CPLÉE]. If respondent fails to take or fails such examination, the Board  
865 shall order respondent to cease practice and upon such order respondent shall immediately  
866 cease practice, refrain from accepting new ~~patients~~clients and, in accordance with  
867 professional standards, shall appropriately refer/terminate existing ~~patients~~clients within  
868 thirty (30) days and shall not resume practice until the re-examination has been successfully  
869 passed, as evidenced by written notice to respondent from the Board ~~or its designee~~. The  
870 term of probation shall be extended by the period of time during which respondent's  
871 practice was ordered ceased. It is respondent's responsibility to contact the Board in writing  
872 to make arrangements for such examination. Respondent shall pay the established  
873 examination fee(s). Re-examination after a failure shall be consistent with Title 16 of the  
874 California Code of Regulations (CCR)~~C.C.R.~~ section 1388(~~f~~), and any applicable sections of  
875 the Business & Professions Code.

876  
877 Option 2 (Condition Precedent to either continued practice, ~~or~~ ~~to~~ reinstatement of a license)

878  
879 Respondent [is ordered to cease the practice of psychology][shall not be reinstated] until  
880 respondent has taken and passed the [EPPP][CPLÉE]. The term of probation shall be  
881 extended by the period of time during which respondent is ordered to cease practice. The  
882 term of probation shall be extended by the period of time during which respondent's  
883 practice was ordered ceased. It is respondent's responsibility to contact the Board in writing

884 to make arrangements for such examination(s). Respondent shall pay the established  
885 examination fee(s). Re-examination after a failure must be consistent with 16 C-C-R: section  
886 1388(4), and any applicable sections of the Business & Professions Code.

887  
888 **RATIONALE: In cases involving evidence of serious deficiencies in the body of**  
889 **knowledge required to be minimally competent to practice independently, it may be**  
890 **appropriate to require the respondent to take and pass the EPPP, the national**  
891 **examination for psychologists, ~~because the Board no longer administers an~~**  
892 **~~examination that tests knowledge of the field, during the course of the probation~~**  
893 **~~period. In some instances, it may be appropriate to order that practice be ceased until~~**  
894 **~~the examination has been taken and passed (condition precedent).~~ In cases involving**  
895 **deficiencies in knowledge of laws and ethics, the CPLEE may be ordered. Either one or**  
896 **both examinations may be appropriate, depending on the nature of the violation(s). It**  
897 **may be appropriate to order that practice be ceased until the examination(s) has been**  
898 **taken and passed (condition precedent).**

#### 900 **78. Restitution**

901  
902 Within ninety (90) days of the effective date of this Decision, respondent shall provide proof  
903 to the Board ~~or its designee~~ of restitution in the amount of \$ \_\_\_\_\_ paid to  
904 \_\_\_\_\_. Failure to pay restitution shall be considered a  
905 violation of probation. Restitution is to be paid regardless of ~~the tolling of probation.~~

906  
907 **RATIONALE: In ~~offenses~~cases involving economic ~~exploitation~~harm or injury,**  
908 **restitution is a necessary term of probation may be ordered. For example, restitution**  
909 **would be a standard term ordered in any case involving Medi-Cal or other insurance**  
910 **fraud. The amount of restitution shall be, at a minimum, the amount of money that**  
911 **was ~~fraudulently~~wrongfully obtained by the licensee/respondent. Evidence**  
912 **Documentation relating to the amount of restitution would have to be introduced at**  
913 **the Administrative ~~H~~Hearing or submitted to the Board.**

#### 914 **89. Clinical Diagnostic Evaluation**

915  
916  
917 Within thirty (30) days of the effective date of the Decision and at any time upon order of  
918 the Board, respondent shall undergo a clinical diagnostic evaluation by a Board-approved  
919 evaluator. ~~Respondent shall provide the evaluator with a copy of the Board's Decision prior~~  
920 ~~to the clinical diagnostic evaluation being performed.~~

921  
922 The evaluator shall be a licensed practitioner who holds a valid, unrestricted license to  
923 conduct clinical diagnostic evaluations, and has three (3) years<sup>2</sup> of experience in providing  
924 evaluations of health-care professionals with substance abuse disorders. The evaluator shall  
925 not have a current or former financial, personal, familial, or other relationship with  
926 respondent or ever had a financial, personal, business, or other relationship with the licensee  
927 that could reasonably be expected to compromise the ability of the Board-approved  
928 evaluator to render impartial and unbiased reports to the Board. Respondent shall cause the  
929 evaluator to submit to the Board a written clinical diagnostic evaluation report within ten

930 (10) days from the date the evaluation was completed, unless an extension, not to exceed  
931 thirty (30) days, is granted to the evaluator by the Board.

932  
933 Respondent shall pay all costs associated with the clinical diagnostic evaluation. Failure to  
934 pay costs will be considered a violation of the probation order.

935  
936 **The following language is mandatory for a cease practice order where the evaluation is**  
937 **ordered under the Uniform Standards Related to Substance-Abusing Licensees is**  
938 **mandatory, and discretionary in other cases where it may be relevant:**

939  
940 Respondent is ordered to cease any practice of psychology, beginning on the effective date  
941 of the Decision, pending the results of the clinical diagnostic evaluation. During this time,  
942 Respondent shall submit to random drug testing at least two (2) times per week. At any  
943 other time that respondent is ordered to undergo a clinical diagnostic evaluation, ~~he or~~  
944 ~~she~~respondent shall be ordered to cease any practice of psychology for a minimum of thirty  
945 (30) days pending the results of a clinical diagnostic evaluation and shall, during such time,  
946 submit to drug testing at least two (2) times per week.

947  
948 Upon any order to cease practice, respondent shall not practice psychology until the Board  
949 determines that ~~he or she~~respondent is able to safely practice either full-time or part-time  
950 and has had at least thirty (30) days of negative drug test results. The term of probation shall  
951 be extended by the period of time during which respondent is ordered to cease practice.  
952 Respondent shall comply with any terms or conditions made by the Board as a result of the  
953 clinical diagnostic evaluation.

954  
955 **RATIONALE and APPLICATION OF UNIFORM STANDARD #s 1, 2, and 3: This**  
956 **condition is to be considered in cases where the grounds for discipline involve drugs**  
957 **and/or alcohol, or where the Uniform Standards Related to a Substance-Abusing**  
958 **Licensee apply. The cease practice order pending the evaluation is mandatory where**  
959 **the evaluation is ordered for a substance-abusing licensee, and discretionary in other**  
960 **cases where ordered.**

961  
962 **240. Alcohol and/or Drug Abuse Treatment Program**

963  
964 Within thirty (30) days from the effective date of the Decision, respondent shall enter an  
965 inpatient or outpatient alcohol or other drug abuse recovery program or an equivalent  
966 program as approved by the Board ~~or its designee~~. Components of the treatment program  
967 shall be relevant to the violation and to ~~the~~ respondent's current status in recovery or  
968 rehabilitation. Respondent shall provide the Board ~~or its designee~~ with proof that the  
969 approved program was successfully completed. Terminating the program without  
970 permission or being expelled for cause shall constitute a violation of probation by  
971 respondent. If respondent so terminates or is expelled from the program, respondent shall be  
972 ordered by the Board to immediately cease any practice of psychology, and may not practice  
973 unless and until notified by the Board. The term of probation shall be extended by the period  
974 of time during which respondent is ordered to cease practice.

975

976 Respondent shall pay all costs associated with the program. Failure to pay costs will be  
977 considered a violation of the probation order.

978  
979 ~~However, if~~ respondent has already ~~attended~~completed such an inpatient or outpatient  
980 alcohol or other drug abuse recovery program, as described above, commencing with ~~or~~  
981 during the current period of sobriety, respondent shall provide the Board ~~or its designee~~ with  
982 proof that the program was successfully completed and this ~~shall~~may, at the Board's  
983 discretion, suffice to comply with this term of probation.

984  
985 **RATIONALE and APPLICATION OF UNIFORM STANDARD # 6: This condition is**  
986 **to be considered in cases where the grounds for discipline involve drugs and/or alcohol,**  
987 **or where the Uniform Standards Related to a Substance-Abusing Licensee apply.**  
988

#### 989 **1044. Ongoing Support Group Program**

990  
991 Within thirty (30) days of the effective date of the Decision, respondent shall begin and  
992 continue attendance at a support/recovery group (e.g., Twelve Step meetings or the  
993 equivalent, or a facilitated support group meeting with a psychologist trained in alcohol and  
994 ~~drug abuse treatment~~) as ordered by the Board ~~or its designee~~.

995  
996 When determining the type and frequency of required support group meeting attendance, the  
997 Board shall give consideration to the following:

- 998
- the licensee's history;
  - the documented length of sobriety/time that has elapsed since substance use;
  - the recommendation of the clinical evaluator;
  - the scope and pattern of use;
  - the licensee's treatment history; and,
  - the nature, duration, and severity of substance abuse.
- 1000  
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1003  
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1005

1006 Verified documentation of attendance shall be submitted by respondent with each quarterly  
1007 report. Respondent shall continue attendance in such a group for the duration of probation  
1008 unless notified by the Board that attendance is no longer required.

