California Board of PSYCHOLOGY
1625 North Market Blvd., Suite N-215, Sacramento, CA 95834
T (916) 574-7720 F (916) 574-8672 Toll-Free (866) 503-3221
www.psychology.ca.gov

NOTICE OF LEGISLATIVE AND REGULATORY AFFAIRS COMMITTEE MEETING

Friday, March 25, 2022
10:00 a.m. – 2:00 p.m. or until completion of business

If Joining by Computer:
https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mfe345792033461d73e83e3e9973036e7
Webinar number: 2498 714 8436
Webinar password: BOP03252022

If Joining by Phone:
+1-415-655-0001 US Toll
Access code: 249 871 48436
Passcode: 26703252

Due to potential technical difficulties, please consider submitting written comments by March 18, 2022, to bopmail@dca.ca.gov for consideration.

Committee Members
Marisela Cervantes, EdD, MPA, Chair
Sheryll Casuga, PsyD
Stephen Phillips, JD, PsyD

Board Staff
Antonette Sorrick, Executive Officer
Jonathan Burke, Assistant Executive Officer
Stephanie Cheung, Licensing Manager
Jason Glasspiegel, Central Services Manager
Sandra Monterrubio, Enforcement Program Manager
Suzy Costa, Legislative and Regulatory Analyst
Sarah Proteau, Central Services Office Technician
Rebecca Bon – Board Counsel
Heather Hoganson – Regulatory Counsel

Friday, March 25, 2022

AGENDA

10:00 a.m. – 2:00 p.m. or Until Completion of Business

1. Call to Order/Roll Call/Establishment of a Quorum

2. Chairperson's Welcome and Opening Remarks

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

4. COVID-19 Waiver Update (A. Sorrick)

5. Discussion and Possible Approval of the Committee Meeting Minutes: June 11, 2021 (J. Glasspiegel)

6. Legislation from the 2021 Legislative Session: Review and Possible Action (M. Cervantes)

    a) Board Sponsored Legislation
        1. SB 401 (Pan) Healing arts: psychology - Amendments to sections 2960 and 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact

    b) Bills with Active Positions Taken by the Board
        1. AB 32 (Aguiar-Curry) Telehealth
        2. SB 731 (Durazo) Criminal records: relief
        3. SB 772 (Ochoa Bogh) Professions and vocations: citations: minor violations

    c) Watch Bills
        1. AB 29 (Cooper) State bodies: meetings
        2. AB 54 (Kiley) COVID-19 emergency order violation: license revocation
        3. AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses
        4. AB 339 (Lee) State and local government: open meetings
        5. AB 562 (Low) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services
        6. AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions
        7. AB 657 (Bonta) State civil service system: personal services contracts: professionals
        8. AB 810 (Flora) Healing arts: reports: claims against licensees
        9. AB 830 (Flora) Department of Consumer Affairs: director: powers and duties
        10. AB 885 (Quirk) Bagley-Keene Open Meeting Act: teleconferencing
        11. AB 1026 (Smith) Business licenses: veterans.
        12. AB 1236 (Ting) Healing arts: licensees: data collection
        13. AB 1386 (Cunningham) License fees: military partners and spouses

14. SB 102 (Melendez) COVID-19 emergency order violation: license revocation
15. SB 221 (Wiener) Health care coverage: timely access to care
16. SB 224 (Portantino) Pupil instruction: mental health education

7. Legislation from the 2022 Legislative Session: Review and Possible Action (M. Cervantes)

a) Review of Bills for Active Position Recommendations to the Board
   1. AB 1662 (Gipson) Licensing boards: disqualification from licensure: criminal conviction
   2. AB 1733 (Quirk) State bodies: open meetings
   3. AB 2123 (Villapudua) Bringing Health Care into Communities Act of 2023
   4. AB 2754 (Bauer-Kahan) Psychology: supervising psychologists: qualifications
   5. SB 1365 (Jones) Licensing boards: procedures
   6. SB 1428 (Archuleta) Psychologists: psychological testing technician: registration

b) Watch Bills

   1. AB 1795 (Fong) Open meetings: remote participation.
   2. AB 1860 (Ward) Substance abuse treatment: certification.
   3. AB 1921 (Jones-Sawyer) Correctional officers.
   4. AB 2080 (Wood) Health Care Consolidation and Contracting Fairness Act of 2022.
   5. AB 2104 (Flora) Professions and vocations.
   6. AB 2229 (Luz Rivas) Peace officers: minimum standards: bias evaluation.
   7. AB 2274 (Blanca Rubio) Mandated reporters: statute of limitations.
   8. SB 1031 (Ochoa Bogh) Healing arts boards: inactive license fees.

