

MEMORANDUM

DATE	March 23, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5 (a)(1) – 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

On 3/19/2021 the Legislative and Regulatory Committee voted to recommend the Board **Support** SB 401.

On 3/22/2021, SB 401 passed out of the Senate Business, Professions, and Economic Development Committee with a vote of 14-0.

Location: Senate Committee on Appropriations

Status: Set for hearing on April 5, 2021

Action Requested:

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

SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT
 Senator Richard Roth, Chair
 2021 - 2022 Regular

Bill No:	SB 401	Hearing Date:	March 22, 2021
Author:	Pan		
Version:	March 4, 2021		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Mason		

Subject: Psychology: unprofessional conduct: disciplinary action: sexual acts

SUMMARY: Revises and recasts the circumstances under which specified sexual acts constitute unprofessional conduct

Existing law:

- 1) Establishes the Board of Psychology (Board) under the Department of Consumer Affairs, to license and regulate psychologists and sunsets the Board on January 1, 2022. (Business and Professions Code (BPC) § 2920)
- 2) States that no person may engage in the practice of psychology or represent himself or herself as a psychologist without a license issued by the Board, as specified. (BPC § 2903(a))
- 3) Defines the “practice of psychology” as rendering or offering to render to individuals, groups, organizations, or the public any psychological services involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships, and the methods and procedures of interviewing, counseling, psychotherapy, behavior modification, and hypnosis; and of constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations. (BPC § 2903(a))
- 4) States that the application of the principles and methods in 3) above includes but is not restricted to: assessment, diagnosis, prevention, treatment, and intervention to increase effective functioning of individuals, groups, and organization. (BPC § 2903(b))
- 5) Requires that protection of the public to be the Board’s highest priority in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 2920.1)
- 6) Requires any psychotherapist or employer of a psychotherapist who becomes aware through a client that the client had alleged sexual intercourse, sexual behavior, or sexual contact with a previous psychotherapist during the course of a prior treatment to provide a brochure to the client that delineates the rights of, and

remedies for, clients who have been involved sexually with their psychotherapists. Requires the psychotherapist or employer to discuss the brochure with the client. (BPC § 728 (a))

- 7) For purposes of the brochure, defines “sexual contact” as the touching of an intimate part of another person, and “sexual behavior” as inappropriate contact or communication of a sexual nature. “Sexual behavior” does not include the provision of appropriate therapeutic interventions relating to sexual issues. (BPC § 728 (c)(2))
- 8) Authorizes the BOP to suspend or revoke the registration or license of any registrant or licensee found guilty of unprofessional conduct, which includes any act of sexual abuse, or sexual relations with a patient or former patient within two 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. (BPC § 2960 (o))
- 9) Requires any proposed decision or decision issued under the Psychology Licensing Law that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact with a patient, or with a former patient within two years following termination of therapy, contain an order of revocation. The revocation shall not be stayed by the administrative law judge (ALJ). (BPC § 2960.1)

This bill:

- 1) Defines for purposes of this bill:
 - a) “Sexual abuse” to mean “the touching of an intimate part of a person by force or coercion;
 - b) “Sexual behavior” to mean inappropriate physical contact or communication of a sexual nature with a client or a former client for the purposes of sexual arousal, gratification, exploitation, or abuse,” but does not include the provision of appropriate therapeutic intervention relating to sexual issues;
 - c) “Sexual contact” to mean the touching of an intimate part of a client or a former client; and,
 - d) “Sexual misconduct” to mean inappropriate conduct or communication of a sexual nature that is substantially related to the qualifications, functions, or duties of a psychologist, psychological assistant, or registered psychologist.
- 2) Clarifies that any act of sexual contact, as defined, including with a patient or with a former patient within two years following termination of therapy, is unprofessional conduct, as specified.
- 3) States that a proposed or issued decision that contains a finding that the licensee or registrant engaged in an act of sexual abuse, sexual behavior, or sexual misconduct, as define, may contain an order of revocation.

4) Makes other technical and clarifying changes.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** The Board of Psychology is the sponsor of this bill. According to the author, “The Board has had trouble 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.”

2. **Background.**

Board of Psychology. The Board regulates licensed psychologists, registered psychological assistants, and registered psychologists. The Board is funded by license, application, and examination fees, and receives no revenue from California’s General Fund. The Board is comprised of nine members (five licensed psychologists and four public members) who are appointed to four-year terms. In 2019, there were approximately 21,000 licensees under the Board’s jurisdiction.

The Board’s mission is to “protect consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession.” According to the Board’s strategic plan, the Board focuses on the following areas: protecting the health, safety, and welfare of consumers of psychological services; advocating for the highest standards of professional psychology; and, empowering consumers and licensees through public and professional education.

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 to impose discipline that the Administrative Law Judge (ALJ) recommends to the Board 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 of sexual intercourse and sexual contact, revocation must be the discipline recommended by an ALJ.

Current law defines sexual contact as “sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse”. Additionally, current law defines an intimate part as “the sexual organ, anus, groin, or buttocks of any person, and the breast of a female”.

Under current law, when an investigation finds that there were egregious sexual behaviors between a psychologist and a client during or within two years of termination of therapy, these cases do not count as sexual misconduct and the requirement for the ALJ’s proposed to decision to include a recommendation of revocation does not apply. Since the law is not clear on how sexual behaviors

should be prosecuted and adjudicated, the Board has historically had to prosecute and adjudicate these cases as boundary violations with a resulting discipline of placing the licensee on probation with different terms and conditions including such terms as continuing education or coursework related to the ethical breach involved in the acts.

In 2019, the Board pursued similar legislation that would have also defined “sexual behavior” as inappropriate contact or communication of a sexual nature – and would have also required an ALJ’s proposed decision to include an order of licensure revocation when there is a finding that a licensee of the Board of Psychology has engaged in sexual behavior short of sexual contact with a client during therapy, or within two years of termination of therapy.

Brochure. The DCA produces a consumer brochure entitled *Professional Therapy Never Includes Sex*, which the law requires a psychotherapist to provide to, and discuss with a client if the psychotherapist learns of inappropriate contact between the client and a previous psychotherapist. This brochure was updated in 2018 (AB 2968, Levine, Chapter 778, Statutes of 2018), to define and include “sexual behavior” between a client and a previous psychotherapist. This bill adds to the definition of “sexual behavior,” to include that “sexual behavior” be made by the psychotherapist “for the purpose of sexual arousal, gratification, exploitation, or abuse.”

3. **Prior Related Legislation.** SB 275 (Pan of 2019) would have defined “sexual behavior” and states that an administrative law judge’s finding of fact that sexual behavior occurred between a psychotherapist and client shall trigger an order for license revocation. (*Status: The bill was amended to deal with personal protective equipment for healthcare workers.*)

AB 2968 (Levine, Chapter 778, Statutes of 2018) updated the informational brochure “Professional Therapy Never Includes Sex” to include sexual behavior and requires a psychotherapist (or their employer) who becomes aware that a patient had alleged sexual behavior with a previous psychotherapist to provide and discuss with the client the above described informational brochure.

SUPPORT AND OPPOSITION:

Support:

None received

Opposition:

None received

-- END --

**SB 401 Pan
As Amends the Law Today (03.23.2021)**

SECTION 1.

Section 2960 of the Business and Professions Code is amended to read:

2960.

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

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

(2) Any act of sexual behavior or sexual contact with a client or former client within two years following termination of therapy.

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

(A) "Sexual abuse" means the touching of an intimate part of a person by force or coercion.

(B) "Sexual behavior" means inappropriate physical contact or communication of a sexual nature with a client or a former client 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.

(C) "Sexual contact" means the touching of an intimate part of a client or a former client.

~~(e) (D) Any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct~~ "Sexual misconduct" means inappropriate conduct or communication of a sexual nature that is substantially related to the qualifications, ~~functions~~ functions, or duties of a ~~psychologist~~ ~~or psychologist~~, psychological ~~assistant~~ assistant, or registered psychologist.

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

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

(r) Repeated acts of negligence.

SEC. 2.

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

2960.1.

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

MEMORANDUM

DATE	March 25, 2021
TO	Board of Psychology Members
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(a)(2) - 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 25, 2021
TO	Board of Psychology Members
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(a)(3) - 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 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(b)(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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 54 (Kiley).

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 Board watch AB 54 (Kiley).

Attachment A: AB 54 (Kiley) Bill Text

**AB 54 Kiley
As Amends the Law Today (03.23.2021)**

SECTION 1.

Section 464.5 is added to the Business and Professions Code, to read:

464.5.

The department and any board shall not revoke a license for failure to comply with any COVID-19 emergency orders, unless the department or board can prove that lack of compliance resulted in the transmission of COVID-19.

SEC. 2.

Section 24200.8 is added to the Business and Professions Code, to read:

24200.8.

The Department of Alcoholic Beverage Control shall not revoke the license of any licensee for failure to comply with any COVID-19 emergency orders unless the department can prove that lack of compliance resulted in transmission of COVID-19.

SEC. 3.

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

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(b)(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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee voted to watch AB 1236 and directed the Chair of the Committee and staff to have a conversation with the author's office about the data points being collected to allow a more informed discussion at the April 2021 Board meeting.

Location: Assembly Business and Professions

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

Action Requested:

Staff recommends the Board 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 – The Legislative and Regulatory Affairs Committee voted to recommend the Board watch AB 1236 due to the anticipated cost to implement this bill, and the Board's need for a fee increase in the near future.

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 BreZE. 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.

AB 1236 Ting
As Amends the Law Today (03.23.2021)

SECTION 1.

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

502.

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

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

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

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

(C) Work hours.

(D) Titles of positions held.

(E) Time spent in direct patient care.

(F) Clinical practice area.

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

(H) Gender or gender identity.

(I) Languages spoken.

(J) Educational background.

(K) Future work intentions.

(L) Job satisfaction ratings.

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

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

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

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

SEC. 2.

Section 2717 of the Business and Professions Code is repealed.

~~2717.~~

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

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

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

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

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

~~(C) Gender.~~

~~(D) Languages spoken.~~

~~(E) Educational background.~~

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

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

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

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

SEC. 3.

Section 2852.5 of the Business and Professions Code is repealed.

~~2852.5.~~

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

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

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

~~(3) Gender.~~

~~(4) Languages spoken.~~

~~(5) Educational background.~~

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

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

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

SEC. 4.

Section 3518.1 of the Business and Professions Code is repealed.

3518.1.

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

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

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

~~(3) Gender.~~

~~(4) Languages spoken.~~

~~(5) Educational background.~~

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

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

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

SEC. 5.

Section 3770.1 of the Business and Professions Code is repealed.

3770.1.

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

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

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

~~(3) Gender.~~

~~(4) Languages spoken.~~

~~(5) Educational background.~~

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

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

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

SEC. 6.

Section 4506 of the Business and Professions Code is repealed.

4506.

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

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

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

~~(3) Gender.~~

~~(4) Languages spoken.~~

~~(5) Educational background.~~

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

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

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

SEC. 7.

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

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

MEMORANDUM

DATE	March 23, 2020
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(b)(3) – SB 731 (Durazo) Criminal records: relief

Background:

Among other things, this bill amends section 11105 of the Penal Code which would prohibit the Board from receiving conviction information for applicants to the Board if their conviction was granted relief pursuant to sections 1203.4, 1203.4(a), 1203.41, 1203.42, or 1203.49 of the Penal Code, so long as a period of two years has elapsed since the date the relief was granted and the applicant was not convicted of a new criminal offense.

This bill would have a large impact on the Board of Psychology's licensing and enforcement programs, and it would hinder the Board's ability to carry out its legislative mandate of consumer protection. Currently, the Board completes an enforcement review for every applicant with a criminal history, determines whether the crimes committed are substantially related to the duties of licensure. This bill would significantly diminish the Board's ability to make these determinations without access to the necessary conviction information.

Location: Senate Committee on Public Safety

Status: Set for hearing on April 6, 2021

Action Requested:

Staff recommends the Board **Oppose** SB 731 (Durazo) as it would hinder the Board's ability to fully evaluate an applicant for licensure.

Attachment A: SB 731 (Durazo) Analysis

Attachment B: SB 731 (Durazo) Bill Text

2021 Bill Analysis

Author: Durazo	Bill: SB 731	Related Bills: AB 1076 (Ting, 2019) AB 2138 (Chiu, 2018)
Sponsor: Californians for Safety and Justice Anti-Recidivism Coalition Homeboy Industries Legal Services for Prisoners with Children Los Angeles Regional Reentry Partnership	Version: Introduced	
Subject: Criminal records: relief		

SUMMARY

SB 731 will implement a system to prospectively and retroactively seal criminal and arrest records.

RECOMMENDATION

OPPOSE – Staff requests the Board oppose SB 713 as it could restrict the Board’s licensing process.

REASON FOR THE BILL

According to the author, an estimated 70 million people—nearly one in three adults, and 8 million people in California alone—have a past arrest or conviction on their record. California maintains an individual’s criminal records until that person reaches 100 years of age.

As a result of the widespread usage of background checks, the permanence of these records present thousands of barriers resulting in widespread constraints on civic participation.

California’s principal remedy to seal criminal records has been “expungement” which was adopted nearly 100 years ago and remains an incomplete and ineffective solution. Expungement provides only partial relief and is only available for people with misdemeanors and a small category of people with felonies that did not result in prison or jail terms.

SB 731 proposes a structured approach to sunseting criminal records:

1. Automated sealing of all arrest records that do not result in conviction, and

2. Phased relief for convictions records: expand record sealing to all sentences following completion of terms of incarceration, post-release supervision, and an additional period of time - provided the person has completed their sentence without any new felony convictions and has no new charges pending.

SB 731 will also retroactively provide the same opportunities for sealing relief for individuals convicted on or after January 1, 1973.

ANALYSIS

Existing law authorizes a defendant who was sentenced to a county jail for the commission of a felony and who has met specified criteria to petition to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence. Existing law also requires the court to dismiss the accusations or information against the defendant and release them from all penalties and disabilities resulting from the offense, except as specified.

This bill would make this relief available to a defendant who has been convicted of any felony.

Beginning July 1, 2022, existing law requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for specified automatic conviction and records of arrest relief without requiring the filing of a petition or motion. Under existing law, a person is eligible for arrest record relief if they were arrested on or after January 1, 2021, and the arrest was for a misdemeanor and the charge was dismissed or criminal proceedings have not been initiated within one year after the arrest, or the arrest was for a felony punishable in the county jail and criminal proceedings have not been initiated within 3 years after the date of the arrest. Under existing law, a person is eligible for automatic conviction record relief if, on or after January 1, 2021, they were sentenced to probation, and completed it without revocation, or if they were convicted of an infraction or a misdemeanor, and other criteria are met.

This bill would generally make this arrest record relief available to a person who has been arrested for a felony, including a felony punishable in state prison. It would additionally make this conviction record relief available for a defendant convicted of a felony for which they did not complete probation without revocation if the defendant appears to have completed all terms of incarceration, probation, mandatory supervision, post-release supervision, and parole.

Current law directs the Attorney General to furnish state summary criminal history information, as defined, to specified individuals, organizations, and agencies when necessary for the execution of official duties or to implement a statute or regulation. Existing law also directs the Attorney General to disseminate federal criminal history information when specifically authorized and upon a showing of compelling need. Unauthorized furnishing of criminal history information is a crime.

Beginning July 1, 2022, this bill would require the Department of Justice to archive records of arrest and conviction that were granted relief under specified provisions. The bill would require the Attorney General to exclude archived records from state summary criminal history information.

By expanding the scope of a crime, this bill would create a state-mandated local program.

This bill amends numerous sections of the Penal Code. It amends Sections 851.93, 1203.41, 11105 all relating to criminal records.

The amendments of concern are made to Section 11105. It would require the Department of Justice, beginning on January 1, 2022, to archive all criminal records. Furthermore, archived criminal records shall not be included in any state or federal summary criminal history provided by the department, except if compliance with applicable federal law requires the inclusion. Information that shall be archived includes:

- Records of arrest that were granted relief under Section 851.93 shall be archived and shall not appear on any reports of state or federal summary criminal history information if a period of at least two calendar years have passed since the date on which relief was granted under Section 851.93, during which the subject of the record was not convicted of a new criminal offense.
- Records granted relief under Section 1203.425, or Sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49 shall be archived and shall not appear on any reports of state or federal summary criminal history information if a period of two years has elapsed since the date on which relief was granted under Section 1203.425, or Sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49, during which the subject of the record was not convicted of a new criminal offense.
- The department shall not archive records during a period in which the subject of the record is required to register pursuant to the Sex Offender Registration Act, has an active record for local, state, or federal supervision in the Supervised Release File, or, based on the information available in the department's record, it appears the person is currently serving a sentence for an offense or there is an indication of pending criminal charges.