1009  
1010 **If a facilitated support group ~~support~~ meeting is ordered for a substance-abusing**  
1011 **licensee, add the following language regarding the facilitator:**

1012  
1013 The group facilitator shall meet the following qualifications and requirements:

- 1014
- a. The meeting facilitator must have a minimum of three (3) years of experience in the  
1015 treatment and rehabilitation of substance abuse, and shall be licensed or certified by  
1016 the state or other nationally ~~certified~~ organizations.
  - b. The meeting facilitator must not have had a financial, personal, familial, or other  
1017 relationship with respondent ~~financial relationship, personal relationship, or business~~  
1018 ~~relationship with the licensee~~ in the last five (5) years.  
1019  
1020

- 1021 c. The meeting facilitator shall provide to the ~~b~~Board a signed document showing the  
 1022 licensee's name, facilitator's qualifications, the group name, the date and location of  
 1023 the meeting, the licensee's attendance, and the licensee's level of participation and  
 1024 progress.  
 1025 d. Respondent shall provide the facilitator with a copy of the Decision.  
 1026 ~~e.~~ The facilitator shall report any unexcused absence within twenty-four (24) hours.  
 1027

1028  
 1029 **RATIONALE and APPLICATION OF UNIFORM STANDARD # 5: Alcohol and/or**  
 1030 **other drug abuse treatment shall be required in addition to other terms of probation in**  
 1031 **cases where the use of alcohol or other drugs by respondent has impaired respondent's**  
 1032 **ability to safely provide psychological services. This condition must be accompanied by**  
 1033 **condition #12-9. This term is to be considered in cases where the grounds for discipline**  
 1034 **involve drugs and/or alcohol, or where the Uniform Standards Related to a Substance-**  
 1035 **Abusing Licensee apply. ~~If the Uniform Standards do not apply, where relevant, non-~~**  
 1036 **~~facilitated support group attendance, such as Twelve Step meetings, may be ordered~~**  
 1037 **~~instead of a facilitated group support meeting, or in addition to it.~~**  
 1038

1039 **11-12. Abstain from Drugs and Alcohol and Submit to Tests and Samples**  
 1040

1041 Respondent shall abstain completely from the personal use or possession of controlled  
 1042 substances as defined in the California Uniform Controlled Substances Act, and dangerous  
 1043 drugs as defined by ~~S~~section 4022 of the ~~Business and Professions~~ Code, or any drugs  
 1044 requiring a prescription unless respondent provides the Board or its designee with  
 1045 documentation from the prescribing healthcare professional that the prescription was  
 1046 legitimately issued and is a necessary part of the treatment of respondent.  
 1047

1048 Respondent shall abstain completely from the intake of alcohol in any form.  
 1049

1050 Respondent shall undergo random and directed biological fluid or specimen testing as  
 1051 determined by the Board or its designee. ~~Respondent shall be subject to [a minimum of~~  
 1052 ~~fifty two (52)] random tests [per year within the first year of probation, and a minimum of~~  
 1053 ~~thirty six (36) random tests per year thereafter,] for the duration of the probationary term.~~  
 1054

1055 **Testing Frequency Schedule:**  
 1056

Level	Segments of Probation	Minimum Range of Number of Random Tests
I	Year 1	52-104 per year
II	Year 2+	36-104 per year

1057  
 1058 **After five (5) years, administration of biological fluid or specimen testing as**  
 1059 **determined by the Board, may be reduced to one (1) time per month if there have been**  
 1060 **no positive drug tests in the previous five (5) consecutive years of probation.**  
 1061

1062 Nothing precludes the Board from increasing the number of random tests for any reason.

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Any confirmed positive finding will be considered a violation of probation. Respondent shall pay all costs associated with such testing. If respondent tests positive for a banned substance, respondent shall be ordered by the Board to immediately cease any practice of psychology and to suggest alternative service providers to their clients as appropriate, and may not practice unless and until notified by the Board. Respondent shall make daily contact as directed by the Board to determine if ~~he or she~~ respondent must submit to alcohol and/or drug testing. Respondent shall submit to his or her alcohol and/or drug test on the same day that ~~he or she~~ respondent is notified that a test is required. All alternative testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel. The term of probation shall be extended by the period of time during which respondent is ordered to cease practice.

**Drugs - Exception for Personal Illness**

Orders forbidding respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by a licensed health-care professional and used for the purposes for which they were prescribed. Respondent shall provide the Board ~~or its designee~~ with written documentation from the treating licensed health-care professional who prescribed medication(s) within fourteen (14) days. The documentation shall identify the medication, dosage, number of refills, if any; the date the medication was prescribed, ~~the~~ respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

**RATIONALE and APPLICATION OF UNIFORM STANDARD #s 4 and 8: This condition provides documentation that ~~the probationer~~ respondent is ~~substance or chemical free, not using drugs or alcohol~~. It also provides the Board with a mechanism through which to require additional laboratory analyses for the presence of narcotics, alcohol and/or dangerous drugs when ~~the probationer~~ respondent appears to be in violation of the terms of probation or appears to be under the influence of mood altering substances. The Board will consider the following factors in making an exception to the testing frequency:**

- **PREVIOUS TESTING/SOBRIETY:** In cases where the Board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing prior to being subject to testing by the Board, the Board may give consideration to that testing in altering the testing frequency schedule so that it is equivalent to this standard.
- **VIOLATION(S) OUTSIDE OF EMPLOYMENT:** An individual whose license is placed on probation for a single conviction or incident, or two (2) convictions or incidents, spanning greater than seven (7) years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass level I and participate in level II of the testing frequency schedule.



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- **SUBSTANCE USE DISORDER NOT DIAGNOSED:** In cases where no current substance use disorder diagnosis is made, a lesser period of monitoring and toxicology screening may be adopted by the Board, but not to be ~~less~~fewer than twenty-four (24) times per year.

- **LICENSED SUPERVISION DURING PRACTICE**

**A board may reduce testing frequency to a minimum of 24 times per year for any person who is a practicing licensee if the licensee receives a minimum of 50% supervision per day by a supervisor licensed by the board.**

~~The~~Term 11 is mandatory in cases where the Uniform Standards Related to a Substance-Abusing Licensee apply. Where the Uniform Standards do not apply, where relevant, ~~the~~ respondent should be ordered to submit to random and directed testing, but need not be ordered to submit to the minimum frequency of random tests.

## **12. Request for Modification Pursuant to Uniform Standards**

“Request” as used in this condition is a request under the Uniform Standards made to the probation monitor, and not under the Administrative Procedure Act.

Before the request is considered, respondent shall demonstrate that the following criteria have been met:

- a. Sustained compliance with current recovery program.
- b. The ability to practice safely as evidenced by current worksite monitor reports, evaluations, and any other information relating to respondent’s substance abuse.
- c. Negative alcohol and drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

**RATIONALE and APPLICATION OF UNIFORM STANDARD #11: This term is a standard term for all substance-abusing licensees, and applies to a request for a modification of terms and conditions that are within the purview of the Board’s probation monitor.**

## **13. Educational Review**

Respondent shall submit to an educational review concerning the circumstances that resulted in this administrative action. Within the first ninety (90) days from the effective date of the Decision, the educational review shall be conducted and submitted to the Board by a ~~Board-appointed~~ approved California licensed psychologist, expert familiar with the ease. Educational reviews are informational only and intended to benefit respondent’s

1155 ~~practice. Respondent shall pay all costs associated with this educational review. If a~~  
1156 ~~reviewer makes recommendations for essential training, consultation, experiential~~  
1157 ~~opportunities, techniques or technologies to enhance respondent's professional competency~~  
1158 ~~in the discipline of psychology and its application in serving the public, respondent shall~~  
1159 ~~develop and submit the plan to the Board for approval within thirty (30) days after receiving~~  
1160 ~~the results of the educational review. The plan shall have measurable goals by which~~  
1161 ~~enhancement to areas of competency will be addressed within the probationary period.~~  
1162 ~~Respondent shall have met the requirements of the plan no later than six (6) months prior to~~  
1163 ~~the end of probation. Respondent shall pay all costs associated with this educational review~~  
1164 ~~and any recommendations.~~

1165  
1166 **RATIONALE:** In cases involving evidence of deficiencies in the body of knowledge  
1167 required to be minimally competent to practice independently, it may be appropriate  
1168 to require ~~the~~ respondent to submit to an educational review during the course of the  
1169 probation period.