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

9. Regulatory Update, Review, and Consideration of Additional Changes (J. Glasspiegel)
   a) 16 CCR sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Registered Psychological Associates
   b) 16 CCR sections 1381.10, 1392, and 1397.69 – Retired License, Renewal of Expired License, Psychologist Fees (retired license)
   c) 16 CCR sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development

d) 16 CCR sections 1391.13, and 1391.14 – Inactive Psychological Associates Registration and Reactivating a Psychological Associate Registration
e) 16 CCR sections 1392 and 1392.1 – Psychologist Fees and Psychological Associate Fees
f) 16 CCR 1395.2 – Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees
g) 16 CCR sections 1380.3, 1381, 1381.1, 1381.2, 1381.4, 1381.5, 1382, 1382.3, 1382.4, 1382.5, 1386, 1387, 1387.1, 1387.2, 1387.3, 1387.4, 1387.5, 1387.6, 1387.10, 1388, 1388.6, 1389, 1389.1, 1391, 1391.1, 1391.3, 1391.4, 1391.5, 1391.6, 1391.8, 1391.11, and 1391.12 – Pathways to Licensure
h) 16 CCR sections 1380.6, 1393, 1396, 1396.1, 1396.2, 1396.3, 1396.4, 1396.5, 1397, 1397.1, 1397.2, 1397.35, 1397.37, 1397.39, 1397.50, 1397.51, 1397.52, 1397.53, 1397.54, 1397.55 - Enforcement Provisions

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

ADJOURNMENT

Action may be taken on any item on the agenda. Items may be taken out of order or held over to a subsequent meeting, for convenience, to accommodate speakers, or to maintain a quorum. Meetings of the Board of Psychology are open to the public except when specifically noticed otherwise, in accordance with the Open Meeting Act.

In the event that a quorum of the Committee is unavailable, the chair may, at their discretion, continue to discuss items from the agenda and to vote to make recommendations to the full Committee at a future meeting [Government Code section 11125(c)].

The meeting is accessible to the physically disabled. To request disability-related accommodations, use the contact information below. Please submit your request at least five (5) business days before the meeting to help ensure availability of the accommodation.

You may access this agenda and the meeting materials at www.psychology.ca.gov. The meeting may be canceled without notice. To confirm a specific meeting, please contact the Board.

Contact Person: Antonette Sorrick
1625 N. Market Boulevard, Suite N-215
Sacramento, CA 95834
(916) 574-7720
bopmail@dca.ca.gov

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

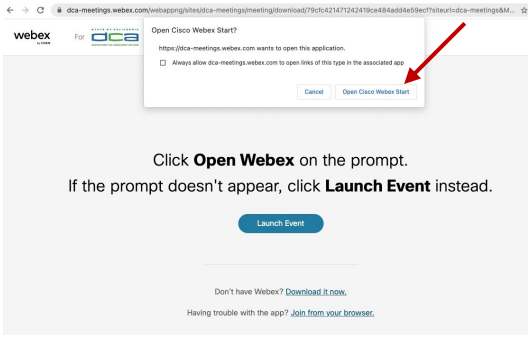
Webex QuickStart

Getting Connected

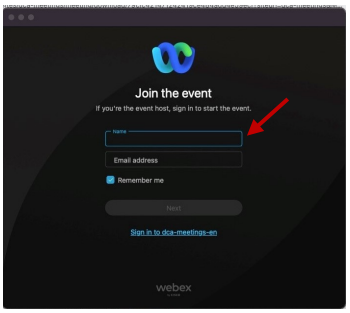
If joining using the meeting link

1. Click on the meeting link. This can be found in the meeting notice you received.

2. If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click "Open Cisco Webex Start" or "Open Webex", whichever option is presented.
   DO NOT click "Join from your browser", as you will not be able to participate during the meeting.