Affect on the Board of Psychology

Specifically, the amendments to section 11105 of the Penal Code would prohibit the Board from receiving conviction information for applicants to the Board if their conviction was granted relief pursuant to sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49 of the Penal Code, so long as a period of two years has elapsed since the date the relief was granted and the applicant was not convicted of a new criminal offense.

Failure to receive this information could prove problematic for the Board as the inability to review an applicant's entire criminal record could potentially prevent the Board from making a complete and informed decision regarding the applicant's fitness for licensure.

LEGISLATIVE HISTORY

AB 972 (Bonta) would establish a process for courts to automatically re-designate as misdemeanors, felony convictions which are eligible to be reduced to misdemeanors because of the passage of Proposition 47 (2014). AB 972 is pending in the Assembly Appropriations Committee.

AB 1372 (Grayson) would allow a criminal justice agency to inquire about, seek, and utilize information about certain nonsworn employees concerning an arrest or detention that did not result in a conviction, information concerning a referral or participation in a diversion program, and information that has been judicially dismissed or ordered sealed.

AB 2138 (Chiu), Chapter 995, Statutes of 2018, amends various provisions of the Business and Professions Code relating to a board's ability to deny a license or take disciplinary action in relation to criminal convictions based on various factors related to the crime, and revises requirements related to the criteria of rehabilitation that boards must consider when evaluating the denial of an application, a petition for reinstatement, or a petition for early termination of probation.

AB 2599 (Holden), Chapter 653, Statutes of 2018, requires law enforcement agencies and probation departments to increase awareness and access to the arrest record sealing and expungement process.

AB 2438 (Ting), of the 2017-2018 Legislative Session, would have required automatic expungements of certain convictions, as specified. AB 2438 was held of the Assembly Appropriations Suspense File.

AB 1793 (Bonta), Chapter 993, Statutes of 2018, requires the court to automatically resentencing, redesignate, or dismiss cannabis-related convictions.

AB 1008 (McCarty), Chapter 789, Statutes of 2017, directed employers to follow certain procedures if they wish to consider job applicants' criminal history as part of a hiring process.

AB 813 (Gonzalez Fletcher) Chapter 739, Statutes of 2016 created a mechanism of post-conviction relief for a person to vacate a conviction or sentence based on error damaging his or her ability to meaningfully understand, defend against, or knowingly accept the immigration consequences of the conviction.

SB 124 (Lara), Chapter 789, Statutes of 2016, authorized a person who was sentenced to a term of one year prior to January 1, 2015, to submit an application to the trial court to have the term of the sentence reduced to the maximum term of 364 days.

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.

This bill would have a large impact on the Board of Psychology's licensing and enforcement programs, and it would hinder the Board's ability to carry out its legislative mandate of consumer protection. Currently, the Board completes an enforcement review for every applicant with a criminal history, determines whether the crimes committed are substantially related to the duties of licensure. This bill would significantly diminish the Board's ability to make these determinations without access to the necessary conviction information.

FISCAL IMPACT

Not Applicable

ECONOMIC IMPACT

Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support: Californians for Safety and Justice
Anti-Recidivism Coalition
Homeboy Industries
Legal Services for Prisoners with Children
Los Angeles Regional Reentry Partnership

Opposition: None on File

ARGUMENTS

Proponents: None on File

Opponents: None on File

**SB 731 Durazo
As Amends the Law Today (03.23.2021)**

SECTION 1.

Section 851.93 of the Penal Code is amended to read:

851.93.

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

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

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

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

(C) (i) The arrest was for a felony offense not described in clause (ii), there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

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

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

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

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

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

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

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

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

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

(3) Except as otherwise provided in subdivision (d), an arrest for which arrest relief has been granted is deemed not to have occurred, and a person who has been granted arrest relief is released from any penalties and disabilities resulting from the arrest, and may answer any question relating to that arrest accordingly.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on August 1, 2022, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning an arrest that is granted relief pursuant to this section to any person or entity, in any format, except to the person whose arrest was granted relief or a criminal justice agency, as defined in Section 851.92.

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

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

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

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

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

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

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

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

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

(g) This section shall be operative commencing July 1, 2022, subject to an appropriation in the annual Budget Act.

SEC. 2.

Section 1203.41 of the Penal Code is amended to read:

1203.41.

(a) If a defendant is ~~sentenced pursuant to paragraph (5) of subdivision (h) of Section 1170,~~ *convicted of a felony*, the court, in its discretion and in the interests of justice, may order the following relief, subject to the conditions of subdivision (b):

(1) The court may permit the defendant to withdraw ~~his or her~~ *their* plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if ~~he or she~~ *the defendant* has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall ~~thereupon~~ dismiss the accusations or information against the defendant and ~~he or she~~ *the defendant* shall thereafter be released from all penalties and disabilities resulting from the offense of which ~~he or she has~~ *they have* been convicted, except as provided in Section 13555 of the Vehicle Code.

(2) The relief available under this section may be granted only after the lapse of one year following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, or after the lapse of two years following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section ~~1170.~~ *1170 or if the defendant was sentenced to the state prison.*

(3) The relief available under this section may be granted only if the defendant is not *on parole or* under supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, and is not serving a sentence for, on probation for, or charged with the commission of any offense.

(4) The defendant shall be informed, either orally or in writing, of the provisions of this section and of ~~his or her~~ *their* right, if any, to petition for a certificate of rehabilitation and pardon at the time ~~he or she is~~ *they are* sentenced.

(5) The defendant may make the application and change of plea in person or by attorney, or by a probation officer authorized in writing.

(b) Relief granted pursuant to subdivision (a) is subject to *all of* the following conditions:

(1) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed.

(2) The order shall state, and the defendant shall be informed, that the order does not relieve ~~him or her~~ *them* of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

(3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in ~~his or her~~ *their* custody or control any firearm or prevent ~~his or her~~ *their* conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(4) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(c) This section applies to any conviction specified in subdivision (a) that occurred before, on, or after January 1, ~~2014~~ *2021*.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this ~~section~~ *section, if the defendant was on mandatory supervision. The parole officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section, if the defendant was on parole.*

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney ~~may~~ *shall* not move to set aside or otherwise appeal the grant of that petition.

SEC. 3.

Section 1203.425 of the Penal Code is amended to read:

1203.425.

(a) (1) (A) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, shall identify persons with convictions that meet the criteria set forth in subparagraph (B) and are eligible for automatic conviction record relief.

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

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

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

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

(iv) ~~Except as otherwise provided in subclause (III) of clause (v), there is no indication that the conviction resulted in a sentence of incarceration in the state prison.~~ *The conviction meets either of the following criteria:*

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

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

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

(II) The conviction occurred on or after January 1, 1973, the defendant was convicted of a felony other than one for which the defendant completed probation without revocation, and based upon the disposition date and the sentence specified in the department's records, appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease supervision, and parole.

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

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

(C) Except as otherwise provided in paragraph (4) and in Section 13555 of the Vehicle Code, a person granted conviction relief pursuant to this section shall be released from all penalties and disabilities resulting from the offense of which the person has been convicted.

(3) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on August 1, 2022, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in paragraph (4), the court shall not disclose information concerning a conviction granted relief pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

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

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

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

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

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

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

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

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

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

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

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

(6) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, the department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic relief pursuant to subdivision (b), on the OpenJustice Web portal, as defined in Section 13010.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 4.

Section 11105 of the Penal Code is amended to read:

11105.

(a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data about the person.

(B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as **defined** *described* in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and (b) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys or city prosecutors of a city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case or a juvenile delinquency proceeding, including all appeals and postconviction motions, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, if the information is requested in the course of representation.

(10) An agency, officer, or official of the state if the state summary criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may perform state and federal criminal history information checks as provided for in subdivision (u). The Department of Justice shall provide a state or federal response to the agency, officer, or official pursuant to subdivision (p).

(11) A city, county, city and county, or district, or an officer or official thereof, if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or

governing board of the city, county, or district if the state summary criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city, county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) A person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) A managing or supervising correctional officer of a county jail or other county correctional facility.

(16) A humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing state summary criminal history information, the agency shall delete or purge from the file and destroy documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for a purpose other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving state summary criminal history information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and

to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing the officer's duties.

(25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.

(26) (A) A state entity, or its designee, that receives federal tax information. A state entity or its designee that is authorized by this paragraph to receive state summary criminal history information also may transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation for the purpose of the state entity or its designee obtaining federal level criminal offender record information from the Department of Justice. This information shall be used only for the purposes set forth in Section 1044 of the Government Code.

(B) For purposes of this paragraph, "federal tax information," "state entity" and "designee" are as defined in paragraphs (1), (2), and (3), respectively, of subdivision (f) of Section 1044 of the Government Code.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, the Attorney General shall furnish a copy of the data to the person to whom the data relates.

(2) A peace officer of the state other than those included in subdivision (b).

(3) An illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) A peace officer of another country.

(5) Public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary

criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) A person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) An individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or a foreign nation.

(10) (A) (i) A public utility, as defined in Section 216 of the Public Utilities Code, or a cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment, may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and arrests for which the person is released on bail or on their own recognizance pending trial.

(ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

(iii) State summary criminal history information is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on their own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. A public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(v) This section ~~shall not be construed as imposing~~ *does not impose* a duty upon public utilities or cable corporations to request state summary criminal history information on current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means a corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau

of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(11) A campus of the California State University or the University of California, or a four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to a special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(12) A foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, a person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 26190, and former Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in ~~(1)~~ a transcript or record of a judicial or administrative proceeding or ~~(2)~~ any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or a state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting state summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided, however, that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(F) Sex offender registration status of the applicant.

(G) Sentencing information, if present in the department's records at the time of the response.

(l) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or which did not result in a conviction, provided that the Department of Justice first

makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention, or the subject was granted relief pursuant to Section 851.91.

(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(E) Sex offender registration status of the applicant.

(F) Sentencing information, if present in the department's records at the time of the response.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or a statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(D) Sex offender registration status of the applicant.

(E) Sentencing information, if present in the department's records at the time of the response.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in the successful completion of a diversion program, exoneration, or a grant of relief pursuant to Section 851.91.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (10) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) A statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction, except a conviction for which relief has been granted pursuant to Section 1203.49, rendered against the applicant for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or a statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of an offense specified in Section 550 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sentencing information, if present in the department's records at the time of the response.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or a statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49. The Commission on Teacher Credentialing shall receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(q) All agencies, organizations, or individuals defined in subdivisions ~~(k), (l), (m), (n), (o), and (p)~~ (k) to (p), inclusive, may contract with the Department of Justice for subsequent notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent notification pursuant to Section 11105.2.

(r) This section does not require the Department of Justice to cease compliance with any other statutory notification requirements.

(s) ~~The provisions of~~ Section 50.12 of Title 28 of the Code of Federal Regulations ~~are to shall~~ be followed in processing federal criminal history information.

(t) Whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

(u) (1) If a fingerprint-based criminal history information check is required pursuant to any statute, that check shall be requested from the Department of Justice and shall be applicable to the person identified in the referencing statute. The agency or entity identified in the statute shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of the types of applicants identified in the referencing statute, for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of the state or federal arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.

(2) If requested, the Department of Justice shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation for the purpose of obtaining a federal criminal history information check. The Department of Justice shall review the information returned from the Federal Bureau of Investigation, and compile and

disseminate a response or a fitness determination, as appropriate, to the agency or entity identified in the referencing statute.

(3) The Department of Justice shall provide a state- or federal-level response or a fitness determination, as appropriate, to the agency or entity identified in the referencing statute, pursuant to the identified subdivision.

(4) The agency or entity identified in the referencing statute shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2, for persons described in the referencing statute.

(5) The Department of Justice shall charge a fee sufficient to cover the reasonable cost of processing the request described in this subdivision.

(v) (1) Commencing, July 1, 2022, the Department of Justice shall archive criminal records as provided in this subdivision. Notwithstanding any other law, an archived criminal record shall not be included in any state or federal summary criminal history furnished by the department, except as specified in paragraph (4).

(2) The department shall archive all of the following:

(A) Records of arrest that were granted relief under Section 851.93 shall be archived and shall not appear on any reports of state or federal summary criminal history information if a period of at least two calendar years have passed since the date on which relief was granted under Section 851.93, during which the subject of the record was not convicted of a new criminal offense.

(B) Records granted relief under Section 1203.425, or Sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49 shall be archived and shall not appear on any reports of state or federal summary criminal history information if a period of two years has elapsed since the date on which relief was granted under Section 1203.425, or Sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49, during which the subject of the record was not convicted of a new criminal offense.

(3) The department shall not archive records during a period in which the subject of the record is required to register pursuant to the Sex Offender Registration Act, has an active record for local, state, or federal supervision in the Supervised Release File, or, based on the information available in the department's record, it appears the person is currently serving a sentence for an offense or there is an indication of pending criminal charges.

(4) Notwithstanding paragraphs (1) and (2), records in a subject's archived criminal history may be furnished with the subject's state summary criminal history information if compliance with applicable federal law requires that inclusion.

SEC. 5.

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(b)(4) – 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.

On 3/19/2021, The Legislative and Regulatory Affairs Committee voted to recommend the Board take an **Oppose Unless Amended** position on SB 772 (Ochoa Bogh)

Location: Business, Professions and Economic Development Committee.

Status: Set for hearing on April 19, 2021.

Action Requested:

The Legislative and Regulatory Affairs Committee recommends the Board take an **Oppose Unless Amended** position on SB 772 (Ochoa Bogh).

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 – The Legislative and Regulatory Affairs Committee voted to recommend the Board take an **Oppose Unless Amended** position on SB 772 (Ochoa Bogh), 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.

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.

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.

**SB 772 Ochoa Bogh
As Amends the Law Today (03.23.2021)**

SECTION 1.

Section 125.9 of the Business and Professions Code is amended to read:

125.9.

(a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), any board, bureau, or commission within the department, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

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

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

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

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

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

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine and compliance with the order of abatement, if applicable, shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

(f) A licensee shall not be assessed an administrative fine for a violation of the applicable licensing act or any regulation adopted pursuant to the act if the violation is a minor violation. A violation shall be considered minor if all of the following conditions are satisfied:

(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 from the date notice of the violation is sent to the licensee.

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee voted to recommend the Board take a **Support** position on AB 32 (Aguiar-Curry).

Location: Assembly Committee on Health

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

Action Requested:

The Legislative and Regulatory Affairs Committee recommends the Board **Support** AB 32 (Aguiar-Curry).

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

**AB 32 Aguiar-Curry
As Amends the Law Today (03.23.2021)**

SECTION 1.

(a) The Legislature finds and declares all of the following:

(1) The Legislature has recognized the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the provider, and enacted protections in Section 14132.72 of the Welfare and Institutions Code to prevent the State Department of Health Care Services from restricting or limiting telehealth services.

(2) The use of telehealth was expanded during the COVID-19 pandemic public health emergency and has proven to be an important modality for patients to stay connected to their health care providers. Telehealth has been especially critical for California's Medi-Cal patients.

(3) Patients have reported high satisfaction with telehealth, noting how easy it is to connect with their care teams without having to take time off work, find childcare, or find transportation to an in-person appointment.

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

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

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

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

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

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

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

SEC. 2.

Section 2290.5 of the Business and Professions Code is amended to read:

2290.5.

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site.

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

(3) "Health care provider" means any of the following:

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

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

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

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

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

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

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

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

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

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

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

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

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

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

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

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

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

Section 1374.14 of the Health and Safety Code is amended to read:

1374.14.

(a) (1) A contract ~~issued, amended, or renewed on or after January 1, 2021,~~ between a health care service plan and a health care provider for the provision of health care services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

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

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

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

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

(b) (1) A health care service plan contract ~~issued, amended, or renewed on or after January 1, 2021,~~ shall specify that the health care service plan shall provide coverage for health care

services appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

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

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

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

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

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

~~(f) This section shall not apply to Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) of, Chapter 8 (commencing with Section 14200) of, or Chapter 8.75 (commencing with Section 14591) of, Part 3 of Division 9 of the Welfare and Institutions Code.~~

~~SEC. 3.~~ **SEC. 4.**

Section 10123.855 of the Insurance Code is amended to read:

10123.855.