1170  
1171  
1172 **B. STANDARD TERMS AND CONDITIONS OF PROBATION**  
1173 **(To be included in ~~ALL~~ Proposed Decisions and Stipulations)**

1174  
1175 **14. Psychological Evaluation**

1176  
1177 Within ninety (90) days of the effective date of this Decision and on a periodic basis  
1178 thereafter as may be required by the Board, respondent shall undergo a psychological  
1179 evaluation (and psychological testing, if deemed necessary) by a Board-approved California-  
1180 licensed psychologist. Respondent shall sign a release that authorizes the evaluator to  
1181 furnish the Board with a Diagnostic and Statistical Manual of Mental Disorders, 5<sup>th</sup> Edition,  
1182 (DSM-5) diagnosis and a written report regarding respondent's judgment and/or ability to  
1183 practice independently and safely, and any additional information the Board deems relevant  
1184 to the case. The completed evaluation is the sole property of the Board.

1185  
1186 If the Board concludes from the results of the evaluation that respondent is unable to  
1187 practice independently and safely, upon written notice from the Board, respondent shall  
1188 immediately cease accepting new clients and, in accordance with professional standards,  
1189 shall appropriately refer/terminate existing clients within thirty (30) days and shall not  
1190 resume practice until a Board-approved evaluator determines that respondent is safe to  
1191 practice. The term of probation shall be extended by this period of time that respondent was  
1192 ordered to cease practice. Recommendations for treatment made as a result of the evaluation  
1193 will be instituted and followed by respondent.

1194  
1195 If not otherwise ordered herein, if ongoing psychotherapy is recommended in the  
1196 psychological evaluation, the Board will notify respondent in writing to submit to such  
1197 psychotherapy and to select a psychologist for approval by the Board within thirty (30) days  
1198 of such notification. The qualifications, restrictions, and reporting responsibilities of the  
1199 psychologist shall be the same as found in Condition [5], Psychotherapy. Frequency of  
1200 psychotherapy shall be determined upon recommendation of the treating psychologist with

1201 approval by the Board. Respondent shall continue psychotherapy until released by the  
1202 approved psychologist and approved by the Board. The Board may order a re-evaluation  
1203 upon receipt of the psychologist's recommendation.

1204  
1205 If not otherwise ordered herein, if a client population or psychological service restriction is  
1206 recommended in the psychological evaluation, the Board will notify respondent in writing as  
1207 to the limitation and its duration.

1208  
1209 Respondent shall pay all costs associated with the psychological evaluation and ongoing  
1210 psychotherapy. Failure to pay costs will be considered a violation of the probation order.

1211  
1212 In the Board's discretion, a previous psychological evaluation of respondent by a Board-  
1213 approved psychologist as part of a Board investigation may fulfill this condition.

1214  
1215 **Option of Evaluation as a Condition Precedent:**

1216  
1217 In some cases, including but not limited to gross negligence or dishonest, corrupt, or  
1218 fraudulent acts, the psychological evaluation may be imposed as either a condition  
1219 precedent to the continued practice of psychology, or to the issuance or reinstatement of a  
1220 license, so that respondent or petitioner is not allowed to begin or continue practice until  
1221 found to be safe to do so. In such cases, the following language shall be used as the first  
1222 sentence of the first paragraph of this condition:

1223  
1224 As a condition precedent to the [continued practice of psychology][issuance of a license]  
1225 [reinstatement of a license], within ninety (90) days of the effective date of this Decision,  
1226 and on a periodic basis thereafter as may be required by the Board ~~or its designee,~~  
1227 respondent shall undergo a psychological evaluation (and psychological testing, if deemed  
1228 necessary) by a Board-approved California-licensed psychologist. The term of probation  
1229 shall be extended by the period of time during which respondent is not allowed to practice.

1230  
1231 **In addition, the following language shall also be used as the first sentence of the second**  
1232 **paragraph of this condition:**

1233  
1234 If the Board concludes from the results of the evaluation that [respondent][petitioner] is  
1235 unable to practice independently and safely, upon written notice from the Board [respondent  
1236 shall, in accordance with professional standards, appropriately refer/terminate existing  
1237 clients within thirty (30) days and shall not resume practice until a Board-approved  
1238 evaluator determines that respondent is safe to practice][respondent or petitioner shall not be  
1239 issued or have a reinstated license until a Board-approved evaluator determines that  
1240 respondent or petitioner is safe to practice].

1241  
1242  
1243 **15 14. Notification to Employer**

1244  
1245 When currently employed, applying for employment or negotiating a contract, or contracted  
1246 to provide psychological services, respondent shall provide to each employers, supervisor,

1247 or contractor, or prospective employer or contractor where respondent is providing or would  
1248 provide psychological services, a copy of ~~their~~ Decision ~~and the Accusation or Statement of~~  
1249 ~~Issues~~ before accepting or continuing employment. Notification to ~~the~~ respondent's current  
1250 employer shall occur no later than the effective date of the Decision. Respondent shall  
1251 submit, upon request by the Board ~~or its designee~~, satisfactory evidence of compliance with  
1252 this ~~term~~ condition of probation.

1253 ~~The R~~espondent shall provide to the Board the names, physical addresses, mailing  
1254 addresses, email addresses, and telephone numbers of all employers and supervisors, or  
1255 contractors, and shall inform the Board in writing of the facility or facilities at which the  
1256 person is providing psychological services, and the name(s) of the person(s) to whom the  
1257 Board's ~~d~~Decision was provided. Respondent shall not interfere with the Board's authority  
1258 to communicate with respondent's employer, supervisor, or where contracted to provide  
1259 psychological services.

1261 If respondent offers psychological services through court appointment, respondent must  
1262 provide a copy of the Decision to the Court.

1264 ~~Respondent shall complete the required consent forms and sign an agreement with the~~  
1265 ~~employer and supervisor, or contractor, and the Board to allow the Board to communicate~~  
1266 ~~with the employer and supervisor, or contractor.~~

#### 1269 **1615. Coursework**

1271 Respondent shall take and successfully complete not less than \_\_\_\_\_ hours each  
1272 year of probation in the following area(s) \_\_\_\_\_ and/or as approved by the Board.  
1273 Coursework must shall be pre-approved by the Board and be taken from a continuing  
1274 education provider approved by American Psychological Association (APA), California  
1275 Psychological Association (CPA), California Medical Association (CMA), Accreditation  
1276 Council for Continuing Medical Education (ACCME), or Association of Black  
1277 Psychologists (ABPsi) or its designee. Coursework shall be taken in real time, with live  
1278 interaction with the course instructor. On-demand, recorded courses, or home study  
1279 coursework will not count toward meeting this requirement. All coursework shall be taken  
1280 at the graduate level at an accredited educational institution, or by an approved continuing  
1281 education provider. Classroom attendance correspondence or home study coursework shall  
1282 not count toward meeting this requirement. The coursework must be in addition to any  
1283 continuing education courses that may be required for license renewal. Respondent shall  
1284 provide proof of completion of the required coursework to the Board.

1285 ~~Within ninety (90) days of the effective date of this Decision, respondent shall submit to the~~  
1286 ~~Board or its designee for its prior approval a plan for meeting the educational requirements.~~  
1287 All costs of the coursework shall be paid by ~~the~~ respondent.

#### 1290 **1716. Law and Ethics Course**

1292 Respondent shall take and successfully complete a course in law and ethics of not less than  
1293 six (6) hours, within the first year from the effective date of the Decision. Coursework shall  
1294 be pre-approved by the Board and be taken from a continuing education provider approved  
1295 by American Psychological Association (APA), California Psychological Association  
1296 (CPA), California Medical Association (CMA), Accreditation Council for Continuing  
1297 Medical Education (ACCME), or Association of Black Psychologists (ABPsi). Coursework  
1298 shall be taken in real time, with live interaction with the course instructor. On-demand,  
1299 recorded courses, or home study coursework will not count toward meeting this  
1300 requirement. The coursework must be in addition to any continuing education courses that  
1301 may be required for license renewal. Respondent shall provide proof of completion of the  
1302 required coursework to the Board. The cost associated with the law and ethics course shall  
1303 be paid by respondent.

1304  
1305 ~~Within ninety (90) days of the effective date of this Decision, shall submit to the Board or~~  
1306 ~~its designee for prior approval a course in laws and ethics as they relate to the practice of~~  
1307 ~~psychology. Said course must be successfully completed at an accredited educational~~  
1308 ~~institution or through a provider approved by the Board's accreditation agency for~~  
1309 ~~continuing education credit. Said course must be taken and completed within one year from~~  
1310 ~~the effective date of this Decision. This course must be in addition to any continuing~~  
1311 ~~education courses that may be required for license renewal. The cost associated with the law~~  
1312 ~~and ethics course shall be paid by the respondent.~~

#### 1313 **1817. Investigation/Enforcement Cost Recovery**

1314  
1315 Respondent shall pay to the Board its costs of investigation and enforcement in the amount  
1316 of \$ \_\_\_\_\_ within the first year of ~~probation from the effective date of the Decision~~  
1317 ~~unless an alternative payment plan is approved by the Board. Such costs shall be payable to~~  
1318 ~~the Board of Psychology and are to be paid regardless of whether the probation is tolled.~~  
1319 ~~Failure to pay such costs shall be considered a violation of probation.~~

1320  
1321 ~~Any and all requests for a payment plan shall be submitted in writing by respondent to the~~  
1322 ~~Board. However, full payment of any and all costs required by this condition must be~~  
1323 ~~received by the Board no later than six (6) months prior to the scheduled termination of~~  
1324 ~~probation.~~

1325  
1326  
1327 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to  
1328 repay investigation and enforcement costs.

