

**NOTICE OF LEGISLATIVE AND REGULATORY AFFAIRS COMMITTEE
TELECONFERENCE MEETING**

The Board of Psychology will hold a Legislative and Regulatory Affairs Committee
via teleconference

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

**Action may be taken on any item on the agenda. Items may be taken out of order,
tabled or held over to a subsequent meeting, for convenience, to accommodate
speakers, or to maintain a quorum.**

**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:**

[https://dca-meetings.webex.com/dca-
meetings/onstage/g.php?MTID=e982b83c89ce8e70b028355a8425138a1](https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e982b83c89ce8e70b028355a8425138a1)

Instructions to connect to the meeting can be found at the end of this agenda. Due to
potential technical difficulties, please consider submitting written comments by March
12, 2021, to bopmail@dca.ca.gov for consideration.

Friday, March 19, 2021

Committee Members

Marisela Cervantes, Chair
Sheryll Casuga, PsyD
Stephen Phillips, JD, PsyD

Legal Counsel

William Maguire
Clay Jackson

Board Staff

Antonette Sorrick, Executive Officer
Jonathan Burke, Assistant Executive
Officer
Stephanie Cheung, Licensing Manager
Jason Glasspiegel, Central Services
Manager
Sandra Monterrubio, Enforcement
Program Manager
Cristina Rivera, Legislative and
Regulatory Analyst

Friday, March 19, 2021

AGENDA

10:00 a.m. – 2:00 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 Committee meeting.

The Committee welcomes and encourages public participation at its meetings. The public may take appropriate opportunities to comment on any issue before the Committee at the time the item is heard.

1. Call to Order/Roll Call/Establishment of a Quorum
2. Chairperson's Welcome and Opening Remarks
3. Public Comment for Items Not on the Agenda. Note: The Committee May Not Discuss or Take Action on Any Matter Raised During this Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code sections 11125 and 11125.7(a)].
4. COVID-19 Waiver Update (A. Sorrick)
5. Discussion and Possible Approval of the Committee Meeting Minutes: June 12, 2020 (J. Glasspiegel)
6. Board Sponsored Legislation for the 2021 Legislative Session: Review and Possible Action (M. Cervantes)
 - a) SB 401 (Pan) Healing arts: psychology - Amendments to sections 2960 and 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact
 - b) Pathways to Licensure Statutory Revisions – Amendments to sections 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2942, 2944, 2946, and 2960 of the Business and Professions Code, and section 1010 of the Evidence Code
 - c) Sunset Provisions – Amendments to section 2912 of the Business and Professions Code, and Addition of Sections Related to Reinstatement to Active after Voluntary Surrender, Licensure Committee Delegated Authority, and Authority to Issue Waivers
7. Review and Consideration of Proposed Legislation (M. Cervantes)
 - a) Review of Bills for Active Position Recommendations to the Board
 1. AB 54 (Kiley) COVID-19 emergency order violation: license revocation
 2. AB 1236 (Ting) Healing arts: licensees: data collection

3. SB 772 (Ochoa Bogh) Professions and vocations: citations: minor violations

b) Review of Watch Bills

1. AB 32 (Aguiar-Curry) Telehealth
2. AB 107 (Salas) Department of Consumer Affairs: boards: temporary licenses: military spouses
3. AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses
4. AB 339 (Lee) State and local government: open meetings
5. AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions
6. AB 657 (Bonta) State civil service system: personal services contracts: professionals
7. AB 810 (Flora) Healing arts: reports: claims against licensees
8. AB 830 (Flora) Department of Consumer Affairs: director: powers and duties
9. AB 1026 (Smith) Business licenses: veterans.
10. AB 1386 (Cunningham) License fees: military partners and spouses
11. SB 102 (Melendez) COVID-19 emergency order violation: license revocation
12. SB 224 (Portantino) Pupil instruction: mental health education
13. SB 534 (Jones) Department of Consumer Affairs

8. Legislative Items for Future Meeting. The Committee May Discuss Other Items of Legislation in Sufficient Detail to Determine Whether Such Items Should be on a Future Committee or Board Meeting Agenda and/or Whether to Hold a Special Meeting of the Committee or Board to Discuss Such Items Pursuant to Government Code Section 11125.4

9. Regulatory Update, Review, and Consideration of Additional Changes (J. Glasspiegel)

- a) 16 California Code of Regulations (CCR) 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 1392 – Psychologist Fees – California Psychology Law and Ethics Examination (CPLEE) and Initial License and Biennial Renewal Fee for a Psychologist

g) 16 CCR 1395.2 Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees

10. Recommendations for Agenda Items for Future Board Meetings. Note: The Committee May Not Discuss or Take Action on Any Matter Raised During This Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code Sections 11125 and 11125.7(a)].

ADJOURNMENT

All times are approximate and subject to change. The meeting may be canceled or changed without notice. For verification, please check the Board's Web site at www.psychology.ca.gov, or call (916) 574-7720.

In the event a quorum of the committee is unable to attend the meeting, or the committee is unable to maintain a quorum once the meeting is called to order, the President or Chair of the meeting may, at his or her discretion, continue to discuss items from the agenda and to vote to make recommendations to the full board at a future meeting.

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

*This meeting is being held via WebEx Events. The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Antonette Sorrick, Executive Officer, at (916) 574-7720 or email bopmail@dca.ca.gov or send a written request addressed to **1625 N. Market Boulevard, Suite N-215, Sacramento, CA 95834**. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation. Links to agenda items, with exhibits are available at www.psychology.ca.gov, prior to the meeting date.*

The goal of this committee is to advocate for legislation and develop regulations that provide for the protection of consumer health and safety. The Committee reviews, monitors and recommends positions on legislation that affects the Board, consumers, and the profession of psychology. The Committee also recommends regulatory changes and informs the Board about the status of regulatory packages.

HOW TO – Join – DCA WebEx Event

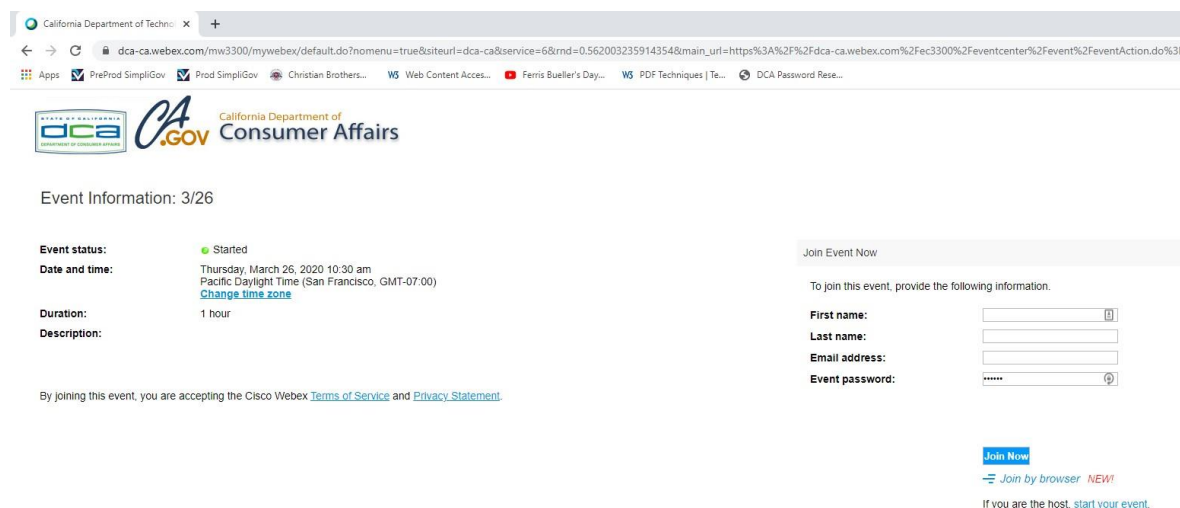
The following contains instructions on how to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Example link:

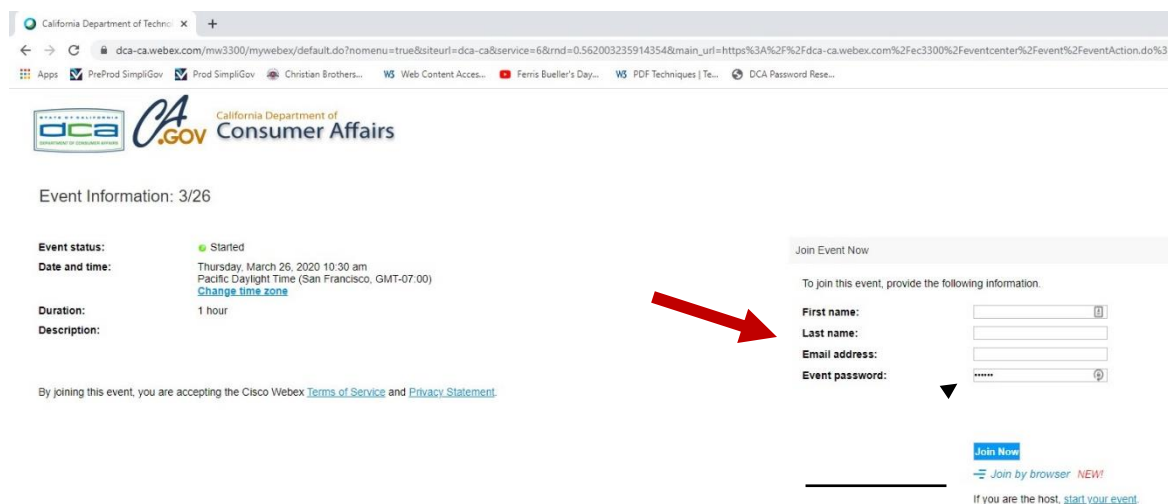
<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>



2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during public comment.

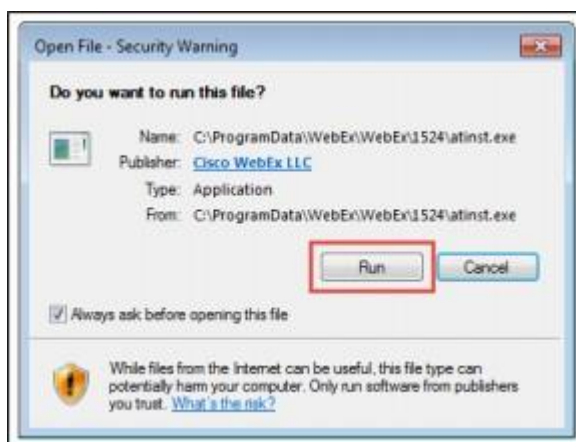
HOW TO – Join – DCA WebEx Event



3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

Starting Webex...



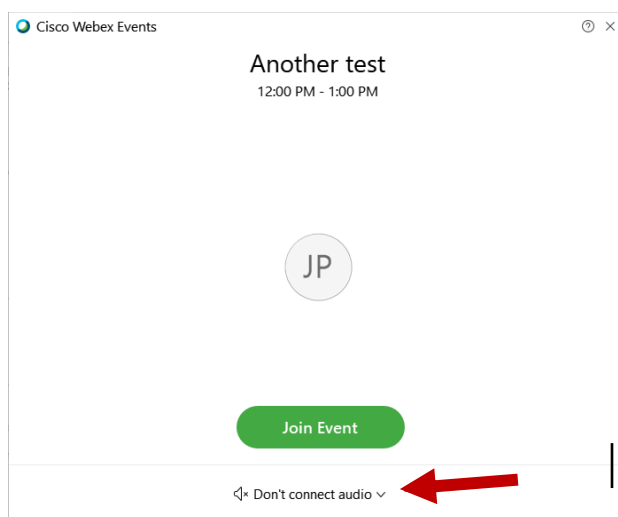
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



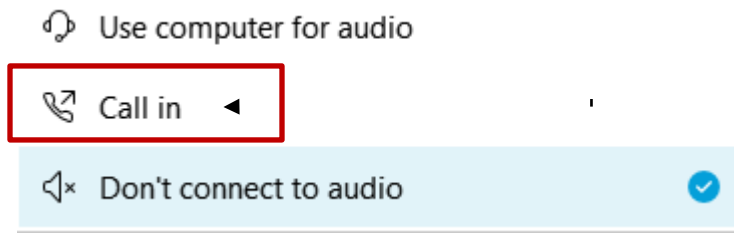
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.

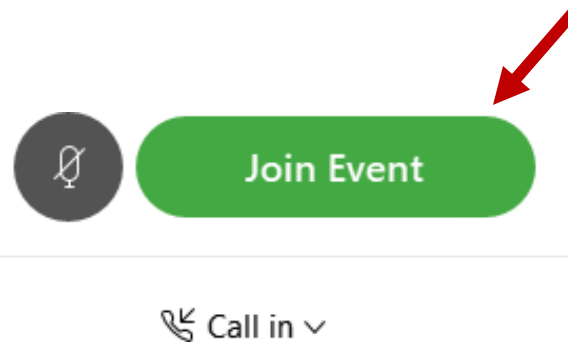


8. When the audio menu appears click 'Call in'.

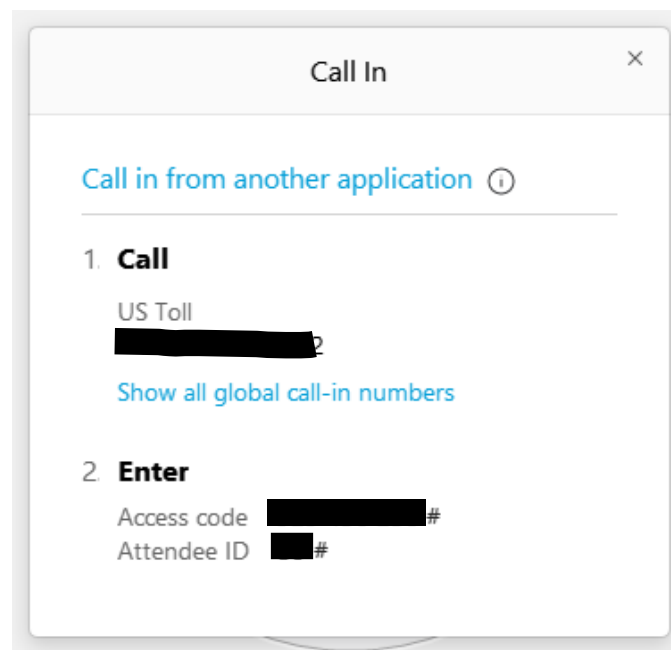
HOW TO – Join – DCA WebEx Event



9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



10. Call into the audio conference with the details provided.

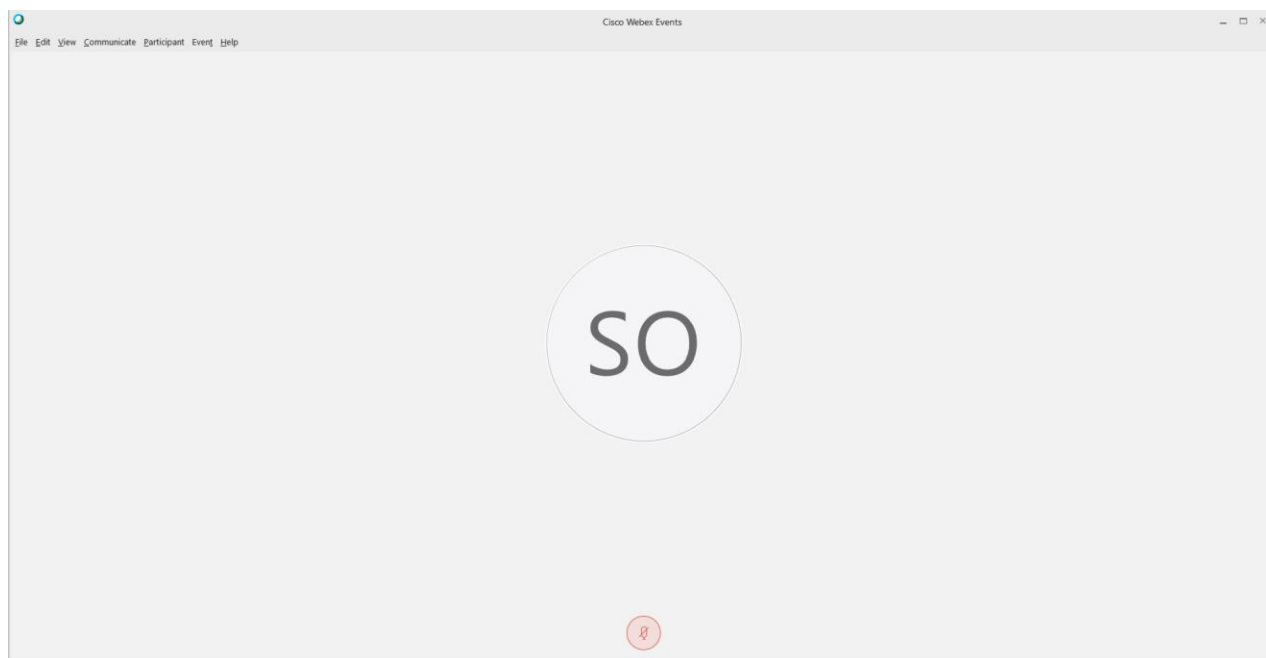


NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

HOW TO – Join – DCA WebEx Event

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

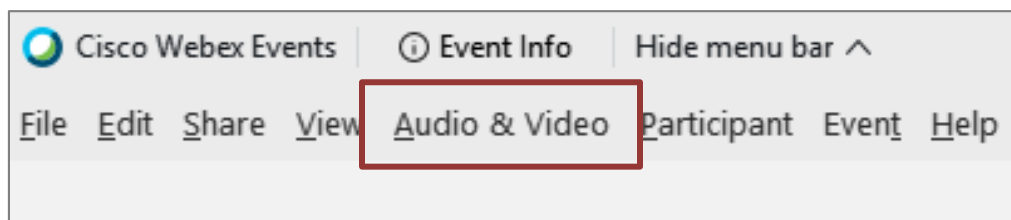
Congratulations!



NOTE: Your audio line is muted and can only be unmuted by the event host.

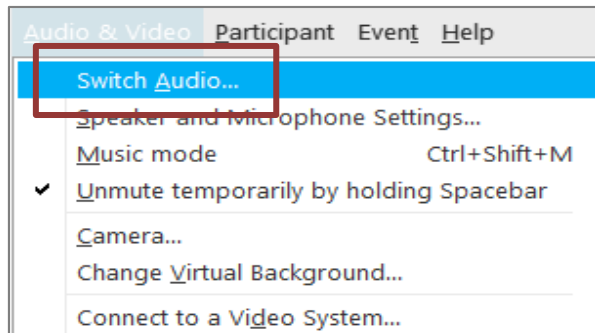
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

1. Select 'Audio & Video' from the menu bar at the top of your screen.

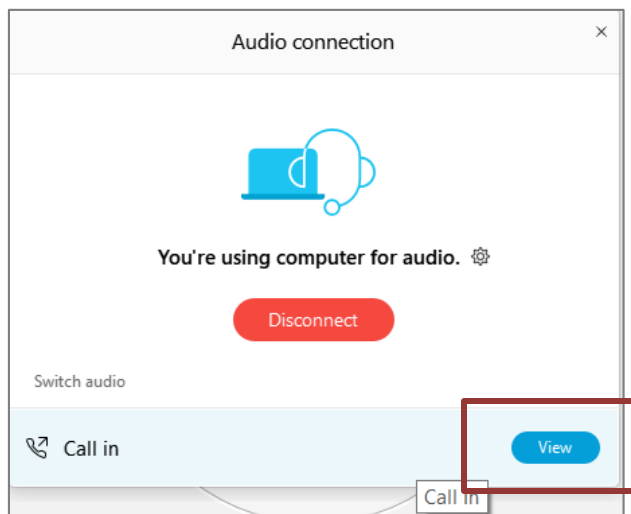


HOW TO – Join – DCA WebEx Event

2. Select “Switch Audio” from the drop-down menu.



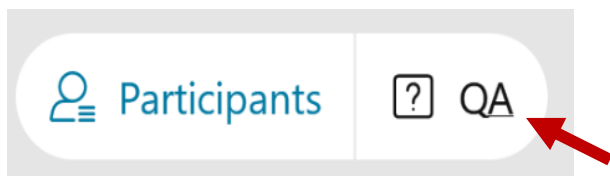
3. The 'Call In' information can be displayed by selecting 'View'



You will then be presented the dial in information for you to call in from any phone.

Participating During a Public Comment Period

At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Ask: ▼

Select a panelist in the Ask menu first and then type your question

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be given a warning that your time is about to expire.