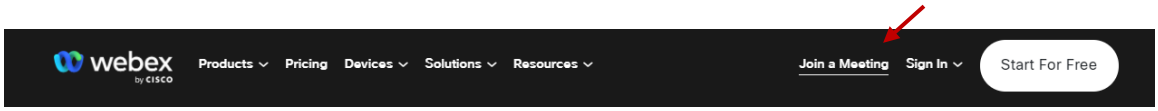
3. Enter your name and email address.
   Click "Join as a guest" .
   Accept any request for permission to use your microphone and/or camera.



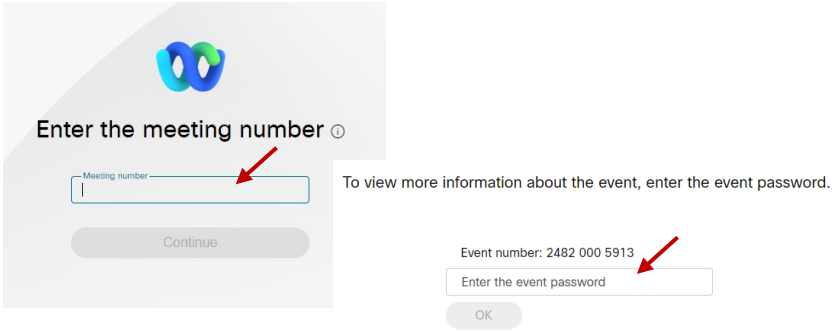
OR

If joining from Webex.com

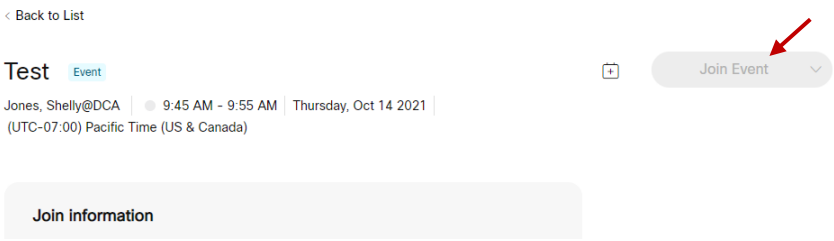
1. Click on "Join a Meeting" at the top of the Webex window.



2. Enter the meeting/event number and click "Continue" . Enter the event password and click "OK" . This can be found in the meeting notice you received.



3. The meeting information will be displayed. Click "Join Event" .



OR

Connect via telephone:

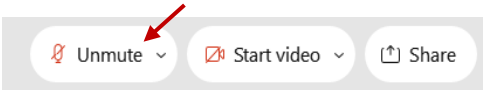
You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

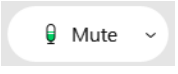
Webex QuickStart

Audio

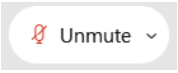
Microphone

Microphone control (mute/unmute button) is located on the command row.





Green microphone = Unmuted: People in the meeting can hear you.

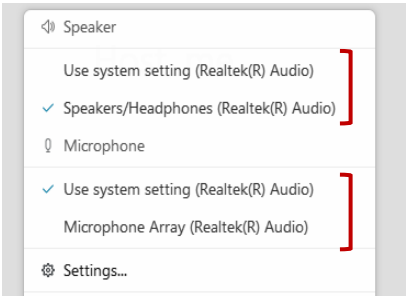


Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on "Unmute Me".

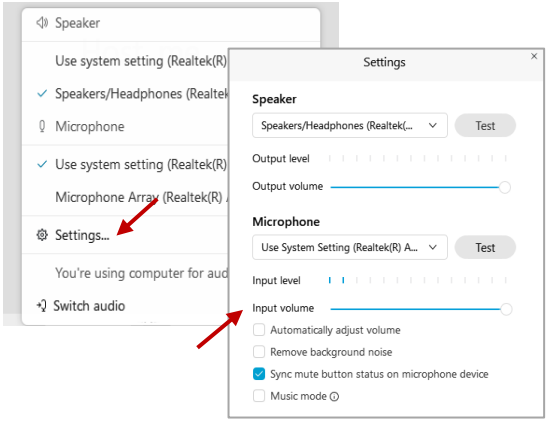
If you cannot hear or be heard

1. Click on the bottom facing arrow located on the Mute/Unmute button.
2. From the pop-up window, select a different:
   - Microphone option if participants can't hear you.
   - Speaker option if you can't hear participants.