#### 1329 **1918. Probation Costs**

1330  
1331 Respondent shall pay the costs associated with probation monitoring each and every year of  
1332 probation ~~as designated by the Board, which may be adjusted on an annual basis. Such costs~~  
1333 ~~shall be payable to the Board of Psychology at the end of each fiscal year (June 30). Failure~~  
1334 ~~to pay such costs shall be considered a violation of probation.~~

1335  
1336

1337 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to  
1338 repay probation monitoring costs.

1339  
1340 **2019. Obey All Laws**

1341  
1342 Respondent shall obey all federal, state, and local laws and all regulations governing the  
1343 practice of psychology in California including the ~~e~~Ethical Principles of Psychologists and  
1344 Code of Conduct guidelines of the American Psychological Association. A full and detailed  
1345 account of any and all violations of law shall be reported by ~~the~~ respondent to the Board ~~or~~  
1346 ~~its designee~~ in writing within seventy-two (72) hours of occurrence.

1347  
1348 CRIMINAL COURT ORDERS: If respondent is under criminal court orders by any  
1349 governmental agency, including probation or parole, and the orders are violated, this shall  
1350 be deemed a violation of probation and may result in the filing of an ~~a~~Accusation or  
1351 ~~p~~Petition to ~~r~~Revoke ~~p~~Probation or both.

1352  
1353 OTHER BOARD OR REGULATORY AGENCY ORDERS: If respondent is subject to any  
1354 other disciplinary order from any other health-care related board or any professional  
1355 licensing or certification regulatory agency in California or elsewhere, and violates any of  
1356 the orders or terms and conditions imposed by other agencies, this shall be deemed a  
1357 violation of probation and may result in the filing of an ~~a~~Accusation or ~~p~~Petition to ~~r~~Revoke  
1358 ~~p~~Probation or both.

1359  
1360 **2120. Quarterly Reports**

1361  
1362 Respondent shall submit quarterly declarations under penalty of perjury on forms provided  
1363 by the Board ~~or its designee, stating whether there has been compliance with all the~~  
1364 ~~conditions of probation.~~ Quarterly reports attesting to non-practice status are to be submitted  
1365 if probation is tolled.

1366  
1367 Respondent shall submit a quarterly report no later than seven (7) calendar days ~~from~~after  
1368 ~~the beginning of the assigned~~ quarter ends.

1369  
1370 **2221. Probation Compliance**

1371  
1372 Respondent shall comply with the Board's probation program and shall, upon reasonable  
1373 notice, report to the assigned Board of Psychology probation monitor. Respondent shall  
1374 contact the assigned probation monitor regarding any questions specific to the ~~probation~~  
1375 ~~order~~Decision. As it relates to the Decision, Respondent shall not have any unsolicited or  
1376 unapproved contact with (1) complainants associated with the case; (2) Board members ~~or~~  
1377 ~~members of its staff~~; or (3) persons serving the Board as expert evaluators.

1378  
1379 **2322. Interview with Board or Its Designee**

1380  
1381 Respondent shall appear in person for interviews and/or meetings as directed by ~~with~~ the  
1382 Board ~~or its designee~~ upon request at various intervals and with reasonable notice.

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**2423. Changes of Employment/Address**

Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses. Respondent shall notify the Board in writing, through the assigned probation monitor, of any and all changes of employment, location, and address within ~~thirty (30)~~ ten (10) days of such change.

**2524. Tolling for Out-of-State Practice, Residence or Extension of Probation for In-State Non-Practice**  
**Tolling for Non-Practice and Out-of-State Practice**

Respondent shall notify the Board in writing within ten (10) days of any periods of non-practice lasting more than thirty (30) days and within ten (10) days of respondent's return to practice.

Non-practice is any period that respondent is not rendering those psychological services identified in section 2903 of the Code for at least forty (40) hours in a calendar month in the State of California.

If respondent resides in California and is in non-practice, respondent shall comply with all of the terms and conditions of probation.

Periods of non-practice for a respondent residing outside of California will relieve respondent of the responsibility to comply with the probationary terms and conditions, with the exception of this condition and the following terms and conditions:

- Restitution,
- Abstain from Drugs and Alcohol, and Submit to Tests and Samples,
- Cost Recovery,
- Probation Costs,
- Obey all Laws,
- Quarterly Reports,
- Probation Compliance,
- Changes of Employment/Address,
- Violation of Probation,
- License Surrender

Periods of non-practice will not apply to reduction of the probationary term.

A Board-ordered suspension of practice shall not be considered a period of non-practice.

Respondent's cumulative, total time of non-practice while on probation shall not exceed two (2) years. Absent a showing of good cause to the Board, a cumulative period of non-practice exceeding two (2) years constitutes a violation of probation and subjects respondent's license to revocation.

1429 ~~In the event respondent should leave California to reside or to practice outside the State for~~  
1430 ~~any reason, respondent shall notify the Board or its designee in writing within ten (10) days~~  
1431 ~~of the dates of departure and return to California. All provisions of probation other than the~~  
1432 ~~quarterly report requirements, restitution, cost recovery, and coursework requirements, shall~~  
1433 ~~be held in abeyance until respondent resumes practice in California. All provisions of~~  
1434 ~~probation shall recommence on the effective date of resumption of practice in California,~~  
1435 ~~and the term of probation shall be extended for the period of time respondent was out of~~  
1436 ~~state.~~

1437  
1438 ~~Unless by Board order, in the event respondent is not engaging in the practice of psychology~~  
1439 ~~while residing in California, respondent shall notify the Board or its designee in writing~~  
1440 ~~within ten (10) days of the dates of cessation of practice and expected return to practice.~~  
1441 ~~Non-practice is defined as any period of time exceeding thirty (30) days in which~~  
1442 ~~respondent is not engaging in any activities defined in Sections 2902 and 2903 of the~~  
1443 ~~Business and Professions Code. All provisions of probation shall remain in effect, and the~~  
1444 ~~term of probation shall be extended for the period of time respondent was not engaged in the~~  
1445 ~~practice of psychology as required by other employment requirements of this order.~~

1446  
1447 **26. Tolling for Ceased Practice**

1448  
1449 The term of probation shall be extended by any period of time during which respondent is  
1450 ordered to cease practice. Respondent's cumulative, total time of ceased practice while on  
1451 probation shall not exceed two (2) years. A cumulative period of ceased practice exceeding  
1452 two (2) years constitutes a violation of probation and subjects respondent's license to  
1453 revocation.

1454  
1455 **2725. Employment and Supervision of Trainees**

1456  
1457 ~~If respondent is licensed as a psychologist, he/she~~respondent ~~shall not employ or supervise~~  
1458 ~~or apply to employ or supervise~~ psychological assistants, interns, or trainees. Any such  
1459 supervisory relationship in existence on the effective date of this Decision ~~and Order~~ shall  
1460 be terminated by respondent and/or the Board.

1461  
1462 **2826. Instruction of Coursework Qualifying for Continuing Education**

1463  
1464 Respondent shall not be an instructor of any coursework for continuing education credit  
1465 required by any license issued by the Board.

1466  
1467 **2927. Future ~~Registration or~~ Licensure**

1468  
1469 ~~If respondent is registered as a psychological assistant or registered psychologist and~~  
1470 ~~subsequently obtains other psychological assistant or registered psychologist registrations or~~  
1471 ~~becomes licensed as a psychologist during the course of this probationary order, This~~  
1472 ~~Decision shall remain in full force and effect through any registration or license issued by~~  
1473 ~~the Board until the probationary period is successfully terminated~~completed. Future



1474 registrations or licensure shall not be approved, ~~however,~~ unless respondent is currently in  
1475 compliance with all of the terms and conditions of probation.

1476  
1477 **~~28.~~ Request for Modification**

1478  
1479 “Request” as used in this condition is a request made to the Board’s designee, and not under  
1480 the Administrative Procedure Act.

1481 The licensee shall demonstrate that he or she has met the following criteria before being  
1482 granted a request to modify a practice restriction ordered by the Board staff pursuant to the  
1483 Uniform Standards:  
1484

- 1485
- 1486 a. ~~Demonstrated sustained compliance with current recovery program.~~
  - 1487 b. ~~Demonstrated the ability to practice safely as evidenced by current work site reports,~~  
1488 ~~evaluations, and any other information relating to the licensee’s substance abuse.~~
  - 1489 c. ~~Negative alcohol and drug screening reports for at least six (6) months, two (2)~~  
1490 ~~positive worksite monitor reports, and complete compliance with other terms and~~  
1491 ~~conditions of the program.~~

1492  
1493 **~~RATIONALE and APPLICATION OF UNIFORM STANDARD #11: This term is a~~**  
1494 **~~standard term for all substance abusing licensees. It applies to request for a~~**  
1495 **~~notification of terms and conditions that are within the purview of the Board’s~~**  
1496 **~~Probation Monitor.~~**

1497  
1498 **~~3029.~~ Violation of Probation**

1499  
1500 If respondent violates probation ~~in any respect,~~ the Board may, after giving respondent  
1501 notice and the opportunity to be heard, revoke probation and carry out the disciplinary order  
1502 that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent  
1503 during probation, the Board shall have continuing jurisdiction until the matter is final, and  
1504 the term of probation shall be extended until the matter is final. No ~~P~~petition for  
1505 ~~M~~modification or ~~T~~termination of ~~P~~probation shall be considered while there is an  
1506 Accusation or Petition to Revoke Probation pending against respondent.