MEMORANDUM

DATE	March 9, 2021
TO	Legislative and Regulatory Affairs Committee Members
FROM	Antonette Sorrick Executive Officer
SUBJECT	Agenda Item #4 – Coronavirus (COVID-19) Update

Background:

1. COVID-19 – Update on DCA Activities

DCA approved the following waiver on March 2, 2021:

- [DCA Waiver DCA-21-127 Order Extending Occupational Therapy Applicant Eligibility](#)

The full list of current waivers and guidance can be found 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 to the following email: 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.

- DCA Boards and Bureaus who wish to have a waiver reviewed and considered by the director are requested to submit a Waiver Request Form (attached) to the following email: WaiverRequest@dca.ca.gov. [The Department has been working with the boards to submit and review waiver requests. The information received by the boards will assist in determining whether to approve or deny the request.](#)
- Other important information:
 - Individuals with a current/active out-of-state license who want to assist with COVID-19 in California should email Emergency Medical Services Authority (EMSA) at: Covid19@emsa.ca.gov
 - The Department of Health Care Services issued a bulletin, [Guidance Relating to Non-Discrimination in Medical Treatment for Novel Coronavirus 2019 \(COVID-19\)](#), for the attention of all licensed health care workers. DCA healing arts boards are requested to provide this information to all health care licensees.
- Call to ACTION: On Monday, March 31, 2020, the Governor put out a call to action asking those licensed in California to join the fight in battling the COVID-19 pandemic. In addition, he launched the [California Health Corps](#) where individuals can go to sign up to be deployed to assist providing care to those in need. Please encourage those around you to sign up to help!

Action Requested:

No further action is needed.

Attachment:

Waiver Update 3/5/21

Waiver Topic	Code Section(s) Waived	Summary	Submission Date	Approval Status	Submitted By	Waiver Status
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. Waiver extended on 7/1/20 to 9/3/20. Waiver extended again on 8/27/20 to 11/3/20. Waiver extended on 10/22/20. Waiver extended again on November 25, 2020. This waiver now expires January 30, 2021. Waiver extended on December 15 and now expires on Friday 28. Waiver extended on 2/26/21 and now expires April 30.	Board of Psychology	Active
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. Licensees must satisfy any waived renewal requirements within six months of this order, unless further extended.	N/A	Published by DCA on 3/4/20. Waiver extended on 7/1/20 allowing for an additional 6 months from the 7/1/20 waiver. Waiver extended again on 8/27/20. All licensees with an expiration of 3/31/20-10/31/20 have until 2/28/21 to get their 36 hours of CE. Waiver extended again on 10/22/20. All licensees with an expiration of 3/31/20-5/31/20 have until 4/22/21 to get their 36 hours of CE. Licensees with an expiration between 1/1/21 and 2/28/21 have until June 15, 2021 to complete 36 hours of CE. Licensees with an expiration between 3/1/21-3/31/21 have until September 26, 2021 to complete the 36 hours of CE.	DCA	Active
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	Active
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	Active
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 waiver 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	Active
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 canceled status, and (2) has been in such status no longer than five years. These waivers do not apply to any license that was surrendered or revoked pursuant to disciplinary proceedings or any individual who entered a retired, inactive, or canceled status following initiation of a disciplinary proceeding. A license reactivated or restored pursuant to these waivers is valid for a maximum of six months, or when the State of Emergency ceases to exist, whichever is sooner.	N/A	Published by DCA on 12/15/20	DCA	Waiver effective through July 1, 2021 or until the completion of the Declaration of emergency which ever is sooner, for all who are granted the waiver.
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	N/A
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	N/A
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	N/A
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	Denied on 7/17/20	Board of Psychology	N/A

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	Denied on 7/17/20	Board of Psychology	N/A
Waive Discipline solely for practicing out of state	Cal. Bus. & Prof. Code §§ 2052, 2290.5, and 2305; and 16 CCR 1815.5	A waiver, or at least formal guidance, issued by DCA, providing clarity to providers employed by colleges and universities located in California that neither DCA nor any individual health professions board will initiate or pursue disciplinary action based solely on interstate practice during the pandemic related to the care of a currently enrolled student. Any guidance could be clear that California of course can make no promises regarding the actions of other state boards; and that disciplinary action may be imposed for conduct that is otherwise inconsistent with the applicable standard of care, individual board regulations, or professional standards of ethical conduct.	Submitted to Director Kirchmeyer on 6/16/20	Denied on 7/9/20	University of California	N/A
Withdraw Application	California Code of Regulations Section 1381.4	This waiver extends the eligibility period for candidates to take or re-take an examination from 12 to 18 months prior to their application is deemed withdrawn by the Board due to failing to appear for, take, or re-take the examination. This waiver applies to psychologist applicants whose applications are deemed to be withdrawn within a specific period per the waiver but does not retroactively apply to withdrawn applications prior to September 30, 2020 where applicants have already reapplied.	Submitted to Director Kirchmeyer on 4/10/2020	Approved by DCA on 9/30/2020. Extended on November 25, 2020. For psychologist applicants whose applications are deemed withdrawn between December 1, 2020, and January 31, 2021, due to the applicant failing to appear for an examination prescribed by California Code of Regulations, title 16, section 1388, subdivision (b), the Director waives California Code of Regulations, title 16, section 1381.4, to the extent it requires applicants to take or retake an examination within 12 months, subject to the condition that an applicant must take or retake the examination with 18 months of approval to take or retake the examination. Extended on 1/26/21 for psychologist applications that are deemed withdrawn between January 31, 2021 and April 2, 2021.	Board of Psychology	Active
Fingerprint Inactive/Cancelled	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. On COVID-19 Info Page on Board Website.	Board of Psychology	N/A
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	N/A

MEMORANDUM

DATE	March 3, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #6 (a) – SB 401 (Pan) – Amendments to Section 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact

Background:

In early 2019, Senator Pan carried SB 275 to amend Sections 2960 and 2960.1. Given the COVID-19 pandemic and the request from leadership to minimize the bill load, SB 275 was amended and became a bill about Personal Protective Equipment. Consequently, in December 2020, Board staff contacted Senator Pan’s office to ask whether he would consider carrying legislation pertaining to this issue. In February of this year, Senator Pan agreed to carry the bill, and introduced SB 401 - Psychology: unprofessional conduct: disciplinary action: sexual acts.

Under current law, when an investigation finds that a psychologist had sexual contact with a client (patient or client) or former client within two years of termination of therapy, the proposed decision (discipline) that the Administrative Law Judge (ALJ) recommends to the Board of Psychology (Board) for adoption must include a recommendation for an order of revocation. The Board maintains ultimate adjudicatory discretion over the adoption of the final discipline against a licensee, but current law ensures that in instances sexual contact_(including sexual intercourse), revocation must be the discipline recommended by an ALJ.

Note: Current law defines sexual contact as meaning “the touching of an intimate part of another person.” (Business and Professions Code section 728.) Additionally, current law defines an intimate part as “the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.”

The Board proposes adding “sexual behavior” to Section 2960 of the Business and Professions Code (BPC) due to the Board’s experiences adjudicating cases involving inappropriate sexual conduct that did not meet the current definition of “sexual contact,” which left the Board hamstrung in achieving appropriate discipline for sexual behavior antithetical to the psychotherapist-client relationship. It made it exceedingly difficult to achieve disciplinary terms that matched the egregiousness of the acts.

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

The Board wants to ensure that egregious sexual behavior with a client, sexual misconduct, and sexual abuse is unprofessional conduct that merits the highest level of discipline. Therefore, this proposal would add sexual behavior (inappropriate actions and communication of a sexual nature for the purpose of sexual arousal, gratification, exploitation, or abuse) with a client or former client to the list of what is considered unprofessional conduct that would give the ALJ the statutory authority in a proposed decision, to include an order of revocation. The proposal also adds clear definitions to the following sexual acts: sexual abuse, sexual behavior, sexual contact, and sexual misconduct. Note: this would not change or diminish the Board's adjudicatory discretion as to the final discipline.

Under this proposal, sexual behavior would be defined as "inappropriate contact or communication of a sexual nature for the purpose of sexual arousal, gratification, exploitation, or abuse. 'Sexual behavior' does not include the provision of appropriate therapeutic interventions relating to sexual issues."

Examples of sexual behaviors include, but are not limited to:

- kissing a client,
- touching or exposing oneself inappropriately,
- sending sexually suggestive or sexually explicit texts (sexting), messages or emails to a client, and
- sending clients photos that include nudity, genitals, or sexually suggestive poses

Location: Senate Committee on Rules

Status: 3/4/2021 Amended. Re-referred to Senate Committee on Rules

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee Support SB 401 as we are the Sponsor of this bill.

Introduced by Senator Pan

February 12, 2021

An act to amend ~~Section 2900~~ *Sections 2960 and 2960.1* of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 401, as amended, Pan. ~~Healing arts: psychology. Psychology:~~ *unprofessional conduct: disciplinary action: sexual acts.*

Existing law, the Psychology Licensing Law, provides for the licensure, regulation, and discipline of psychologists by the Board of Psychology. ~~Under existing law, the Legislature has made findings regarding the importance of regulating that practice. Existing law authorizes the board to refuse to issue a registration or license, to issue a registration or license with terms and conditions, or to suspend or revoke the registration of license of a registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Under existing law, unprofessional conduct includes, among other things, any act of sexual abuse, or sexual relations with a patient or former patient within 2 years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions, or duties of a psychologist, psychological assistant, or registered psychologist.~~

~~This bill would make nonsubstantive changes to those legislative findings.~~ *recast and revise the circumstances under which specified sexual acts constitute unprofessional conduct. The bill would provide that unprofessional conduct includes any act of sexual behavior or sexual contact with a client or former client within 2 years following*

termination of therapy and any act of sexual abuse or sexual misconduct. The bill would define those terms for its purposes.

Existing law, as an exception to the provisions described above that authorize specified disciplinary action by the board, requires that an order of revocation of a registration or license be included in a specified administrative adjudication decision or proposed decision that contains a finding of fact that the licensee or registrant engaged in an act of sexual contact, as defined, with a patient or former patient within 2 years following termination of therapy. Existing law prohibits an administrative law judge from staying the revocation.

This bill would also authorize an order of revocation to be included with any proposed or issued decision that contains a finding that the licensee or registrant engaged in sexual abuse, sexual behavior, or sexual misconduct, as those terms are defined.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 2960 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 2960. The board may refuse to issue any registration or license,
- 4 or may issue a registration or license with terms and conditions,
- 5 or may suspend or revoke the registration or license of any
- 6 registrant or licensee if the applicant, registrant, or licensee has
- 7 been guilty of unprofessional conduct. Unprofessional conduct
- 8 shall include, but not be limited to:
- 9 (a) Conviction of a crime substantially related to the
- 10 qualifications, functions or duties of a psychologist or
- 11 psychological assistant.
- 12 (b) Use of any controlled substance as defined in Division 10
- 13 (commencing with Section 11000) of the Health and Safety Code,
- 14 or dangerous drug, or any alcoholic beverage to an extent or in a
- 15 manner dangerous to ~~himself or herself~~, *oneself*, any other person,
- 16 or the public, or to an extent that this use impairs ~~his or her~~ *their*
- 17 ability to perform the work of a psychologist with safety to the
- 18 public.
- 19 (c) Fraudulently or neglectfully misrepresenting the type or
- 20 status of license or registration actually held.

- 1 (d) Impersonating another person holding a psychology license
2 or allowing another person to use ~~his or her~~ *their* license or
3 registration.
- 4 (e) Using fraud or deception in applying for a license or
5 registration or in passing the examination provided for in this
6 chapter.
- 7 (f) Paying, or offering to pay, accepting, or soliciting any
8 consideration, compensation, or remuneration, whether monetary
9 or otherwise, for the referral of clients.
- 10 (g) Violating Section 17500.
- 11 (h) Willful, unauthorized communication of information
12 received in professional confidence.
- 13 (i) Violating any rule of professional conduct promulgated by
14 the board and set forth in regulations duly adopted under this
15 chapter.
- 16 (j) Being grossly negligent in the practice of ~~his or her~~ *their*
17 profession.
- 18 (k) Violating any of the provisions of this chapter or regulations
19 duly adopted thereunder.
- 20 (l) The aiding or abetting of any person to engage in the unlawful
21 practice of psychology.
- 22 (m) The suspension, revocation or imposition of probationary
23 conditions by another state or country of a license or certificate to
24 practice psychology or as a psychological assistant issued by that
25 state or country to a person also holding a license or registration
26 issued under this chapter if the act for which the disciplinary action
27 was taken constitutes a violation of this section.
- 28 (n) The commission of any dishonest, corrupt, or fraudulent act.
- 29 (o) (1) ~~Any act of sexual abuse, or sexual relations with a~~
30 ~~patient or former patient within two years following termination~~
31 ~~of therapy, or sexual misconduct that is substantially related to the~~
32 ~~qualifications, functions or duties of a psychologist or~~
33 ~~psychological assistant or registered psychologist. *abuse or sexual*~~
34 ~~*misconduct.*~~
- 35 (2) *Any act of sexual behavior or sexual contact with a client*
36 *or former client within two years following termination of therapy.*
- 37 (3) *For purposes of this section, the following definitions apply:*
- 38 (A) *“Sexual abuse” means the touching of an intimate part of*
39 *a person by force or coercion.*

1 (B) “Sexual behavior” means inappropriate physical contact
2 or communication of a sexual nature with a client or a former
3 client for the purpose of sexual arousal, gratification, exploitation,
4 or abuse. “Sexual behavior” does not include the provision of
5 appropriate therapeutic interventions relating to sexual issues.

6 (C) “Sexual contact” means the touching of an intimate part
7 of a client or a former client.

8 (D) “Sexual misconduct” means inappropriate conduct or
9 communication of a sexual nature that is substantially related to
10 the qualifications, functions, or duties of a psychologist,
11 psychological assistant, or registered psychologist.

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

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

17 (r) Repeated acts of negligence.

18 SEC. 2. Section 2960.1 of the Business and Professions Code
19 is amended to read:

20 2960.1. Notwithstanding Section 2960, any proposed decision
21 or decision issued under this chapter in accordance with the
22 procedures set forth in Chapter 5 (commencing with Section 11500)
23 of Part 1 of Division 3 of Title 2 of the Government Code, that
24 contains any finding of fact that the licensee or registrant engaged
25 in any act of sexual contact, as defined in Section ~~728~~, when that
26 act is with a patient, or with a former patient within two years
27 following termination of therapy, 2960, shall contain an order of
28 revocation. The revocation shall not be stayed by the administrative
29 law judge. *A proposed or issued decision that contains a finding*
30 *that the licensee or registrant engaged in an act of sexual abuse,*
31 *sexual behavior, or sexual misconduct, as those terms are defined*
32 *in Section 2960, may contain an order of revocation.*

33 SECTION 1. ~~Section 2900 of the Business and Professions~~
34 ~~Code is amended to read:~~

35 2900. ~~The Legislature finds and declares that the practice of~~
36 ~~psychology in California affects the public health, safety, and~~
37 ~~welfare and shall be subject to regulation and control in the public~~
38 ~~interest to protect the public from the unauthorized and unqualified~~

- 1 practice of psychology and from unprofessional conduct by persons
- 2 licensed to practice psychology.

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MEMORANDUM

DATE	March 2, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #6(b) - Pathways to Licensure Statutory Revisions – Amendments to sections 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2942, 2944, 2946, and 2960 of the Business and Professions Code, and section 1010 of the Evidence Code

Background:

Requested legislative amendments to sections 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2942, 2944, 2946, and 2960 of the Business and Professions Code, and section 1010 of the Evidence Code were provided to the Senate and Assembly Business and Professions committees along with the Board's Sunset Report and COVID supplemental as a follow up to the Committee's request for section changes last year.

Action Requested:

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

ISSUE MEMORANDUM

DATE	March 2, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #6(c) - Sunset Provisions – Amendments to section 2912, and Addition of Sections Related to Reinstatement to Active after Voluntary Surrender, Licensure Committee Delegated Authority, and Authority to Issue Waivers

Background:

Requested legislative changes regarding Business and Professions Code Section 2912, and Addition of Sections Related to Reinstatement to Active after Voluntary Surrender, Licensure Committee Delegated Authority, and Authority to Issue Waivers were provided to the Senate and Assembly Business and Professions committees along with the Board's Sunset Report and COVID supplemental.

Action Requested:

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

MEMORANDUM

DATE	March 2, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(1) – AB 54 (Kiley): COVID-19 emergency order violation: license revocation.

Background:

This bill would prohibit boards under the Department of Consumer Affairs (DCA), and the Department of Alcoholic Beverage Control, from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that a lack of compliance resulted in transmission of COVID-19.

Location: 1/11/2021 Referred to Committees on Business and Professions

Status: 1/11/2021 Referred to Committees on Business and Professions and Governmental Organization

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee Watch AB 54 as compliance with COVID-19 emergency orders is enforced at the local level.

Attachment A: AB 54 (Kiley) Bill Text

ASSEMBLY BILL

No. 54

Introduced by Assembly Member Kiley
(Coauthor: Senator Jones)

December 7, 2020

An act to add Sections 464.5 and 24200.8 to the Business and Professions Code, relating to business, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 54, as introduced, Kiley. COVID-19 emergency order violation: license revocation.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke licenses.

This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs, and the Department of Alcoholic Beverage Control from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 464.5 is added to the Business and
2 Professions Code, to read:
3 464.5. The department and any board shall not revoke a license
4 for failure to comply with any COVID-19 emergency orders, unless
5 the department or board can prove that lack of compliance resulted
6 in the transmission of COVID-19.
7 SEC. 2. Section 24200.8 is added to the Business and
8 Professions Code, to read:
9 24200.8. The Department of Alcoholic Beverage Control shall
10 not revoke the license of any licensee for failure to comply with
11 any COVID-19 emergency orders unless the department can prove
12 that lack of compliance resulted in transmission of COVID-19.
13 SEC. 3. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or safety within
15 the meaning of Article IV of the California Constitution and shall
16 go into immediate effect. The facts constituting the necessity are:
17 In order to protect businesses, including small businesses, which
18 continue to make significant contributions to economic security,
19 which helps ensure public safety, during these unprecedented times
20 caused by the COVID-19 pandemic, as soon as possible, it is
21 necessary for this act to take effect immediately

MEMORANDUM

DATE	March 3, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(2) – AB 1236 (Ting): Healing arts: licensees: data collection.

Background:

This bill would require all boards that oversee healing arts licensees to collect specified demographic information and to post the information on the internet websites that they each maintain. Information shall be collected at the time of the initial electronic application for licensure or license renewal. Beginning July 1, 2022, it would require each board, or the Department of Consumer Affairs on its behalf, 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 Business and Professions

Status: 3/4/2021 Referred to Committee on Business and Professions

Action Requested:

Due to the anticipated cost to implement this bill, and the Board's need for a fee increase in the near future, staff is recommending the Legislative and Regulatory Affairs Committee watch AB 1236.

Attachment A: AB 1236 (Ting) Bill Analysis

Attachment B: AB 1236 (Ting) Bill Text

2021 Bill Analysis

Author: Ting	Bill Number: AB 1236	Related Bills: AB 2102 (Ting, 2014)
Sponsor: Author	Version: Introduced	
Subject: Healing arts: licensees: data collection		

SUMMARY

This bill would require all boards that oversee healing arts licensees to collect specified demographic information and to post the information on the internet websites that they each maintain. Information shall be collected at the time of the initial electronic application for licensure or license renewal.

Beginning July 1, 2022, it would require each board, or the Department of Consumer Affairs on its behalf, 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.

RECOMMENDATION

WATCH – Due to the anticipated cost of implementing this bill, and the Board’s need for a fee increase in the near future, staff is recommending the Legislative and Regulatory Affairs Committee **Watch** AB 1236.

REASON FOR THE BILL

Per the Author, this bill will expand on AB 2102 (Ting, 2014) by requiring the collection of demographic data for all registered health professions under DCA. The demographic data collected includes race/ethnicity, gender, language(s) spoken, location of practice, and educational background. This information will be compiled and shared with the Healthcare Workforce Clearinghouse for identifying and addressing disparities in the workforce so the state can have a greater sense of the workforce shortage needs across California and conduct more targeted outreach strategies.

This data is critical in helping California build and support the robust and diverse health workforce required to meet California’s changing demographics and growing demands for healthcare services, as outlined in the California Future Health Workforce Commission’s 2019 report.

ANALYSIS

This bill would affect multiple sections of the Business and Professions Code (BPC). It would add section 502 to the Business and Professions Code and repeal sections 2717, 2852.5, 3518.1, 3770.1 and 4506.

BPC Section 502 would require any board that supervises healing arts licensees under this division to collect workforce data from its licensees as specified in subdivision (b) for future workforce planning. The data should be collected at the time of the initial application for licensure or license renewal, or at least biennially from a scientifically selected random sample of licensees. The workforce data collected by each board shall include, at a minimum, information about 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
- H. Gender or gender identity.
- I. Languages spoken.
- J. Educational background.
- K. Future work intentions.
- L. Job satisfaction ratings.