(a) (1) A contract ~~issued, amended, or renewed on or after January 1, 2021,~~ between a health insurer and a health care provider for an alternative rate of payment pursuant to Section 10133 shall specify that the health insurer shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an insured or policyholder appropriately delivered through telehealth services on the same basis and to the same extent that the health insurer is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

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

(3) If a health insurer delegates responsibility for the performance of the duties described in this section to a contracted entity, including a medical group or independent practice association, then the delegated entity shall comply with this section.

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

(b) (1) A policy of health insurance ~~issued, amended, or renewed on or after January 1, 2021,~~ that provides benefits through contracts with providers at alternative rates of payment shall specify that the health insurer shall provide coverage for health care services appropriately delivered through telehealth services on the same basis and to the same extent that the health insurer is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

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

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

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

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

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

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

~~SEC. 4.~~ SEC. 5.

Section 14087.95 of the Welfare and Institutions Code is amended to read:

14087.95.

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

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

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

SEC. 6.

Section 14092.4 is added to the Welfare and Institutions Code, immediately following Section 14092.35, to read:

14092.4.

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

(1) *For the Family Planning, Access, Care, and Treatment (Family PACT), Presumptive Eligibility for Pregnant Women, and Every Woman Counts programs, a provider may enroll or recertify an individual remotely through telehealth and other virtual communication modalities, including telephone, based on the current Medi-Cal program eligibility form or forms applicable to the specific program.*

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

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

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

SEC. 7.

Section 14132.721 is added to the Welfare and Institutions Code, immediately following Section 14132.72, to read:

14132.721.

(a) *Notwithstanding any other law, health care services furnished by an enrolled clinic through telehealth shall 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, consistent with this section.*

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

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

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

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

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

(5) *Policies, including reimbursement policies, that impose more stringent requirements on telehealth services than equivalent services furnished in person. This paragraph does not*

prohibit policies that require all of the clinical elements of a service to be met as a condition of reimbursement.

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

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

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

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

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

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

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

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

(j) For purposes of this section:

(1) "Enrolled clinic" means any of the following:

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

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

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

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

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

SEC. 8.

Section 14132.722 is added to the Welfare and Institutions Code, immediately following Section 14132.721, to read:

14132.722.

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

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

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

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

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

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

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

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

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

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

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

MEMORANDUM

DATE	March 24, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee voted to recommend the Board take a Support if Amended position on AB 107 (Salas).

On 3/23/2021, the Assembly Committee on Business and Professions voted 17 - 0 to refer the bill to the Committee on Military and Veterans Affairs.

Location: Assembly Committee on Military and Veterans Affairs

Status: 3/23/21 Referred to Committee on Military and Veterans Affairs

Action Requested:

The Legislative and Regulatory Affairs Committee recommends the Board take a **Support if Amended** position on AB 107 (Salas) and provide the author's office with the identified amendments to Business and Professions Code 2946.

Attachment A: Board Analysis

Attachment B: Business and Professions Committee Analysis

Attachment C: Bill Text

2021 Bill Analysis

Author: Salas	Bill Number: AB 107	Related Bills: AB 225 (Gray) AB 410 (Fong)
Sponsor: United States Department of Defense	Version: Amended	
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

The Legislative and Regulatory Affairs Committee voted to recommend the Board take a **Support if Amended** position on AB 107 (Salas) and provide the author's office with the identified amendments to Business and Professions Code 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 several 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.

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.

LEGISLATIVE HISTORY

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.

AB 410 (Fong, 2021), which is pending in this Committee, would establish the statutory language needed to enter California into the Nurse Licensure Compact, an interstate compact that allows reciprocity (without the need for endorsement) for registered nurses that carry a multi-state license issued under the compact.

AB 2185 (Patterson, 2020) would have required each DCA licensing board that does not have an out-of-state license endorsement process to issue a license to an applicant if the applicant is the spouse of an active duty member of the Armed Forces of the United States, holds a license in good standing and practiced for three of the last five years, passes a California jurisprudence examination, passes a background check, and pays applicable fees. AB 2185 died pending hearing in this Committee.

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.

SB 1324 (Allen, 2020) would have added the website requirements proposed under this bill. SB 1324 died pending hearing in the Senate Committee on Business, Professions and Economic Development.

AB 186 (Maienschein, 2014) Chapter 640, Statutes of 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.

SB 1226 (Correa, 2014), Chapter 657, Statutes of 2014, established the requirement that DCA boards expedite applications from honorable discharged veterans and established equivalency in-lieu course requirements for private security officers.

AB 1904 (Block), Chapter 399, Statutes of 2012 established the requirement that DCA boards expedite the licensing process for spouses of active duty Armed Forces members.

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
California Association for Health Services at Home
San Diego Military Advisory Council

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.

Date of Hearing: March 23, 2021

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 107 (Salas) – As Amended February 25, 2021

SUBJECT: Licensure: veterans and military spouses.

SUMMARY: Adds ten Department of Consumer Affairs (DCA) licensing boards to the existing list of boards that are required to issue temporary licenses to the spouses of active-duty members of the U.S. Armed Forces, as specified; requires all other DCA boards to issue permanent licenses to applicants who meet similar requirements; and requires the Department of Veterans Affairs, the DCA, the Commission on Teacher Credentialing, the Department of Real Estate, and the Department of Public Health to include specified licensing information relating to service members, spouses, and veterans on their websites and annually report specified licensing information to the Legislature.

EXISTING LAW:

- 1) Establishes the DCA within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100)
- 2) Provides for the regulation and licensure of various professions and vocations by boards, bureaus, and other entities within the DCA. (BPC §§ 100-144.5)
- 3) Defines “board,” as used in the BPC, as the board in which the administration of the provision is vested, and unless otherwise expressly provided, includes “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.” (BPC § 22)
- 4) Requires that any licensee or registrant of any board, commission, or bureau within the DCA whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate their license or registration without examination or penalty. (BPC § 114)
- 5) Requires every board within the DCA to waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard. (BPC § 114.3)
- 6) Requires a DCA board to inquire in every license application if the individual applying for licensure is serving in, or has previously served in, the military and, if the board’s governing law authorizes veterans to apply military experience and training towards licensure requirements, to post information on the board’s website about the ability of veteran applicants to apply military experience and training towards licensure requirements. (BPC § 114.5)

- 7) Requires a DCA board to expedite 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. (BPC § 115.4)
- 8) Requires a DCA board to expedite the licensure process for an applicant 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 who is assigned to a duty station in this state under official active duty military orders and who holds a current license in another state, district, or territory of the United States in the profession or vocation for which they are seeking a license from the board. (BPC § 115.5)
- 9) Requires seven DCA boards to, after appropriate investigation, issue temporary licenses to an applicant, if the applicant meets specified requirements, including, among other things, that 1) the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders; 2) the applicant 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; and the applicant submits a signed affidavit attesting to meeting the requirements of the temporary license. (BPC § 115.6)
- 10) Includes the following licenses under the temporary license requirement:
 - a) Registered nurse licenses under the Board of Registered Nursing.
 - b) Vocational nurse and psychiatric technician licenses under the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
 - c) Speech-language pathologist and audiologist licenses under the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board but not hearing aid dispenser licenses.
 - d) Veterinarian licenses under the Veterinary Medical Board but not registered veterinary technicians.
 - e) All licenses under the Board for Professional Engineers, Land Surveyors, and Geologists.
 - f) All licenses under the Medical Board of California.
 - g) All licenses under the Podiatric Medical Board of California.
- 11) Establishes separate temporary licensing authorization for all applicants applying for a permanent license with the Board of Registered Nursing. Temporary licenses issued under that authorization expire after six months and may be renewed twice. (BPC § 2733)

THIS BILL:

- 1) Makes legislative findings and declarations.

- 2) Makes the following changes to the current temporary license requirements:
 - a) Adds the following boards and all license types to the existing requirement to issue temporary licenses:
 - i) The Dental Board of California.
 - ii) The Dental Hygiene Board of California.
 - iii) The California State Board of Pharmacy.
 - iv) The State Board of Barbering and Cosmetology.
 - v) The Board of Psychology.
 - vi) The California Board of Occupational Therapy.
 - vii) The Physical Therapy Board of California.
 - viii) The California Board of Accountancy.
 - b) Adds previously excluded licenses under the Veterinary Medical Board.
 - c) Specifies that the revenues from fees for temporary licenses issued by the California Board of Accountancy shall be credited to the Accountancy Fund.
 - d) Modifies the attestation requirement to specify that the applicant attests to meeting the temporary license requirements in the same area and scope of practice issued in the other state, district, or territory of the United States, rather than just the temporary license requirements.
 - e) Requires that the boards issue temporary licenses within 30 days of receiving the required documentation.
 - f) Adds that temporary licenses expire upon issuance of a license by endorsement, in addition to the current expiration requirements of 12 months, upon issuance of an expedited license, or denial of the application.
 - g) Requires the boards required to issue temporary licenses to submit to the DCA for approval draft regulations necessary to administer the temporary license programs by January 1, 2022.
 - h) Exempts boards from the temporary license requirements if the board already has a similar process in place.
- 3) Establishes a license requirement for the boards not included under the temporary license provisions with the same requirements:

- a) Requires DCA boards not specified under the temporary license provisions to, after appropriate investigation, issue a license to an applicant if the applicant meets all of the following requirements:
 - i) 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 who is assigned to a duty station in this state under official active duty military orders.
 - ii) 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 license from the board.
 - iii) 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 the license, in the same area and scope of practice as issued in the other state, district, or territory of the United States, and that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application must also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.
 - iv) The applicant must not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under the BPC at the time the act was committed, and a violation may be grounds for the denial or revocation of a license issued by the board.
 - v) The applicant must not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.
 - vi) The applicant must, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.
 - b) Authorizes a board to adopt regulations necessary to administer the new provisions.
- 4) Makes a conforming change to the Accountancy Fund provisions.
 - 5) Establishes requirements relating to posting information and reporting:
 - a) Requires the Department of Veterans Affairs to place a prominently displayed military licensure icon or hyperlink on its internet website, in an appropriate location pertaining to licensure and employment opportunities for veterans, service members, and spouses, that links to the internet websites identified in this bill.

- b) Requires the DCA, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health to place a prominently displayed 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, including:
 - i) General licensure or certificate information.
 - ii) Each 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.
 - iii) 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) Requires the DCA to 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.
- d) Requires the DCA to 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.
- e) Requires the DCA, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health to compile information on military, veteran, and spouse licensure into an annual report for the Legislature that includes all of the following:
 - i) The number of applications for a license submitted by active duty service members, separating service members, veterans, or military spouses per calendar year.
 - ii) 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.
 - iii) The number of licenses of active duty service members, separating service members, veterans, or military spouses that were suspended or revoked per calendar year.
 - iv) The number of applications for waived renewal fees received from active duty service members and military spouses per calendar year.
 - v) The number of fee waivers issued to active duty service members and military spouses per calendar year.

- vi) 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.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

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

Background. This bill seeks to improve license portability for military spouses. It would increase the number of boards required to issue temporary licenses to military spouses, establish a similar licensing process for the boards not included under the temporary license provisions, and establish various website posting and reporting requirements.

In California, many professions require a license to legally practice. As a result, when the spouse or partner of an active duty member of the military travels with the member to California under military orders, they may be required to apply for a new license, even if they are licensed in a different state. However, the process of applying for a new license can be lengthy, expensive, and burdensome. Military spouses may under this process multiple times, despite having little choice in when or how often they move.

To assist with these burdens, existing law provides for several accommodations of both military family and veteran license applicants. DCA boards are required to ask about the military status of each of their applicants so that military experience may potentially be applied toward licensure training requirements. DCA boards are also required to expedite licensure for military veterans as well as the spouses and partners of active duty military to reduce license processing wait times.

Temporary Licenses. If licensed in another state, and depending on the license, military spouses and other applicants may be able to issue to utilize provisions that recognize out-of-state licenses, also known as reciprocity or licensure by endorsement. However, depending on the specific license requirements and the potential differences in requirements between states, applicants may still experience long wait times as their qualifications are reviewed.

To address this issue, some DCA boards may issue temporary licenses. In general, temporary licenses allow an applicant to practice for a limited period, allowing them to practice while the remainder of the qualifications is obtained or verified. Because license requirements are intended to protect the public, applicants usually must be able to immediately demonstrate meeting some of the qualifications required for licensure and pass a background check.

Seven DCA boards are also required to issue temporary licenses to military spouses after an appropriate investigation. However, each board specified under the current law administers the temporary licenses differently:

- 1) *Board of Registered Nursing*. The Board of Registered Nursing has separate temporary licensing provisions in the Nursing Practice Act that apply to all endorsement applicants and it continues to follow utilize those requirements, not the requirements specific to military spouses. Upon verification of the out-of-state license and completion of a background check, the board issues a temporary license that In its *2020 Sunset Review Report*, the BRN expedited the following endorsement applications for military spouses:

FY 2017-18	FY 2018-19	FY 2019-20
489	388	503

- 2) *Board of Vocational Nursing and Psychiatric Technicians*. A vocational nursing or psychiatric technician temporary license is only issued upon request, and only after the evaluation has been completed, the application has been approved for licensure, and fingerprints are cleared. The fee is the same (\$220). Therefore, there is no functional difference between a license by endorsement and a temporary license, except that a temporary license expires. In its *2019 Sunset Review Report*, the BVNPT reported expediting the applications of 52 military spouses licensed in another state since 2013.
- 3) *Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board*. Only the speech-language pathology and audiology licenses are included under the temporary license provisions, but the board does offer a temporary license process for hearing aid dispensing licenses. Updated numbers were not readily available, but in its *2016 Sunset Review Report*, the board reported expediting two applications for military spouses who were licensed in another state since 2013.
 - a) Speech-language pathology and audiology applicants can request a temporary license only or temporary and full licensure. To get a temporary license, applicants must submit with the application a fee (\$30 for temporary license and \$90 for permanent license), verification of licensure from each state a license is held, and fingerprints plus fingerprinting fees (\$49 if out of state). Either way, after issuance of a temporary license, applicants must submit education and other qualifications for licensure.
 - b) Hearing aid dispenser applicants can request a temporary license while taking the California written and practical examinations (\$400). They must possess an active and current hearing aid dispensing license from another state. The temporary license is valid for 12 months and is not renewable. During those 12 months, the applicant must take and pass both examinations. If the applicant fails either exam, they must surrender their temporary license.
- 4) *Veterinary Medical Board*. The board allows veterinarian applicants who have practiced full-time for two out of the last three years, and meet specified education and training requirements, to apply for a temporary license (\$250) along with endorsement. Within one year of temporary licensure, the applicant must complete a California-specific Veterinary Law Examination (VLE) (\$100) and a 3-day educational curriculum on regionally-specific

diseases and conditions. It does not currently issue temporary licenses to registered veterinary technicians.

In its *2019 Sunset Review Report*, the Veterinary Medical Board reported expediting the following military spouses:

FY 2015-16	FY 2017-18	FY 2018-19	FY 2019-20
2	110	169	150

- 5) *Board for Professional Engineers, Land Surveyors, and Geologists*. The board provides for licensure by “comity,” which is the same as endorsement or reciprocity, but does not issue temporary licenses. The board staff report that there are no differences between the requirements for a temporary license and a standard license, so applications for both are treated the same and they issue a permanent license. The existing temporary licensing provisions also require that all applicants pass California-specific examinations.

The board would still expedite the processing of military spouse applications who have an out-of-state-license, but in their *2018 Sunset Review Report*, they reported not having received any applications.

- 6) *Medical Board of California*. The board does not issue temporary licenses, and in its *2020 Sunset Review Report*, it reported issuing 45 physician licenses to military spouse applicants who had an out-of-state license between FYs 2016-17 and 2018-19.
- 7) *Podiatric Medical Board of California*. The board does not issue temporary licenses, and in its *2019 Sunset Review Report*, it reported having only expediting the license of one military spouse applicant since its last review, and in its last review, it reported having not received any.

This bill would additionally require the temporary license requirement to be expanded to all licenses issued by the Dental Board, the Dental Hygiene Board, the State Board of Pharmacy, the Board of Accountancy, the Veterinary Medical Board, the State Board of Barbering and Cosmetology, the Board of Psychology, the Board of Occupational Therapy, and the Physical Therapy Board. The boards selected were identified by the Department of Defense as having higher impacts on their service members and facilities.