If your microphone volume is too low or too high

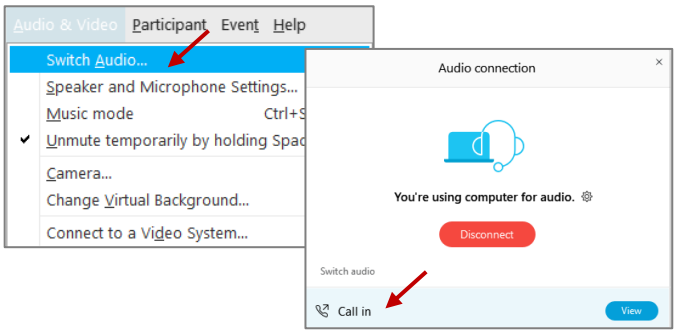
1. Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
2. From the pop-up window:
   - Click on "Settings…":
   - Drag the "Input Volume" located under microphone settings to adjust your volume.



Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through webex. Your phone will then become your audio source during the meeting.

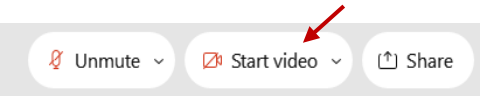
1. Click on "Audio & Video" from the menu bar.
2. Select "Switch Audio" from the drop-down menu.
3. Select the "Call In" option and following the directions.

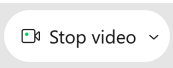


Web Camera

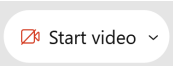
Only panelists (e.g. staff, board members, presenters) can access the web camera feature.

Camera control (Start Video/Stop Video button) is located on the command row.





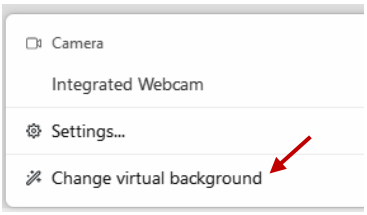
Green dot in camera = Camera is on: People in the meeting can see you.



Red dot in camera = Camera is off : No one in the meeting can see you.

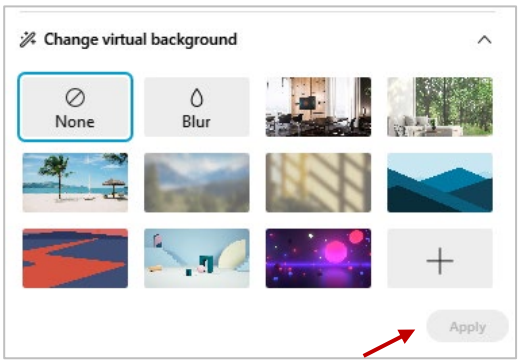
Virtual Background

1. To access virtual backgrounds, click on the bottom facing arrow located on the video button.



2. Click on “Change Virtual Background”.

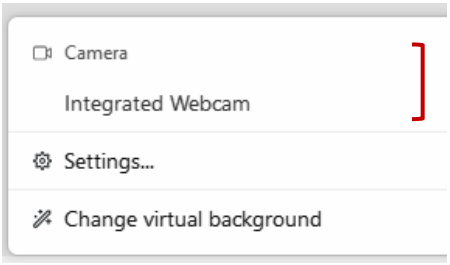
3. From the pop-up window, click on any of the available images to display that image as your virtual background and click “Apply”.



If you cannot be seen

1. Locate the command row – click on the bottom facing arrow located on the video button.

2. From the pop-up window, select a different camera from the list.



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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee Members
FROM	Antonette Sorrick, Executive Officer
SUBJECT	Agenda Item #4 –COVID-19 Waiver Update

Background:
Attached is the current active waivers for the Board of Psychology. Waivers are active based on the Governor's declared state of emergency.

Action Requested:
No further action is needed.