A licensee may, but is not required to, report their race or ethnicity. Each board shall maintain the confidentiality of the information it receives from licensees under this section and shall only release information in the aggregate so that it cannot be used to identify an individual. Each board shall produce reports containing the workforce data it collects, at a minimum, on a biennial basis. The aggregate data collected shall be posted on each board's internet website.

This bill would also repeal BCP sections 2177, 2852.5 3518.1, 3770.1, and 4506. These sections require the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California and the Board of Vocational Nursing and Psychiatric Technicians to collect and report specific demographic data relating to their licensees, subject to a licensee's discretion to report their race and ethnicity, to the Office of Statewide Health Planning and Development, at least biennially, at the times of both issuing an initial license and issuing a renewal license.

Conversation with the Author's Office

The Author's office believes we must expand demographic data collection on healthcare workers in order to better serve the needs of our diverse state. By expanding demographic data collection, the state can better identify healthcare disparities and craft solutions to ensure comprehensive coverage and greater healthcare access for all Californians.

Example

Based on the Author's intent, here is an example of how this would affect the Board:

The Board would be required to update its online applications for licensure and renewal, as well as information in BreEZe, to include the data points requested in the language.

Current Practice

Assembly Bill 2102 (Ting, 2014), required that the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California, and the Board of Vocational Nursing and Psychiatric Technicians 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.

Items for Consideration

The collection of demographic data may help programs understand and respond to the diversity of their professional licensee population, however, the Board currently has a structural deficit and implementing this data tracking would increase costs and employee workload. Given the reductions in licensing staff, we have seen an increase in application processing times and a decline in the Board's ability to provide adequate customer service. Amending the Board's applications, renewal forms and information in BreEZe will be burdensome to an already overworked unit. We would potentially need to hire additional staff to complete these updates and compile the required data and that would be cost prohibitive.

LEGISLATIVE HISTORY

AB 2102 (Ting, 2014) required DCA to collect demographic data on their allied health professional licensees and provide that data to the Office of Statewide Health Planning and Development (OSHPD). However, it only required data from a limited number of health care occupations, omitting psychiatrists, optometrists and dentists, behavioral health board licensees among others.

OTHER STATES' INFORMATION

Not applicable

PROGRAM BACKGROUND

The Board of Psychology protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

This bill would have a fiscal impact on the Board of Psychology.

FISCAL IMPACT

The fiscal impact of this bill is unknown, however, given the directive to collect the data from licensees, we anticipate there will be a cost to updating the application in BreEZe. Staff has asked the DCA Budget Office for an anticipated cost of this legislation.

ECONOMIC IMPACT

Not applicable

LEGAL IMPACT

Not applicable

APPOINTMENTS

Not applicable

SUPPORT/OPPOSITION

Support: SF Jewish Vocational Services (Sponsor);
California Pan-Ethnic Health Network (Sponsor)

Opposition: Unknown at this time.

ARGUMENTS

Proponents: Unknown at this time.

Opponents: Unknown at this time.

ASSEMBLY BILL

No. 1236

Introduced by Assembly Member Ting

February 19, 2021

An act to add Section 502 to, and to repeal Sections 2717, 2852.5, 3518.1, 3770.1, and 4506 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1236, as introduced, Ting. Healing arts: licensees: data collection.

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 those provisions and would, instead, 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.

This bill would, commencing July 1, 2022, require each board, or the Department of Consumer Affairs on its behalf, 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.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 502 is added to the Business and
- 2 Professions Code, to read:
- 3 502. (a) A board that supervises healing arts licensees under
- 4 this division shall collect workforce data from its licensees as
- 5 specified in subdivision (b) for future workforce planning. The
- 6 data may be collected at the time of electronic application for a
- 7 license and license renewal, or at least biennially from a
- 8 scientifically selected random sample of licensees.
- 9 (b) (1) The workforce data collected by each board about its
- 10 licensees shall include, at a minimum, information concerning all
- 11 of the following:
- 12 (A) City, county, and ZIP Code of practice.
- 13 (B) Type of employer or classification of primary practice site
- 14 among the types of practice sites specified by the board, including,
- 15 but not limited to, clinic, hospital, managed care organization, or
- 16 private practice.
- 17 (C) Work hours.
- 18 (D) Titles of positions held.
- 19 (E) Time spent in direct patient care.
- 20 (F) Clinical practice area.
- 21 (G) Race or ethnicity, subject to paragraph (2).
- 22 (H) Gender or gender identity.
- 23 (I) Languages spoken.
- 24 (J) Educational background.
- 25 (K) Future work intentions.

1 (L) Job satisfaction ratings.

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

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

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

12 (e) Each board, or the Department of Consumer Affairs on its
13 behalf, shall, beginning on July 1, 2022, and annually thereafter,
14 provide the data it collects pursuant to this section to the Office
15 of Statewide Health Planning and Development in a manner
16 directed by the office that allows for inclusion of the data into the
17 annual report it produces pursuant to Section 128052 of the Health
18 and Safety Code.

19 SEC. 2. Section 2717 of the Business and Professions Code is
20 repealed.

21 SEC. 3. Section 2852.5 of the Business and Professions Code
22 is repealed.

23 SEC. 4. Section 3518.1 of the Business and Professions Code
24 is repealed.

25 SEC. 5. Section 3770.1 of the Business and Professions Code
26 is repealed.

27 SEC. 6. Section 4506 of the Business and Professions Code is
28 repealed.

29 SEC. 7. The Legislature finds and declares that Section 1 of
30 this act, which adds Section 502 of the Business and Professions
31 Code, imposes a limitation on the public's right of access to the
32 meetings of public bodies or the writings of public officials and
33 agencies within the meaning of Section 3 of Article I of the
34 California Constitution. Pursuant to that constitutional provision,
35 the Legislature makes the following findings to demonstrate the
36 interest protected by this limitation and the need for protecting
37 that interest:

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

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MEMORANDUM

DATE	March 5, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(3) – SB 772 (Ochoa Bogh): Professions and vocations: citations: minor violations.

Background:

This bill would prohibit the assessment of an administrative fine for a minor violation and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

Location: 2/22/2021 Read first time. Pending referral to Committee.

Status: 2/22/2021 Read first time. Pending referral to Committee.

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee take an **Oppose Unless Amended** position on SB 772, requesting the removal of the Board of Psychology, as this bill would prohibit the assessment of an administrative fine for a minor violation. While violations may be deemed minor, violations speak to the character of the licensee and thus all violations should be addressed as part of a larger context.

Attachment A: SB 772 (Ochoa Bogh) Bill Analysis

Attachment B: SB 772 (Ochoa Bogh) Bill Text

2021 Bill Analysis

Author: Ochoa Bogh	Bill Number: SB 772	Related Bills:
Sponsor: Author	Version: Introduced	
Subject: Professions and vocations: citations: minor violations.		

SUMMARY

This bill would prohibit the assessment of an administrative fine for a minor violation and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

RECOMMENDATION

OPPOSED UNLESS AMENDED – Staff recommends the Legislative and Regulatory Affairs Committee take an **Oppose Unless Amended** position on SB 772, requesting the removal of the Board of Psychology, as this bill would prohibit the assessment of an administrative fine for a minor violation. While violations may be deemed minor, violations speak to the character of the licensee and thus all violations should be considered in wider context of moral character and professional competence.

REASON FOR THE BILL

Per the Author, SB 772 will provide financial relief to businesses and licensed professionals by allowing them to correct minor violations without being subject to a monetary penalty.

Small businesses make up over 99% of all businesses in California and they employ over 7 million employees. That is why they are the cornerstone of our economy. These businesses, however, are facing an increasingly difficult business environment in the state. Without the legal resources of their corporate counterparts, many small business owners are left to navigate and interpret the extremely nuanced Business and Professions Code on their own. This lack of resources often leads to minor mistakes and these mistakes, although minor, often lead to costly penalties.

Creating a business environment in the State that is conducive to growth, especially after the damaging effects the COVID-19 shutdowns have had on small businesses, will be integral to economic recovery. Providing financial relief, at a time when many

business owners and licensed professionals are facing the decision of closing their doors permanently, is inherent to restoring confidence for current and prospective businesses in California.

SB 772 would require all boards and bureaus within the DCA to adopt a program that allows licensees and business owners to correct minor violations before being subject to a monetary penalty. This bill would also direct boards and bureaus to adopt regulations to identify what types of violations are considered to be minor and would qualify for the \$0 citation program.

ANALYSIS

This bill would amend section 125.9 of the Business and Professions Code (BPC).

Existing law authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board with the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fee assessed by the board.

This bill would amend section 125.9 of the BPC to establish, by regulation, a system for the issuance of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau or commission where the licensee is in violation of the applicable licensing act.

Amendments to existing law include language that defines what a minor violation entails. A violation shall be considered minor if all of the following conditions are met:

1. The violation did not pose a serious health or safety threat.
2. There is no evidence that the violation was willful.
3. The licensee was not on probation at the time of the violation.
4. The licensee does not have a history of committing the violation.
5. The licensee corrects the violation within 30 days of the date the notice of violation is sent to the licensee.

Conversation with the Author's Office

After a conversation with the Author's office, staff are aware that the author is seeking to allow Boards like ours, to be able to determine what would qualify as a minor violation and consequently if any of those minor violations would fall into the \$0 citation program.

They are hoping to create a scenario under which businesses and/or licensees can work with their licensing boards to correct minor violations before incurring monetary fines.

Example

Based on the Author's intent, here is an example of how this would affect the Board:

The Board would be required to determine what constitutes a minor violation and subsequently if those minor violations could fall into the \$0 citation program. The Board would have the discretion to determine what falls into a minor violation category and could issue a citation if the violation is not corrected.

Current Practice

Existing law authorizes any board within the Department of Consumer Affairs to issue a citation to a licensee which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

Items for Consideration

While violations may be deemed minor, violations speak to the character of the licensee and thus all violations should be addressed as part of a larger context.

Effect on Enforcement

This bill would affect the Board's ability to issue a citation for minor violations.

LEGISLATIVE HISTORY

Not applicable

OTHER STATES' INFORMATION

Not applicable

PROGRAM BACKGROUND

The Board of Psychology protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

This bill would impact the Board of Psychology to the extent that it would curb its ability to cite and fine licensees.

FISCAL IMPACT

The fiscal impact of this bill is unknown at this time.

ECONOMIC IMPACT

Not applicable

LEGAL IMPACT

Not applicable

APPOINTMENTS

Not applicable

SUPPORT/OPPOSITION

Support: Unknown at this time.

Opposition: Unknown at this time.

ARGUMENTS

Proponents: Unknown at this time.

Opponents: Unknown at this time.

**Introduced by Senator Ochoa Bogh
(Coauthor: Senator Borgeas)**

February 19, 2021

An act to amend Section 125.9 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 772, as introduced, Ochoa Bogh. Professions and vocations: citations: minor violations.

Existing law authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board within the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

This bill would prohibit the assessment of an administrative fine for a minor violation, and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 125.9 of the Business and Professions
- 2 Code is amended to read:
- 3 125.9. (a) Except with respect to persons regulated under
- 4 Chapter 11 (commencing with Section 7500), any board, bureau,
- 5 or commission within the department, the State Board of

1 Chiropractic Examiners, and the Osteopathic Medical Board of
2 California, may establish, by regulation, a system for the issuance
3 to a licensee of a citation which may contain an order of abatement
4 or an order to pay an administrative fine assessed by the board,
5 bureau, or commission where the licensee is in violation of the
6 applicable licensing act or any regulation adopted pursuant thereto.

7 (b) The system shall contain the following provisions:

8 (1) Citations shall be in writing and shall describe with
9 particularity the nature of the violation, including specific reference
10 to the provision of law determined to have been violated.

11 (2) Whenever appropriate, the citation shall contain an order of
12 abatement fixing a reasonable time for abatement of the violation.

13 (3) In no event shall the administrative fine assessed by the
14 board, bureau, or commission exceed five thousand dollars (\$5,000)
15 for each inspection or each investigation made with respect to the
16 violation, or five thousand dollars (\$5,000) for each violation or
17 count if the violation involves fraudulent billing submitted to an
18 insurance company, the Medi-Cal program, or Medicare. In
19 assessing a fine, the board, bureau, or commission shall give due
20 consideration to the appropriateness of the amount of the fine with
21 respect to factors such as the gravity of the violation, the good
22 faith of the licensee, and the history of previous violations.

23 (4) A citation or fine assessment issued pursuant to a citation
24 shall inform the licensee that if the licensee desires a hearing to
25 contest the finding of a violation, that hearing shall be requested
26 by written notice to the board, bureau, or commission within 30
27 days of the date of issuance of the citation or assessment. If a
28 hearing is not requested pursuant to this section, payment of any
29 fine shall not constitute an admission of the violation charged.
30 Hearings shall be held pursuant to Chapter 5 (commencing with
31 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
32 Code.

33 (5) Failure of a licensee to pay a fine or comply with an order
34 of abatement, or both, within 30 days of the date of assessment or
35 order, unless the citation is being appealed, may result in
36 disciplinary action being taken by the board, bureau, or
37 commission. Where a citation is not contested and a fine is not
38 paid, the full amount of the assessed fine shall be added to the fee
39 for renewal of the license. A license shall not be renewed without
40 payment of the renewal fee and fine.

- 1 (c) The system may contain the following provisions:
2 (1) A citation may be issued without the assessment of an
3 administrative fine.
4 (2) Assessment of administrative fines may be limited to only
5 particular violations of the applicable licensing act.
6 (d) Notwithstanding any other provision of law, if a fine is paid
7 to satisfy an assessment based on the finding of a violation,
8 payment of the fine and compliance with the order of abatement,
9 if applicable, shall be represented as satisfactory resolution of the
10 matter for purposes of public disclosure.
11 (e) Administrative fines collected pursuant to this section shall
12 be deposited in the special fund of the particular board, bureau, or
13 commission.
14 (f) *A licensee shall not be assessed an administrative fine for a*
15 *violation of the applicable licensing act or any regulation adopted*
16 *pursuant to the act if the violation is a minor violation. A violation*
17 *shall be considered minor if all of the following conditions are*
18 *satisfied:*
19 (1) *The violation did not pose a serious health or safety threat.*
20 (2) *There is no evidence that the violation was willful.*
21 (3) *The licensee was not on probation at the time of the*
22 *violation.*
23 (4) *The licensee does not have a history of committing the*
24 *violation.*
25 (5) *The licensee corrects the violation within 30 days from the*
26 *date notice of the violation is sent to the licensee.*

MEMORANDUM

DATE	March 2, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #7(b)(1) – AB 32 (Aguiar-Curry) Telehealth

Background:

This bill would require the State Department of Health Care Services to indefinitely continue the telehealth flexibilities in place during the COVID-19 pandemic state of emergency. The bill would require the department, by January 2022, to convene an advisory group with specified membership to provide input to the department on the development of a revised Medi-Cal telehealth policy that promotes specified principles. The bill would require the department, by December 2024, to complete an evaluation to assess the benefits of telehealth in Medi-Cal, including an analysis of improved access for patients, changes in health quality outcomes and utilization, and best practices for the right mix of in-person visits and telehealth. The bill would require the department to report its findings and recommendations from the evaluation to the appropriate policy and fiscal committees of the Legislature no later than July 1, 2025.

Location: Assembly Committee on Health

Status: 2/16/2021 Re-referred to Committee on Health.

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch AB 32 (Aguiar-Curry).

Attachment A: AB 32 (Aguiar-Curry) Bill Text

AMENDED IN ASSEMBLY FEBRUARY 12, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 32

**Introduced by Assembly Member Aguiar-Curry
(Coauthors: Assembly Members Arambula, Bauer-Kahan, Burke,
Cunningham, Cristina Garcia, Petrie-Norris, Quirk-Silva,
Blanca Rubio, and Santiago)**

December 7, 2020

An act to amend Section 2290.5 of the *Business and Professions Code*, to amend Section 1374.14 of the *Health and Safety Code*, to amend Section 10123.855 of the *Insurance Code*, and to amend Section 14087.95 of, and to add Sections ~~14092.4~~ 14092.4, 14132.721, and 14132.722 to, the *Welfare and Institutions Code*, relating to telehealth.

LEGISLATIVE COUNSEL'S DIGEST

AB 32, as amended, Aguiar-Curry. Telehealth.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Under existing law, Medi-Cal services may be provided pursuant to contracts with various types of managed care health plans, including through a county organized health system. Under existing law, in-person contact between a health care provider and a patient is not required under the Medi-Cal program for services appropriately provided through telehealth. Existing law provides that neither face-to-face contact nor a patient's physical presence on the premises of an enrolled community clinic is required for services provided by the clinic to a Medi-Cal beneficiary during or immediately

following a proclamation declaring a state of emergency. Existing law defines “immediately following” for this purpose to mean up to 90 days following the termination of the proclaimed state of emergency, unless there are extraordinary circumstances.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a contract issued, amended, or renewed on or after January 1, 2021, between a health care service plan or health insurer and a health care provider to require the plan or insurer to reimburse the provider for the diagnosis, consultation, or treatment of an enrollee, subscriber, insured, or policyholder appropriately delivered through telehealth services on the same basis and to the same extent as the same service through in-person diagnosis, consultation, or treatment. Existing law requires a health care service plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2021, to specify that coverage is provided for health care services appropriately delivered through telehealth on the same basis and to the same extent as in-person diagnosis, consultation, or treatment. Existing law exempts Medi-Cal managed care plans that contract with the State Department of Health Care Services under the Medi-Cal program from these provisions, and generally exempts county organized health systems that provide services under the Medi-Cal program from Knox-Keene.

This bill would delete the above-described references to contracts issued, amended, or renewed on or after January 1, 2021, would require these provisions to apply to the plan or insurer’s contracted entity, as specified, and would delete the exemption for Medi-Cal managed care plans. The bill would subject county organized health systems, and their subcontractors, that provide services under the Medi-Cal program to the above-described Knox-Keene requirements relative to telehealth. The bill would authorize a provider to enroll or recertify an individual in *specified* Medi-Cal programs through telehealth and other forms of virtual communication, *and would authorize a county eligibility worker to determine eligibility for, or recertify eligibility for, the Medi-Cal Minor Consent program remotely through virtual communication*, as specified.

This bill would require health care services furnished by an enrolled clinic through telehealth to be reimbursed by Medi-Cal on the same basis, to the same extent, and at the same payment rate as those services

are reimbursed if furnished in person. The bill would prohibit the State Department of Health Care Services from restricting the ability of an enrolled clinic to provide and be reimbursed for services furnished through telehealth. The bill would require the ~~State Department of Health Care Services~~ department to indefinitely continue the telehealth flexibilities in place during the COVID-19 pandemic state of emergency. The bill would require the department, by January 2022, to convene an advisory group with specified membership to provide input to the department on the development of a revised Medi-Cal telehealth policy that promotes specified principles. The bill would require the department, by December 2024, to complete an evaluation to assess the benefits of telehealth in Medi-Cal, including an analysis of improved access for patients, changes in health quality outcomes and utilization, and best practices for the right mix of in-person visits and telehealth. The bill would require the department to report its findings and recommendations from the evaluation to the appropriate policy and fiscal committees of the Legislature no later than July 1, 2025.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
 2 following:
- 3 (1) The Legislature has recognized the practice of telehealth as
 4 a legitimate means by which an individual may receive health care
 5 services from a health care provider without in-person contact with
 6 the provider, and enacted protections in Section 14132.72 of the
 7 Welfare and Institutions Code to prevent the State Department of
 8 Health Care Services from restricting or limiting telehealth
 9 services.
- 10 (2) The use of telehealth was expanded during the COVID-19
 11 pandemic public health emergency and has proven to be an
 12 important modality for patients to stay connected to their health
 13 care providers. Telehealth has been especially critical for
 14 California’s Medi-Cal patients.
- 15 (3) Patients have reported high satisfaction with telehealth,
 16 noting how easy it is to connect with their care teams without
 17 having to take time off work, find childcare, or find transportation
 18 to an in-person appointment.

1 (4) In addition to video access, audio-only care is essential
2 because many patients have reported challenges accessing video
3 technology due to limitations with data plans and internet access.

4 (5) Primary care and specialty care providers have found
5 telehealth to be a critical access point to address a variety of health
6 care needs, including helping patients manage chronic disease,
7 adjust pain medications, and for followup visits after a procedure,
8 among others.

9 (6) Behavioral health providers have found that offering
10 telehealth has engaged patients in necessary care they would never
11 have received if required to walk into a clinic.

12 (7) Health care providers have reported significant decreases
13 in the number of missed appointments since telehealth became
14 available, helping to ensure that patients receive high-quality care
15 in a timely manner.