Non-Temporary Endorsement Licenses. Section 3 of this bill would create a parallel licensing system for military spouses and veterans for the remaining DCA boards, which include:

- 1) California Architects Board.
- 2) Contractors State License Board.
- 3) Bureau for Private Postsecondary Education.
- 4) Bureau of Household Goods and Services.
- 5) Board of Behavioral Sciences.
- 6) The State Athletic Commission.
- 7) The Cemetery and Funeral Bureau.
- 8) The Bureau of Security and Investigative Services.
- 9) The Court Reporters Board of California.

- 10) The Landscape Architects Technical Committee.
- 11) The Bureau of Automotive Repair.
- 12) The Respiratory Care Board of California.
- 13) The Acupuncture Board.
- 14) The Arbitration Review Program.
- 15) The Physician Assistant Board.
- 16) The Osteopathic Medical Board of California.
- 17) The Naturopathic Medicine Committee.
- 18) The Professional Fiduciaries Bureau.
- 19) The State Board of Chiropractic Examiners.
- 20) The Bureau of Real Estate Appraisers.
- 21) The Structural Pest Control Board.
- 22) The Bureau of Cannabis Control.
- 23) Any other boards subject to the DCA's jurisdiction by law.

The application requirements are mostly the same as the existing temporary license provisions, but several provisions relating to the board's investigatory authority and expiration and revocation were left out, suggesting that the license issued under that section would be a permanent license.

Web Links and Reporting. There is currently no centralized location for military applicant data, and therefore can be difficult to find. Section 4 of this bill would establish provisions to allow for that data to be made available. Those provisions were taken from SB 1324 (Allen) of 2020, which was not set for hearing in the Senate Committee on Business, Professions, and Economic Development.

At the time, the author stated that the provisions would help the legislature gather the necessary data to understand the scope of the issues facing members of the military and their families. The intent was to establish a more streamlined and accessible source of information related to the licensure of veterans, service members, and military spouses by requiring occupational boards to create prominently displayed icons on their internet websites that link to information about military licensing. Additionally, each agency would be required to submit statistics related to military licensing in California on their webpages and in an annual report to the legislature.

Current Related Legislation. AB 225 (Gray), which is pending in this Committee, would make the changes to the permanent licensing provisions proposed under this bill, except that it would exclude non-healing arts boards and extend the duration of the temporary license to 30 months instead of 12 months.

AB 410 (Fong), which is pending in this Committee, would establish the statutory language needed to enter California into the Nurse Licensure Compact, an interstate compact that allows reciprocity (without the need for endorsement) for registered nurses that carry a multi-state license issued under the compact.

Prior Related Legislation. AB 2185 (Patterson) of 2020 would have required each DCA licensing board that does not have an out-of-state license endorsement process to issue a license to an applicant if the applicant is the spouse of an active duty member of the Armed Forces of the United States, holds a license in good standing and practiced for three of the last five years,

passes a California jurisprudence examination, passes a background check, and pays applicable fees. AB 2185 died pending hearing in this Committee.

AB 2459 (Salas) of 2020 would have made the changes to the temporary licensing provisions proposed under this bill. AB 2459 died pending hearing in the Senate Committee on Business, Professions and Economic Development.

AB 3045 (Gray) of 2020 would have added similar permanent licensing provisions proposed under this bill. AB 3045 died pending hearing in the Senate Committee on Business, Professions and Economic Development.

SB 1324 (Allen) of 2020 would have added the website requirements proposed under this bill. SB 1324 died pending hearing in the Senate Committee on Business, Professions and Economic Development.

AB 186 (Maienschein), Chapter 640, Statutes of 2014 first established the temporary license provisions that this bill is amending.

SB 1226 (Correa), Chapter 657, Statutes of 2014 established the requirement that DCA boards expedite applications from honorable discharged veterans and established equivalency in-lieu course requirements for private security officers.

AB 1904 (Block), Chapter 399, Statutes of 2012 established the requirement that DCA boards expedite the licensing process for spouses of active duty Armed Forces members.

ARGUMENTS IN SUPPORT:

The *California Association for Health Services at Home* writes in support, “Our nation owes much to our men and women in uniform and their families. The service of these brave military professionals is essential to our freedom. And while these outstanding Americans are in harm’s way thousands of miles away, their spouse are left home to care for their families. Many of these spouses have professional careers of their own and allowing them to pursue their profession through the issuance of a temporary license while they settle their families in our state is clearly the right thing to do and in the best interest of all Californians.”

The San Diego Military Advisory Council writes in support, “Licensure impediments including cost challenges are significant issues for our military partners and spouses.... As our military families move into California the ability for the spouse to continue work is key to affording to live in our state. Licensing challenges are a top contributor to military spouse unemployment and under-employment, and the nonprofit Blue Start Families’ recent survey found military spouse employment is the top concern among military spouses.”

The *United States Department of Defense, Office of the Assistant Secretary of Defense* writes in support:

Addressing licensure issues for the spouses of our military Service members has been a priority for the Department for several years. Military spouses are disproportionately affected by state-specific licensure requirements that can cause

delays and gaps in employment, with over 34 percent of the working population requiring state licensure to practice in their professions and an annual cross-state relocation rate ten times higher than their civilian counterparts. Accordingly, military spouses experience unemployment and underemployment at significantly higher rates than their civilian peers, which has been compounded by the Covid-19 pandemic.

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

In closing, DoD is very appreciative of California's ongoing commitment and efforts to support our military Service members and their families, especially concerning licensure and career portability for military spouses.

ARGUMENTS IN OPPOSITION:

None on file

POLICY ISSUES:

Temporary License vs. Full-License. This bill would establish a parallel licensing structure for all DCA boards that are not included, as well as any other entities the DCA may have jurisdiction over. However, it is unclear whether there is a reason to have separate provisions for the boards, and the inclusion of some boards under the temporary licensing provisions and the rest under a different licensing provision would appear arbitrary.

Also, the new licensing provisions require the boards to issue a license but are silent on the ability to revoke them. As a result, it is unclear whether the boards would have to initiate a formal disciplinary action to revoke a license if the initial investigation shows that the licensee does not meet the California requirements for that license.

Inclusion of Veterans. This bill would include honorable discharged veterans in the new licensing provisions. However, discharged veterans are not actively moving between states under military orders in the way that the spouses of active-duty members are. Therefore, it is unclear whether veterans should be included in either the temporary license provisions or the new licensing provisions.

Scope of Practice. This bill adds that the signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary and new license include that the applicant meets the requirements "in the same area and scope of practice as issued in the other state, district, or territory of the United States" as the out-of-state license that the applicant holds. It is unclear whether identifying the out-of-state scope of practice is necessary, as the scope of practice under

the new license will be the California scope of practice, and the education and training requirements being attested to will relate to that scope.

IMPLEMENTATION ISSUES:

Inclusion of All DCA Boards. This bill would include at least 22 new DCA boards under the new licensing provisions, however not all board licenses relate to a profession or vocation that would move across state lines. For example, the Bureau of Automotive Repair regulates facilities that would not move across state lines, and the Athletic Commission regulates martial arts fighters and promoters that do not go through standardized training or examinations that translate to the goals under this bill.

Other boards that may not fit well from a regulatory purpose perspective include:

- The Bureau for Private Postsecondary Education
- The Bureau of Household Goods and Services
- The Cemetery and Funeral Bureau
- The Arbitration Review Program
- The Bureau of Cannabis Control

There are also boards established by initiative statute that may conflict with the provisions of this bill, including:

- The State Board of Chiropractic Examiners
- The Bureau of Cannabis Control

Also, there may be some boards with clearly different standards or require a state-specific primary examination that no other states use, such as the California Acupuncture Board. If this bill passes this Committee, the author may wish to work with the DCA and its boards and bureaus on exclusions.

Vagueness. The existing temporary license provisions, and the new licensing provisions based on those provisions, are generally vague as to the requirements for either license. Under current law, the only specified requirements are that an applicant:

- 1) Apply for a temporary license
- 2) Supply evidence of being the spouse of an active duty service member who is in the state on official military orders
- 3) Supply evidence of a valid out-of-state license
- 4) Attest to meeting the temporary license requirements, that the information provided in the application is accurate, and that the out-of-state license is in good standing.
- 5) Supply fingerprints via live scan or FBI hard card at the request of the board (which the board will always request).

The current law does not specify the requirements of the temporary license or the required documentation in the application. Instead, it requires an “appropriate investigation” and separately authorizes a board to “conduct an investigation of an applicant for purposes of denying or revoking a temporary license.” This appears to provide a significant amount of

discretion to the boards. As noted earlier, each board under the current law implements the requirements differently, with four out of the seven boards effectively not issuing temporary licenses.

If this bill passes this Committee, the author may wish to amend the bill to include greater specificity to ensure boards are implementing the section as intended and provide consistency for applicants.

Delays Due to Fingerprints. This bill would require that the boards subject to the temporary license provisions issue the license “within 30 days of receiving the required documentation.” However, there may be delays out of the board’s control as the fingerprints are processed by the Department of Justice.

Regulation Requirements. This bill would require, rather than authorize, boards subject to the temporary license provisions to promulgate regulations. However, there may be boards that can implement the requirements, or have implemented the requirements, without regulations. Requiring those boards to promulgate regulations if they do not need to may delay the implementation of this bill.

Board of Registered Nursing (BRN). This Committee’s analysis of AB 186 (Maienschein), Chapter 640, Statutes of 2014 noted, “Some boards, such as the BRN and the Board for Professional Engineers, Land Surveyors, and Geologists already have a process under existing law to issue temporary licenses to out-of-state applicants that expire within a specified time frame. This bill would conflict with those laws.” While the staff for the Board for Professional Engineers, Land Surveyors, and Geologists have noted that the temporary licensing laws have since been repealed, the BRN’s statute remains and the BRN continues to rely on that statute.

Fees. This Committee’s analysis of AB 186 (Maienschein), Chapter 640, Statutes of 2014 noted that the temporary license provisions do not establish or authorize fees, which are typically authorized in statute. If this bill passes this Committee, the author may wish to amend the bill to authorize a fee that does not exceed the cost of administering the license provisions.

AMENDMENTS:

- 1) To 1) clarify that boards must issue a temporary license within 30 days of receiving the results of a background check, 2) limit the application of the bill to professions and vocations rather than businesses and other non-compatible license types, and 3) include all boards under the temporary license provisions rather than the permanent license provisions, the author should amend the bill as follows:

On pages 5-6, starting on line 22:

115.6. (a)(1) Except as provided in subdivision ~~(h)~~, (i), a board within the department shall, after appropriate investigation, issue ~~the following eligible~~ a temporary license *license to practice a profession or vocation* to an applicant ~~within 30 days of receiving the required documentation pursuant to meeting~~ *who meets* the requirements set forth in subdivision ~~(c)~~:
(c).

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

- ~~(2) Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.~~
- ~~(3) Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.~~
- ~~(4) Speech language pathologist license issued by the Speech Language Pathology and Audiology and Hearing Aid Dispensers Board.~~
- ~~(5) Audiologist license issued by the Speech Language Pathology and Audiology and Hearing Aid Dispensers Board.~~
- ~~(6) All licenses issued by the Veterinary Medical Board.~~
- ~~(7) All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.~~
- ~~(8) All licenses issued by the Medical Board of California.~~
- ~~(9) All licenses issued by the Podiatric Medical Board of California.~~
- ~~(10) All licenses issued by the Dental Board of California.~~
- ~~(11) All licenses issued by the Dental Hygiene Board of California.~~
- ~~(12) All licenses issued by the California State Board of Pharmacy.~~
- ~~(13) All licenses issued by the State Board of Barbering and Cosmetology.~~
- ~~(14) All licenses issued by the Board of Psychology.~~
- ~~(15) All licenses issued by the California Board of Occupational Therapy.~~
- ~~(16) All licenses issued by the Physical Therapy Board of California.~~
- ~~(17) All licenses issued by the California Board of Accountancy. Revenues~~
- (2) Revenues from fees for temporary licenses issued under this paragraph *by the California Board of Accountancy* shall be credited to the Accountancy Fund in accordance with Section 5132.

On page 5, after line 21, insert:

(d) A board shall issue a temporary license pursuant to this section within 30 days following receipt of the documentation specified in subdivision (c) if the results of the criminal background check do not show grounds for denial.

- 2) To create a single licensing structure for military spouses, as well as remove veterans from the military spouse provisions, the author should amend the bill to delete section 3.
- 3) To ensure boards promulgate regulations only if necessary, the author should amend the bill as follows:

On page 8, lines 9-13:

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

- 4) To avoid conflicts with initiatives or constitutional requirements, the author should amend the bill as follows:

On page 8, lines 14-20:

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

(B) This section shall apply only to the extent that it does not amend an initiative or violate constitutional requirements.

REGISTERED SUPPORT:

California Association for Health Services At Home
San Diego Military Advisory Council
United States Department of Defense

REGISTERED OPPOSITION:

None on file

Analysis Prepared by: Vincent Chee / B. & P. / (916) 319-3301

AM 107 (Low)
As Amends the Law Today (03.23.2021)

SECTION 1.

The Legislature finds and declares the following:

(a) If active duty military personnel, veterans, service members separating from military service, and their spouses are able to maintain careers through frequent moves and key transitions, they are able to help support their families while providing critical services to their communities. Yet, if a military spouse is transferred to California, or a service member leaves the Armed Forces of the United States and returns to or remains in California, these professionals may face difficulty transporting their professional licenses obtained in another state.

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

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

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

SEC. 2.

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

115.6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary ~~license~~ *and- license, in the same area and scope of practice issued in the other state, district, or territory of the United States, as described in paragraph (2), and* that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

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

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

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

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

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

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

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

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

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

SEC. 3.

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

115.7.

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

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

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

(3) *The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the license, in the same area and scope of practice as issued in the other state, district, or territory of the United States described in paragraph (2), and that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.*

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

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

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

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

SEC. 4.

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

5132.

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

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

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

SEC. 5.

Section 95 is added to the Military and Veterans Code, to read:

95.

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

(b) *The Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health shall place a prominently displayed 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 shall be displayed:

(1) Each 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 all of 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.

SEC. 6.

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 225 (Gray).

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 Board watch AB 225 (Gray), as this bill does not affect healing arts boards.

Attachment A: AB 225 (Gray) Bill Text

AB 225 (Gray)
As Amends the Law Today (03.23.2021)

SECTION 1.

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

115.6.

(a) A board within the department shall, after appropriate investigation, issue the following eligible temporary licenses to an applicant if the applicant meets the requirements set forth in subdivision (c):

- (1) Registered nurse license by the Board of Registered Nursing.
 - (2) Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
 - (3) Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
 - (4) Speech-language pathologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
 - (5) Audiologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
 - (6) Veterinarian license issued by the Veterinary Medical Board.
 - (7) All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.
 - (8) All licenses issued by the Medical Board of California.
 - (9) All licenses issued by the Podiatric Medical Board of California.
- (b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.
- (c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:
- (1) The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.
 - (2) The applicant shall hold a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board.
 - (3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license and that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

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

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

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

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

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

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

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

SEC. 2.

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

115.7.

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

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

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

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the license and that the information submitted in the application is accurate, to the best of the applicant's knowledge.

The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

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

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

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

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

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

SEC. 3.

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 339 (Lee).

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

Status: Pending referral

Action Requested:

Staff recommends the Board watch AB 339 (Lee), as the author has submitted amendments to remove the Bagley-Keene portion of this bill.

Attachment A: AB 339 (Lee) Bill Text

AB 339 (Lee)
As Amends the Law Today (03.23.2021)

SECTION 1.

Section 9027 of the Government Code is amended to read:

9027.

Except as otherwise provided in this article, all meetings of a house of the Legislature or a committee thereof shall be open and public, and all persons shall be permitted to attend the meetings. *Additionally, all meetings shall include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services. Both a call-in and an internet-based service option shall be provided to the public.* As used in this article, “meeting” means a gathering of a quorum of the members of a house or committee in one ~~place~~ *place, including a gathering using teleconference technology*, for the purpose of discussing legislative or other official matters within the jurisdiction of the house or committee. As used in this article, “committee” includes a standing committee, joint committee, conference committee, subcommittee, select committee, special committee, research committee, or any similar body.

SEC. 2.

Section 9027.1 is added to the Government Code, to read:

9027.1.

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

SEC. 3.