1507  
1508 **~~3130.~~ Completion of Probation**

1509  
1510 Upon successful completion of probation, respondent’s license shall be fully restored.

1511  
1512 **~~3231.~~ License Surrender**

1513  
1514 Following the effective date of this Decision, if respondent ceases practicing due to  
1515 retirement, health reasons or is otherwise unable to satisfy the terms and conditions of  
1516 probation, respondent may request the voluntary surrender of ~~his or her~~ their license or  
1517 ~~registration.~~ The Board of Psychology or its designee reserves the right to evaluate  
1518 respondent’s request and to exercise its discretion whether or not to grant the request, or to  
1519 take any other action deemed appropriate and reasonable under the circumstances. Upon

1520 formal acceptance of the surrender, respondent shall, within fifteen (15) calendar days,  
1521 deliver respondent's pocket and/or wall certificate to the Board ~~or its designee~~ and  
1522 respondent shall no longer practice psychology. Respondent will no longer be subject to the  
1523 terms and conditions of probation and the surrender of respondent's license shall be deemed  
1524 disciplinary action. If respondent reapplies for a psychology license ~~or registration~~, the  
1525 application shall be treated as a petition for reinstatement of a revoked license ~~or~~  
1526 ~~registration~~.

1529 **C. STANDARD TERMS AND CONDITIONS FOR REVOCATIONS OR**  
1530 **STIPULATIONS FOR SURRENDER**

1531 **(To be included in ALL all Revocations or Stipulations for Surrender or Revocation)**

1532  
1533 **3332. Reinstatement and Investigation/Enforcement Cost Recovery**

1534 Respondent may not petition for reinstatement of a revoked or surrendered  
1535 license/~~registration~~ for three (3) years from the effective date of this Decision. If the Board  
1536 grants future reinstatement, respondent agrees to reimburse the Board for its costs of  
1537 investigation and enforcement of this matter in the amount of \$ \_\_\_\_\_ payable to the  
1538 Board upon the effective date of such reinstatement Decision.

1540  
1541 **3433. Relinquish License**

1542 Respondent shall ~~deliver respondent's pocket and/or wall certificate~~ ~~relinquish his/her wall~~  
1543 ~~and pocket certificate of licensure or registration~~ to the Board ~~or its designee~~ once this  
1544 Decision becomes effective ~~and upon request~~.

1545  
1546  
1547  
1548 **IV. PROPOSED DECISIONS**

1549  
1550 **A. ~~Contents: The Board requests that Proposed Decisions include the following:~~**  
1551 **Proposed Decisions must include the following:**

- 1552 a. Specific code section(s) violated ~~with the definition of the code(s)~~ in the Determination  
1553 of Issues.
- 1554 b. Clear description of the acts or omissions which caused the violation.
- 1555 c. Respondent's explanation of the violation(s) in the Findings of Fact if ~~he/she~~ respondent  
1556 was present at the hearing.
- 1557 d. Description of all evidence of mitigation, rehabilitation and aggravation presented at the  
1558 hearing.
- 1559 e. Explanation of any deviation from the Board's Disciplinary Guidelines.

1560  
1561 When a probation order is imposed, ~~the Board requests that the Decision order first~~ must list any  
1562 combination of the Optional Terms and Conditions (1-13) as they may pertain to the particular  
1563 case followed by all of the Standard Terms and Conditions (14-312).

1565 If the respondent fails to appear for his/her scheduled hearing or does not submit a Notice of  
1566 Defense form, ~~such inaction shall result in a default decision to revoke licensure or deny~~  
1567 ~~application.~~

1568  
1569 **B. Recommended Language for Issuance and Placement of a License on Probation, and**  
1570 **Reinstatement of License**Model Disciplinary Orders

1571 1. Disciplining/Placement of a License on Probation/Registration:

1573  
1574 “IT IS HEREBY ORDERED that the {registration}{license} issued to respondent is  
1575 REVOKED. However, the order of revocation is STAYED and the {registration}{license} is  
1576 placed on probation for [#] years subject to the following terms and conditions”:

1577  
1578 2. Applicant Placed on Probation/Issuance and Placement of a License on Probation:

1579  
1580 “IT IS HEREBY ORDERED that the application for {licensure}{registration} is GRANTED,  
1581 and upon successful completion of all {licensing}{registration} requirements a  
1582 {license}{registration} shall be issued, provided that all {licensing}{registration} requirements  
1583 are completed within two (2) years of the effective date of this ~~d~~Decision. If a  
1584 {license}{registration} is not issued within two (2) years of the effective date of this  
1585 ~~d~~Decision, the application is ordered denied, and a new application will be required. Upon  
1586 issuance, however, said {license}{registration} shall immediately be REVOKED. However,  
1587 the order of revocation shall be STAYED, and the {license}{registration} is placed on  
1588 probation for [#] years subject to the following terms and conditions”:

1589  
1590 3. Reinstatement of a License:

1591  
1592 “The petition of [name], [Ph-D-][PsyD-][EdD], for reinstatement of licensure is hereby  
1593 GRANTED. Psychologist license number [#] shall be reinstated provided that all licensing  
1594 requirements are completed within two (2) years of the effective date of this ~~d~~Decision. If the  
1595 license is not reinstated within two (2) years of the effective date of this ~~d~~Decision, the  
1596 petition is ordered denied, and a new petition for reinstatement will be required. Upon  
1597 reinstatement, however, the license shall be immediately revoked. However, the order of  
1598 revocation shall be ~~STAYED~~stayed, and petitioner’s license shall be placed on probation for  
1599 a period of [#] years subject to the following terms and ~~following~~ conditions:”

1600  
1601 **V. REHABILITATION CRITERIA FOR REINSTATEMENT/~~PENALTY~~DISCIPLINE**  
1602 **RELIEF HEARINGS**

1603  
1604 The primary concerns of the Board at reinstatement or penalty/discipline relief hearings are (1)  
1605 the Rehabilitation Criteria for Denials and Reinstatements in ~~California Code of Regulations,~~  
1606 ~~Title 16 CCR, section 1395;~~ and (2) the evidence presented by the petitioner of his/her/their  
1607 rehabilitation. The Board will not retry the original ~~revocation or probation eased~~disciplinary  
1608 action.  
1609

1610 The Board will consider, pursuant to 16 CCR §section 1395, the following criteria of  
1611 rehabilitation for Denials and Reinstatements:

- 1612
- 1613 (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for  
1614 denial.
  - 1615 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under  
1616 consideration as grounds for denial which also could be considered as grounds for denial  
1617 under section 480 of the Code.
  - 1618 (3) The time that has elapsed since commission of the act(s) of crime(s) referred to in  
1619 subdivision (1) or (2).
  - 1620 (4) The extent to which the applicant has complied with any terms of parole, probation,  
1621 restitution, or any other sanctions lawfully imposed against the applicant.
  - 1622 (5) Evidence, if any, of rehabilitation submitted by the applicant.
- 1623

1624 When considering the denial of a license or registration under sections 141, 480, 2960, or 2960.6  
1625 of the Code, or a petition for reinstatement or modification of penalty under section 2962 of the  
1626 Code, the Board will evaluate whether the applicant or petitioner has made a showing of  
1627 rehabilitation and has established present fitness for a license or registration.

1628 (a) Where the denial is, or the surrender or revocation was, in part on the ground(s) that the  
1629 applicant or petitioner has been convicted of a crime, the Board shall consider whether the  
1630 applicant or petitioner made a showing of rehabilitation if the person completed the criminal  
1631 sentence without a violation of parole or probation. In making this determination, the Board  
1632 shall use the following criteria in (1) through (5), as available. If there is a violation of parole or  
1633 probation, or no showing of rehabilitation based on these criteria, the Board shall evaluate  
1634 rehabilitation under subdivision (b).