16 (8) Telehealth is widely available to individuals with health
17 insurance in the commercial market, and existing law in Section
18 1374.14 of the Health and Safety Code and Section 10123.855 of
19 the Insurance Code requires commercial health care service plans
20 and health insurers to pay for services delivered through telehealth
21 services on the same basis as equivalent services furnished in
22 person. Medi-Cal must evolve with the rest of the health care
23 industry to achieve health equity for low-income Californians.

24 (9) The expanded telehealth options that patients and providers
25 have relied on during the COVID-19 pandemic should continue
26 to be available to Medi-Cal recipients after the public health
27 emergency is over.

28 (b) It is the intent of the Legislature to continue the provision
29 of telehealth in Medi-Cal, including video and audio-only
30 technology, for the purposes of expanding access and enhancing
31 delivery of health care services for beneficiaries.

32 *SEC. 2. Section 2290.5 of the Business and Professions Code*
33 *is amended to read:*

34 2290.5. (a) For purposes of this division, the following
35 definitions shall apply:

36 (1) “Asynchronous store and forward” means the transmission
37 of a patient’s medical information from an originating site to the
38 health care provider at a distant site.

1 (2) “Distant site” means a site where a health care provider who
2 provides health care services is located while providing these
3 services via a telecommunications system.

4 (3) “Health care provider” means any of the following:

5 (A) A person who is licensed under this division.

6 (B) An associate marriage and family therapist or marriage and
7 family therapist trainee functioning pursuant to Section 4980.43.3.

8 (C) A qualified autism service provider or qualified autism
9 service professional certified by a national entity pursuant to
10 Section 1374.73 of the Health and Safety Code and Section
11 10144.51 of the Insurance Code.

12 (4) “Originating site” means a site where a patient is located at
13 the time health care services are provided via a telecommunications
14 system or where the asynchronous store and forward service
15 originates.

16 (5) “Synchronous interaction” means a real-time ~~interaction~~
17 *interaction, including, but not limited to, audiovideo, audio only,*
18 *such as telephone, and other virtual communication,* between a
19 patient and a health care provider located at a distant site.

20 (6) “Telehealth” means the mode of delivering health care
21 services and public health via information and communication
22 technologies to facilitate the diagnosis, consultation, treatment,
23 education, care management, and self-management of a patient’s
24 health care. Telehealth facilitates patient self-management and
25 caregiver support for patients and includes synchronous interactions
26 and asynchronous store and forward transfers.

27 (b) Before the delivery of health care via telehealth, the health
28 care provider initiating the use of telehealth shall inform the patient
29 about the use of telehealth and obtain verbal or written consent
30 from the patient for the use of telehealth as an acceptable mode of
31 delivering health care services and public health. The consent shall
32 be documented.

33 (c) This section does not preclude a patient from receiving
34 in-person health care delivery services during a specified course
35 of health care and treatment after agreeing to receive services via
36 telehealth.

37 (d) The failure of a health care provider to comply with this
38 section shall constitute unprofessional conduct. Section 2314 shall
39 not apply to this section.

1 (e) This section shall not be construed to alter the scope of
 2 practice of a health care provider or authorize the delivery of health
 3 care services in a setting, or in a manner, not otherwise authorized
 4 by law.

5 (f) All laws regarding the confidentiality of health care
 6 information and a patient’s rights to the patient’s medical
 7 information shall apply to telehealth interactions.

8 (g) All laws and regulations governing professional
 9 responsibility, unprofessional conduct, and standards of practice
 10 that apply to a health care provider under the health care provider’s
 11 license shall apply to that health care provider while providing
 12 telehealth services.

13 (h) This section shall not apply to a patient under the jurisdiction
 14 of the Department of Corrections and Rehabilitation or any other
 15 correctional facility.

16 (i) (1) Notwithstanding any other law and for purposes of this
 17 section, the governing body of the hospital whose patients are
 18 receiving the telehealth services may grant privileges to, and verify
 19 and approve credentials for, providers of telehealth services based
 20 on its medical staff recommendations that rely on information
 21 provided by the distant-site hospital or telehealth entity, as
 22 described in Sections 482.12, 482.22, and 485.616 of Title 42 of
 23 the Code of Federal Regulations.

24 (2) By enacting this subdivision, it is the intent of the Legislature
 25 to authorize a hospital to grant privileges to, and verify and approve
 26 credentials for, providers of telehealth services as described in
 27 paragraph (1).

28 (3) For the purposes of this subdivision, “telehealth” shall
 29 include “telemedicine” as the term is referenced in Sections 482.12,
 30 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

31 ~~SEC. 2.~~

32 *SEC. 3.* Section 1374.14 of the Health and Safety Code is
 33 amended to read:

34 1374.14. (a) (1) A contract between a health care service plan
 35 and a health care provider for the provision of health care services
 36 to an enrollee or subscriber shall specify that the health care service
 37 plan shall reimburse the treating or consulting health care provider
 38 for the diagnosis, consultation, or treatment of an enrollee or
 39 subscriber appropriately delivered through telehealth services on
 40 the same basis and to the same extent that the health care service

1 plan is responsible for reimbursement for the same service through
2 in-person diagnosis, consultation, or treatment.

3 (2) This section does not limit the ability of a health care service
4 plan and a health care provider to negotiate the rate of
5 reimbursement for a health care service provided pursuant to a
6 contract subject to this section. Services that are the same, as
7 determined by the provider's description of the service on the
8 claim, shall be reimbursed at the same rate whether provided in
9 person or through telehealth. When negotiating a rate of
10 reimbursement for telehealth services for which no in-person
11 equivalent exists, a health care service plan and the provider shall
12 ensure the rate is consistent with subdivision (h) of Section 1367.

13 (3) This section does not require telehealth reimbursement to
14 be unbundled from other capitated or bundled, risk-based payments.

15 (4) If a health care service plan delegates responsibility for the
16 performance of the duties described in this section to a contracted
17 entity, including a medical group or independent practice
18 association, then the delegated entity shall comply with this section.

19 (5) The obligation of a health care service plan to comply with
20 this section shall not be waived if the plan delegates services or
21 activities that the plan is required to perform to its provider or
22 another contracting entity. A plan's implementation of this section
23 shall be consistent with the requirements of the Health Care
24 Providers' Bill of Rights, and a material change in the obligations
25 of a plan's contracting network providers shall be considered a
26 material change to the provider contract, within the meaning of
27 subdivision (b) Section 1375.7.

28 (b) (1) A health care service plan contract shall specify that the
29 health care service plan shall provide coverage for health care
30 services appropriately delivered through telehealth services on the
31 same basis and to the same extent that the health care service plan
32 is responsible for coverage for the same service through in-person
33 diagnosis, consultation, or treatment. Coverage shall not be limited
34 only to services delivered by select third-party corporate telehealth
35 providers.

36 (2) This section does not alter the obligation of a health care
37 service plan to ensure that enrollees have access to all covered
38 services through an adequate network of contracted providers, as
39 required under Sections 1367, 1367.03, and 1367.035, and the
40 regulations promulgated thereunder.

1 (3) This section does not require a health care service plan to
2 cover telehealth services provided by an out-of-network provider,
3 unless coverage is required under other law.

4 (c) A health care service plan may offer a contract containing
5 a copayment or coinsurance requirement for a health care service
6 delivered through telehealth services, provided that the copayment
7 or coinsurance does not exceed the copayment or coinsurance
8 applicable if the same services were delivered through in-person
9 diagnosis, consultation, or treatment. This subdivision does not
10 require cost sharing for services provided through telehealth.

11 (d) Services provided through telehealth and covered pursuant
12 to this chapter shall be subject to the same deductible and annual
13 or lifetime dollar maximum as equivalent services that are not
14 provided through telehealth.

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

17 ~~SEC. 3.~~

18 *SEC. 4.* Section 10123.855 of the Insurance Code is amended
19 to read:

20 10123.855. (a) (1) A contract between a health insurer and a
21 health care provider for an alternative rate of payment pursuant to
22 Section 10133 shall specify that the health insurer shall reimburse
23 the treating or consulting health care provider for the diagnosis,
24 consultation, or treatment of an insured or policyholder
25 appropriately delivered through telehealth services on the same
26 basis and to the same extent that the health insurer is responsible
27 for reimbursement for the same service through in-person
28 diagnosis, consultation, or treatment.

29 (2) This section does not limit the ability of a health insurer and
30 a health care provider to negotiate the rate of reimbursement for
31 a health care service provided pursuant to a contract subject to this
32 section. Services that are the same, as determined by the provider's
33 description of the service on the claim, shall be reimbursed at the
34 same rate whether provided in person or through telehealth. When
35 negotiating a rate of reimbursement for telehealth services for
36 which no in-person equivalent exists, a health insurer and the
37 provider shall ensure the rate is consistent with subdivision (a) of
38 Section 10123.137.

39 (3) If a health insurer delegates responsibility for the
40 performance of the duties described in this section to a contracted

1 entity, including a medical group or independent practice
2 association, then the delegated entity shall comply with this section.

3 (4) The obligation of a health insurer to comply with this section
4 shall not be waived if the insurer delegates services or activities
5 that the insurer is required to perform to its provider or another
6 contracting entity. An insurer's implementation of this section
7 shall be consistent with the requirements of the Health Care
8 Providers' Bill of Rights, and a material change in the obligations
9 of an insurer's contracting network providers shall be considered
10 a material change to the provider contract, within the meaning of
11 subdivision (b) Section 10133.65.

12 (b) (1) A policy of health insurance that provides benefits
13 through contracts with providers at alternative rates of payment
14 shall specify that the health insurer shall provide coverage for
15 health care services appropriately delivered through telehealth
16 services on the same basis and to the same extent that the health
17 insurer is responsible for coverage for the same service through
18 in-person diagnosis, consultation, or treatment. Coverage shall not
19 be limited only to services delivered by select third-party corporate
20 telehealth providers.

21 (2) This section does not alter the existing statutory or regulatory
22 obligations of a health insurer to ensure that insureds have access
23 to all covered services through an adequate network of contracted
24 providers, as required by Sections 10133 and 10133.5 and the
25 regulations promulgated thereunder.

26 (3) This section does not require a health insurer to deliver health
27 care services through telehealth services.

28 (4) This section does not require a health insurer to cover
29 telehealth services provided by an out-of-network provider, unless
30 coverage is required under other law.

31 (c) A health insurer may offer a policy containing a copayment
32 or coinsurance requirement for a health care service delivered
33 through telehealth services, provided that the copayment or
34 coinsurance does not exceed the copayment or coinsurance
35 applicable if the same services were delivered through in-person
36 diagnosis, consultation, or treatment. This subdivision does not
37 require cost sharing for services provided through telehealth.

38 (d) Services provided through telehealth and covered pursuant
39 to this chapter shall be subject to the same deductible and annual

1 or lifetime dollar maximum as equivalent services that are not
2 provided through telehealth.

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

5 ~~SEC. 4.~~

6 *SEC. 5.* Section 14087.95 of the Welfare and Institutions Code
7 is amended to read:

8 14087.95. (a) A county contracting with the department
9 pursuant to this article shall be exempt from Chapter 2.2
10 (commencing with Section 1340) of Division 2 of the Health and
11 Safety Code for purposes of carrying out the contracts.

12 (b) (1) Notwithstanding subdivision (a), a county contracting
13 with the department pursuant to this article shall comply with
14 Section 1374.14 of the Health and Safety Code.

15 (2) If a county subcontracts for the provision of services pursuant
16 to this article, as authorized under Section 14087.6, the
17 subcontractor shall comply with Section 1374.14 of the Health
18 and Safety Code.

19 ~~SEC. 5.~~ ~~Section 14092.4 is added to the Welfare and~~
20 ~~Institutions Code, immediately following Section 14092.35, to~~
21 ~~read:~~

22 ~~14092.4. For the purposes of enrolling patients in programs~~
23 ~~administered through Medi-Cal, including the Family Planning,~~
24 ~~Access, Care, and Treatment (Family PACT), presumptive~~
25 ~~eligibility Programs, accelerated enrollment programs, and the~~
26 ~~Medi-Cal Minor Consent program, a provider may determine~~
27 ~~program eligibility, enroll, and recertify patients remotely through~~
28 ~~telehealth and other virtual communication modalities, including~~
29 ~~telephone, based on the current Medi-Cal program criteria. The~~
30 ~~department may develop program policies and systems to support~~
31 ~~implementation of offsite eligibility determination, enrollment,~~
32 ~~and recertification.~~

33 *SEC. 6.* *Section 14092.4 is added to the Welfare and Institutions*
34 *Code, immediately following Section 14092.35, to read:*

35 14092.4. (a) *To enroll individuals in Medi-Cal programs that*
36 *permit onsite enrollment and recertification of individuals by a*
37 *provider or county eligibility worker as applicable, the following*
38 *shall apply:*

39 (1) *For the Family Planning, Access, Care, and Treatment*
40 *(Family PACT), Presumptive Eligibility for Pregnant Women, and*

1 *Every Woman Counts programs, a provider may enroll or recertify*
2 *an individual remotely through telehealth and other virtual*
3 *communication modalities, including telephone, based on the*
4 *current Medi-Cal program eligibility form or forms applicable to*
5 *the specific program.*

6 *(2) For the Medi-Cal Minor Consent program, a county*
7 *eligibility worker may determine eligibility for, or recertify*
8 *eligibility for, an individual remotely through virtual*
9 *communication modalities, including telephone.*

10 *(b) The department may develop program policies and systems*
11 *to support implementation of remote eligibility determination,*
12 *enrollment, and recertification, consistent with this section.*

13 *(c) Notwithstanding Chapter 3.5 (commencing with Section*
14 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
15 *the department may implement, interpret, or make specific this*
16 *section by means of all-county letters, plan letters, plan or provider*
17 *bulletins, or similar instructions, without taking regulatory action.*

18 *SEC. 7. Section 14132.721 is added to the Welfare and*
19 *Institutions Code, immediately following Section 14132.72, to*
20 *read:*

21 *14132.721. (a) Notwithstanding any other law, health care*
22 *services furnished by an enrolled clinic through telehealth shall*
23 *be reimbursed by Medi-Cal on the same basis, to the same extent,*
24 *and at the same payment rate as those services are reimbursed if*
25 *furnished in person, consistent with this section.*

26 *(b) Consistent with the protections for health care providers set*
27 *forth in the Telehealth Advancement Act of 2011, including Section*
28 *14132.72, the department shall not restrict the ability of an enrolled*
29 *clinic to provide and be reimbursed for services furnished through*
30 *telehealth. Prohibited restrictions include all of the following:*

31 *(1) Requirements for face-to-face contact between an enrolled*
32 *clinic provider and a patient.*

33 *(2) Requirements for a patient's or provider's physical presence*
34 *at the enrolled clinic or any other location.*

35 *(3) Requirements for prior in-person contacts between the*
36 *enrolled clinic and a patient.*

37 *(4) Requirements for documentation of a barrier to an in-person*
38 *visit or a special need for a telehealth visit.*

39 *(5) Policies, including reimbursement policies, that impose*
40 *more stringent requirements on telehealth services than equivalent*

1 services furnished in person. This paragraph does not prohibit
2 policies that require all of the clinical elements of a service to be
3 met as a condition of reimbursement.

4 (6) Limitations on the means or technologies through which
5 telehealth services are furnished.

6 (c) Notwithstanding the in-person requirements of Section
7 14132.100, if an enrolled clinic is also a federally qualified health
8 center or a rural health center, the definition of “visit” set forth
9 in subdivision (g) of Section 14132.100 includes a telehealth
10 encounter to the same extent it includes an in-person encounter.

11 (d) This section does not eliminate the obligation of a health
12 care provider to obtain verbal or written consent from the patient
13 before delivery of health care via telehealth or the rights of the
14 patient, pursuant to subdivisions (b) and (c) of Section 2290.5 of
15 the Business and Professions Code.

16 (e) This section does not conflict with or supersede the
17 requirements for health care service plan contracts set forth in
18 Section 1374.14 of the Health and Safety Code and the
19 requirements for health insurance policies set forth in Section
20 10123.855 of the Insurance Code.

21 (f) This section does not limit reimbursement for or coverage
22 of, or reduce access to, services provided through telehealth before
23 the enactment of this section.

24 (g) The department shall require Medi-Cal managed care plans,
25 through contract or otherwise, to adhere to the requirements of
26 this section.

27 (h) Notwithstanding Chapter 3.5 (commencing with Section
28 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
29 the department may implement, interpret, and make specific this
30 section by means of all-county letters, plan letters, plan or provider
31 bulletins, or similar instructions, without taking regulatory action.

32 (i) The department shall seek any necessary federal approvals
33 and obtain federal financial participation in implementing this
34 section. This section shall be implemented only to the extent that
35 any necessary federal approvals are obtained and federal financial
36 participation is available and not otherwise jeopardized.

37 (j) For purposes of this section:

38 (1) “Enrolled clinic” means any of the following:

39 (A) A clinic licensed pursuant to subdivision (a) of Section 1204
40 of the Health and Safety Code.

1 (B) An intermittent clinic exempt from licensure under
2 subdivision (h) of Section 1206 of the Health and Safety Code.

3 (C) A hospital or nonhospital-based clinic operated by the state
4 or any of its political subdivisions, including the University of
5 California, or a city, county, city and county, or hospital authority.

6 (D) A tribal clinic exempt from licensure under subdivision (c)
7 of Section 1206 of the Health and Safety Code, or an outpatient
8 setting conducted, maintained, or operated by a federally
9 recognized Indian tribe, tribal organization, or urban Indian
10 organization, as defined in Section 1603 of Title 25 of the United
11 States Code.

12 (2) “Telehealth” has the same meaning as in subdivision (a) of
13 Section 2290.5 of the Business and Professions Code, which
14 includes audio-only telephone communication technologies.

15 ~~SEC. 6. Section 14132.722 is added to the Welfare and~~
16 ~~Institutions Code, immediately following Section 14132.72, to~~
17 ~~read:~~

18 *SEC. 8. Section 14132.722 is added to the Welfare and*
19 *Institutions Code, immediately following Section 14132.721, to*
20 *read:*

21 14132.722. (a) The department shall indefinitely continue the
22 telehealth flexibilities in place during the COVID-19 pandemic,
23 including those implemented pursuant to Section 14132.723.

24 (b) (1) By January 2022, the department shall convene an
25 advisory group that includes representatives from community
26 health centers, designated public hospitals, Medi-Cal managed
27 care plans, consumer groups, labor organizations, behavioral health
28 providers, counties, and other Medi-Cal providers.

29 (2) The advisory group shall provide input to the department
30 on the development of a revised Medi-Cal telehealth policy that
31 promotes all of the following principles:

32 (A) Telehealth shall be used as a means to promote timely and
33 patient-centered access to health care.

34 (B) Patients, in conjunction with their providers, shall be offered
35 their choice of service delivery mode. Patients shall retain the right
36 to receive health care in person.

37 (C) Confidentiality and security of patient information shall be
38 protected.

1 (D) Usual standard of care requirements shall apply to services
2 provided via telehealth, including quality, safety, and clinical
3 effectiveness.

4 (E) The department shall consider disparities in the utilization
5 of, and access to, telehealth, and shall support patients and
6 providers in increasing access to the technologies needed to use
7 telehealth.

8 (F) When the care provided during a telehealth visit is
9 commensurate with what would have been provided in person,
10 payment shall also be commensurate.

11 (c) (1) By December 2024, the department shall complete an
12 evaluation to assess the benefits of telehealth in Medi-Cal. The
13 evaluation shall analyze improved access for patients, changes in
14 health quality outcomes and utilization, and best practices for the
15 right mix of in-person visits and telehealth.

16 (2) The department shall report its findings and
17 recommendations on the evaluation to the appropriate policy and
18 fiscal committees of the Legislature no later than July 1, 2025.

MEMORANDUM

DATE	March 2, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #7(b)(2) – AB 107 (Salas) Licensure: veterans and military spouses

Background:

This bill would expand the requirement in Business and Professions Code (BPC) 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 among others, the Board of Psychology. 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 June 15, 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.

Under BPC 2946, the Board of Psychology allows a psychologist certified or licensed in another state or province and who has submitted an application to the board for a license in this state to perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting his or her application or from the commencement of residency in this state, whichever occurs first.

Staff spoke with the author's office and sponsor, who advised they are willing to assist the Board in making the necessary modifications to BPC 2946 to include the Board under the exemption above. Amendments to BPC 2946 can be found at the end of the analysis.

Location: Assembly Committee on Business and Professions

Status: 3/01/2021 Re-referred to Committee on Business and Professions.

Action Requested:

Staff requests the Legislative and Regulatory Affairs Committee discuss this bill and recommend the Committee move to approve a **Support if Amended** position with suggested amendments to BPC 2946.