Section 9028.1 is added to the Government Code, to read:

9028.1.

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

SEC. 4.

Section 54953 of the Government Code is amended to read:

54953.

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

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

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

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

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

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

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

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

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

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

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if

any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

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

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

SEC. 5.

Section 54954.2 of the Government Code is amended to read:

54954.2.

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

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

(A) An online posting of an agenda shall be posted on the primary ~~Internet Web site~~ *internet website* homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

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

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

(ii) Platform independent and machine readable.

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

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

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

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

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

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

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

(i) "Integrated agenda management platform" means an ~~Internet-Web site~~ *internet website* of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

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

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

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on ~~his or her~~ *the member's* own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the

legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

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

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

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

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

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

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

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

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

SEC. 6.

Section 54954.3 of the Government Code is amended to read:

54954.3.

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. *All meetings must also provide the public with an opportunity to address the legislative body remotely via call-in and internet-based service, consistent with requirements in Section 54953. Persons commenting in person shall not have more time or in any other way be prioritized over persons commenting remotely via call-in or internet-based service. Instructions on how to attend the meeting via call-in or internet-based service shall be posted online along with the meeting agenda in an easily accessible location.* However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to

address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

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

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

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

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

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

SEC. 7.

Section 11122.5 of the Government Code is amended to read:

11122.5.

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

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

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

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

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

(2) (A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

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

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

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

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

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

SEC. 8.

Section 11123 of the Government Code is amended to read:

11123.

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

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

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

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

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

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

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

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

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. ~~This section- While this section requires that both an call-in and internet-based service are available to the public to join all open meetings that are held in-person, this section~~ does not prohibit a state body from providing members of the public with additional locations in *or opportunities by* which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) Instructions on how to attend the meeting via call-in or internet-based service shall 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. In compliance with the Dymally-Alatorre Bilingual Services Act(Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1), the posted instructions shall also be translated into all languages of which 5 percent of the population of the state body's jurisdiction speaks.

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

SEC. 9.

Section 11125.7 of the Government Code is amended to read:

11125.7.

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at

meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) In compliance with subdivision (a) of Section 11123, public comment shall be made available for those attending any meeting via call-in or internet-based service option. Persons commenting in person shall not have more time or in any other way be prioritized over persons commenting remotely via call-in or internet-based service.

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

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

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

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

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

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

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

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

SEC. 10.

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

SEC. 11.

The Legislature finds and declares that Sections 4, 5, and 6 of this act, which amend Section 54953, 54954.2, and 54954.3 of the Government Code, further, within the meaning of

paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(5) – AB 562 (Low) Mental health services for health care providers

Background:

This bill would require the director of the Department of Consumer Affairs to establish a mental health resiliency program, to provide mental health services to licensed health care providers who provide or have provided healthcare services to COVID-19 patients. The bill would require the relevant healing arts boards to notify licensees and solicit applications for access to the mental health resiliency program immediately upon the availability of services. The bill would require an applicant to make an attestation that states, among other things, that the applicant is an eligible licensee, as defined. The bill would make an applicant who willfully makes a false statement in their attestation guilty of a misdemeanor.

The bill would exempt the records associated with the mental health resiliency program from disclosure pursuant to the California Public Records Act.

Location: Assembly Committee on Business and Professions.

Status: From committee chair, with author's amendments: Amend, and re-refer to Committee on Business & Professions.

Action Requested:

Staff recommends the Board watch AB 562 (Low).

Attachment A: AB 339 (Lee) Bill Text

AB 562 (Low)
As Amends the Law Today (03.23.2021)

SECTION 1.

Chapter 1.7 (commencing with Section 950) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 1.7. Frontline COVID-19 Provider Mental Health Resiliency Act of 2021
950.

This chapter shall be known, and may be cited, as the Frontline COVID-19 Provider Mental Health Resiliency Act of 2021.

951.

(a) The Legislature finds and declares the following:

(1) Since the start of the pandemic, California's frontline health care workers have been caring for COVID-19 patients through multiple surges, which included a record-shattering death toll in December 2020.

(2) Nurses, physicians and surgeons, and other frontline health care providers are suffering from burnout and have been experiencing, or are at high risk of, a variety of mental health conditions, including depression, anxiety, post-traumatic stress disorder, and suicidal thoughts.

(3) As the result of prolonged stress and repeated trauma, frontline health care providers may continue to endure the negative effects of the pandemic long after it ends.

(4) To bolster the resiliency of the health care workforce through the COVID-19 pandemic and beyond, it is imperative that additional mental health services are made immediately available.

(b) It is the intent of the Legislature that the Department of Consumer Affairs, through the relevant healing arts boards, immediately establish a mental health resiliency program for frontline health care providers who have provided direct and in-person care to COVID-19 patients during the pandemic.

952.

For the purposes of this chapter, the following definitions apply:

(a) "Eligible licensee" means a person licensed pursuant to this division who is or was also a frontline health care COVID-19 provider.

(b) "Frontline COVID-19 health care provider" means a person who provides or has provided consistent in-person health care services to patients with COVID-19.

(c) "Mental health services" means targeted in-person, online, and telehealth psychological distress and behavioral health service assessments and interventions (professional or self-administered) to support mental and behavioral health needs resulting from the COVID-19 pandemic. Interventions include counseling, wellness coaching, and any other mental health treatment to improve the psychological and behavioral health of the eligible licensee.

(d) "Vendor of mental health services" means a third-party vendor that provides mental health services, assessments, or interventions.

953.

(a) (1) *Within three months of the effective date of this section, the director shall, in consultation with the relevant healing arts boards, establish a mental health resiliency program to provide mental health services to frontline COVID-19 providers.*

(2) *The director shall contract with one or more vendors of mental health services for the duration of the program.*

(3) *The director, or the director's designee, shall supervise all vendors, shall monitor vendor utilization rates, and may terminate any contract. If the vendor's contract is terminated, the director shall contract with a replacement vendor as soon as practicable.*

(4) *The contract shall specify that all personal or identifiable program participant data shall be kept confidential, and that the confidentiality obligations shall survive the termination of the contract.*

(5) *The development of the mental health resiliency program under this section shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).*

(b) (1) *The relevant healing arts boards shall notify licensees and solicit applications for access to the mental health resiliency program immediately upon the availability of any services contracted for.*

(2) *An applicant to the program shall make an attestation that states all of the following:*

(A) *The applicant is an eligible licensee, as defined under subdivision (a) of Section 952.*

(B) *The name, location, and type of the facility or facilities the applicant worked as a frontline COVID-19 provider.*

(C) *The applicant's assigned unit or units at the facility or facilities.*

(3) *An applicant shall be deemed an eligible licensee if the attestation is complete and any facility and unit listed would provide care to COVID-19 patients.*

(4) *An applicant who willfully makes a false statement in their attestation is guilty of a misdemeanor.*

(5) *The relevant healing arts boards shall grant all eligible licensees access to the program.*

(6) *Application to or participation in the mental health resiliency program shall not be used for purposes of disciplinary action and, except as specified under Section 954, shall be kept confidential.*

(c) *This section shall remain in effect only until January 1, 2025, and as of that date is repealed.*

954.

No later than June 30, 2025, the department and relevant healing arts boards shall report to the relevant policy committees of the Legislature the following information regarding the mental health resiliency program:

(a) *A description of the contracted vendors, services provided, and contract dates.*

(b) *The depersonalized aggregate number of applicants and eligible licensees and a monthly breakdown.*

(c) *Any available utilization rates from the vendors.*

(d) The costs associated with the program.

955.

Except as specified under Section 954, records associated with the mental health resiliency program are exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 2.

Section 6276.30 of the Government Code is amended to read:

6276.30.

Managed care health plans, confidentiality of proprietary information, Section 14091.3 of the Welfare and Institutions Code.

Managed Risk Medical Insurance Board, negotiations with entities contracting or seeking to contract with the board, subdivisions (v) and (y) of Section 6254.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975 of the Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Sections 1603.1, 1603.3, and 121022 of the Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015 of the Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081 of the Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987 of the Evidence Code.

Market reports, confidential, subdivision (e) of Section 6254.

Marketing of commodities, confidentiality of financial information, Section 58781 of the Food and Agricultural Code.

Marketing orders, confidentiality of processors' or distributors' information, Section 59202 of the Food and Agricultural Code.

Marriage, confidential, certificate, Section 511 of the Family Code.

Medi-Cal Benefits Program, confidentiality of information, Section 14100.2 of the Welfare and Institutions Code.

Medi-Cal Benefits Program, Request of Department for Records of Information, Section 14124.89 of the Welfare and Institutions Code.

Medi-Cal Fraud Bureau, confidentiality of complaints, Section 12528.

Medi-Cal managed care program, exemption from disclosure for financial and utilization data submitted by Medi-Cal managed care health plans to establish rates, Section 14301.1 of the Welfare and Institutions Code.

Medi-Cal program, exemption from disclosure for best price contracts between the State Department of Health Care Services and drug manufacturers, Section 14105.33 of the Welfare and Institutions Code.

Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16 of the Civil Code.

Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30 of the Civil Code.

Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157 of the Evidence Code.

Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828 of the Business and Professions Code.

Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5 of the Business and Professions Code.

Meetings of state agencies, disclosure of agenda, Section 11125.1.

Mental health resiliency program, records, Section 955 of the Business and Professions Code.

Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135 of the Welfare and Institutions Code.

Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620 of the Penal Code.

Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103 of the Welfare and Institutions Code.

Milk marketing, confidentiality of records, Section 61443 of the Food and Agricultural Code.

Milk product certification, confidentiality of, Section 62121 of the Food and Agricultural Code.

Milk, market milk, confidential records and reports, Section 62243 of the Food and Agricultural Code.

Milk product registration, confidentiality of information, Section 38946 of the Food and Agricultural Code.

Milk equalization pool plan, confidentiality of producers' voting, Section 62716 of the Food and Agricultural Code.

Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207 of the Public Resources Code.

Minor, criminal proceeding testimony closed to public, Section 859.1 of the Penal Code.

Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5 of the Labor Code.

Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5 of the Penal Code.

Monetary instrument transaction records, confidentiality of, Section 14167 of the Penal Code.

Missing persons' information, disclosure of, Sections 14204 and 14205 of the Penal Code.

Morbidity and mortality studies, confidentiality of records, Section 100330 of the Health and Safety Code.

Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014 of the Vehicle Code.

Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, of the Vehicle Code.

Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3 of the Insurance Code.

Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628 of the Insurance Code.

Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8.

SEC. 3.

The Legislature finds and declares that Section 1 of this act, which adds Section 955 to the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of frontline providers of health care services to COVID-19 patients, it is necessary to prevent disclosure of records associated with the mental health resiliency program.

SEC. 4.

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(6) – 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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 646 (Low).

On 3/23/2021, the Assembly Business and Professions Committee voted 17 – 0 to refer the bill to the Appropriations Committee.

Location: Assembly Appropriations Committee

Status: 3/23/2021 Referred to Appropriations Committee

Action Requested:

Staff recommends the Board watch AB 646 (Low).

Attachment A: AB 646 (Low) Bill Text

Date of Hearing: March 23, 2021

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 646 (Low) – As Introduced February 12, 2021

SUBJECT: Department of Consumer Affairs: boards: expunged convictions.

SUMMARY: Requires professional licensing boards under the Department of Consumer Affairs that post information on their internet website about a revoked license due to a criminal conviction to update or remove information about the revoked license should the board receive an expungement order related to the conviction, as specified.

EXISTING LAW:

- 1) Establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100)
- 2) Creates various boards, bureaus, and commissions under the jurisdiction of the Department of Consumer Affairs whose purpose are to regulate private businesses and professions deemed to engage in activities that have potential impact on the public health, safety, and welfare of the people of California. (BPC § 101)
- 3) Creates the Medical Board of California under the jurisdiction of Department of Consumer Affairs, responsible for regulating California physicians and surgeons. (BPC § 2001)
- 4) Authorizes a board to suspend or revoke a current license under its jurisdiction on the grounds that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. (BPC § 490)
- 5) Requires certain boards to publish on the internet information on accusations, suspensions, revocations, and related disciplinary actions taken by a board against a licensee under its jurisdiction. (BPC § 27)
- 6) Specifies additional internet posting requirements of licensee disciplinary-related information, in addition to suspensions and revocations information, for the Medical Board of California. The information to be posted include temporary restraining orders, interim suspension orders, citations, probations, limitations on practice, disciplinary actions taken by a hospital, and accusations filed by the Office of the Attorney General. Requires the Medical Board to post licensee information on its website regarding civil judgements, arbitration, and settlements, as specified. (BPC § 2027)
- 7) Requires the Medical Board of California, within six months of receiving an expungement order for a misdemeanor or felony conviction, to post a notification of the expungement order and its date on its internet website. (BPC § 2027)
- 8) Provides for a post-conviction expungement process for individuals convicted of a crime, by authorizing a judicial court, at its discretion, to dismiss a person's guilty verdict and releasing them from any penalty that was issued as a result of the conviction, but only if the person has

fulfilled their conditions of probation in its entirety, is not serving a prison sentence, and is not charged with a crime. (PEN § 1203.4)

THIS BILL:

- 1) Requires a board to update information on its internet website for individuals who had their license revoked if the board receives a copy of an expungement order granted to the ex- licensee. Specifically, boards who post disciplinary information on their web sites would be required to do either of the following:
 - a) Post notification of the expungement order and the date it was granted, if the ex- licensee reapplies for licensure or has been granted a new license; or
 - b) Remove the original posted information on the license revocation, if the ex- licensee does not currently have a license and does not apply for licensure.
- 2) Requires a board to update or remove information on the revocation within six months of receiving the expungement order related to the conviction.
- 3) Requires a person seeking to have their license revocation history updated or removed to pay a fee to the board in the amount of \$50, unless another amount is determined by the board to cover the costs associated with administering the website changes.
- 4) Clarifies that the Medical Board of California's internet web site posting requirements take precedence over the bill's provisions, should a conflict occur.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

Purpose. According to the author, "[This bill] is designed to reduce employment barriers for people with previous criminal records who have been rehabilitated and whose conviction has been dismissed, or expunged, through the judicial process. Under current law, individuals who have successfully rehabilitated may continue to face stigma and barriers to find employment. Although they are intent on positively contributing to society by finding employment and self-sufficiency, state records may not reflect an expungement that was granted by the courts. [This bill] allows individuals who were formerly licensed through the state of California to appropriately reflect the record of their rehabilitation as granted by the judicial branch, and improve their opportunity to seek meaningful employment."

Background. *Suspension and Revocation of Licenses.* Boards under the jurisdiction of the Department of Consumer Affairs exercise the authority to take disciplinary action against a current licensee. Generally, under the umbrella of BPC 490, boards may suspend or revoke a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the professions.

In 2018, the legislature enacted AB 2138, which, among other provisions to reduce barriers to licensure, enumerates what criteria the boards must consider to determine whether a crime is substantially related to the profession. Effective July 1, 2020, boards will need to examine factors

such as the nature and gravity of the offense, the number of years elapsed since the offense, and evidence of rehabilitation.

Due to the diverse and unique nature of each profession, every board has additional statutory standards within their practice act that define unprofessional conduct that may lead to disciplinary action. For example, private investigators may face license suspension or revocation for impersonating a law enforcement officer, while a veterinarian may have their license suspended or revoked for cruelty to animals.

Online Disclosure of Disciplinary Actions Generally. To allow for consumer transparency, certain boards under the Department of Consumer Affairs are required to post on their internet website disciplinary information on a licensee. Members of the public can access information online and check the validity of a license, its issuance and expiration date, and if it has faced disciplinary action from the board.

While the public can access general, basic license information across all boards through the Department of Consumer Affairs' online portal, the disciplinary information required to be disclosed online can vary from board to board.

Online Disclosure of Disciplinary Actions under the Medical Board of California. The Medical Board of California is already required, within six months of receiving a certified copy of an expungement order, to post notification of the expungement order and its date online; effectively complying with one of AB 1616's proposed provisions.

Under BPC 2027, the Medical Board of California has additional and more comprehensive online disclosure requirements of disciplinary history for licensed physicians and surgeons under the board's jurisdiction. This includes the requirement to post temporary restraining orders, interim suspension orders, citations, probations, and limitations on practice ordered by the board or the board of another state, disciplinary actions taken by a hospital, and accusations filed by the Office of the Attorney General. The Medical Board is also required to disclose online licensee information regarding civil judgements, arbitration awards, and certain citations and settlements.