- 1635 (1) The nature and gravity of the crime(s).
- 1636 (2) The reason for granting and the length(s) of the applicable parole or probation period(s).
- 1637 (3) The extent to which the applicable parole or probation period was shortened or lengthened,  
1638 and the reason(s) the period was modified.
- 1639 (4) The terms or conditions of parole or probation and the extent to which they bear on the  
1640 applicant's or petitioner's rehabilitation.
- 1641 (5) The extent to which the terms or conditions of parole or probation were modified, and the  
1642 reason(s) for modification.
- 1643

1644 (b) Where the denial is not or the surrender or revocation was not based on a conviction, or was  
1645 based upon professional misconduct, or unprofessional conduct under 2960 or 2960.6, or the  
1646 Board determines that the applicant or petitioner did not make a showing of rehabilitation based  
1647 on subdivision (a), the Board shall apply the following criteria in evaluating an applicant's or  
1648 petitioner's rehabilitation:

- 1649 (1) Evidence of any act(s) committed subsequent to the act(s) or crime(s) that are grounds for  
1650 denial, or that were grounds for surrender or revocation, which also could be considered as  
1651 grounds for denial under sections 141, 480, 2960, or 2960.6 of the Code, and the time that has  
1652 elapsed between them.
- 1653 (2) The extent to which the applicant or petitioner has complied with any terms of parole,  
1654 probation, restitution, or any other sanctions lawfully imposed against the applicant or petitioner.
- 1655 (3) The criteria in subdivision (a)(1)-(5), as applicable.

1656 (4) Evidence, if any, of rehabilitation submitted by the applicant or petitioner demonstrating that  
1657 he or she has a mature, measured appreciation of the gravity of the misconduct, and remorse for  
1658 the harm caused, and showing a course of conduct that convinces and assures the Board that the  
1659 public will be safe if the person is permitted to be licensed or registered to practice psychology.  
1660

1661 The Board requests that comprehensive information be elicited from the petitioner regarding  
1662 ~~his/her~~their rehabilitation. The petitioner should provide details that include:

- 1663 A. Why the ~~penalty~~discipline should be modified or why the license should be reinstated.
- 1664 B. Specifics of rehabilitative efforts and results which should include programs,  
1665 psychotherapy, medical treatment, etc., and the duration of such efforts.
- 1666 C. Continuing education pertaining to the offense and its effect on ~~his or her~~their practice  
1667 of psychology.
- 1668 D. If applicable, copies of court documents pertinent to conviction, including documents  
1669 specifying conviction and sanctions, and proof of completion of sanctions.
- 1670 E. If applicable, copy of Certificate of Rehabilitation or evidence of expungement  
1671 proceedings.
- 1672 F. If applicable, evidence of compliance with and completion of terms of probation, parole,  
1673 restitution, or any other sanctions.

1674  
1675 Rehabilitation is evaluated according to an internal subjective measure of attitude (state of mind)  
1676 and an external objective measure of conduct (state of facts). The state of mind demonstrating  
1677 rehabilitation is one that has a mature, measured appreciation of the gravity of the misconduct  
1678 and remorse for the harm caused. Petitioner must take responsibility for the misconduct and  
1679 show an appreciation for why it is wrong. Petitioner must also show a demonstrated course of  
1680 conduct that convinces and assures the Board that the public would be safe if petitioner is  
1681 permitted to be licensed to practice psychology. Petitioner must show a track record of reliable,  
1682 responsible, and consistently appropriate conduct.

1683  
1684 In the ~~Petition~~Decision, the Board requests a summary of the offense and the specific codes  
1685 violated that resulted in the ~~Decision~~revocation, ~~surrender~~ or ~~probation~~ of the license.

1686  
1687 ~~If the Board should deny a request for reinstatement of licensure or penalty relief, the Board~~  
1688 ~~requests that the Administrative Law Judge provide technical assistance in the formulation of~~  
1689 ~~language clearly setting forth the reasons for denial. Such language would include methodologies~~  
1690 ~~or approaches that demonstrate rehabilitation. Petitioners for reinstatement must wait three (3)~~  
1691 ~~years from the effective date of their revocation decisions or one (1) year from the last petition~~  
1692 ~~for reinstatement decisions before filing for reinstatement.~~

1693  
1694 If a petitioner fails to appear for ~~his/her~~their scheduled ~~reinstatement~~ or ~~penalty relief~~ hearing,  
1695 such inaction shall result in a ~~Default~~Decision to deny ~~the petition~~reinstatement of the license  
1696 ~~or registration or reduction of penalty.~~

## 1697 **VI. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSING LICENSEES**

1698  
1699 The following Uniform Standards describe the conditions that apply to a substance-abusing  
1700 applicant or licensee, and have been incorporated into the terms and conditions of probation. If  
1701

1702 the ground(s) for discipline involves drugs and/or alcohol, the applicant or licensee shall be  
1703 presumed to be a substance-abusing applicant or licensee for purposes of section 315 of the  
1704 Code. If the applicant or licensee does not rebut that presumption, there shall be a finding that he  
1705 or she is a substance-abusing applicant or licensee, and the Uniform Standards for a substance  
1706 abusing applicant or licensee shall apply as written and be used in the order placing the license  
1707 on probation.

1708  
1709 **Clinical Diagnostic Evaluations [Uniform Standard #1]:**  
1710 (Reflected in Optional Term # 98)

1711  
1712 Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be  
1713 a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic  
1714 evaluations, and has three (3) years experience in providing evaluations of health care  
1715 professionals with substance abuse disorders. The evaluator shall be approved by the Board, and  
1716 unless permitted by the Board or its designee, shall be a California-licensed psychologist or  
1717 physician and surgeon. The evaluations shall be conducted in accordance with acceptable  
1718 professional standards for conducting substance abuse clinical diagnostic evaluations.

1719  
1720 **Whether the clinical diagnostic evaluation is ordered is discretionary.**

1721  
1722 **Clinical Diagnostic Evaluation Report [Uniform Standard #1]:**

1723  
1724  
1725 **Clinical Diagnostic Evaluation/Cease Practice Order [Uniform Standard #2]:**  
1726 (Reflected in Optional Term # 98)

1727  
1728 Unless the presumption that the applicant or licensee is a substance-abusing applicant or licensee  
1729 is rebutted, and the public can be adequately protected, the Board shall order the applicant or  
1730 licensee to cease any practice of psychology pending the clinical diagnostic evaluation and a  
1731 Board determination upon review of the diagnostic evaluation report that the applicant is safe to  
1732 begin or the licensee is safe to return to practice.

1733  
1734 **If the evaluation is ordered, a cease practice order is mandatory.**

1735  
1736 **Clinical Diagnostic Evaluation Report [Uniform Standard #3]:**  
1737 (Reflected in Optional Term # 98)

1738  
1739 The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the  
1740 licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or  
1741 others, and recommendations for substance abuse treatment, practice restrictions, or other  
1742 recommendations related to the licensee's rehabilitation and safe practice.

1743  
1744 The evaluator shall not have or have ever had a financial, personal, business or other relationship  
1745 with the licensee. The evaluator shall provide an objective, unbiased, and independent  
1746 evaluation.

1747

1748 If the evaluator determines during the evaluation process that a licensee is a threat to himself or  
1749 herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a  
1750 determination.

1751  
1752 For all evaluations, a final written report shall be provided to the Board no later than ten (10)  
1753 days from the date the evaluator is assigned the matter unless the evaluator requests additional  
1754 information to complete the evaluation, not to exceed thirty (30) days.

1755  
1756 The Board shall review the clinical diagnostic evaluation to help determine whether or not the  
1757 licensee is safe to return to either part-time or full-time practice and what restrictions or  
1758 recommendations should be imposed on the licensee based on the application of the following  
1759 criteria:

1760  
1761 License type, licensee's history, documented length of sobriety, scope and pattern of  
1762 substance abuse, treatment history, medical history, current medical condition, nature,  
1763 duration and severity of substance abuse problem, and whether the licensee is a threat to  
1764 himself or herself or others.

1765  
1766 When determining if the licensee should be required to participate in inpatient, outpatient or any  
1767 other type of treatment, the Board shall take into consideration the recommendation of the  
1768 clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and  
1769 pattern of substance abuse, treatment history, medical history, current medical condition, nature,  
1770 duration and severity of substance abuse and whether the licensee is a threat to himself or herself  
1771 or others.

1772  
1773 **If the evaluation is ordered, this standard is mandatory.**

1774  
1775 **Communication with Employer [Uniform Standard # 43]:**  
1776 (Reflected in Standard Term # 44~~15~~)

1777  
1778 If the licensee whose license is on probation has an employer, the licensee shall provide to the  
1779 Board the names, physical addresses, mailing addresses, and telephone numbers of all employers  
1780 and supervisors and shall give specific, written consent that the licensee authorizes the Board and  
1781 the employers and supervisors to communicate regarding the licensee's work status,  
1782 performance, and monitoring.