Attachment A: AB 107 (Salas) Bill Text

2021 Bill Analysis

Author: Salas	Bill Number: AB 107	Related Bills: AB 225 (Gray)
Sponsor: United States Department of Defense	Version: Introduced	
Subject: Licensure: veterans and military spouses.		

SUMMARY

This bill would expand the requirement in Business and Professions Code (BPC) 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 among others, the Board of Psychology.

AB 107 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 June 15, 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.

Under BPC 2946, the Board of Psychology allows a psychologist certified or licensed in another state or province, who has submitted an application to the board for a license in this state, to perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting his or her application or from the commencement of residency in this state, whichever occurs first.

RECOMMENDATION

Support if Amended - Staff requests the Legislative and Regulatory Affairs Committee discuss this bill and recommend the Committee move to approve a **Support if Amended** position with suggested amendments to BPC 2946.

REASON FOR THE BILL

According to the author, in 2019, the Blue Star Families' annual military family survey found that service members and their spouses ranked financial stress as their greatest

concern, even over deployment. A separate 2019 report from the National Foundation for Credit Counseling found that almost 90 percent of service members and 84 percent of spouses or partners have worries about their personal finances.

Importantly, almost 35 percent of military spouses work in a profession that requires a license in order to be employed. The process of transferring a license or applying for a new California license can be time consuming and take months for approval, time that many military families don't have. In light of this, AB 186 (Maienschein, 2014) created a temporary license program for military spouses that allows a military spouse to quickly receive a California license that expires after 12 months or after an expedited license is issued. This program currently covers registered nursing licenses, medical licenses, veterinarian licenses, and others.

There are, however, some professions that are left out of this program that stand to benefit many military spouses. 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. AB 107 expands the number 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.

ANALYSIS

This bill makes a number of changes to the Business and Professions code. It amends Sections 115.6 and adds Section 115.7. It also adds Section 95 to the Military and Veterans Code, relating to licensure.

The amendments to Section 115.6 would require that boards within the department, including the Board of Psychology, issue temporary licenses to eligible applicants within 30 days of receiving the required documents attesting to that the applicant meets the necessary requirements. This bill requires applicants to show proof of honorable discharge or marriage, domestic partnership or other legal union with an active duty member of the Armed Forces of the United States. It also requires that the applicant hold a current, active, unrestricted license to practice in another state or territory of the United States in the profession or vocation for which the applicant seeks a license from the board. Applicants must also include a signed affidavit with their application attesting to the fact that they meet all necessary requirements for licensure. Additionally, applicants shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license or have been disciplined by the licensing entity in another jurisdiction. The applicant shall submit, upon request, a full set of finger prints for the purposes of conducting a criminal background check.

Further amendments to this section require that a board submit to the department for approval draft regulations necessary to administer this section by June 15, 2022.

Amendments to Section 115.6 does not apply to boards, like the Board of Psychology, that have a process in place under 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. Staff has met with the Author's office and the Department of Defense and believes the Board of Psychology falls within this exemption.

Section 115.7 is added to BPC to include the aforementioned applicant requirements in Section 115.6.

Section 95 is added to the Military Veterans code and directs DCA to do the following:

The Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health are required to prominently display a military licensure icon or hyperlink on the home page of their internet websites, linked to information for each occupational board or program for licensure or certification that it administers.

In addition to general licensure or certificate information, the following information must be displayed:

(1) The licensing agency's process for expediting applications for service members, veterans, and spouses, including the average processing times for expedited applications and the number of expedited applications requested in the calendar year.

(2) The availability of temporary or provisional licensure, specific requirements needed to obtain a temporary or provisional license, and how long the provisional or temporary license is valid.

(c) (1) The Department of Consumer Affairs shall establish a specific gateway aligned with the existing "Board and Bureau Military Contact Information," "Expedited Licensure," and "Renewal Fee Waivers" gateways on their Military Member Resources page, including a list of all boards that provide temporary or provisional licensure, with hyperlinks linking to each board's military licensure data.

(2) The Department of Consumer Affairs shall establish a "Licensure by Endorsement" section on its internet website listing all boards that offer an option for licensure by endorsement, accompanied by a hyperlink to each board's military licensure data.

(d) The Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health shall compile information on military, veteran, and spouse licensure into an annual report for the Legislature, which shall be submitted in conformance with Section 9795 of the Government Code.

The report shall include the following:

(1) The number of applications for a license submitted by active duty service members, separating service members, veterans, or military spouses per calendar year.

(2) The number of licenses issued and denied, including reason for denial, to active duty service members, separating service members, veterans, and military spouses per calendar year.

(3) The number of licenses of active duty service members, separating service members, veterans, or military spouses that were suspended or revoked per calendar year.

(4) The number of applications for waived renewal fees received from active duty service members and military spouses per calendar year.

(5) The number of fee waivers issued to active duty service members and military spouses per calendar year.

(6) The average length of time between application and issuance of licenses for active duty service members, separating service members, veterans, or military spouses per board and occupation.

LEGISLATIVE HISTORY

AB 186 (Maienschein, 2014) added Section 115.6 to the Business and Professions Code, which established a temporary licensure process for specified licensed professions for military spouses. Section 115.6 also prescribes requirements for applicants to be issued a temporary license, including holding a current, active, and unrestricted license in another jurisdiction.

AB 2549 (Salas, 2020) sought to amend Sections 115.6 and 5132 of the Business and Professions Code, relating to professions and vocations but is currently inactive.

AB 3045 (Gray, 2020) sought to add Section 115.7 to the Business and Professions Code, relating to professions and vocations but is currently inactive.

AB 225 (Gray, 2021) seeks to amend Section 115.6 of, and to add Section 115.7 to, the Business and Professions Code, relating to professions and vocations. It will change this section to reflect that a temporary license shall expire 30 months after issuance, rather than 12 months after issuance.

OTHER STATES' INFORMATION

Not Applicable

PROGRAM BACKGROUND

The Board protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

FISCAL IMPACT

Not Applicable

ECONOMIC IMPACT

Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support: United States Department of Defense

Opposition: None on File

ARGUMENTS

Proponents: None on File

Opponents: None on File

AMENDMENTS:**§ 2946. Reciprocity licenses; Temporary practice by out-of-state licensees; Waiver of examination requirement**

The board shall grant a license to any person who passes the board's supplemental licensing examination and, at the time of application, has been licensed for at least five years by a psychology licensing authority in another state or Canadian province if the requirements for obtaining a certificate or license in that state or province were substantially equivalent to the requirements of this chapter.

A psychologist certified or licensed in another state or province and who has made application to the board for a license in this state may perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting his or her application or from the commencement of residency in this state, whichever first occurs. A psychologist certified or licensed in another state or province, 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, and who has made application to the board for a license in this state may perform activities and services of a psychological nature without a valid license for a period not to exceed a twelve (12) months.

The board at its discretion may waive the examinations, when in the judgment of the board the applicant has already demonstrated competence in areas covered by the examinations. The board at its discretion may waive the examinations for diplomates of the American Board of Professional Psychology.

AMENDED IN ASSEMBLY FEBRUARY 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 107

Introduced by Assembly Member Salas

December 16, 2020

An act to amend Sections 115.6 and 5132 of, and to add Section 115.7 to, the Business and Professions Code, and to add Section 95 to the Military and Veterans Code, relating to ~~professions and vocations~~: licensure, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 107, as amended, Salas. ~~Department of Consumer Affairs: boards: temporary licenses:~~ *Licensure: veterans and military spouses.*

(1) Under existing law, the Department of Consumer Affairs (department), under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations. Existing law requires an applicant seeking a license from a board within the department to meet specified requirements and to pay certain licensing fees. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant 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 and the applicant submits an application to the board that includes a signed affidavit attesting to the fact that the applicant meets all of the requirements for a temporary license and that the information submitted

in the application is accurate, to the best of the applicant's knowledge. Under existing law, some of the funds within the jurisdiction of a board consist of revenue from fees that are continuously appropriated. Existing law authorizes a board to adopt regulations necessary to administer these provisions.

This bill would require boards not subject to the temporary licensing provisions described above 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, as provided. 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, in the same area and scope of practice as a license issued by another state, district, or territory of the United States. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill's expansion of the requirement to issue licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.

This bill would expand the requirement to issue temporary licenses to include licenses issued by the Veterinary Medical Board, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the State Board of Barbering and Cosmetology, the Board of Psychology, the California Board of Occupational Therapy, the Physical Therapy Board of California, and the California 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 further specify that an applicant seeking a temporary license submit a signed affidavit attesting to the fact that the applicant meets all of the requirements for a temporary license in the same area and scope of practice for which the applicant holds a license in another state, district, or territory of the United States. The bill would specifically direct revenues from fees for temporary licenses issued by the California Board of Accountancy to be credited to the Accountancy Fund, a continuously appropriated fund. By establishing a new source of revenue for a continuously appropriated fund, the bill would make an appropriation. The bill would require a board to submit

to the department for approval draft regulations necessary to administer these provisions by June 15, 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. The bill would make conforming changes.

(2) Existing law requires the Department of Veterans Affairs to develop a transition assistance program for veterans who have been discharged from the Armed Forces of the United States designed to assist them in successfully transitioning from military to civilian life in California. Existing law requires the program to include, among other topics, higher education benefits, vocational training assistance, small business resources and information, and housing information. Existing law establishes the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, among other things, ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law establishes the Commission on Teacher Credentialing to establish professional standards, assessments, and examinations for entry and advancement in the education profession. Existing law makes it unlawful for a person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or real estate salesperson without first obtaining a real estate license from the Department of Real Estate. Under existing law, the State Department of Public Health is responsible for issuing licenses for the operation of health facilities, clinics, and other facilities, as specified.

This bill would require the Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health to each place a prominently displayed military licensure icon or hyperlink on the home page of its internet website that is linked to information about each occupational board or program for licensure or certification that it administers along with additional information relating to the professional licensure of veterans, service members, and their spouses, as specified. The bill requires the Department of Veterans Affairs to have a prominently displayed military licensure icon or hyperlink at an appropriate location on its internet website that links to those websites. The bill would require

an annual report to the Legislature containing specified information relating to the professional licensure of veterans, service members, and their spouses.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, the Department of Consumer Affairs, which is under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant 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 and the applicant holds 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.~~

~~This bill would express the intent of the Legislature to enact future legislation relating to temporary licenses within the Department of Consumer Affairs for military spouses.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *The Legislature finds and declares the following:*
- 2 *(a) If active duty military personnel, veterans, service members*
- 3 *separating from military service, and their spouses are able to*
- 4 *maintain careers through frequent moves and key transitions, they*
- 5 *are able to help support their families while providing critical*
- 6 *services to their communities. Yet, if a military spouse is*
- 7 *transferred to California, or a service member leaves the Armed*
- 8 *Forces of the United States and returns to or remains in California,*

1 *these professionals may face difficulty transporting their*
2 *professional licenses obtained in another state.*

3 *(b) The process for transferring licenses for professional careers*
4 *can be long, burdensome, redundant, and expensive and can*
5 *prevent some military spouses, veterans, and separating service*
6 *members from obtaining employment in their field.*

7 *(c) Removing barriers to license transfers for spouses of active*
8 *duty service members, separating service members, and veterans*
9 *would ease the burden of relocation and transition and provide*
10 *vital stability to military families and the communities they serve.*

11 *(d) Prioritizing military spouses as part of state economic*
12 *recovery efforts must be viewed proactively in a way that*
13 *recognizes their preexisting challenge of substantially higher*
14 *unemployment and underemployment than their civilian*
15 *counterparts and with broader goals, such as bridging gender*
16 *gaps in wage earning, reducing military and veteran financial*
17 *insecurity, ensuring successful transitions into veteran life, and*
18 *fostering successful community participation and sense of*
19 *belonging.*

20 *SEC. 2. Section 115.6 of the Business and Professions Code*
21 *is amended to read:*

22 115.6. (a) ~~Except as provided in subdivision (h), a board~~
23 ~~within the department shall, after appropriate investigation, issue~~
24 ~~the following eligible temporary licenses to an applicant if the~~
25 ~~applicant meets within 30 days of receiving the required~~
26 ~~documentation pursuant to meeting the requirements set forth in~~
27 ~~subdivision (c):~~

28 (1) Registered nurse license by the Board of Registered Nursing.

29 (2) Vocational nurse license issued by the Board of Vocational
30 Nursing and Psychiatric Technicians of the State of California.

31 (3) Psychiatric technician license issued by the Board of
32 Vocational Nursing and Psychiatric Technicians of the State of
33 California.

34 (4) Speech-language pathologist license issued by the
35 Speech-Language Pathology and Audiology and Hearing Aid
36 Dispensers Board.

37 (5) Audiologist license issued by the Speech-Language
38 Pathology and Audiology and Hearing Aid Dispensers Board.

39 (6) ~~Veterinarian license~~ *All licenses* issued by the Veterinary
40 Medical Board.

1 (7) All licenses issued by the Board for Professional Engineers,
2 Land Surveyors, and Geologists.

3 (8) All licenses issued by the Medical Board of California.

4 (9) All licenses issued by the Podiatric Medical Board of
5 California.

6 (10) *All licenses issued by the Dental Board of California.*

7 (11) *All licenses issued by the Dental Hygiene Board of*
8 *California.*

9 (12) *All licenses issued by the California State Board of*
10 *Pharmacy.*

11 (13) *All licenses issued by the State Board of Barbering and*
12 *Cosmetology.*

13 (14) *All licenses issued by the Board of Psychology.*

14 (15) *All licenses issued by the California Board of Occupational*
15 *Therapy.*

16 (16) *All licenses issued by the Physical Therapy Board of*
17 *California.*

18 (17) *All licenses issued by the California Board of Accountancy.*
19 *Revenues from fees for temporary licenses issued under this*
20 *paragraph shall be credited to the Accountancy Fund in*
21 *accordance with Section 5132.*

22 (b) The board may conduct an investigation of an applicant for
23 purposes of denying or revoking a temporary license issued
24 pursuant to this section. This investigation may include a criminal
25 background check.

26 (c) An applicant seeking a temporary license pursuant to this
27 section shall meet the following requirements:

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

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

38 (3) The applicant shall submit an application to the board that
39 shall include a signed affidavit attesting to the fact that the
40 applicant meets all of the requirements for the temporary license

1 *license, in the same area and scope of practice issued in the other*
2 *state, district, or territory of the United States, as described in*
3 *paragraph (2), and that the information submitted in the application*
4 *is accurate, to the best of the applicant's knowledge. The*
5 *application shall also include written verification from the*
6 *applicant's original licensing jurisdiction stating that the applicant's*
7 *license is in good standing in that jurisdiction.*

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

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

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

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

23 ~~(e)~~

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

33 ~~(f)~~

34 (e) An applicant seeking a temporary license as a civil engineer,
35 geotechnical engineer, structural engineer, land surveyor,
36 professional geologist, professional geophysicist, certified
37 engineering geologist, or certified hydrogeologist pursuant to this
38 section shall successfully pass the appropriate California-specific
39 examination or examinations required for licensure in those

1 respective professions by the Board for Professional Engineers,
 2 Land Surveyors, and Geologists.

3 ~~(g)~~

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

9 (g) A board shall submit to the department for approval draft
 10 regulations necessary to administer this section by June 15, 2022.
 11 These regulations shall be adopted pursuant to the Administrative
 12 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
 13 Part 1 of Division 3 of Title 2 of the Government Code).

14 (h) This section shall not apply to a board that has a process
 15 in place by which an out-of-state licensed applicant in good
 16 standing who is married to, or in a domestic partnership or other
 17 legal union with, an active duty member of the Armed Forces of
 18 the United States is able to receive expedited, temporary
 19 authorization to practice while meeting state-specific requirements
 20 for a period of at least one year.

21 SEC. 3. Section 115.7 is added to the Business and Professions
 22 Code, to read:

23 115.7. (a) A board not specified in subdivision (a) of Section
 24 115.6 shall, after appropriate investigation, issue a license to an
 25 applicant if the applicant meets all of the following requirements:

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

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

37 (3) The applicant shall submit an application to the board that
 38 shall include a signed affidavit attesting to the fact that the
 39 applicant meets all of the requirements for the license, in the same
 40 area and scope of practice as issued in the other state, district, or

1 *territory of the United States described in paragraph (2), and that*
2 *the information submitted in the application is accurate, to the*
3 *best of the applicant's knowledge. The application shall also*
4 *include written verification from the applicant's original licensing*
5 *jurisdiction stating that the applicant's license is in good standing*
6 *in that jurisdiction.*

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

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

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

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

22 *SEC. 4. Section 5132 of the Business and Professions Code is*
23 *amended to read:*

24 5132. (a) *All moneys received by the board under this chapter*
25 *from any source and for any purpose and from a temporary license*
26 *issued under Section 115.6 shall be accounted for and reported*
27 *monthly by the board to the Controller and at the same time the*
28 *moneys shall be remitted to the State Treasury to the credit of the*
29 *Accountancy Fund.*

30 ~~The~~

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

36 ~~The~~

37 (c) *The report of the Accountancy Fund, which shall be*
38 *published pursuant to Section 5008, shall include the revenues and*
39 *the related costs from examination, initial licensing, license*

1 renewal, citation and fine authority, and cost recovery from
2 enforcement actions and case settlements.

3 *SEC. 5. Section 95 is added to the Military and Veterans Code,*
4 *to read:*

5 *95. (a) The Department of Veterans Affairs shall place a*
6 *prominently displayed military licensure icon or hyperlink on its*
7 *internet website, in an appropriate location pertaining to licensure*
8 *and employment opportunities for veterans, service members, and*
9 *spouses, that links to the internet websites identified in this section.*

10 *(b) The Department of Consumer Affairs, the Commission on*
11 *Teacher Credentialing, the Department of Real Estate, and the*
12 *State Department of Public Health shall place a prominently*
13 *displayed military licensure icon or hyperlink on the home page*
14 *of their internet websites, linked to information for each*
15 *occupational board or program for licensure or certification that*
16 *it administers. In addition to general licensure or certificate*
17 *information, the following information shall be displayed:*

18 *(1) Each licensing agency's process for expediting applications*
19 *for service members, veterans, and spouses, including the average*
20 *processing times for expedited applications and the number of*
21 *expedited applications requested in the calendar year.*

22 *(2) The availability of temporary or provisional licensure,*
23 *specific requirements needed to obtain a temporary or provisional*
24 *license, and how long the provisional or temporary license is valid.*

25 *(c) (1) The Department of Consumer Affairs shall establish a*
26 *specific gateway aligned with the existing "Board and Bureau*
27 *Military Contact Information," "Expedited Licensure," and*
28 *"Renewal Fee Waivers" gateways on their Military Member*
29 *Resources page, including a list of all boards that provide*
30 *temporary or provisional licensure, with hyperlinks linking to each*
31 *board's military licensure data.*

32 *(2) The Department of Consumer Affairs shall establish a*
33 *"Licensure by Endorsement" section on its internet website listing*
34 *all boards that offer an option for licensure by endorsement,*
35 *accompanied by a hyperlink to each board's military licensure*
36 *data.*

37 *(d) The Department of Consumer Affairs, the Commission on*
38 *Teacher Credentialing, the Department of Real Estate, and the*
39 *State Department of Public Health shall compile information on*
40 *military, veteran, and spouse licensure into an annual report for*

1 *the Legislature, which shall be submitted in conformance with*
2 *Section 9795 of the Government Code. The report shall include*
3 *all of the following:*

4 *(1) The number of applications for a license submitted by active*
5 *duty service members, separating service members, veterans, or*
6 *military spouses per calendar year.*

7 *(2) The number of licenses issued and denied, including reason*
8 *for denial, to active duty service members, separating service*
9 *members, veterans, and military spouses per calendar year.*

10 *(3) The number of licenses of active duty service members,*
11 *separating service members, veterans, or military spouses that*
12 *were suspended or revoked per calendar year.*

13 *(4) The number of applications for waived renewal fees received*
14 *from active duty service members and military spouses per*
15 *calendar year.*

16 *(5) The number of fee waivers issued to active duty service*
17 *members and military spouses per calendar year.*

18 *(6) The average length of time between application and issuance*
19 *of licenses for active duty service members, separating service*
20 *members, veterans, or military spouses per board and occupation.*

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

30 ~~SECTION 1. It is the intent of the Legislature to enact future~~
31 ~~legislation relating to temporary licenses within the Department~~
32 ~~of Consumer Affairs for military spouses.~~

MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(3) – AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses

Background:

Existing law requires specified boards within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant 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 and the applicant holds 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. Existing law requires these temporary licenses to expire 12 months after issuance. Under existing law, some of the funds within the jurisdiction of a board consist of revenue from fees that are continuously appropriated.