As currently written, AB 1616 gives precedence to all of the online posting requirements enumerated for the Medical Board of California over the bill's own provisions, should a conflict occur.

Expungement Relief in California. The California Penal Code grants judicial courts discretionary authority to issue expungements – a process also known as a dismissal. An expungement generally releases a person convicted of a crime from the negative consequences of a conviction by setting aside a guilty verdict or permit withdrawal of the guilty or nolo contendere plea and dismissing the accusation or complaint.

An expungement does not delete nor seal the record of conviction. If an entity is authorized to request a criminal background check on an individual, the background check would reveal the expunged conviction, and note the dismissal on the record.

In order to be eligible for an expungement, a person must have completed the term of their probation in its entirety. In addition, they must not be serving a sentence nor be charged with

another criminal offence. Expungement cannot be granted if a person is convicted for specified sex crimes or Vehicle Code violations.

Expungement and Licensure. Under BPC 480, boards under the Department of Consumer Affairs may deny a license based on specific past criminal convictions. However, an individual may not be denied a license on the basis of a conviction that has been expunged, dismissed, or if the person has received a certificate of rehabilitation.

For rehabilitated individuals that were convicted of a crime, the permanent nature of a criminal record can create challenge in finding employment and stability after incarceration. While an expungement does not eliminate the person's record, it provides a potential opportunity for a rehabilitated individual to secure employment through state licensure.

Current Related Legislation.

SB 731 (Durazo). Criminal records: relief. Would make arrest record relief available to a person who has been arrested for a felony, including a felony punishable in the state prison, as specified. *This bill is currently set to be heard on April 6, 2021 in Senate Committee on Public Safety.*

Prior Related Legislation.

AB 1616 (Low). Department of Consumer Affairs: boards: expunged convictions. This was the original introduction of the current version AB 646 (Low) which was held, due to COVID-19 restrictions, in Senate Committee on Business Professions and Economic Development.

AB 2138 (Chiu/Low, Chapter 995, Statutes of 2018). Reduced barriers to licensure for individuals with prior criminal convictions by limiting a regulatory board's discretion to deny a new license application to cases where the applicant was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board, with offenses older than seven years no longer eligible for license denial, with several enumerated exemptions.

AB 2396 (Bonta, Chapter 737, Statutes of 2014). Prohibits a board within the Department of Consumer Affairs from denying a license based solely on a conviction that has been withdrawn, set aside, or dismissed by the court.

ARGUMENTS IN SUPPORT:

According to the California Psychological Association, “[This bill] requires a Department of Consumer Affairs (DCA) board to update its required website posting for a person whose license was revoked because they were convicted of a crime upon receiving a certified copy of an expungement order for that offense. Importantly, expungement cannot be granted if a person is convicted for certain sex crimes or Vehicle Code violations.

While an expungement does not eliminate the person's record, it provides a potential opportunity for a rehabilitated individual to secure employment through state licensure. Further, if the individual agrees to not seek to practice in the profession for which the license was revoked, it is fair, provided expungement, to give the individual a chance for a new start by removing the record of the license revocation.

This bill would support the practice of licensees who have sought resolution for crimes they may have committed and ensure that websites within the DCA do not become a scarlet letter for future employment.”

REGISTERED SUPPORT:

California Psychological Association
Contractors State License Board

REGISTERED OPPOSITION:

None on file. **Analysis Prepared by:** Danielle Sires / B. & P. / (916) 319-3301

**AB 646 Low
As Amends the Law Today (03.23.2021)**

SECTION 1.

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

493.5.

(a) A board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime, upon receiving from the person a certified copy of an expungement order granted pursuant to Section 1203.4 of the Penal Code for the underlying offense, shall, within 90 days of receiving the expungement order, unless it is otherwise prohibited by law, or by other terms or conditions, do either of the following:

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

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

(b) A person described in subdivision (a) shall pay to the board a fee in the amount of fifty dollars (\$50), unless another amount is determined by the board to be necessary to cover the administrative cost, ensuring that the amount does not exceed the reasonable cost of administering this section. The fee shall be deposited by the board into the appropriate fund and shall be available only upon appropriation by the Legislature.

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

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

MEMORANDUM

DATE	March 22, 2020
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(7) – 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.

On 3/19/2021, staff received notice from the author’s office, that they will be submitting an amendment to remove programs under the Department of Consumer Affairs from this requirement.

Location: Committee on Public Employment and Retirement

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

Action Requested:

The Legislative and Regulatory Affairs Committee recommends the Board **oppose unless amended** AB 657 (Bonta). The requested amendment is to exclude the Board of Psychology from the bill’s provisions as the requirements could negatively impact contracts for translation services, enforcement experts, psychological evaluations, and examination services.

Attachment A: AB 657 (Bonta) Bill Text

AB 657 (Bonta)
As Amends the Law Today (03.23.2021)

SECTION 1.

Section 19136 is added to the Government Code, to read:

19136.

(a) Notwithstanding Section 19130 or any other law, a professional, as defined in subdivision (b), who has a personal services contract with any state agency, shall not be under contract with the state agency for a time period that exceeds either of the following:

(1) Three hundred sixty-five consecutive days to the state agency.

(2) Three hundred sixty-five nonconsecutive days in a 24-month period.

(b) For purposes of this section, "professional" means any of the following:

(1) A physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.

(2) A dentist licensed by the Dental Board of California.

(3) A clinical psychologist licensed by the Board of Psychology.

(4) A clinical social worker licensed by the Board of Behavioral Sciences.

(5) A pharmacist licensed by the California State Board of Pharmacy.

(c) Each state agency that has a contract with a professional pursuant to this section shall prepare a monthly report to the exclusive bargaining representative for the professional, if the professional is represented. The monthly report shall include all of the following information:

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

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

(3) The number of "open" professional positions for the state agency and the number of "contract" professional positions. For purposes of this paragraph, "open" means a position authorized in the budget for the state agency.

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

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

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

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

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(8) – 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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 810 (Flora).

Location: Committee on Business and Professions

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

Action Requested:

Staff recommends the Board watch AB 810 (Flora).

Attachment A: AB 810 (Flora) Bill Text

**AB 810 (Flora)
As Amends the Law Today (03.23.2021)**

SECTION 1.

Section 802 of the Business and Professions Code is amended to read:

802.

(a) Every settlement, judgment, or arbitration award over three thousand dollars (\$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 an agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or ~~his or her~~ *their* counsel, with a copy of the communication to be sent to the claimant through ~~his or her~~ *their* counsel if the person is so represented, or directly if ~~he or she is~~ *they are* not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the ~~claimant himself or herself~~ *claimant*) has not received a copy of the report, ~~he or she shall himself or herself~~ *they shall* make the complete report. Failure of the licensee or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than ~~fifty one hundred~~ dollars (~~\$50~~ *\$100*) or more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

(b) Every settlement, judgment, or arbitration award over ten thousand dollars (\$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 licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10), respectively, who does not possess professional liability insurance as to that claim shall within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or ~~his or her~~ *their* counsel, with a copy of the communication to be sent to the claimant through ~~his or her~~ *their* counsel if ~~he or she is~~ *they are* so represented, or directly if ~~he or she is~~ *they are* not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if ~~he or she is~~ *they are* not represented by counsel, the ~~claimant himself or herself~~ *claimant*) has not received a copy of the report, ~~he or she shall himself or herself~~ *they shall* make a complete report. Failure of the marriage and family therapist, clinical social worker, or professional clinical counselor or claimant (or, if represented by counsel, ~~his or her~~ *their* counsel) to comply with this section is a public offense punishable by a fine of not less

than ~~fifty~~ *one hundred* dollars ~~(\$50)~~ *(\$100)* nor more than five hundred dollars (\$500).
Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section or to hinder or impede any other person in that compliance, is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(9) – 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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 830 (Flora).

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

Status: Pending referral

Action Requested:

Staff recommends the Board watch AB 830 (Flora).

Attachment A: AB 830 (Flora) Bill Text

**AB 830 Flora
As Amends the Law Today (03.23.2021)**

SECTION 1.

Section 311 of the Business and Professions Code is amended to read:

311.

The director may create an interdepartmental committee to assist and advise ~~him~~ *the director* in the implementation of ~~his~~ *the director's* duties. The members of ~~such that~~ committee shall consist of the heads of state departments, or their designees. Members of ~~such that~~ committee shall serve without compensation but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(10) – 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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 1026 (Smith).

Location: Assembly Committee on Business and Professions.

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

Action Requested:

Staff recommends the Board watch AB 1026 (Smith).

Attachment A: AB 1026 (Smith) Bill Text

**AB 1026 Smith
As Amends the Law Today (03.23.2021)**

SECTION 1.

Section 115.4 of the Business and Professions Code is amended to read:

115.4.

(a) Notwithstanding any other law, on and after July 1, 2016, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

(b) The department and any board within the department shall grant a 50-percent fee reduction for an initial license to an applicant who provides satisfactory evidence the applicant has served as an active duty member of the United States Armed Forces or the California National Guard and was honorably discharged.

(c) Satisfactory evidence, as referenced in this section, shall be a copy of a current and valid driver's license or identification card with the word "Veteran" printed on its face.

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(c)(11) – 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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 1386 (Cunningham).

Location: Assembly Committee on Business and Professions

Status: 3/11/2021 Referred to Committee on Business and Professions

Action Requested:

Staff recommends the Board watch AB 1386 (Cunningham).

Attachment A: AB 1386 (Cunningham) Bill Text

**AB 1368 Cunningham
As Amends the Law Today (03.23.2021)**

SECTION 1.

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

115.5.

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

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

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

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

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(12) – SB 102 (Melendez) COVID-19 emergency order violation: license revocation

Background:

This bill would prohibit 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 state of emergency orders or COVID-19 stay-at-home orders, unless the board or department can prove that lack of compliance resulted in transmission of COVID-19. The bill would specify that the provisions do not preclude issuance of fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home order. The provisions of the bill would remain in effect until either the COVID-19 state of emergency is terminated or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, but in no case would the provisions remain in effect after January 1, 2024.

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

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch SB 102 (Melendez).

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

Status: Set for hearing on April 5, 2021.

Action Requested:

Staff recommends the Board watch SB 102 (Melendez).

Attachment A: SB 102 (Melendez) Bill Text

COVID-19 stay-at-home orders, unless DCA or the board can prove that lack of compliance resulted in the transmission of COVID-19.

- 2) Specifies that this authority shall not preclude DCA or a board from issuing fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home orders.
- 3) States that this is urgent in order to protect businesses, including small businesses, which continue to make significant contributions to economic security, which helps ensure public safety, during these unprecedented times caused by the COVID-19 pandemic, as soon as possible, it is necessary for this act to take effect immediately.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** The Author is the Sponsor of this bill. According to the Author, “SB 102 addresses State over-regulating by requiring data and evidence to prove, that because a business wasn’t complying with the Guidelines a positive COVID-19, transmission occurred. Without proof and science to back up a claim, it is a waste of time for DCA to punish businesses. These businesses are subjected to fines or penalties if they are charged criminally with a misdemeanor. Admittedly, these citations promote a “fact finding” for a license suspension, or worse, are included on their website so the business can be publicly scrutinized and shamed. This bill would help put an end to this public shaming when unnecessary...”

The Author states that “This measure simply adds a check on the State during the pandemic for delivering, in some circumstances, an unnecessary regulatory response to our business community...Counties have been bouncing back and forth between tiers based on a variety to statistics, including the number of positive COVID-19 cases in their region...”

2. **Background.**

Board Licensing. Within the DCA are 38 entities, including 26 boards, eight bureaus, two committees, one program, and one commission (hereafter “boards” unless otherwise noted). Collectively, these boards regulate more than 100 types of businesses and 200 different industries and professions. As regulators, these boards perform two primary functions:

- Licensing—which entails ensuring only those who meet minimum standards are issued a license to practice, and
- Enforcement—which entails investigation of alleged violations of laws and/or regulations and taking disciplinary action, when appropriate.

The various practice acts governing boards and bureaus outline the functions for these regulatory bodies to investigate complaints and take disciplinary action

against licensees when those licensees have engaged in activities that harm the public. Investigations by board or bureau staff that determine a licensee has committed a minor violation that does not warrant formal disciplinary action against a license can result in discipline like a citation and fine. Most programs have an informal and internal process for these types of actions.

Recent Enforcement. According to a Sacramento Bee article from February 2021, ABC's 208 sworn investigators visited restaurants and bars nearly 19,000 times since July and filed 234 citations. According to the article, if business owners do not respond to educational efforts, they can be cited for violating Section 8665 of the Government Code by failing to obey health orders as part of the Emergency Services Act. The ABC can also file accusations to take action against a business' liquor license. Accusations go before an administrative law judge and can be appealed. This process can take years. According to the article, "More commonly during the pandemic, the ABC and restaurants have settled on three years probation, with additional penalties such as license suspension or revocation if they're caught violating rules again during that time."

According to information from the Department of Consumer Affairs, the Board of Barbering and Cosmetology issued four COVID-related interim suspension orders and five COVID-related misdemeanor citations as of January 2021.

COVID-19 Small Business Impacts and Relief Efforts. Estimates from the National Restaurant Association show that from 2019 to 2020, COVID-19 impacted the restaurant industry catastrophically, with sales plummeting 19.2%. According to group's State of the Industry Report, 2021 sales are projected to climb 10.2%, though not nearly enough to recover from the steep hole caused by the pandemic. Last year ended with sales \$240 billion below the forecasted levels, with approximately 110,000 foodservice establishments permanently closed (and nearly three-quarters of those operators saying they would not open another restaurant).

In response to the COVID-19 pandemic, the state has taken a number of actions to support small businesses. SB 94 (Skinner, Chapter 9, Statutes of 2021), provided economic relief to licensees most severely impacted by the COVID-19 pandemic, waived licensing fees for barbering and cosmetology professionals and Alcoholic Beverage Control licensees.

California Infrastructure Economic Development Bank (IBank) provided \$100 million in loan guarantees for small businesses that may not be eligible for federal relief. Then, in November 2020 Governor Newsom announced the California Rebuilding Fund, a public-private partnership that drives capital from private, philanthropic and public sector resources – including a \$25 million anchor commitment and \$50 million guarantee allocation from the California Infrastructure and Economic Development Bank (IBank) – to Community Development Financial Institutions (CDFIs). The Governor added \$12.5 million to the Fund in late November so that it could be fully capitalized, saying this money will “help the 3rd party administrator of the fund raise \$125 million to make more low-interest loans to small businesses with less access to loans from traditional banking institutions.”

The state secured \$30 billion in federal small business relief after California secured an SBA disaster declaration early on March 17, 2020 to open up the Economic Injury Disaster Loans (EIDL) program for California small businesses and private non-profit organizations. The state provided micro-grants to immigrant social entrepreneurs, allocating \$10 million in the 2020-21 budget for Social Entrepreneurs for Economic Development (SEED) to provide micro-grants to immigrant social entrepreneurs. \$500 million via the OSBA was provided in late November 2020 to small businesses impacted by the pandemic and the health and safety restrictions. Funds were awarded in early 2021 via Community Development Financial Institutions to distribute relief through grants of up to \$25,000 to underserved micro and small businesses throughout the state. An additional almost \$2.1 billion was added for small business grants of up to \$25,000 with the passage of SB 87 (Caballero, Chapter 7, Statutes of 2021) in February 2021, with provisions that specified the recent OSBA grants would not be included in overall gross income tax calculations.

The state also provided support in the form of tax credits and tax relief. The Legislature passed and Governor Newsom signed: 1) AB 1577 (Burke, Chapter 39, Statutes of 2020), which allows small businesses to exclude PPP loans from state taxes; and 2) SB 1447 (Bradford, Caballero, Cervantes, Chapter 41, Statutes of 2020), which created a Main Street hiring tax credit that authorized a \$100 million hiring tax credit program for qualified small businesses.

The Governor also provided a 90-day extension to small businesses in state and local taxes and an extension of all licensing deadlines and requirements for several industries. The Governor waived the \$800 minimum franchise tax for new businesses in their first year of business creation. Fourth, the Governor authorized sales tax relief by providing a 12-month interest-free payment plan for up to \$50,000 of sales and use tax liability through the California Department of Tax and Fee Administration (CDTFA).

3. **Arguments in Support.** The California Chamber of Commerce writes in support, noting that “businesses throughout the state have spent scarce financial resources trying to comply with state guidelines for remaining open or reopening. Shifting health and safety requirements have made compliance difficult and expensive especially for small businesses...There is no need to pull a license and impose further fines and penalties. This is not the time to force businesses to close putting even more people out of work.”