1783  
1784 **Facilitated Group Support Meetings [Uniform Standard #5]:**  
1785 (Reflected in Optional Term # 10~~4~~)

1786  
1787 If the Board requires a licensee to participate in facilitated group support meetings, the following  
1788 shall apply:

- 1789  
1790 1. When determining the frequency of required group meeting attendance, the Board shall  
1791 give consideration to the following:  
1792  
1793 • the licensee's history;

- 1794           • the documented length of sobriety/time that has elapsed since substance use;  
1795           • the recommendation of the clinical evaluator;  
1796           • the scope and pattern of use;  
1797           • the licensee’s treatment history; and,  
1798           • the nature, duration, and severity of substance abuse.  
1799  
1800       2. Group Meeting Facilitator Qualifications and Requirements:  
1801  
1802           a. The meeting facilitator must have a minimum of three (3) years’ of experience in the  
1803           treatment and rehabilitation of substance abuse, and shall be licensed or certified by  
1804           the State or other nationally certified organizations.  
1805           b. The meeting facilitator must not have had a financial relationship, personal  
1806           relationship, or business relationship with the licensee within the last five (5) years.  
1807           c. The meeting facilitator shall provide to the Board a signed document showing the  
1808           licensee’s name, the group name, the date and location of the meeting, the licensee’s  
1809           attendance, and the licensee’s level of participation and progress.  
1810           d. The meeting facilitator shall report any unexcused absence within twenty-four (24)  
1811           hours.  
1812

1813 **Whether facilitated support group meetings are ordered is discretionary.** (Under the  
1814 Disciplinary Guidelines, non-facilitated support group attendance, such as Twelve Step  
1815 meetings, may also be ordered.)  
1816

1817 **Treatment Program – Inpatient, Outpatient, or Other [Uniform Standard #6]**  
1818 (Reflected in Optional Term #10)  
1819

1820 In determining whether inpatient, outpatient, or other type of treatment is necessary, the board  
1821 shall consider the following criteria:

- 1822       • recommendation of the clinical diagnostic evaluation (if any) pursuant to Uniform  
1823       Standard #1;
- 1824       • license type;
- 1825       • licensee’s history;
- 1826       • documented length of sobriety/time that has elapsed since substance abuse;
- 1827       • scope and pattern of substance use;
- 1828       • licensee’s treatment history;
- 1829       • licensee’s medical history and current medical condition;
- 1830       • nature, duration, and severity of substance abuse, and
- 1831       • threat to himself/herself or the public.  
1832

1833 **Whether a treatment program is ordered is discretionary.**  
1834

1835 **Worksite Monitor Requirements [Uniform Standard # 7]:**  
1836 (Reflected in Optional Term # 43)  
1837



1838 If the Board determines that a worksite monitor is necessary for a particular licensee, the  
1839 worksite monitor must meet the following requirements to be considered for approval by the  
1840 Board:

1841  
1842 The worksite monitor shall not have a current or former financial, personal, or familial  
1843 relationship with the licensee, or other relationship that could reasonably be expected to  
1844 compromise the ability of the monitor to render impartial and unbiased reports to the Board.  
1845 If it is impractical for anyone but the licensee's employer to serve as the worksite monitor,  
1846 this requirement may be waived by the Board; however, under no circumstances shall a  
1847 licensee's worksite monitor be an employee or supervisee of the licensee.

1848  
1849 The worksite monitor's license scope of practice shall include the scope of practice of the  
1850 licensee who is being monitored or be another health care professional if no monitor with  
1851 like scope of practice is available, or, as approved by the Board, be a person in a position of  
1852 authority who is capable of monitoring the licensee at work.

1853  
1854 If the worksite monitor is a licensed healthcare professional he or she shall have an active  
1855 unrestricted license, with no disciplinary action within the last five (5) years.

1856  
1857 The worksite monitor shall sign an affirmation that he or she has reviewed the terms and  
1858 conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by  
1859 the Board.

1860  
1861 The worksite monitor must adhere to the following required methods of monitoring the licensee:

- 1862
- 1863 (1) Have face-to-face contact with the licensee in the work environment on as frequent a  
1864 basis as determined by the Board, but at least once per week.
  - 1865 (2) Interview other staff in the office regarding the licensee's behavior, if applicable.
  - 1866 (3) Review the licensee's work attendance and behavior.

1867  
1868 Reporting by the worksite monitor to the Board shall be as follows:

1869  
1870 Any suspected substance abuse must be orally reported to the Board and the licensee's  
1871 employer within one (1) business day of occurrence. If occurrence is not during the Board's  
1872 normal business hours the oral report must be within one (1) hour of the next business day. A  
1873 written report shall be submitted to the Board within forty-eight (48) hours of occurrence.

1874  
1875 The worksite monitor shall complete and submit a written report monthly or as directed by  
1876 the Board. The report shall include: the licensee's name; license number; worksite monitor's  
1877 name and signature; worksite monitor's license number; worksite location(s); dates licensee  
1878 had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance  
1879 report; any change in behavior and/or personal habits; any indicators that can lead to  
1880 suspected substance abuse.

1881  
1882 The licensee shall complete the required consent forms and sign an agreement with the worksite  
1883 monitor and the Board to allow the Board to communicate with the worksite monitor.

1884  
1885 **Whether a worksite monitor is ordered is discretionary.**  
1886  
1887 **Major and Minor Violations [Uniform Standard # 8]:**  
1888 (Reflected in Optional Term #s ~~108, 11, 13~~)  
1889  
1890 If a licensee commits a major violation, the Board may order the licensee to cease any practice of  
1891 psychology, inform the licensee that he or she has been so ordered and that he or she may not  
1892 practice unless notified by the Board, and refer the matter for disciplinary action or other action  
1893 as determined by the Board.  
1894  
1895 Major Violations include, but are not limited to, the following:  
1896  
1897 1. Failure to complete a board-ordered program;  
1898 2. Failure to undergo a required clinical diagnostic evaluation;  
1899 3. Committing multiple minor violations of probation conditions and terms;  
1900 4. Treating a patient while under the influence of drugs or alcohol;  
1901 5. Committing any drug or alcohol offense that is a violation of the Business and  
1902 Professions Code, or other state or federal law;  
1903 6. Failure to obtain biological testing for substance abuse when ordered;  
1904 7. Testing positive for a banned substance;  
1905 8. Knowingly using, making, altering or possessing any object or product in such a way as  
1906 to defraud a drug test designed to detect the presence of alcohol or a controlled substance.  
1907  
1908 If a licensee or registrant commits a major violation, the Board shall automatically suspend the  
1909 license or registration and refer the matter for disciplinary action or other action as determined  
1910 by the Board.  
1911  
1912 The consequences for a major violation include, but are not limited to, the following:  
1913  
1914 1. License or registration shall be suspended  
1915 2. Licensee or registrant must undergo a new clinical diagnostic evaluation;  
1916 3. Licensee or registrant must test negative for at least one month of continuous drug testing  
1917 before being allowed to resume practice;  
1918 4. Contract or agreement previously made with the Board shall be terminated; and  
1919 5. Licensee or registrant shall be referred for disciplinary action, such as suspension,  
1920 revocation, or other action determined appropriate by the Board.  
1921  
1922 If a licensee commits a minor violation, the Board shall determine what action is appropriate.  
1923  
1924 Minor Violations include, but are not limited to, the following:  
1925  
1926 1. Failure to submit required documentation in a timely manner;  
1927 2. Unexcused absence from required meetings;  
1928 3. Failure to contact a monitor as required;

1929 4. Any other violations that do not present an immediate threat to the licensee or to the  
1930 public.

1931  
1932 If a licensee or registrant commits a minor violation, the Board shall determine what action is  
1933 appropriate.

1934  
1935 The consequences for a minor violation include, but are not limited to, the following:

- 1936
- 1937 1. Removal from practice;
  - 1938 2. Practice limitations;
  - 1939 3. Required supervision;
  - 1940 4. Increased documentation;
  - 1941 5. Issuance of citation and fine or a warning notice;
  - 1942 6. Required re-evaluation and/or testing.

1943  
1944 **DRUG TESTING STANDARDS [Uniform Standard # 9]:**  
1945 (Reflected in Optional Term #~~12~~11)

1946  
1947 If a licensee tests positive for a banned substance, the Board shall order that the licensee cease  
1948 any practice of psychology, and contact the licensee to inform him or her that he or she has been  
1949 ordered to cease practice and that he or she may not practice until the Board determines that he  
1950 or she is able to safely practice. The Board shall also notify the licensee's employer and worksite  
1951 monitor, if any, that the licensee has been ordered to cease practice, and that he or she may not  
1952 practice until the Board determines that he or she is able to safely practice. The Board shall  
1953 determine whether the positive alcohol or drug test is, in fact, evidence of prohibited use, a major  
1954 violation. If not, the Board shall immediately lift the cease practice order.

1955  
1956 Nothing precludes the Board from increasing the number of random tests for any reason. If the  
1957 Board finds or has suspicion that a licensee has committed a violation of the Board's testing  
1958 program or who has committed any Major Violation referenced in the Disciplinary Guidelines,  
1959 the matter shall be referred for disciplinary action to revoke the probation.