This bill would require the temporary licenses described above to expire 30 months after issuance. The bill would require boards not responsible for the licensure and regulation of healing arts licensees and not subject to the temporary licensing provisions described above 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, as provided. 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.

The bill would authorize the immediate termination of a license issued pursuant to these provisions upon a finding that the license holder failed to meet specified requirements or provided substantively inaccurate information that would affect the person's eligibility for licensure, as provided.

By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill's expansion of the requirement to issue licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.

This bill would extend the expiration of temporary licenses from 12 months after issuance to 30 months after issuance.

Location: Assembly Business and Professions

Status: 1/28/2021 Referred to Committees on Business and Professions and Military & Veterans Affairs

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch AB 225 (Gray).

Attachment A: AB 225 (Gray) Bill Text

ASSEMBLY BILL

No. 225

Introduced by Assembly Members Gray, Gallagher, and Patterson

January 11, 2021

An act to amend Section 115.6 of, and to add Section 115.7 to, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 225, as introduced, Gray. Department of Consumer Affairs: boards: veterans: military spouses: licenses.

Under existing law, the Department of Consumer Affairs, under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations, including healing arts licensees. Existing law requires an applicant seeking a license from a board within the department to meet specified requirements and to pay certain licensing fees. Existing law requires specified boards within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant 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 and the applicant holds 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. Existing law requires these temporary licenses to expire 12 months after issuance. Under

existing law, some of the funds within the jurisdiction of a board consist of revenue from fees that are continuously appropriated.

This bill would require the temporary licenses described above to expire 30 months after issuance. The bill would require boards not responsible for the licensure and regulation of healing arts licensees and not subject to the temporary licensing provisions described above 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, as provided. 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. The bill would authorize the immediate termination of a license issued pursuant to these provisions upon a finding that the licenseholder failed to meet specified requirements or provided substantively inaccurate information that would affect the person’s eligibility for licensure, as provided. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill’s expansion of the requirement to issue licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 115.6 of the Business and Professions
- 2 Code is amended to read:
- 3 115.6. (a) A board within the department shall, after
- 4 appropriate investigation, issue the following eligible temporary
- 5 licenses to an applicant if the applicant meets the requirements set
- 6 forth in subdivision (c):

1 (1) Registered nurse license by the Board of Registered Nursing.

2 (2) Vocational nurse license issued by the Board of Vocational
3 Nursing and Psychiatric Technicians of the State of California.

4 (3) Psychiatric technician license issued by the Board of
5 Vocational Nursing and Psychiatric Technicians of the State of
6 California.

7 (4) Speech-language pathologist license issued by the
8 Speech-Language Pathology and Audiology and Hearing Aid
9 Dispensers Board.

10 (5) Audiologist license issued by the Speech-Language
11 Pathology and Audiology and Hearing Aid Dispensers Board.

12 (6) Veterinarian license issued by the Veterinary Medical Board.

13 (7) All licenses issued by the Board for Professional Engineers,
14 Land Surveyors, and Geologists.

15 (8) All licenses issued by the Medical Board of California.

16 (9) All licenses issued by the Podiatric Medical Board of
17 California.

18 (b) The board may conduct an investigation of an applicant for
19 purposes of denying or revoking a temporary license issued
20 pursuant to this section. This investigation may include a criminal
21 background check.

22 (c) An applicant seeking a temporary license pursuant to this
23 section shall meet the following requirements:

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

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

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

1 jurisdiction stating that the applicant’s license is in good standing
2 in that jurisdiction.

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

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

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

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

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

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

35 (g) A temporary license issued pursuant to this section shall
36 expire ~~12~~ 30 months after issuance, upon issuance of an expedited
37 license pursuant to Section 115.5, or upon denial of the application
38 for expedited licensure by the board, whichever occurs first.

39 SEC. 2. Section 115.7 is added to the Business and Professions
40 Code, to read:

1 115.7. (a) A board not specified in Division 2 (commencing
2 with Section 500) or subdivision (a) of Section 115.6 shall, after
3 appropriate investigation, issue a license to an applicant if the
4 applicant meets all of the following requirements:

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

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

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

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

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

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

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

39 (c) A license issued pursuant to this section may be immediately
40 terminated pursuant to the board's procedural due process

1 requirements, upon a finding that the licenseholder failed to meet
2 any of the requirements described in subdivision (a) or provided
3 substantively inaccurate information that would affect the person's
4 eligibility for licensure. Upon termination of the license, the board
5 shall issue a notice of termination that shall require the
6 licenseholder to immediately cease the practice of the licensed
7 profession or vocation upon receipt.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(4) – AB 339 (Lee) State and local government: open meetings

Background:

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most-spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified. The bill would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified.

This bill would require all meetings to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require, even in the case of a declared state or local emergency, teleconferenced meetings to include an in-person public comment opportunity. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified. The bill would also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of a non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people, as defined.

This bill would require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in

or internet-based service, as provided, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

This bill would require legislative bodies of local agencies, and state bodies, as defined, to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

By imposing new duties on local governments with respect to meetings, this bill would impose a state-mandated local program.

This bill would provide that no reimbursement is required by this act for a specified reason.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Staff has learned that the author's office has submitted amendments to remove the Bagley-Keene portion of this bill, so it will no longer affect state boards and commissions.

Location: 1/29/2021 From printer. May be heard in committee February 28.

Status: Pending referral

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch AB 339 (Lee).

Attachment A: AB 339 (Lee) Bill Text

ASSEMBLY BILL

No. 339

Introduced by Assembly Members Lee and Cristina Garcia

January 28, 2021

An act to amend Sections 9027, 54953, 54954.2, 54954.3, 11122.5, 11123, 11125.7 of, and to add Sections 9027.1 and 9028.1 to, the Government Code, relating to state and local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 339, as introduced, Lee. State and local government: open meetings.

Existing law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified.

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most-spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified. The bill would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate.

This bill would require all meetings to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require, even in the case of a declared state or local emergency, teleconferenced meetings to include an in-person public comment opportunity. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified. The bill would also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of a non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people, as defined.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The Act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

This bill would require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

Existing law, the Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated

into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

This bill would require legislative bodies of local agencies, and state bodies, as defined, to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

By imposing new duties on local governments with respect to meetings, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9027 of the Government Code is amended
- 2 to read:
- 3 9027. Except as otherwise provided in this article, all meetings
- 4 of a house of the Legislature or a committee thereof shall be open
- 5 and public, and all persons shall be permitted to attend the
- 6 meetings. *Additionally, all meetings shall include an opportunity*
- 7 *for all persons to attend via a call-in option or an internet-based*
- 8 *service option that provides closed captioning services. Both a*
- 9 *call-in and an internet-based service option shall be provided to*

1 *the public*. As used in this article, “meeting” means a gathering of
2 a quorum of the members of a house or committee in one place
3 *place, including a gathering using teleconference technology*, for
4 the purpose of discussing legislative or other official matters within
5 the jurisdiction of the house or committee. As used in this article,
6 “committee” includes a standing committee, joint committee,
7 conference committee, subcommittee, select committee, special
8 committee, research committee, or any similar body.

9 SEC. 2. Section 9027.1 is added to the Government Code, to
10 read:

11 9027.1. All meetings shall provide the public with an
12 opportunity to comment on proposed legislation, either in person
13 or remotely via call-in or internet-based service, consistent with
14 requirements in Section 9027. Persons commenting in person shall
15 not have more time or in any other way be prioritized over persons
16 commenting remotely via call-in or internet-based service.
17 Translation services shall be provided for the 10 most-spoken
18 languages, other than English, in California. If there are time
19 restrictions on public comment, persons giving a public comment
20 in a language other than English shall have double the amount of
21 time as those giving a comment in English to allow for translation,
22 unless simultaneous translation equipment is available.

23 SEC. 3. Section 9028.1 is added to the Government Code, to
24 read:

25 9028.1. Instructions on how to attend the meeting via call-in
26 or internet-based service shall be posted online in an easily
27 accessible location at the time the meeting is scheduled and notice
28 of the meeting is published. The posted instructions shall include
29 translations into the 10 most-spoken languages, other than English,
30 in California, and shall list a hotline that members of the public
31 can call for assistance, with assistance in the 10 most-spoken
32 languages provided.

33 SEC. 4. Section 54953 of the Government Code is amended
34 to read:

35 54953. (a) All meetings of the legislative body of a local
36 agency shall be open and public, and all persons shall be permitted
37 to attend any meeting of the legislative body of a local agency,
38 except as otherwise provided in this chapter. *Additionally, all*
39 *meetings shall include an opportunity for all persons to attend via*
40 *a call-in option or an internet-based service option that provides*

1 *closed-captioning services. Both a call-in and an internet-based*
2 *service option shall be provided to the public.*

3 (b) (1) Notwithstanding any other provision of law, the
4 legislative body of a local agency may use teleconferencing for
5 the benefit of the public and the legislative body of a local agency
6 in connection with any meeting or proceeding authorized by law.
7 The teleconferenced meeting or proceeding shall comply with all
8 requirements of this chapter and all otherwise applicable provisions
9 of law relating to a specific type of meeting or proceeding.

10 (2) Teleconferencing, as authorized by this section, may be used
11 *by members of the legislative body* for all purposes in connection
12 with any meeting within the subject matter jurisdiction of the
13 legislative body. All votes taken during a teleconferenced meeting
14 shall be by rollcall.

15 (3) If the legislative body of a local agency elects to use
16 teleconferencing, *other than what is required by subdivision (a)*,
17 it shall post agendas at all teleconference locations and conduct
18 teleconference meetings in a manner that protects the statutory
19 and constitutional rights of the parties or the public appearing
20 before the legislative body of a local agency. Each teleconference
21 location shall be identified in the notice and agenda of the meeting
22 or proceeding, and each teleconference location shall be accessible
23 to the public. During the teleconference, at least a quorum of the
24 members of the legislative body shall participate from locations
25 within the boundaries of the territory over which the local agency
26 exercises jurisdiction, except as provided in subdivision (d). The
27 agenda shall provide an opportunity for members of the public to
28 address the legislative body directly pursuant to Section 54954.3
29 at each teleconference location.

30 (4) For the purposes of this section, “teleconference” means a
31 meeting of a legislative body, the members of which are in different
32 locations, connected by electronic means, through either audio or
33 video, or both. Nothing in this section shall prohibit a local agency
34 from providing the public with additional teleconference locations.

35 (5) *Notwithstanding any laws that prohibit in-person government*
36 *meetings in the case of a declared state of emergency, including*
37 *a public health emergency, teleconferenced meetings shall include*
38 *an in-person public comment opportunity, wherein members of*
39 *the public can report to a designated site to give public comment*
40 *in person.*

1 (c) (1) No legislative body shall take action by secret ballot,
2 whether preliminary or final.

3 (2) The legislative body of a local agency shall publicly report
4 any action taken and the vote or abstention on that action of each
5 member present for the action.

6 (3) Prior to taking final action, the legislative body shall orally
7 report a summary of a recommendation for a final action on the
8 salaries, salary schedules, or compensation paid in the form of
9 fringe benefits of a local agency executive, as defined in
10 subdivision (d) of Section 3511.1, during the open meeting in
11 which the final action is to be taken. This paragraph shall not affect
12 the public's right under the California Public Records Act (Chapter
13 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
14 inspect or copy records created or received in the process of
15 developing the recommendation.

16 (d) (1) Notwithstanding the provisions relating to a quorum in
17 paragraph (3) of subdivision (b), if a health authority conducts a
18 teleconference meeting, members who are outside the jurisdiction
19 of the authority may be counted toward the establishment of a
20 quorum when participating in the teleconference if at least 50
21 percent of the number of members that would establish a quorum
22 are present within the boundaries of the territory over which the
23 authority exercises jurisdiction, and the health authority provides
24 a teleconference number, and associated access codes, if any, that
25 allows any person to call in to participate in the meeting and the
26 number and access codes are identified in the notice and agenda
27 of the meeting.

28 (2) Nothing in this subdivision shall be construed as
29 discouraging health authority members from regularly meeting at
30 a common physical site within the jurisdiction of the authority or
31 from using teleconference locations within or near the jurisdiction
32 of the authority. A teleconference meeting for which a quorum is
33 established pursuant to this subdivision shall be subject to all other
34 requirements of this section.

35 (3) For purposes of this subdivision, a health authority means
36 any entity created pursuant to Sections 14018.7, 14087.31,
37 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
38 and Institutions Code, any joint powers authority created pursuant
39 to Article 1 (commencing with Section 6500) of Chapter 5 of
40 Division 7 for the purpose of contracting pursuant to Section

1 14087.3 of the Welfare and Institutions Code, and any advisory
2 committee to a county sponsored health plan licensed pursuant to
3 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
4 Health and Safety Code if the advisory committee has 12 or more
5 members.

6 SEC. 5. Section 54954.2 of the Government Code is amended
7 to read:

8 54954.2. (a) (1) At least 72 hours before a regular meeting,
9 the legislative body of the local agency, or its designee, shall post
10 an agenda containing a brief general description of each item of
11 business to be transacted or discussed at the meeting, including
12 items to be discussed in closed session. A brief general description
13 of an item generally need not exceed 20 words. The agenda shall
14 specify the time and location of the regular meeting and shall be
15 posted in a location that is freely accessible to members of the
16 public and on the local agency's ~~Internet Web site~~, *internet website*,
17 if the local agency has one. If requested, the agenda shall be made
18 available in appropriate alternative formats to persons with a
19 disability, as required by Section 202 of the Americans with
20 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
21 rules and regulations adopted in implementation thereof. The
22 agenda shall include information regarding how, to whom, and
23 when a request for disability-related modification or
24 accommodation, including auxiliary aids or services, may be made
25 by a person with a disability who requires a modification or
26 accommodation in order to participate in the public meeting. *In*
27 *compliance with the Dymally-Alatorre Bilingual Services Act*
28 *(Chapter 17.5 (commencing with Section 7290) of Division 7 of*
29 *Title 1), agendas and instructions for accessing the meeting,*
30 *whether teleconferenced or in person, shall be translated into all*
31 *languages for which 5 percent of the population in the area*
32 *governed by the local agency is a speaker.*

33 (2) For a meeting occurring on and after January 1, 2019, of a
34 legislative body of a city, county, city and county, special district,
35 school district, or political subdivision established by the state that
36 has an ~~Internet Web site~~, *internet website*, the following provisions
37 shall apply:

38 (A) An online posting of an agenda shall be posted on the
39 primary ~~Internet Web site~~ *internet website* homepage of a city,
40 county, city and county, special district, school district, or political

1 subdivision established by the state that is accessible through a
2 prominent, direct link to the current agenda. The direct link to the
3 agenda shall not be in a contextual menu; however, a link in
4 addition to the direct link to the agenda may be accessible through
5 a contextual menu.

6 (B) An online posting of an agenda including, but not limited
7 to, an agenda posted in an integrated agenda management platform,
8 shall be posted in an open format that meets all of the following
9 requirements:

10 (i) Retrievable, downloadable, indexable, and electronically
11 searchable by commonly used Internet search applications.

12 (ii) Platform independent and machine readable.

13 (iii) Available to the public free of charge and without any
14 restriction that would impede the reuse or redistribution of the
15 agenda.

16 (C) A legislative body of a city, county, city and county, special
17 district, school district, or political subdivision established by the
18 state that has an ~~Internet Web site~~ *internet website* and an integrated
19 agenda management platform shall not be required to comply with
20 subparagraph (A) if all of the following are met:

21 (i) A direct link to the integrated agenda management platform
22 shall be posted on the primary ~~Internet Web site~~ *internet website*
23 homepage of a city, county, city and county, special district, school
24 district, or political subdivision established by the state. The direct
25 link to the integrated agenda management platform shall not be in
26 a contextual menu. When a person clicks on the direct link to the
27 integrated agenda management platform, the direct link shall take
28 the person directly to an ~~Internet Web site~~ *internet website* with
29 the agendas of the legislative body of a city, county, city and
30 county, special district, school district, or political subdivision
31 established by the state.

32 (ii) The integrated agenda management platform may contain
33 the prior agendas of a legislative body of a city, county, city and
34 county, special district, school district, or political subdivision
35 established by the state for all meetings occurring on or after
36 January 1, 2019.

37 (iii) The current agenda of the legislative body of a city, county,
38 city and county, special district, school district, or political
39 subdivision established by the state shall be the first agenda
40 available at the top of the integrated agenda management platform.

1 (iv) All agendas posted in the integrated agenda management
2 platform shall comply with the requirements in clauses (i), (ii),
3 and (iii) of subparagraph (B).

4 (D) For the purposes of this paragraph, both of the following
5 definitions shall apply:

6 (i) “Integrated agenda management platform” means an ~~Internet~~
7 ~~Web site~~ *internet website* of a city, county, city and county, special
8 district, school district, or political subdivision established by the
9 state dedicated to providing the entirety of the agenda information
10 for the legislative body of the city, county, city and county, special
11 district, school district, or political subdivision established by the
12 state to the public.

13 (ii) “Legislative body” has the same meaning as that term is
14 used in subdivision (a) of Section 54952.

15 (E) The provisions of this paragraph shall not apply to a political
16 subdivision of a local agency that was established by the legislative
17 body of the city, county, city and county, special district, school
18 district, or political subdivision established by the state.

19 (3) No action or discussion shall be undertaken on any item not
20 appearing on the posted agenda, except that members of a
21 legislative body or its staff may briefly respond to statements made
22 or questions posed by persons exercising their public testimony
23 rights under Section 54954.3. In addition, on their own initiative
24 or in response to questions posed by the public, a member of a
25 legislative body or its staff may ask a question for clarification,
26 make a brief announcement, or make a brief report ~~on his or her~~
27 *the member’s* own activities. Furthermore, a member of a
28 legislative body, or the body itself, subject to rules or procedures
29 of the legislative body, may provide a reference to staff or other
30 resources for factual information, request staff to report back to
31 the body at a subsequent meeting concerning any matter, or take
32 action to direct staff to place a matter of business on a future
33 agenda.

34 (b) Notwithstanding subdivision (a), the legislative body may
35 take action on items of business not appearing on the posted agenda
36 under any of the conditions stated below. Prior to discussing any
37 item pursuant to this subdivision, the legislative body shall publicly
38 identify the item.

1 (1) Upon a determination by a majority vote of the legislative
 2 body that an emergency situation exists, as defined in Section
 3 54956.5.

4 (2) Upon a determination by a two-thirds vote of the members
 5 of the legislative body present at the meeting, or, if less than
 6 two-thirds of the members are present, a unanimous vote of those
 7 members present, that there is a need to take immediate action and
 8 that the need for action came to the attention of the local agency
 9 subsequent to the agenda being posted as specified in subdivision
 10 (a).

11 (3) The item was posted pursuant to subdivision (a) for a prior
 12 meeting of the legislative body occurring not more than five
 13 calendar days prior to the date action is taken on the item, and at
 14 the prior meeting the item was continued to the meeting at which
 15 action is being taken.

16 (c) This section is necessary to implement and reasonably within
 17 the scope of paragraph (1) of subdivision (b) of Section 3 of Article
 18 I of the California Constitution.

19 (d) For purposes of subdivision (a), the requirement that the
 20 agenda be posted on the local agency's ~~Internet Web site~~, *internet*
 21 *website*, if the local agency has one, shall only apply to a legislative
 22 body that meets either of the following standards:

23 (1) A legislative body as that term is defined by subdivision (a)
 24 of Section 54952.

25 (2) A legislative body as that term is defined by subdivision (b)
 26 of Section 54952, if the members of the legislative body are
 27 compensated for their appearance, and if one or more of the
 28 members of the legislative body are also members of a legislative
 29 body as that term is defined by subdivision (a) of Section 54952.

30 SEC. 6. Section 54954.3 of the Government Code is amended
 31 to read:

32 54954.3. (a) Every agenda for regular meetings shall provide
 33 an opportunity for members of the public to directly address the
 34 legislative body on any item of interest to the public, before or
 35 during the legislative body's consideration of the item, that is
 36 within the subject matter jurisdiction of the legislative body,
 37 provided that no action shall be taken on any item not appearing
 38 on the agenda unless the action is otherwise authorized by
 39 subdivision (b) of Section 54954.2. *All meetings must also provide*
 40 *the public with an opportunity to address the legislative body*

1 *remotely via call-in and internet-based service, consistent with*
2 *requirements in Section 54953. Persons commenting in person*
3 *shall not have more time or in any other way be prioritized over*
4 *persons commenting remotely via call-in or internet-based service.*
5 *Instructions on how to attend the meeting via call-in or*
6 *internet-based service shall be posted online along with the meeting*
7 *agenda in an easily accessible location.* However, the agenda need
8 not provide an opportunity for members of the public to address
9 the legislative body on any item that has already been considered
10 by a committee, composed exclusively of members of the
11 legislative body, at a public meeting wherein all interested members
12 of the public were afforded the opportunity to address the
13 committee on the item, before or during the committee's
14 consideration of the item, unless the item has been substantially
15 changed since the committee heard the item, as determined by the
16 legislative body. Every notice for a special meeting shall provide
17 an opportunity for members of the public to directly address the
18 legislative body concerning any item that has been described in
19 the notice for the meeting before or during consideration of that
20 item.