The California Landscape Contractors Association supports this bill and “believes that bold and rapid actions by the state government can help get California back on track and stem the flow of business and job out migration. For all these reasons, we support your SB 102.”

According to the Southwest California Legislative Council, “In order to protect businesses, including small businesses which continue to make significant contributions to economic security and public safety during these unprecedented times, measures such as that offered by SB 102 are critical to restrict the arbitrary application of arbitrary emergency orders.”

- 4. Arguments in Opposition.** Alcohol Justice and the California Alcohol Policy Alliance believes this bill would severely undermine the state's authority, obligation and ability to close problematic alcohol licensees whose practices are endangering the public health and safety.

According to the California Labor Federation, this bill would endanger workers by removing incentives for employers to comply with COVID-19-related emergency orders...when bars and restaurants ignore repeated voluntary compliance orders from the Department of Alcohol and Beverage Control (ABC) to close during mandatory shutdowns, this bill would presumably allow these employers to remain open, indefinitely, without penalty. Such a policy would be both illegal and dangerous in multiple ways. First, workers would face what is, by definition, an unsafe working environment, which is clearly prohibited by occupational safety and health law. Workers would be forced into crowded environments full of patrons not consistently wearing face coverings—an ideal environment for the virus to spread. And employers who openly defy closure orders are almost certainly not enforcing face covering requirements, not performing proper training or cleaning protocols, and by definition not encouraging workers to stay home if exposed...This bill would thus cause more COVID-19 cases and spread the virus while new variants already threaten to undo much of the progress we have made. This bill would be a severely dangerous change at the worst possible time and should be rejected.”

The California Professional Firefighters Association notes that “Firefighters continue to respond to COVID-19 medical emergencies, risking their life and health for the protection of others. Reversing incentives for businesses and the public exacerbates this risk faced by our health care providers and first responders who are working tirelessly to bring an end to this pandemic.”

According to the County Health Executives Association of California is opposed, noting that “During an emergency, quick action can save lives and state and local health orders are critical to protecting public health and preventing the spread of disease. Enforcement of these orders support greater compliance and begin with education, only escalating to fines, penalties, and closures after repeated incidences of non-compliance. Non-compliance comes in many different forms and can range from exceeding the capacity limits, neglecting masking requirements, or failure to report cases, among others. Requiring agencies to prove a direct correlation for every instance and scenario of non-compliance and transmission is not feasible and risks further the spread of the virus.”

- 5. Precedent and Parity.** Licensees are subject to laws set forth in practice acts and enforced by regulatory bodies, but also agree to comply with all laws. While the efforts to assist small business impacted by COVID-19 are ongoing, allowing licensees to flout order intended to promote public health, safety, and protection may set a dangerous precedent. The bill is narrowly drafted to only apply to the current situation and COVID-related orders, but it is not clear whether steps will be taken in future extraordinary circumstances to justify violations of the law.

The measure also treats all businesses the same – an establishment that refuses to comply with mask orders, which are directly related to preventing the spread of the COVID-19, would be eligible to evade enforcement in the exact same manner as a

business that has invested thousands of dollars to comply with the rules and follow the letter of the law but may have overlooked a technical requirement. In the latter situation, compliance could be achieved through education and recourse opportunities yet both businesses would be able to be exempt from accountability under the law.

NOTE: *Double-referral to Senate Committee on Government Organization, second.*

SUPPORT AND OPPOSITION:

Support:

California Chamber of Commerce
California Landscape Contractor's Association
Southwest California Legislative Council

Opposition:

Alcohol Justice
California Alcohol Policy Alliance
California Labor Federation
California Professional Firefighters
County Health Executives Association of California
Institute for Public Strategies

-- END --

**SB 102 Melendez
As Amends the Law Today (03.23.2021)**

SECTION 1.

Section 464.5 is added to the Business and Professions Code, to read:

464.5.

(a) The department and any board shall not revoke a license, fine, or impose a penalty for failure to comply with any COVID-19 state of emergency orders or COVID-19 stay-at-home orders, unless the department or board can prove that lack of compliance resulted in the transmission of COVID-19.

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

(c) For the purposes of this section:

(1) "COVID-19 state of emergency" means the state of emergency proclaimed by the Governor on March 4, 2020.

(2) "COVID-19 stay-at-home order" means either of the following:

(A) Executive Order No. N-33-20, or any similar order issued by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the State Department of Public Health that requires the closure of businesses in response to the COVID-19 state of emergency.

(B) Any order by a local government that requires the closure of businesses in response to the COVID-19 state of emergency, including, but not limited to, an order issued pursuant to the police power of a city or county or any order issued by a local health officer pursuant to Section 101040 or 120175 of the Health and Safety Code.

(d) Nothing in this section shall preclude the department or any board from issuing fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home orders.

(e) This section shall remain in effect only until either the COVID-19 state of emergency terminates pursuant to Section 8629 of the Government Code or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, and as of that date is repealed. However, if those contingencies are not met, then in no case shall this section remain in effect after January 1, 2024, and as of that date is repealed.

SEC. 2.

Section 24200.8 is added to the Business and Professions Code, to read:

24200.8.

(a) The Department of Alcoholic Beverage Control shall not revoke the license, fine, or impose a penalty of any licensee for failure to comply with any COVID-19 state of emergency orders, or COVID-19 stay-at-home orders, unless the department can prove that lack of compliance resulted in transmission of COVID-19.

(b) For the purposes of this section:

(1) "COVID-19 state of emergency" means the state of emergency proclaimed by the Governor on March 4, 2020.

(2) "COVID-19 stay-at-home order" means either of the following:

(A) Executive Order No. N-33-20, or any similar order issued by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the State Department of Public Health that requires the closure of businesses in response to the COVID-19 state of emergency.

(B) Any order by a local government that requires the closure of businesses in response to the COVID-19 state of emergency, including, but not limited to, an order issued pursuant to the police power of a city or county or any order issued by a local health officer pursuant to Section 101040 or 120175 of the Health and Safety Code.

(c) Nothing in this section shall preclude the department or any board from issuing fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home orders.

(d) This section shall remain in effect only until either the COVID-19 state of emergency terminates pursuant to Section 8629 of the Government Code or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, and as of that date is repealed. However, if those contingencies are not met, then in no case shall this section remain in effect after January 1, 2024, and as of that date is repealed.

SEC. 3.

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

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(13) – SB 224 (Portantino) Pupil instruction: mental health education

Background:

This bill would require each school district, county office of education, state special school, and charter school 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 local educational agencies, 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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch SB 224 (Portantino).

Location: Senate Committee on Appropriations

Status: Set for hearing on April 5, 2021

Action Requested:

Staff recommends the Board watch SB 224 (Portantino).

Attachment A: SB 224 (Portantino) Bill Text

SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 224 **Hearing Date:** March 10, 2021
Author: Portantino
Version: January 14, 2021
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil instruction: mental health education

SUMMARY

This bill requires 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, and that each pupil receive this instruction at least once in elementary school, at least once in junior high school or middle school, and at least once in high school.

BACKGROUND

Existing law:

- 1) Requires the adopted course of study for grades 1 to 6, inclusive, to include instruction, beginning in grade 1 and continuing through grade 6, in specified areas of study that include health, including instruction in the principles and practices of individual, family, and community health. (Education Code § 51210)
- 2) Requires the Instructional Quality Commission (IQC), during the next revision of the publication "Health Framework for California Public Schools" (health framework), to consider developing, and recommending for adoption by the State Board of Education (SBE), a distinct category on mental health instruction to educate pupils about all aspects of mental health. (EC §51900.5)
- 3) Specifies, for purposes of (1) above, that "mental health instruction" shall include, but not be limited to, all of the following:
 - a) Reasonably designed and age-appropriate instruction on the overarching themes and core principles of mental health.
 - b) Defining common mental health challenges such as depression, suicidal thoughts and behaviors, schizophrenia, bipolar disorder, eating disorders, and anxiety, including post-traumatic stress disorder.
 - c) Elucidating the services and supports that effectively help individuals manage mental health challenges.
 - d) Promoting mental health wellness, which includes positive development, social connectedness and supportive relationships, resiliency, problem

solving skills, coping skills, self-esteem, and a positive school and home environment in which pupils feel comfortable.

- e) Ability to identify warning signs of common mental health problems in order to promote awareness and early intervention so pupils know to take action before a situation turns into a crisis. This should include instruction on both of the following:
 - i) How to appropriately seek and find assistance from mental health professionals and services within the school district and in the community for themselves or others.
 - ii) Appropriate evidence-based research and practices that are proven to help overcome mental health challenges.
 - f) The connection and importance of mental health to overall health and academic success as well as to co-occurring conditions, such as chronic physical conditions and chemical dependence and substance abuse.
 - g) Awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of culture on the experience and treatment of mental health challenges.
 - h) Stigma surrounding mental health challenges and what can be done to overcome stigma, increase awareness, and promote acceptance. This shall include, to the extent possible, classroom presentations of narratives by peers and other individuals who have experienced mental health challenges, and how they coped with their situations, including how they sought help and acceptance. (EC §51900.5)
- 4) Requires the IQC, in the normal course of recommending curriculum frameworks to the SBE, to ensure that one or more experts in the mental health and educational fields provides input in the development of the mental health instruction in the health framework. (EC §51900.5)

ANALYSIS

This bill requires 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, and that each pupil receive this instruction at least once in elementary school, at least once in junior high school or middle school, and at least once in high school. Specifically, this bill:

- 1) Requires the instruction to include all of the following:
 - a) Reasonably designed instruction on the overarching themes and core principles of mental health.

- b) Defining common mental health challenges. Depending on pupil age and developmental level, this may include defining conditions such as depression, suicidal thoughts and behaviors, schizophrenia, bipolar disorder, eating disorders, and anxiety, including post-traumatic stress disorder.
- c) Elucidating the medically accurate services and supports that effectively help individuals manage mental health challenges.
- d) Promoting mental health wellness, which includes positive development, social connectedness and supportive relationships, resiliency, problem solving skills, coping skills, self-esteem, and a positive school and home environment in which pupils feel comfortable.
- e) The ability to identify warning signs of common mental health problems in order to promote awareness and early intervention so that pupils know to take action before a situation turns into a crisis. This shall include instruction on both of the following:
 - i) How to seek and find assistance from mental health professionals and services within the school district and in the community for themselves or others.
 - ii) Medically accurate evidence-based research and culturally responsive practices that are proven to help overcome mental health challenges.
- f) The connection and importance of mental health to overall health and academic success and to co-occurring conditions, such as chronic physical conditions, chemical dependence, and substance abuse.
- g) Awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of race, ethnicity, and culture on the experience and treatment of mental health challenges.
- h) Stigma surrounding mental health challenges and what can be done to overcome stigma, increase awareness, and promote acceptance. This shall include, to the extent possible, classroom presentations of narratives by trained peers and other individuals who have experienced mental health challenges and how they coped with their situations, including how they sought help and acceptance.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, "Education about mental health is one of the best ways to increase awareness, empower students to seek help, and reduce the stigma associated with mental health challenges. Schools are ideally positioned to be centers of mental health education, healing, and support. As children and youth spend more hours at school than at home, the

public education system is the most efficient and effective setting for providing universal mental health education to children and youth.

Historically, health education in subjects such as alcohol, tobacco and drugs, the early detection of certain cancers, and HIV have become required because they were recognized as public health crises. The mental health of our children and youth has reached a crisis point. California must make educating its youth about mental health a top priority.”

- 2) ***Increasing occurrences of pupil mental health issues.*** According to a Pew Research Center analysis of data from the 2017 National Survey on Drug Use and Health, in 2017, 3.2 million teens aged 12-17 said they had at least one depressive episode within the past 12 months. This is up by 1.2 million from the same survey conducted by the National Survey on Drug Use and Health in 2007. One-in-five (2.4 million) teenage girls reported experiencing one depressive episode in 2017, compared to 845,000 teenage boys. According to data from the Centers for Disease Control and Prevention, 13 percent of students in grades 9-12 in California in 2017 reported experiencing at least one depressive episode within the last 12 months. 32 percent felt sad or hopeless almost every day for 2 or more weeks in a row so that they stopped doing some usual activities within the past year, compared to 31 percent for the United States. 17 percent of pupils in grades 9-12 reported considering suicide attempts, while 9 percent reported they attempted suicide at least once within the past 12 month.

This trend is confirmed by data from the Office of Statewide Health Planning and Development. In 2019, emergency rooms throughout California treated 84,584 young patients’ ages 13 to 21 who had a primary diagnosis involving mental health. That is up from 59,705 in 2012, a 42 percent increase.

- 3) ***COVID-19 has had an exacerbating effect on mental health issues.*** According to the 2020 report, “Roadmap for Resilience: The California Surgeon General’s Report on Adverse Childhood Experiences, Toxic Stress, and Health,” COVID-19 has only furthered the mental health issues children face. As the report notes, “For many children, the school is a bedrock of community belonging. The pandemic has not only disrupted children’s academic opportunities and connections with their peers and educators, it has also surfaced new and difficult experiences in the home: fear, anxiety, financial distress, food and housing insecurity, and countless other challenges. Economic uncertainty is associated with increases in harsh parenting, which increases risk for child abuse and neglect, and the loss of friends and family through illness and isolation can also increase the total dose of acute stress and adversity and reduce the dose of buffering supports available from caregivers, educators, and other adults.”
- 4) ***Health is not a required course or topic in middle school or high school.*** As noted above, the adopted course of study for grades 1 to 6, inclusive, includes health. However, there is not similar requirement for the adopted course of study for grades 7 to 12, inclusive. Health is also not a statewide graduation requirement. While it is true that many local educational agencies teach health in some capacity in middle school and high school, there is no requirement to do so

beyond the requirement to teach comprehensive sexual health education and HIV prevention education, which is not specific to mental health, which is required at least once in middle school and once in high school via the California Healthy Youth Act (CHYA). This bill mimics the CHYA's approach to require specific mental health instruction in school districts. Recently, the CHYA was amended to apply to all local educational agencies, including charter schools (AB 2601 (Weber, Ch. 495, Stats. 2018)). Accordingly, **staff recommends that the bill be amended** to apply to all local educational agencies, including school districts, county offices of education, state special schools, and charter schools.

- 5) **Recently adopted health framework includes mental health.** While health is not a specifically required topic or course in middle school or high school, the SBE has adopted both content standards and a curriculum framework for health. On May 8, 2019, the SBE adopted the *2019 Health Education Curriculum Framework for California Public Schools, Transitional Kindergarten Through Grade Twelve*. The revised framework includes additional instructional strategies relating to mental health. While this bill includes that the same language relating to mental health that existing law required the IQC to consider including in the revised framework, to the extent that the framework does not include each specific item, the bill would require instruction that the health framework does not require. This would repeat a similar problem raised by the CHYA, which required instruction for several years that was not covered by the health framework until its recent revision. The health framework will not be revised again until 2027.
- 6) **Related legislation.** SB 14 (Portantino, 2021) (1) specifically adds “for the benefit of the mental or behavioral health of the pupil” to the list of categories of excused absences for purposes of school attendance, and (2) requires the California Department of Education (CDE) to identify (A) an evidence-based training program for local education agencies (LEAs) to use to train classified and certificated school employees having direct contact with pupils in youth mental and behavioral health, and (B) an evidence-based mental and behavioral health training program with a curriculum tailored for pupils in grades 10 to 12, inclusive. SB 14 is scheduled to be heard by this committee on March 10, 2021.

SUPPORT

California Association of Student Councils (Co-sponsor)
 The Children's Partnership (Co-sponsor)
 American Civil Liberties Union – California
 Aviva Family and Children's Services
 California Academy of Child and Adolescent Psychiatry
 California Association of Health, Physical Education, Recreation & Dance
 California Association of Marriage and Family Therapists
 California Association of Local Behavioral Health Boards and Commissions
 California Hospital Association
 California School-based Health Alliance
 CASA Pacifica Centers for Children and Families
 Children Now
 City of Santa Monica

County Behavioral Health Directors Association of California
Disability Rights California
Five Acres - the Boys' and Girls' Aid Society of Los Angeles County
Generation Up
Mental Health America of Los Angeles
Mental Health Services Oversight and Accountability Commission
Public Advocates, Inc.
Psychiatric Physicians Alliance of California
San Francisco Unified School District
The Kennedy Forum
Wellness Together

OPPOSITION

None received

-- END --

SB 224 Portantino
As Amends the Law Today (03.23.2021)

SECTION 1.