1960  
1961 The following minimum drug testing standards shall apply to each licensee subject to drug  
1962 testing:

- 1963
- 1964 1. Licensees shall be randomly alcohol or drug tested at least fifty-two (52) times per year  
1965 for the first year of probation, and at any time as directed by the Board. After the first  
1966 year, licensees who are practicing, shall be randomly alcohol or drug tested at least thirty-  
1967 six (36) times per year, and at any time as directed by the Board.
  - 1968 2. Alcohol or drug testing may be required on any day, including weekends and holidays.
  - 1969 3. Licensees shall be required to make daily contact as directed to determine if alcohol or  
1970 drug testing is required.
  - 1971 4. Licensees shall be alcohol or drug tested on the date of notification as directed by the  
1972 Board.
  - 1973 5. Collection of specimens shall be observed.

1974 6. Prior to vacation or absence, any alternative to the licensee's alcohol or drug testing  
1975 location(s) requirements (including frequency) must be approved by the Board.  
1976

1977 The Board may reduce testing frequency to a minimum of 12 times per year for any licensee who  
1978 is not practicing OR working in any health care field. If a reduced testing frequency schedule is  
1979 established for this reason, and if a licensee wants to return to practice or work in a health care  
1980 field, the licensee shall notify and secure the approval of the licensee's board. Prior to returning  
1981 to any health care employment, the licensee shall be subject to level I testing frequency for at  
1982 least 60 days. At such time the licensee returns to employment (in a health care field), if the  
1983 licensee has not previously met the level I frequency standard, the licensee shall be subject to  
1984 completing a full year at level I of the testing frequency schedule, otherwise level II testing shall  
1985 be in effect.  
1986

1987 **Drug testing standards are mandatory and shall apply to a substance-abusing licensee, and**  
1988 **the required testing frequency shall be ordered.**  
1989

1990 **Petitioning for Modification to Return to Full Time Practice [Uniform Standard #10]:**  
1991 (Reflected in Optional Term # ~~28~~30)  
1992

1993 "Petition" as used in this standard is an informal request for any term or condition that is within  
1994 the discretion of the Executive Officer or probation monitor to modify as opposed to a "Petition  
1995 for Modification" under the Administrative Procedure Act.  
1996

1997 The licensee shall meet the following criteria before submitting a request (petition) to return to  
1998 full time practice:  
1999

- 2000 1. Demonstrated sustained compliance with current recovery program.
- 2001 2. Demonstrated the ability to practice safely as evidenced by current work site reports,  
2002 evaluations, and any other information relating to the licensee's substance abuse.
- 2003 3. Negative drug screening reports for at least six (6) months, two (2) positive worksite  
2004 monitor reports, and complete compliance with other terms and conditions of the  
2005 program.  
2006

2007 **Petitioning for Modification for Reinstatement of a Full and Unrestricted License [Uniform**  
2008 **Standard #11]:**  
2009 (Reflected in Rehabilitation Criteria for Reinstatement/Penalty Relief)  
2010

2011 "Petition for Reinstatement of a Full and Unrestricted License" as used in this standard can only  
2012 be considered as a formal Petition for Early Termination of Probation under the Administrative  
2013 Procedure Act.  
2014

2015 In addition to the factors set out in section V, Rehabilitation Criteria for Reinstatement/ Penalty  
2016 Relief Hearings, the licensee must meet the following criteria to request (petition) for a full and  
2017 unrestricted license:  
2018

- 2019 1. Demonstrated sustained compliance with the terms of the disciplinary order, if  
2020 applicable.  
2021 2. Demonstrated successful completion of recovery program, if required.  
2022 3. Demonstrated a consistent and sustained participation in activities that promote and  
2023 support their recovery including, but not limited to, ongoing support meetings, therapy,  
2024 counseling, relapse prevention plan, and community activities.  
2025 4. Demonstrated that he or she is able to practice safely.  
2026 5. Continuous sobriety for three (3) to five (5) years.  
2027  
2028 # # # #

## MEMORANDUM

<b>DATE</b>	June 22, 2020
<b>TO</b>	Psychology Board Members
<b>FROM</b>	Sandra Monterrubio, Enforcement Program Manager Board of Psychology
<b>SUBJECT</b>	Agenda item 19(c) Review and Considerations to the Goal and Name of the Enforcement Committee

### **Background:**

In accordance with the Strategic Plan, each Committee is reviewing its name and goal and recommending any changes to the full Board.

At the Enforcement Committee in May 2020, the Committee reviewed the current name and goal of the Enforcement Committee. The Committee recommends there be no changes to the name of the Committee but does recommend the goal of the Committee be revised as shown below to more accurately reflect what the Committee does.

### Revised Goal:

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

### **Action Requested:**

The Enforcement Committee recommends the Board approve the revised Enforcement Committee goal.

## MEMORANDUM

<b>DATE</b>	June 24, 2020
<b>TO</b>	Psychology Board Members
<b>FROM</b>	Sandra Monterrubio, Enforcement Program Manager
<b>SUBJECT</b>	Agenda Item 19(d)(1-12) Statutory and Regulatory Update, Review, and Consideration of Additional Changes

### **Background**

At the May 2020 Enforcement Committee Meeting the Committee began its comprehensive review of all enforcement-related sections of the Business and Professions Code (BPC) and California Code of Regulations (CCR). The Committee will continue to review and discuss the BPC and CCR sections listed below until all sections have been completed. Once all sections have been completed, the Committee will provide their recommendations to the full Board.

- 1) 16 CCR Section 1380.6 – Display of License Number
- 2) 16 CCR Sections 1393 – Requirements for Psychologists on Probation
- 3) 16 CCR Sections 1396 – Competence; 1396.1 – Interpersonal Relations; 1396.2 – Misrepresentation; 1396.3 – Test Security; 1396.4 – Professional Identification; 1396.5 – Consumer Information; 1397 – Advertising; 1397.1 – Child Abuse Reporting requirements; 1397.2 – Other Actions Constituting Unprofessional Conduct
- 4) 16 CCR Sections 1397.30 – Citation; 1397.36 – Requirements for Professional Corporations; 1397.37 – Shares: Ownership and Transfer; 1397.39 – Corporate Activities; 1397.40 – Trusts
- 5) 16 CCR Sections 1397.50 – Citations and Fines; 1397.51 – Amount of Fines; 1397.52 – Compliance with Orders of Abatement; 1397.53 – Citations for Unlicensed Practice; 1397.54 – Contest of Citations; 1397.55 – Disconnection of Telephone Service
- 6) BPC Sections 2902 – Definitions; 2903 – Licensure requirement; Practice of psychology; Psychotherapy; 2903.1 – Biofeedback instruments; 2908 – Exemption of other professions; 2912 – Temporary practice by licensees of other state or foreign country
- 7) BPC Section 2934.1 – Posting of license status on Web site

- 8) BPC 2936 – Consumer and professional education in matters relevant to ethical practice; Standards of ethical conduct; Notice
- 9) BPC Sections 2960 – Grounds for action; 2960 (a)-(r) (o); 2960.05 – Limitations period for filing accusation against licensee; 2960.1 – Sexual contact with patient; Revocation; 2960.2 – Licensee’s physical, emotional and mental condition evaluated; 2960.5 – Mental illness or chemical dependency; 2960.6 – Actions by other states; 2961 – Scope of action; 2962 – Petition for reinstatement or modification of penalty; 2963 – Matters deemed conviction; 2964 – Report of license revocation or restoration; 2964.3 – Persons required to register as sex offender; 2964.5 – Conditions of probation or suspension; 2964.6 – Payment of probationary costs; 2965 – Conduct of proceedings; 2966 – Suspension during incarceration for felony conviction; Determination of substantial relationship of felony to functions of psychologist; Discipline or denial of license; 2969 – Penalties for failure to provide medical records; Failure to comply with court order; Multiple acts
- 10) BPC Sections 2970 – Violation of chapter as misdemeanor; 2971 – Injunctions
- 11) BPC 2985 – Renewal of suspended licenses; Reinstatement of revoked licenses, 2986 – Effect of failure to renew within prescribed time
- 12) BPC Section 2995 – Psychological corporation, 2996 – Violation of unprofessional conduct, 2996.1 – Conduct of practice, 2996.2 – Accrual of income to shareholder while disqualified prohibited, 2997 – Shareholders, directors and officers to be licensees, 2998 – Name, 2999 – Regulation by committee

**Action Requested**

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



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## MEMORANDUM

<b>DATE</b>	June 15, 2019
<b>TO</b>	Psychology Board Members
<b>FROM</b>	Antonette Sorrick Executive Officer
<b>SUBJECT</b>	Agenda Item #20 – Update on Telehealth Guidance

### **Background**

At the Board Meeting on April 17, 2020, Dr. Shacunda Rodgers requested there be an update on telehealth guidance during the COVID pandemic.

### **Action Requested**

This item is for informational purposes only. No further action is needed.

### **Attachment**

Board of Psychology Advisory on Telehealth and HIPAA During the COVID-19 Public Health Emergency

**Department of Consumer Affairs**  
**Board of Psychology**

July 9-10, 2020 Board Meeting  
WebEx Teleconference

**Item Available Upon  
Request**

Agenda Item 20 Attachment

Telehealth Advisory – Attachment A