21 (b) (1) The legislative body of a local agency may adopt
22 reasonable regulations to ensure that the intent of subdivision (a)
23 is carried out, including, but not limited to, regulations limiting
24 the total amount of time allocated for public testimony on particular
25 issues and for each individual speaker.

26 (2) Notwithstanding paragraph (1), when the legislative body
27 of a local agency limits time for public comment, the legislative
28 body of a local agency shall provide at least twice the allotted time
29 to a member of the public who utilizes a translator to ensure that
30 non-English speakers receive the same opportunity to directly
31 address the legislative body of a local agency.

32 (3) Paragraph (2) shall not apply if the legislative body of a
33 local agency utilizes simultaneous translation equipment in a
34 manner that allows the legislative body of a local agency to hear
35 the translated public testimony simultaneously.

36 (c) The legislative body of a local agency shall not prohibit
37 public criticism of the policies, procedures, programs, or services
38 of the agency, or of the acts or omissions of the legislative body.
39 Nothing in this subdivision shall confer any privilege or protection
40 for expression beyond that otherwise provided by law.

1 (d) *Legislative bodies of local agencies shall employ a sufficient*
 2 *amount of qualified bilingual persons to provide translation during*
 3 *the meeting in the language of the non-English-speaking person,*
 4 *in jurisdictions which govern a substantial number of*
 5 *non-English-speaking people. “Non-English-speaking people” is*
 6 *defined as members of a group who either do not speak English,*
 7 *or who are unable to effectively communicate in English because*
 8 *it is not their native language, and who comprise 5 percent or*
 9 *more of the people served by the statewide or any local office or*
 10 *facility of a state agency.*

11 SEC. 7. Section 11122.5 of the Government Code is amended
 12 to read:

13 11122.5. (a) As used in this article, “meeting” includes any
 14 congregation of a majority of the members of a state ~~body~~ *body,*
 15 *including a virtual congregation using teleconference technology,*
 16 at the same time and place to hear, discuss, or deliberate upon any
 17 item that is within the subject matter jurisdiction of the state body
 18 to which it pertains.

19 (b) (1) A majority of the members of a state body shall not,
 20 outside of a meeting authorized by this chapter, use a series of
 21 communications of any kind, directly or through intermediaries,
 22 to discuss, deliberate, or take action on any item of business that
 23 is within the subject matter of the state body.

24 (2) Paragraph (1) shall not be construed to prevent an employee
 25 or official of a state agency from engaging in separate
 26 conversations or communications outside of a meeting authorized
 27 by this chapter with members of a legislative body in order to
 28 answer questions or provide information regarding a matter that
 29 is within the subject matter jurisdiction of the state agency, if that
 30 person does not communicate to members of the legislative body
 31 the comments or position of any other member or members of the
 32 legislative body.

33 (c) The prohibitions of this article do not apply to any of the
 34 following:

35 (1) Individual contacts or conversations between a member of
 36 a state body and any other person that do not violate subdivision
 37 (b).

38 (2) (A) The attendance of a majority of the members of a state
 39 body at a conference or similar gathering open to the public that
 40 involves a discussion of issues of general interest to the public or

1 to public agencies of the type represented by the state body, if a
2 majority of the members do not discuss among themselves, other
3 than as part of the scheduled program, business of a specified
4 nature that is within the subject matter jurisdiction of the state
5 body.

6 (B) Subparagraph (A) does not allow members of the public
7 free admission to a conference or similar gathering at which the
8 organizers have required other participants or registrants to pay
9 fees or charges as a condition of attendance.

10 (3) The attendance of a majority of the members of a state body
11 at an open and publicized meeting organized to address a topic of
12 state concern by a person or organization other than the state body,
13 if a majority of the members do not discuss among themselves,
14 other than as part of the scheduled program, business of a specific
15 nature that is within the subject matter jurisdiction of the state
16 body.

17 (4) The attendance of a majority of the members of a state body
18 at an open and noticed meeting of another state body or of a
19 legislative body of a local agency as defined by Section 54951, if
20 a majority of the members do not discuss among themselves, other
21 than as part of the scheduled meeting, business of a specific nature
22 that is within the subject matter jurisdiction of the other state body.

23 (5) The attendance of a majority of the members of a state body
24 at a purely social or ceremonial occasion, if a majority of the
25 members do not discuss among themselves business of a specific
26 nature that is within the subject matter jurisdiction of the state
27 body.

28 (6) The attendance of a majority of the members of a state body
29 at an open and noticed meeting of a standing committee of that
30 body, if the members of the state body who are not members of
31 the standing committee attend only as observers.

32 SEC. 8. Section 11123 of the Government Code is amended
33 to read:

34 11123. (a) All meetings of a state body shall be open and
35 public and all persons shall be permitted to attend any meeting of
36 a state body except as otherwise provided in this article.
37 *Additionally, all meetings shall include an opportunity for all*
38 *persons to attend via a call-in option or an internet-based service*
39 *option that provides closed captioning services. Both a call-in and*
40 *an internet-based service option shall be provided to the public.*

1 (b) (1) This article does not prohibit a state body from holding
2 an open or closed meeting by teleconference for the benefit of the
3 public and state body. The meeting or proceeding held by
4 teleconference shall otherwise comply with all applicable
5 requirements or laws relating to a specific type of meeting or
6 proceeding, including the following:

7 (A) The teleconferencing meeting shall comply with all
8 requirements of this article applicable to other meetings.

9 (B) The portion of the teleconferenced meeting that is required
10 to be open to the public shall be audible to the public at the location
11 specified in the notice of the meeting.

12 (C) If the state body elects to conduct a meeting or proceeding
13 by teleconference, *other than what is required by subdivision (a)*
14 *and such that all members of the body that are present at the*
15 *meeting are teleconferencing into the meeting*, it shall post agendas
16 at all teleconference locations and conduct teleconference meetings
17 in a manner that protects the rights of any party or member of the
18 public appearing before the state body. Each teleconference
19 location shall be identified in the notice and agenda of the meeting
20 or proceeding, and each teleconference location shall be accessible
21 to the public. The agenda shall provide an opportunity for members
22 of the public to address the state body directly pursuant to Section
23 11125.7 at each teleconference location.

24 (D) All votes taken during a teleconferenced meeting shall be
25 by rollcall.

26 (E) The portion of the teleconferenced meeting that is closed
27 to the public may not include the consideration of any agenda item
28 being heard pursuant to Section 11125.5.

29 (F) At least one member of the state body shall be physically
30 present at the location specified in the notice of the ~~meeting~~.
31 *meeting to ensure that members of the public are able to give*
32 *public comment in person. This location must be publicly accessible*
33 *and able to accommodate a reasonable amount of people, given*
34 *the circumstances.*

35 (2) For the purposes of this subdivision, “teleconference” means
36 a meeting of a state body, the members of which are at different
37 locations, connected by electronic means, through either audio or
38 both audio and video. ~~This~~ *While this section requires that both*
39 *an call-in and internet-based service are available to the public*
40 *to join all open meetings that are held in-person, this section does*

1 not prohibit a state body from providing members of the public
2 with additional locations in *or opportunities* by which the public
3 may observe or address the state body by electronic means, through
4 either audio or both audio and video.

5 (c) *Instructions on how to attend the meeting via call-in or*
6 *internet-based service shall be posted online along with the meeting*
7 *agenda in an easily accessible location at least 72 hours before*
8 *all regular meetings and at least 24 hours before all special*
9 *meetings. In compliance with the Dymally-Alatorre Bilingual*
10 *Services Act(Chapter 17.5 (commencing with Section 7290) of*
11 *Division 7 of Title 1), the posted instructions shall also be*
12 *translated into all languages of which 5 percent of the population*
13 *of the state body's jurisdiction speaks.*

14 (e)

15 (d) The state body shall publicly report any action taken and
16 the vote or abstention on that action of each member present for
17 the action.

18 SEC. 9. Section 11125.7 of the Government Code is amended
19 to read:

20 11125.7. (a) Except as otherwise provided in this section, the
21 state body shall provide an opportunity for members of the public
22 to directly address the state body on each agenda item before or
23 during the state body's discussion or consideration of the item.
24 This section is not applicable if the agenda item has already been
25 considered by a committee composed exclusively of members of
26 the state body at a public meeting where interested members of
27 the public were afforded the opportunity to address the committee
28 on the item, before or during the committee's consideration of the
29 item, unless the item has been substantially changed since the
30 committee heard the item, as determined by the state body. Every
31 notice for a special meeting at which action is proposed to be taken
32 on an item shall provide an opportunity for members of the public
33 to directly address the state body concerning that item prior to
34 action on the item. In addition, the notice requirement of Section
35 11125 shall not preclude the acceptance of testimony at meetings,
36 other than emergency meetings, from members of the public if no
37 action is taken by the state body at the same meeting on matters
38 brought before the body by members of the public.

39 (b) *In compliance with subdivision (a) of Section 11123, public*
40 *comment shall be made available for those attending any meeting*

1 *via call-in or internet-based service option. Persons commenting*
 2 *in person shall not have more time or in any other way be*
 3 *prioritized over persons commenting remotely via call-in or*
 4 *internet-based service.*

5 (b)

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

11 (e)

12 (d) (1) Notwithstanding subdivision (b), when a state body
 13 limits time for public comment the state body shall provide at least
 14 twice the allotted time to a member of the public who utilizes a
 15 translator to ensure that non-English speakers receive the same
 16 opportunity to directly address the state body. *In compliance with*
 17 *the Dymally-Alatorre Bilingual Services Act (Chapter 17.5*
 18 *(commencing with Section 7290) of Division 7 of Title 1),*
 19 *translation services shall be provided for all languages of which*
 20 *5 percent of the population of the state body’s jurisdiction speaks.*
 21 *Should there be a limit on speaking time, persons commenting in*
 22 *another language shall be given twice as much time as those*
 23 *commenting in English in order to accommodate time for*
 24 *translation services. This is not required when simultaneous*
 25 *translation services are available.*

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

29 (d)

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

35 (e)

36 (f) This section is not applicable to closed sessions held pursuant
 37 to Section 11126.

38 (f)

39 (g) This section is not applicable to decisions regarding
 40 proceedings held pursuant to Chapter 5 (commencing with Section

1 11500), relating to administrative adjudication, or to the conduct
2 of those proceedings.

3 ~~(g)~~

4 (h) This section is not applicable to hearings conducted by the
5 California Victim Compensation Board pursuant to Sections 13963
6 and 13963.1.

7 ~~(h)~~

8 (i) This section is not applicable to agenda items that involve
9 decisions of the Public Utilities Commission regarding adjudicatory
10 hearings held pursuant to Chapter 9 (commencing with Section
11 1701) of Part 1 of Division 1 of the Public Utilities Code. For all
12 other agenda items, the commission shall provide members of the
13 public, other than those who have already participated in the
14 proceedings underlying the agenda item, an opportunity to directly
15 address the commission before or during the commission's
16 consideration of the item.

17 SEC. 10. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district under this act would result from a legislative mandate that
21 is within the scope of paragraph (7) of subdivision (b) of Section
22 3 of Article I of the California Constitution.

23 SEC. 11. The Legislature finds and declares that Sections 4,
24 5, and 6 of this act, which amend Section 54953, 54954.2, and
25 54954.3 of the Government Code, further, within the meaning of
26 paragraph (7) of subdivision (b) of Section 3 of Article I of the
27 California Constitution, the purposes of that constitutional section
28 as it relates to the right of public access to the meetings of local
29 public bodies or the writings of local public officials and local
30 agencies. Pursuant to paragraph (7) of subdivision (b) of Section
31 3 of Article I of the California Constitution, the Legislature makes
32 the following findings:

33 The provisions of the act allow for greater public access through
34 requiring specified entities to provide a call-in and internet-based
35 service and instructions on how to access these options to the public
36 for specified meetings and allow for greater accommodations for
37 non-English speakers attending the meetings.

O

MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(5) – AB 646 (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, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on the board's internet website. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its internet website that the person's license was revoked and information previously posted regarding arrests, charges, and convictions.

The bill would require a person in either case to pay a \$50 fee to the board, unless another amount is determined by the board to be necessary to cover the cost of administering the bill's provisions.

Location: Business and Professions Committee

Status: 2/25/2021 Referred to Business and Professions Committee

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch AB 646 (Low).

Attachment A: AB 646 (Low) Bill Text

ASSEMBLY BILL

No. 646

Introduced by Assembly Member Low
(Coauthor: Senator Roth)

February 12, 2021

An act to add Section 493.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 646, as introduced, Low. Department of Consumer Affairs: boards: expunged convictions.

Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

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, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of

the expungement order and the date thereof on the board's internet website. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its internet website that the person's license was revoked and information previously posted regarding arrests, charges, and convictions. The bill would require a person in either case to pay a \$50 fee to the board, unless another amount is determined by the board to be necessary to cover the cost of administering the bill's provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 493.5 is added to the Business and
2 Professions Code, to read:
3 493.5. (a) A board within the department that has posted on
4 its internet website that a person's license was revoked because
5 the person was convicted of a crime, upon receiving from the
6 person a certified copy of an expungement order granted pursuant
7 to Section 1203.4 of the Penal Code for the underlying offense,
8 shall, within 90 days of receiving the expungement order, unless
9 it is otherwise prohibited by law, or by other terms or conditions,
10 do either of the following:
11 (1) If the person reapplies for licensure or has been relicensed,
12 post notification of the expungement order and the date thereof on
13 its internet website.
14 (2) If the person is not currently licensed and does not reapply
15 for licensure, remove the initial posting on its internet website that
16 the person's license was revoked and information previously posted
17 regarding arrests, charges, and convictions.
18 (b) A person described in subdivision (a) shall pay to the board
19 a fee in the amount of fifty dollars (\$50), unless another amount
20 is determined by the board to be necessary to cover the
21 administrative cost, ensuring that the amount does not exceed the
22 reasonable cost of administering this section. The fee shall be
23 deposited by the board into the appropriate fund and shall be
24 available only upon appropriation by the Legislature.
25 (c) For purposes of this section, "board" means an entity listed
26 in Section 101.

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

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MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(6) – AB 657 (Bonta) State civil service system: personal services contracts: professionals

Background:

This bill would prohibit a state agency from entering into a contract with a professional, as defined, for a period of more than 365 consecutive days or for a period of 365 nonconsecutive days in a 24-month period. The bill would define “professional,” for these provisions, to include, among others, a physician and surgeon, dentist, and clinical psychologist. The bill would require each state agency that has a contract with a professional pursuant to these provisions to prepare a monthly report to the exclusive bargaining representative for the professional, if the professional is represented, providing certain information, including the name and contact information of the professionals subject to a contract with the state agency, the details of the contract period for each professional, and the number of open professional positions available, as specified.

This bill would also require a state agency that uses a personal services contract for an employee position for each state agency that has a budgetary allocation to provide the applicable employee organization that represents employees who provide the same or similar services with certain information, including, among other things, the expenditures for recruiting and advertising to fill positions for which contractors are hired, and the number of applications for personal services received in the most recent quarter of the fiscal year.

Location: Committee on Public Employment and Retirement

Status: 2/25/2021 Referred to Committee on Public Employment and Retirement

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee oppose unless amended AB 657 (Bonta) to exclude the Board of Psychology as the provisions of the requirements could negatively impact contracts for translation services, enforcement experts, psychological evaluations, and examination services.

Attachment A: AB 657 (Bonta) Bill Text

ASSEMBLY BILL

No. 657

Introduced by Assembly Member Bonta

February 12, 2021

An act to add Section 19136 to the Government Code, relating to state employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 657, as introduced, Bonta. State civil service system: personal services contracts: professionals.

Existing law, the State Civil Service Act, establishes standards for the use of personal services contracts by state agencies and authorizes personal services contracts when prescribed conditions are met, including, among others, when the contracting agency demonstrates that the proposed contract will result in actual overall cost savings to the state, as specified.

This bill would prohibit a state agency from entering into a contract with a professional, as defined, for a period of more than 365 consecutive days or for a period of 365 nonconsecutive days in a 24-month period. The bill would define “professional,” for these provisions, to include, among others, a physician and surgeon, dentist, and clinical psychologist. The bill would require each state agency that has a contract with a professional pursuant to these provisions to prepare a monthly report to the exclusive bargaining representative for the professional, if the professional is represented, providing certain information, including the name and contact information of the professionals subject to a contract with the state agency, the details of the contract period for each professional, and the number of open professional positions available, as specified.

This bill would also require a state agency that uses a personal services contract for an employee position for each state agency that has a budgetary allocation to provide the applicable employee organization that represents employees who provide the same or similar services with certain information, including, among other things, the expenditures for recruiting and advertising to fill positions for which contractors are hired, and the number of applications for personal services received in the most recent quarter of the fiscal year.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19136 is added to the Government Code,
2 to read:
3 19136. (a) Notwithstanding Section 19130 or any other law,
4 a professional, as defined in subdivision (b), who has a personal
5 services contract with any state agency, shall not be under contract
6 with the state agency for a time period that exceeds either of the
7 following:
8 (1) Three hundred sixty-five consecutive days to the state
9 agency.
10 (2) Three hundred sixty-five nonconsecutive days in a 24-month
11 period.
12 (b) For purposes of this section, “professional” means any of
13 the following:
14 (1) A physician and surgeon licensed by the Medical Board of
15 California or the Osteopathic Medical Board of California.
16 (2) A dentist licensed by the Dental Board of California.
17 (3) A clinical psychologist licensed by the Board of Psychology.
18 (4) A clinical social worker licensed by the Board of Behavioral
19 Sciences.
20 (5) A pharmacist licensed by the California State Board of
21 Pharmacy.
22 (c) Each state agency that has a contract with a professional
23 pursuant to this section shall prepare a monthly report to the
24 exclusive bargaining representative for the professional, if the
25 professional is represented. The monthly report shall include all
26 of the following information:

1 (1) The names and contact information of the professionals
2 subject to a contract with the state agency.

3 (2) The details of the contract period for each professional,
4 including, but not limited to, their hourly rate, beginning and end
5 date, and the number of days worked pursuant to their current
6 contract.

7 (3) The number of “open” professional positions for the state
8 agency and the number of “contract” professional positions. For
9 purposes of this paragraph, “open” means a position authorized in
10 the budget for the state agency.

11 (d) If a state agency uses a personal services contract for an
12 employee position for which the agency has a budgetary allocation,
13 the agency shall provide to the applicable employee organization
14 that represents employees who provide the same or similar services
15 the following information:

16 (1) The expenditures for recruiting and advertising in the most
17 recent quarter of the fiscal year to fill positions for which
18 contractors are hired.

19 (2) The number of applications for personal services contracts
20 received in the most recent quarter of the fiscal year.

21 (3) The number of applicants interviewed for personal services
22 contracts received in the most recent quarter of the fiscal year.

23 (4) The number of applicants rejected for personal services
24 contracts received in the most recent quarter of the fiscal year.

MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(7) – AB 810 (Flora) Healing arts: reports: claims against licensees

Background:

Existing law makes failure of a licensee of the Medical Board of California, the Podiatric Medical Board of California, the Board of Psychology, the Dental Board of California, the Dental Hygiene Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, or the Physician Assistant Board, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from one of those boards, who does not possess professional liability insurance as to the claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 or more than \$500, as specified.

This bill would increase the minimum fine for a violation of that provision to \$100.

Existing law makes failure of a marriage and family therapist, clinical social worker, professional clinical counselor, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor who does not possess professional liability insurance as to that claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 nor more than \$500, as specified.

This bill would increase the minimum fine for a violation of that provision to \$100.

Location: Committee on Business and Professions

Status: 2/25/2021 Referred to Committee on Business and Professions

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch AB 810 (Flora).

Attachment A: AB 810 (Flora) Bill Text

ASSEMBLY BILL

No. 810

Introduced by Assembly Member Flora

February 16, 2021

An act to amend Section 802 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 810, as introduced, Flora. Healing arts: reports: claims against licensees.

Existing law makes failure of a licensee of the Medical Board of California, the Podiatric Medical Board of California, the Board of Psychology, the Dental Board of California, the Dental Hygiene Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, or the Physician Assistant Board, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from one of those boards, who does not possess professional liability insurance as to the claim, within 30 days to the agency that issued the license, certificate, or similar

authority, punishable by a fine of not less than \$50 or more than \$500, as specified.