(a) The Legislature finds and declares all of the following:

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

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

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

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

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

SEC. 2.

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

Article 6. Mandatory Mental Health Education
51925.

Each school district, county office of education, state special school, and charter school shall 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. Each pupil shall receive this instruction 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. This instruction shall include all of the following:

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

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

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

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

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

(1) How to seek and find assistance from mental health professionals and services within the school district, county office of education, state special school, or charter school and in the community for themselves or others.

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

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

(g) Awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of race, ethnicity, and culture on the experience and treatment of mental health challenges.

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

51926.

Instruction and materials required pursuant to this article shall satisfy all of the following:

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

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

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

51927.

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

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

51928.

For purposes of this article, the following definitions apply:

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

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

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

(d) "Medically accurate" means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the mental health field.

SEC. 3.

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

MEMORANDUM

DATE	March 22, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #5(c)(14) – SB 534 (Jones) Department of Consumer Affairs

Background:

On March 4, 2021, this bill was amended from a spot bill related to the Department of Consumer Affairs to a bill related solely to dental hygienists. Due to this change, staff will no longer watch SB 534.

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

Status: 3/15/2021 Re-Referred to Committee on Business, Professions, and Economic Development

Action Requested:

Due to the amendments on March 4, 2021, Staff will no longer watch SB 534 (Jones).

Attachment A: SB 534 (Jones) Bill Text

SB 534 Jones
As Amends the Law Today (03.23.2021)

SECTION 1.

Section 1902.3 of the Business and Professions Code is amended to read:

1902.3.

A registered dental hygienist licensed in another state may teach in a dental hygiene college without being licensed in this state if the person has a special permit. *A special permit shall remain valid for a period of four years, subject to subdivision (g), after which time the permit shall not be renewed.* The dental hygiene board may issue a special permit to practice dental hygiene in a discipline at a dental hygiene college in this state to any person who submits an application and satisfies all of the following eligibility requirements:

- (a) Furnishing satisfactory evidence of having a pending contract with a California dental hygiene college approved by the dental hygiene board as a full-time or part-time professor, associate professor, assistant professor, faculty member, or instructor.
- (b) Furnishing satisfactory evidence of having graduated from a dental hygiene college approved by the dental hygiene board.
- (c) Furnishing satisfactory evidence of having been certified as a diplomate of a specialty committee or, in lieu thereof, establishing qualifications to take a specialty committee examination or furnishing satisfactory evidence of having completed an advanced educational program in a discipline from a dental hygiene college approved by the dental hygiene board.
- (d) Furnishing satisfactory evidence of having successfully completed an examination in California law and ethics developed and administered by the dental hygiene board.
- (e) If teaching during clinical practice sessions, furnishing satisfactory evidence of having successfully completed a course in periodontal soft-tissue curettage, local anesthesia, and nitrous oxide-oxygen analgesia approved by the dental hygiene board.*
- (f) Complying with the fingerprint submission requirements as provided by Section 1916.*
- ~~(e)~~ *(g)* Paying an application fee, subject to a biennial renewal fee, as provided by *subdivision (k) of* Section 1944.

SEC. 2.

Section 1903 of the Business and Professions Code is amended to read:

1903.

- (a) (1) The dental hygiene board shall consist of nine members as follows:
 - (A) Seven members appointed by the Governor as follows:
 - (i) Two members shall be public members.
 - (ii) One member shall be a practicing general or public health dentist who holds a current license in California.
 - (iii) Four members shall be registered dental hygienists who hold current licenses in California. Of the registered dental hygienist members, one shall be licensed either in alternative practice or in extended functions, one shall be a dental hygiene educator, and two shall be registered

dental hygienists. No public member shall have been licensed under this chapter within five years of the date of their appointment or have any current financial interest in a dental-related business.

(B) One public member appointed by the Senate Committee on Rules.

(C) One public member appointed by the Speaker of the Assembly.

(2) (A) The first appointment by the Senate Committee on Rules or the Speaker of the Assembly pursuant to this subdivision shall be made upon the expiration of the term of a public member that is scheduled to occur, or otherwise occurs, on or after January 1, 2019.

(B) It is the intent of the Legislature that committee members appointed prior to January 1, 2019, remain as hygiene board members until their term expires or except as otherwise provided in law, whichever occurs first.

(3) For purposes of this subdivision, a public health dentist is a dentist whose primary employer or place of employment is in any of the following:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.

(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(b) (1) Except as specified in paragraph (2), members of the dental hygiene board shall be appointed for a term of four years. Each member shall hold office until the appointment and qualification of the member's successor or until one year shall have lapsed since the expiration of the term for which the member was appointed, whichever comes first.

(2) For the term commencing on January 1, ~~2012, two of the public members, the~~ **2022, the** general or public health dentist ~~member, member~~ and ~~two one~~ **one** of the registered dental hygienist members, other than the dental hygiene educator member or the registered dental hygienist member licensed in alternative practice or in extended functions, shall each serve a term of ~~two three~~ **two** years, expiring January 1, ~~2014. 2025.~~

(3) No more than three members' terms shall expire in any given calendar year.

(c) Notwithstanding any other provision of law and subject to subdivision (e), the Governor may appoint to the dental hygiene board a person who previously served as a member of the former committee or hygiene board even if the person's previous term expired.

(d) The dental hygiene board shall elect a president, a vice president, and a secretary from its membership.

(e) No person shall serve as a member of the dental hygiene board for more than two consecutive terms.

(f) A vacancy in the dental hygiene board shall be filled by appointment to the unexpired term. *Notwithstanding subdivision (e), a member who is appointed to fill an unexpired term shall be eligible to serve two complete consecutive terms.*

(g) Each member of the dental hygiene board shall receive a per diem and expenses as provided in Section 103.

(h) The Governor shall have the power to remove any member from the dental hygiene board for neglect of a duty required by law, for incompetence, or for unprofessional or dishonorable conduct.

(i) The dental hygiene board, with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the dental hygiene board and vested in the executive officer by this article.

(j) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 3.

Section 1917.1 of the Business and Professions Code is amended to read:

1917.1.

(a) The dental hygiene board may grant a license as a registered dental hygienist to an applicant who has not taken a clinical examination before the dental hygiene board, if the applicant submits all of the following to the dental hygiene board:

(1) A completed application form and all fees required by the dental hygiene board.

(2) Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.

(3) Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years immediately preceding the date of application under this section. The clinical practice requirement shall be deemed met if the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by filing with the dental hygiene board a copy of a pending contract to practice dental hygiene in any of the following facilities:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.

(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(4) Satisfactory performance on a California law and ethics examination and any examination that may be required by the dental hygiene board.

(5) Proof that the applicant has not been subject to disciplinary action by any state in which the applicant is or has been previously issued any professional or vocational license. If the applicant has been subject to disciplinary action, the dental hygiene board shall review that action to determine if it warrants refusal to issue a license to the applicant.

(6) Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation.

(7) Proof of satisfactory completion of the National Board Dental Hygiene Examination and of a state clinical examination, regional clinical licensure examination, or any other clinical dental hygiene examination approved by the dental hygiene board.

(8) Proof that the applicant has not failed the state clinical examination, the examination given by the Western Regional Examining Board, or any other clinical dental hygiene examination approved by the dental hygiene board for licensure to practice dental hygiene under this chapter more than once or once within five years prior to the date of application for a license under this section.

(9) Documentation of completion of a minimum of 25 units of continuing education earned in the two years preceding application, including completion of any continuing education requirements imposed by the dental hygiene board on registered dental hygienists licensed in this state at the time of application.

(10) Satisfactory evidence of having successfully completed a course or education and training in local anesthesia, nitrous oxide-oxygen analgesia, and periodontal soft-tissue curettage approved by the dental hygiene board.

~~(10)~~ (11) Any other information as specified by the dental hygiene board to the extent that it is required of applicants for licensure by examination under this article.

(b) The dental hygiene board may periodically request verification of compliance with the requirements of paragraph (3) of subdivision (a) and may revoke the license upon a finding that the employment requirement or any other requirement of paragraph (3) of subdivision (a) has not been met.

(c) The dental hygiene board shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:

(1) The location of dental manpower shortage areas in the state.

(2) Any nonprofit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.

SEC. 4.

Section 1926.1 of the Business and Professions Code is amended to read:

1926.1.

(a) Notwithstanding any other provision of law, a registered dental hygienist in alternative practice may operate a mobile dental hygiene clinic ~~provided by the licensee's property and casualty insurer as a temporary substitute site for the practice registered by the licensee pursuant to Section 1926.3, if both of the following requirements are met:~~ *in the settings listed in Section 1926.*

~~(a) The licensee's registered place of practice has been rendered and remains unusable due to loss or calamity.~~

(b) The ~~licensee's insurer registers~~ *registered dental hygienist in alternative practice shall register* the mobile dental hygiene clinic with the dental hygiene board in compliance with ~~Section~~ *Sections 1926.2 and* 1926.3.

(c) The dental hygiene board may conduct announced and unannounced reviews and inspections of a mobile dental hygiene clinic to ensure continued compliance with the requirements for continued approval under this article.

(d) It shall constitute unprofessional conduct if the mobile dental hygiene clinic is found to be noncompliant with any requirements necessary for licensure, and the registered dental hygienist in alternative practice may be placed on probation with terms, issued a citation and fine, or have the mobile dental hygiene clinic registration withdrawn if compliance is not demonstrated within reasonable timelines, as established by the dental hygiene board.

(e) The dental hygiene board, by itself or through an authorized representative, may issue a citation containing fines and orders of abatement to the registered dental hygienist in alternative practice for any violation of this section, Section 1926.2, Section 1926.3, or any regulations adopted thereunder. Any fine collected pursuant to this section shall be deposited into the State Dental Hygiene Fund established pursuant to Section 1944.

SEC. 5.

Section 1926.3 of the Business and Professions Code is amended to read:

1926.3.

(a) Every person who is now or hereafter licensed as a registered dental hygienist in alternative practice in this state shall register with the executive officer, on forms prescribed by the dental hygiene board, the ~~person's place of practice,~~ physical facility of registered dental hygienist in alternative practice or, if the ~~person-~~ registered dental hygienist in alternative practice has more than one ~~place of practice-~~ physical facility pursuant to Section 1926.4, all of the ~~places of practice. If the person has no place of practice, the person-~~ physical facilities. If the registered dental hygienist in alternative practice does not have a physical facility, the registered dental hygienist in alternative practice shall notify the executive officer. A person licensed by the dental hygiene board shall register with the executive officer within 30 days after the date of the issuance of the person's license as a registered dental hygienist in alternative practice.

(b) (1) A registered dental hygienist in alternative practice who utilizes portable equipment to practice dental hygiene shall register with the executive officer, on forms prescribed by the dental hygiene board, the registered dental hygienist in alternative practice's physical facility where the portable equipment is maintained.

(2) The dental hygiene board may conduct announced and unannounced reviews and inspections of a registered dental hygienist in alternative practice's physical facilities and equipment described in paragraph (1) to ensure continued compliance with the requirements for continued approval under this article.

(c) It shall constitute unprofessional conduct if the registered dental hygienist in alternative practice's physical facility or equipment is found to be noncompliant with any requirements necessary for licensure and a registered dental hygienist in alternative practice may be placed on probation with terms, issued a citation and fine, or have the owned physical facility registration withdrawn if compliance is not demonstrated within reasonable timelines, as established by the dental hygiene board.

(d) The dental hygiene board, by itself or through an authorized representative, may issue a citation containing fines and orders of abatement to the registered dental hygienist in alternative practice for any violation of this section, Section 1925, Section 1926.4, or any regulations adopted thereunder. Any fine collected pursuant to this section shall be deposited into the State Dental Hygiene Fund established pursuant to Section 1944.

~~SEC. 4.~~ SEC. 6.

Section 1941 of the Business and Professions Code is amended to read:

1941.

(a) The dental hygiene board shall grant or renew approval of only those educational programs for ~~a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions-~~ *RDHs* that continuously maintain a high-quality standard of instruction and, where appropriate, meet the minimum standards set by the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the dental hygiene board.

(b) A new *or existing* educational program for ~~registered dental hygienists-~~ *RDHs* shall submit a feasibility study demonstrating a need for a new *or existing* educational program and shall apply for approval from the dental hygiene board ~~prior to seeking-~~ *before seeking any required* approval for initial accreditation from the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the dental hygiene board. The dental hygiene board may approve, provisionally approve, or deny approval of ~~any such-~~ *a new educational program-* *program for RDHs.*

(c) For purposes of this section, a new *or existing* educational program for ~~registered dental hygienists-~~ *RDHs* means a program provided by a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education and that has as its primary purpose providing college level courses leading to an associate or higher degree, that is either affiliated with or conducted by a dental school approved by the dental board, or that is accredited to offer college level or college parallel programs by the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the dental hygiene board.

(d) For purposes of this section, "RDHs" means registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

~~SEC. 5.~~ SEC. 7.

Section 1950.5 of the Business and Professions Code is amended to read:

1950.5.

Unprofessional conduct by a person licensed under this article is defined as, but is not limited to, any one of the following:

- (a) The obtaining of any fee by fraud or misrepresentation.
- (b) The aiding or abetting of any unlicensed person to practice dentistry or dental hygiene.
- (c) The aiding or abetting of a licensed person to practice dentistry or dental hygiene unlawfully.
- (d) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dental hygiene.
- (e) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which the person is licensed to practice, in advertising or in any other manner indicating that the person is practicing or will practice dentistry, except the name specified in a valid permit issued pursuant to Section 1962.
- (f) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiographs, prescriptions, or other services or articles supplied to patients.
- (g) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.

(h) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(i) The employing or the making use of solicitors.

(j) Advertising in violation of Section 651.

(k) Advertising to guarantee any dental hygiene service, or to perform any dental hygiene procedure painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(l) The violation of any of the provisions of this division.

(m) The permitting of any person to operate dental radiographic equipment who has not met the requirements to do so, as determined by the dental hygiene board.

(n) The clearly excessive administering of drugs or treatment, or the clearly excessive use of treatment procedures, or the clearly excessive use of treatment facilities, as determined by the customary practice and standards of the dental hygiene profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(o) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(p) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds that would be the basis of discipline in this state.

(q) The alteration of a patient's record with intent to deceive.

(r) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental hygiene profession.

(s) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.

(t) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.

(u) Use of fraud in the procurement of any license issued pursuant to this article.

(v) Any action or conduct that would have warranted the denial of the license.

(w) The aiding or abetting of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dental hygiene in a negligent or incompetent manner.

(x) The failure to report to the dental hygiene board in writing within seven days any of the following: (1) the death of the licensee's patient during the performance of any dental hygiene

procedure; (2) the discovery of the death of a patient whose death is related to a dental hygiene procedure performed by the licensee; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient as a result of dental or dental hygiene treatment. Upon receipt of a report pursuant to this subdivision, the dental hygiene board may conduct an inspection of the dental hygiene practice office if the dental hygiene board finds that it is necessary.

(y) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the dental hygiene board all deaths occurring in their practice with a copy sent to the dental board if the death occurred while working as an employee in a dental office. A dentist shall report to the dental board all deaths occurring in their practice with a copy sent to the dental hygiene board if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

(z) Knowingly making a statement or signing a certificate or other document that falsely represents the existence or nonexistence of a fact directly or indirectly related to the practice of dental hygiene.

SEC. 6. SEC. 8.

Section 1951 of the Business and Professions Code is amended to read:

1951.

The dental hygiene board may discipline a licensee by placing the licensee on probation under various terms and conditions that may include, but are not limited to, the following:

(a) Requiring the licensee to obtain additional training *in a remedial education course approved by the dental hygiene board* or pass an examination upon completion of ~~training,~~ *training in a remedial education course approved by the dental hygiene board*, or both. The examination may be a written or oral examination, or both, and may be a practical or clinical examination, or both, at the option of the dental hygiene board.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the dental hygiene board, if warranted by the physical or mental condition of the licensee. If the dental hygiene board requires the licensee to submit to an examination, the dental hygiene board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee.

(d) Requiring restitution of fees to the licensee's patients or payers of services, unless restitution has already been made.

(e) Providing the option of alternative community service in lieu of all or part of a period of suspension in cases other than violations relating to quality of care.

MEMORANDUM

DATE	March 26, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7 – 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.