This bill would increase the minimum fine for a violation of that provision to \$100.

Existing law makes failure of a marriage and family therapist, clinical social worker, professional clinical counselor, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor who does not possess professional liability insurance as to that claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 nor more than \$500, as specified.

This bill would increase the minimum fine for a violation of that provision to \$100.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 802 of the Business and Professions Code
 2 is amended to read:
 3 802. (a) Every settlement, judgment, or arbitration award over
 4 three thousand dollars (\$3,000) of a claim or action for damages
 5 for death or personal injury caused by negligence, error or omission
 6 in practice, or by the unauthorized rendering of professional
 7 services, by a person who holds a license, certificate, or other
 8 similar authority from an agency specified in subdivision (a) of
 9 Section 800 (except a person licensed pursuant to Chapter 3
 10 (commencing with Section 1200) or Chapter 5 (commencing with
 11 Section 2000) or the Osteopathic Initiative Act) who does not
 12 possess professional liability insurance as to that claim shall, within
 13 30 days after the written settlement agreement has been reduced
 14 to writing and signed by all the parties thereto or 30 days after
 15 service of the judgment or arbitration award on the parties, be
 16 reported to the agency that issued the license, certificate, or similar
 17 authority. A complete report shall be made by appropriate means
 18 by the person or ~~his or her~~ *their* counsel, with a copy of the

1 communication to be sent to the claimant through ~~his or her~~ *their*
2 counsel if the person is so represented, or directly if ~~he or she is~~
3 *they are* not. If, within 45 days of the conclusion of the written
4 settlement agreement or service of the judgment or arbitration
5 award on the parties, counsel for the claimant (or if the claimant
6 is not represented by counsel, ~~the claimant himself or herself~~
7 *claimant*) has not received a copy of the report, ~~he or she shall~~
8 ~~himself or herself~~ *they shall* make the complete report. Failure of
9 the licensee or claimant (or, if represented by counsel, their
10 counsel) to comply with this section is a public offense punishable
11 by a fine of not less than ~~fifty dollars (\$50)~~ *one hundred dollars*
12 *(\$100)* or more than five hundred dollars (\$500). Knowing and
13 intentional failure to comply with this section or conspiracy or
14 collusion not to comply with this section, or to hinder or impede
15 any other person in the compliance, is a public offense punishable
16 by a fine of not less than five thousand dollars (\$5,000) nor more
17 than fifty thousand dollars (\$50,000).

18 (b) Every settlement, judgment, or arbitration award over ten
19 thousand dollars (\$10,000) of a claim or action for damages for
20 death or personal injury caused by negligence, error or omission
21 in practice, or by the unauthorized rendering of professional
22 services, by a marriage and family therapist, a clinical social
23 worker, or a professional clinical counselor licensed pursuant to
24 Chapter 13 (commencing with Section 4980), Chapter 14
25 (commencing with Section 4990), or Chapter 16 (commencing
26 with Section 4999.10), respectively, who does not possess
27 professional liability insurance as to that claim shall within 30
28 days after the written settlement agreement has been reduced to
29 writing and signed by all the parties thereto or 30 days after service
30 of the judgment or arbitration award on the parties be reported to
31 the agency that issued the license, certificate, or similar authority.
32 A complete report shall be made by appropriate means by the
33 person or ~~his or her~~ *their* counsel, with a copy of the
34 communication to be sent to the claimant through ~~his or her~~ *their*
35 counsel if ~~he or she is~~ *they are* so represented, or directly if ~~he or~~
36 ~~she is~~ *they are* not. If, within 45 days of the conclusion of the
37 written settlement agreement or service of the judgment or
38 arbitration award on the parties, counsel for the claimant (or if ~~he~~
39 ~~or she is~~ *they are* not represented by counsel, ~~the claimant himself~~
40 ~~or herself~~ *claimant*) has not received a copy of the report, ~~he or~~

1 ~~she shall himself or herself~~ *they shall* make a complete report.
2 Failure of the marriage and family therapist, clinical social worker,
3 or professional clinical counselor or claimant (or, if represented
4 by counsel, ~~his or her~~ *their* counsel) to comply with this section
5 is a public offense punishable by a fine of not less than ~~fifty dollars~~
6 ~~(\$50)~~ *one hundred dollars (\$100)* nor more than five hundred
7 dollars (\$500). Knowing and intentional failure to comply with
8 this section, or conspiracy or collusion not to comply with this
9 section or to hinder or impede any other person in that compliance,
10 is a public offense punishable by a fine of not less than five
11 thousand dollars (\$5,000) nor more than fifty thousand dollars
12 (\$50,000).

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MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(8) – AB 830 (Flora) Department of Consumer Affairs: director: powers and duties

Background:

Under existing law, the Department of Consumer Affairs is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations. Existing law authorizes the Director of the Department of Consumer Affairs to create an interdepartmental committee to assist and advise the director in the implementation of the director's duties, as provided.

This bill would make non-substantive changes to that provision.

Location: 2/18/2021 From printer. May be heard in Committee on March 20.

Status: Pending referral

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch AB 830 (Flora).

Attachment A: AB 830 (Flora) Bill Text

ASSEMBLY BILL

No. 830

Introduced by Assembly Member Flora

February 17, 2021

An act to amend Section 311 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 830, as introduced, Flora. Department of Consumer Affairs: director: powers and duties.

Under existing law, the Department of Consumer Affairs is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations. Existing law authorizes the Director of the Department of Consumer Affairs to create an interdepartmental committee to assist and advise the director in the implementation of the director's duties, as provided.

This bill would make nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 311 of the Business and Professions Code
- 2 is amended to read:
- 3 311. The director may create an interdepartmental committee
- 4 to assist and advise ~~him~~ *the director* in the implementation of ~~his~~
- 5 *the director's* duties. The members of ~~such~~ *that* committee shall
- 6 consist of the heads of state departments, or their designees.

- 1 Members of ~~such~~ *that* committee shall serve without compensation
- 2 but shall be reimbursed for the expenses actually and necessarily
- 3 incurred by them in the performance of their duties.

MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(9) – AB 1026 (Smith) Business licenses: veterans

Background:

This bill would require the department and any board within the department to grant a 50% fee reduction for an initial license to an applicant who provides satisfactory evidence, as defined, that the applicant has served as an active duty member of the United States Armed Forces or the California National Guard and was honorably discharged.

This bill would authorize a board to adopt regulations necessary to administer these provisions.

Location: 2/19/2021 From printer. May be heard in Committee on March 21.

Status: Pending referral

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch AB 1026 (Smith).

Attachment A: AB 1026 (Smith) Bill Text

ASSEMBLY BILL

No. 1026

Introduced by Assembly Member Smith

February 18, 2021

An act to amend Section 115.4 of the Business and Professions Code, relating to business licenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1026, as introduced, Smith. Business licenses: veterans.

Existing law establishes the Department of Consumer Affairs under the direction of the Director of Consumer Affairs and sets forth its powers and duties relating to the administration of the various boards under its jurisdiction that license and regulate various professions and vocations.

Existing law requires an applicant seeking a license from a board to meet specified requirements and to pay certain licensing fees. Existing law requires a board to expedite, and authorizes a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged. Existing law authorizes a board to adopt regulations necessary to administer those provisions.

This bill would require the department and any board within the department to grant a 50% fee reduction for an initial license to an applicant who provides satisfactory evidence, as defined, the applicant has served as an active duty member of the United States Armed Forces or the California National Guard and was honorably discharged. This bill would authorize a board to adopt regulations necessary to administer these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 115.4 of the Business and Professions
2 Code is amended to read:
3 115.4. (a) Notwithstanding any other law, on and after July 1,
4 2016, a board within the department shall expedite, and may assist,
5 the initial licensure process for an applicant who supplies
6 satisfactory evidence to the board that the applicant has served as
7 an active duty member of the Armed Forces of the United States
8 and was honorably discharged.
9 (b) *The department and any board within the department shall*
10 *grant a 50-percent fee reduction for an initial license to an*
11 *applicant who provides satisfactory evidence the applicant has*
12 *served as an active duty member of the United States Armed Forces*
13 *or the California National Guard and was honorably discharged.*
14 (c) *Satisfactory evidence, as referenced in this section, shall be*
15 *a copy of a current and valid driver’s license or identification card*
16 *with the word “Veteran” printed on its face.*
17 ~~(b)~~
18 (d) A board may adopt regulations necessary to administer this
19 section.

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MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(10) – AB 1386 (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 requires a board to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and provides evidence that they are 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.

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

Location: 2/22/2021 Read first time

Status: Pending referral

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch AB 1386 (Cunningham).

Attachment A: AB 1386 (Cunningham) Bill Text

ASSEMBLY BILL

No. 1386

Introduced by Assembly Member Cunningham

February 19, 2021

An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as introduced, Cunningham. License fees: military partners and spouses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires a board to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and provides evidence that they are 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.

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

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 115.5 of the Business and Professions
- 2 Code is amended to read:

1 115.5. (a) A board within the department shall expedite the
2 licensure process for an applicant who meets both of the following
3 requirements:
4 (1) Supplies evidence satisfactory to the board that the applicant
5 is married to, or in a domestic partnership or other legal union
6 with, an active duty member of the Armed Forces of the United
7 States who is assigned to a duty station in this state under official
8 active duty military orders.
9 (2) Holds a current license in another state, district, or territory
10 of the United States in the profession or vocation for which the
11 applicant seeks a license from the board.
12 *(b) A board shall not charge an applicant who meets the*
13 *requirements in subdivision (a) an initial or original license fee.*
14 ~~(b)~~
15 (c) A board may adopt regulations necessary to administer this
16 section.

MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(11) – SB 102 (Melendez) COVID-19 emergency order violation: license revocation

Background:

This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs that does not regulate healing arts licensees, and the Department of Alcoholic Beverage Control from revoking a license or imposing a fine or penalty for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

This bill would declare that it is to take effect immediately as an urgency statute.

Location: 2/10/2021 Re-referred to Committee on Business and Professions and Economic Development

Status: Set for hearing on March 8, 2021

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch SB 102 (Melendez).

Attachment A: SB 102 (Melendez) Bill Text

AMENDED IN SENATE FEBRUARY 10, 2021

SENATE BILL

No. 102

Introduced by Senator Melendez
(Coauthor: Senator Jones)

December 30, 2020

An act to add Sections 464.5 and 24200.8 to the Business and Professions Code, relating to business, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 102, as amended, Melendez. COVID-19 emergency order violation: license revocation.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct. *Existing law provides for the regulation of healing arts by various boards. Existing law authorizes boards to impose fines or penalties, as provided.*

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke ~~licenses~~. *licenses and impose fines and penalties, as provided.*

This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs *that does not regulate healing arts licensees*, and the Department of Alcoholic Beverage Control from revoking a license *or imposing a fine or penalty* for failure to comply with any COVID-19 emergency orders unless the board or

department can prove that lack of compliance resulted in transmission of COVID-19.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 464.5 is added to the Business and
2 Professions Code, to read:

3 464.5. (a) The department and any board shall not revoke a
4 ~~license~~ license, fine, or impose a penalty for failure to comply with
5 any COVID-19 emergency orders, unless the department or board
6 can prove that lack of compliance resulted in the transmission of
7 COVID-19.

8 (b) For the purposes of this section, board does not include a
9 healing arts board as described in Division 2 (commencing with
10 Section 500).

11 SEC. 2. Section 24200.8 is added to the Business and
12 Professions Code, to read:

13 24200.8. The Department of Alcoholic Beverage Control shall
14 not revoke the ~~license~~ license, fine, or impose a penalty of any
15 licensee for failure to comply with any COVID-19 emergency
16 orders unless the department can prove that lack of compliance
17 resulted in transmission of COVID-19.

18 SEC. 3. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety within
20 the meaning of Article IV of the California Constitution and shall
21 go into immediate effect. The facts constituting the necessity are:

22 In order to protect businesses, including small businesses, which
23 continue to make significant contributions to economic security,
24 which helps ensure public safety, during these unprecedented times
25 caused by the COVID-19 pandemic, as soon as possible, it is
26 necessary for this act to take effect immediately

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MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(12) – SB 224 (Portantino) Pupil instruction: mental health education

Background:

This bill would require each school district to ensure that all pupils in grades 1 to 12, inclusive, receive medically accurate, age-appropriate mental health education from instructors trained in the appropriate courses at least once in elementary school, at least once in junior high school or middle school, as applicable, and at least once in high school. The bill would require that instruction to include, among other things, reasonably designed instruction on the overarching themes and core principles of mental health. The bill would require that instruction and related materials to, among other things, be appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners. By imposing additional requirements on school districts, the bill would impose a state-mandated local program.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Location: 1/18/2021 Referred to Committee on Education

Status: Set for hearing on March 10, 2021

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch SB 224 (Portantino).

Attachment A: SB 224 (Portantino) Bill Text

Introduced by Senator PortantinoJanuary 14, 2021

An act to add Article 6 (commencing with Section 51925) to Chapter 5.5 of Part 28 of Division 4 of Title 2 of the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

SB 224, as introduced, Portantino. Pupil instruction: mental health education.

Existing law requires, during the next revision of the publication "Health Framework for California Public Schools," the Instructional Quality Commission to consider developing, and recommending for adoption by the State Board of Education, a distinct category on mental health instruction to educate pupils about all aspects of mental health. Existing law requires mental health instruction for these purposes to include, but not be limited to, specified elements, including reasonably designed and age-appropriate instruction on the overarching themes and core principles of mental health.

This bill would require each school district to ensure that all pupils in grades 1 to 12, inclusive, receive medically accurate, age-appropriate mental health education from instructors trained in the appropriate courses at least once in elementary school, at least once in junior high school or middle school, as applicable, and at least once in high school. The bill would require that instruction to include, among other things, reasonably designed instruction on the overarching themes and core principles of mental health. The bill would require that instruction and related materials to, among other things, be appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners. By imposing

additional requirements on school districts, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Mental health is critical to overall health, well-being, and
4 academic success.

5 (2) Mental health challenges affect all age groups, races,
6 ethnicities, and socioeconomic classes.

7 (3) Millions of Californians, including at least one in five youths,
8 live with mental health challenges. Millions more are affected by
9 the mental health challenges of someone else, such as a close friend
10 or family member.

11 (4) Mental health education is one of the best ways to increase
12 awareness and the seeking of help, while reducing the stigma
13 associated with mental health challenges. The public education
14 system is the most efficient and effective setting for providing this
15 education to all youth.

16 (b) For the foregoing reasons, it is the intent of the Legislature
17 in enacting this measure to ensure that all California pupils in
18 grades 1 to 12, inclusive, have the opportunity to benefit from a
19 comprehensive mental health education.

20 SEC. 2. Article 6 (commencing with Section 51925) is added
21 to Chapter 5.5 of Part 28 of Division 4 of Title 2 of the Education
22 Code, to read:

1 Article 6. Mandatory Mental Health Education

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3 51925. Each school district shall ensure that all pupils in grades
4 1 to 12, inclusive, receive medically accurate, age-appropriate
5 mental health education from instructors trained in the appropriate
6 courses. Each pupil shall receive this instruction at least once in
7 elementary school, at least once in junior high school or middle
8 school, as applicable, and at least once in high school. This
9 instruction shall include all of the following:

10 (a) Reasonably designed instruction on the overarching themes
11 and core principles of mental health.

12 (b) Defining common mental health challenges. Depending on
13 pupil age and developmental level, this may include defining
14 conditions such as depression, suicidal thoughts and behaviors,
15 schizophrenia, bipolar disorder, eating disorders, and anxiety,
16 including post-traumatic stress disorder.

17 (c) Elucidating the medically accurate services and supports
18 that effectively help individuals manage mental health challenges.

19 (d) Promoting mental health wellness, which includes positive
20 development, social connectedness and supportive relationships,
21 resiliency, problem solving skills, coping skills, self-esteem, and
22 a positive school and home environment in which pupils feel
23 comfortable.

24 (e) The ability to identify warning signs of common mental
25 health problems in order to promote awareness and early
26 intervention so that pupils know to take action before a situation
27 turns into a crisis. This shall include instruction on both of the
28 following:

29 (1) How to seek and find assistance from mental health
30 professionals and services within the school district and in the
31 community for themselves or others.

32 (2) Medically accurate evidence-based research and culturally
33 responsive practices that are proven to help overcome mental health
34 challenges.

35 (f) The connection and importance of mental health to overall
36 health and academic success and to co-occurring conditions, such
37 as chronic physical conditions, chemical dependence, and substance
38 abuse.

39 (g) Awareness and appreciation about the prevalence of mental
40 health challenges across all populations, races, ethnicities, and

1 socioeconomic statuses, including the impact of race, ethnicity,
2 and culture on the experience and treatment of mental health
3 challenges.

4 (h) Stigma surrounding mental health challenges and what can
5 be done to overcome stigma, increase awareness, and promote
6 acceptance. This shall include, to the extent possible, classroom
7 presentations of narratives by trained peers and other individuals
8 who have experienced mental health challenges and how they
9 coped with their situations, including how they sought help and
10 acceptance.

11 51926. Instruction and materials required pursuant to this article
12 shall satisfy all of the following:

13 (a) Be appropriate for use with pupils of all races, genders,
14 sexual orientations, and ethnic and cultural backgrounds, pupils
15 with disabilities, and English learners.

16 (b) Be accessible to pupils with disabilities, including, but not
17 limited to, providing a modified curriculum, materials and
18 instruction in alternative formats, and auxiliary aids.

19 (c) Not reflect or promote bias against any person on the basis
20 of any category protected by Section 220.

21 51927. (a) This article does not limit a pupil's health and
22 mental health privacy or confidentiality rights.

23 (b) A pupil receiving instruction pursuant to this article shall
24 not be required to disclose their confidential health or mental health
25 information at any time in the course of receiving that instruction,
26 including, but not limited to, for the purpose of the peer component
27 described in subdivision (h) of Section 51925.

28 51928. For purposes of this article, the following definitions
29 apply:

30 (a) "Age appropriate" has the same meaning as defined in
31 Section 51931.

32 (b) "English learner" has the same meaning as defined in Section
33 51931.

34 (c) "Instructors trained in the appropriate courses" means
35 instructors with knowledge of the most recent medically accurate
36 research on mental health.

37 (d) "Medically accurate" means verified or supported by
38 research conducted in compliance with scientific methods and
39 published in peer-reviewed journals, where appropriate, and

1 recognized as accurate and objective by professional organizations
2 and agencies with expertise in the mental health field.

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

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MEMORANDUM

DATE	March 3, 2020
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(b)(13) – SB 534 (Jones) Department of Consumer Affairs

Background:

Existing law establishes the Department of Consumer Affairs, which is comprised of boards that license and regulate various professions and vocations. Under existing law, each board within the department exists as a separate unit with specified functions.

This bill would make a non-substantive change to these provisions.

Location: Senate Rules

Status: 2/25/2021 Referred to Committee on Senate Rules

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee watch SB 534 (Jones).

Attachment A: SB 534 (Jones) Bill Text

Introduced by Senator Jones

February 17, 2021

An act to amend Section 108 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 534, as introduced, Jones. Department of Consumer Affairs.

Existing law establishes the Department of Consumer Affairs, which is comprised of boards that license and regulate various professions and vocations. Under existing law, each board within the department exists as a separate unit with specified functions.

This bill would make a nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 108 of the Business and Professions Code
2 is amended to read:
3 108. ~~Each of the boards comprising~~ *board within* the
4 department exists as a separate unit, and has the functions of setting
5 standards, holding meetings, and setting dates thereof, preparing
6 and conducting examinations, passing upon applicants, conducting
7 investigations of violations of laws under its jurisdiction, issuing
8 citations and holding hearings for the revocation of licenses, and
9 the imposing of penalties following those hearings, insofar as these
10 powers are given by statute to each respective board.

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MEMORANDUM

DATE	March 2, 2021
TO	Legislative and Regulatory Affairs Committee
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #9 – Regulatory Update

The following is a list of the Board's regulatory packages, and their status in the regulatory process:

a) Update on 16 CCR sections 1389.8 – 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 delivered to OAL on 8/4/2020 and was in the Notice Register published on 8/14/2020. The language was subsequently modified and put out for an additional 15-day comment period. The Board reviewed those comments at its February meeting and approved the language.

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 delivered to OAL on 9/22/2020 and was in the Notice Register published on 10/2/2020. The language was subsequently modified and put out for an additional 15-day comment period. The Board reviewed those comments at its February meeting and approved the language.

e) Update on 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) Addition to 16 CCR section 1392 – Psychologist Fees – California Psychology Law and Ethics Exam (CPLEE) and Initial License and Biennial Renewal Fee for Psychologist

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 Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

g) Addition to 16 CCR section 1395.2 – Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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This package is in the Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

Action Requested:

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