Attachment:
Waiver Update 3/4/22

Waiver Topic	Code Section(s) Waived	Summary	Submission Date	Approval Status	Submitted By	Waiver Status
Reinstatement of Inactive or Canceled License	All DCA Boards	Accordingly, the Director temporarily waives any statutory or regulatory requirement that an individual seeking to reactivate or restore a license originally issued pursuant to Division 2 of the Code: • Complete, or demonstrate compliance with, any continuing education requirements in order to reactivate or restore a retired, inactive, or canceled license; and • Pay any fees in order to reactivate or restore a retired, inactive, or canceled license (including renewal, delinquency, penalty, or late fees, or any other statutory or regulatory fees). These waivers apply only to an individual's license that: (1) is in a retired, inactive, or canceled status, and (2) has been in such status no longer than five years. These waivers do not apply to any license that was surrendered or revoked pursuant to disciplinary proceedings or any individual who entered a retired, inactive, or canceled status following initiation of a disciplinary proceeding. A license reactivated or restored pursuant to these waivers is valid for a maximum of six months, or when the State of Emergency ceases to exist, whichever is sooner.	N/A	This waiver was extended on10/29/21 with an expiration date of 3/31/22.	DCA	Active
Face to Face Supervision	California Code of Regulations Sections 1387(b)(4) and 1391.5(b)	This waiver would allow the Board to relax the requirement of face-to-face supervision to a psychological trainee by allowing the one hour face-to-face, direct, individual supervision to be conducted via HIPAA-compliant means from March 16, 2020, until June 30, 2020, or when the state declaration of emergency is lifted, whichever is sooner. The Board would still require that the trainee indicate the type of supervision on the required weekly log and the primary supervisor should verify this information. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Approved by DCA on 5/6/20. Waiver extended on 8/31/21 and now expires 10/31/21. The Board has issued a six-month grace period for face-to-face supervision which will allow for HIPAA compliant technology to count towards this requirement. The six-month grace period expires on 3/31/22.	Board of Psychology	Active
CE Extra Six Months	All DCA Boards	Accordingly, for individuals whose active licenses expire between March 31, 2020, and June 30, 2020, the Director temporarily waives: 1. any statutory or regulatory requirement that individuals renewing a license pursuant to Division 2 of the Code take and pass an examination in order to renew a license; and, 2. any statutory or regulatory requirement that an individual renewing a license pursuant to Division 2 of the Code complete, or demonstrate compliance with, any continuing education requirements in order to renew a license. These temporary waivers do not apply to any continuing education, training, or examination required pursuant to a disciplinary order against a license. Licensees must satisfy any waived renewal requirements within six months of this order, unless further extended.	N/A	Newest waiver published by DCA on September 28, 2021 allows licenses expiring between October 1, 2021, and October 31, 2021, six extra months from the date of the order to complete continuing education in order to renew their licenses. A renewal must still be submitted before the expiration date..	DCA	Active
Withdraw Application	California Code of Regulations Section 1381.4	This waiver extends the eligibility period for candidates to take or re-take an examination from 12 to 18 months prior to their application is deemed withdrawn by the Board due to failing to appear for, take, or re-take the examination. This waiver applies to psychologist applicants whose applications are deemed to be withdrawn within a specific period per the waiver, but does not retroactively apply to withdrawn applications prior to September 30, 2020 where applicants have already reapplied.	Submitted to Director Kirchmeyer on 4/10/2020	Extends prior waiver by 30 days to applications expiring between October 1, 2021, and October 31, 2021, and extends their eligibility to take examinations by six extra months, as discussed in the waiver.	Board of Psychology	Active
CPLEE for Restoration of License	Business and Professions Code Section 2986 California Code of Regulation Section 1397.67(b)	This waiver would allow the board to restore licenses of psychologists whose California licenses have cancelled without requiring the board's law and ethics examination (CPLEE). This waiver would become effective 3/4/20 until 6/30/20, or when the declaration of emergency is lifted. This would be consistent with the DCA Waiver DCA-20-02 Reinstatement of Licensure. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20. Expires when declared emergency is lifted.	Board of Psychology	Active

SPE Time Limitation	California Code of Regulations Section 1387(a)	The regulation allows a psychological trainee to request that the Board extend the time limitations of 30/60 consecutive months to accrue their pre-doctoral and post-doctoral hours of supervised professional experience (respectively) required for licensure. The waiver requested would be to allow applicants who reach the 30/60 month limitations between 3/4/20 and 6/30/20 up to an additional 6 months, or when the declaration of emergency is lifted, whichever is sooner, to accrue their hours. This waiver would help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20. Expires when declared emergency is lifted.	Board of Psychology	Active
Psych Asst 72 month Limit	California Code of Regulations Section 1391.1(b)	This waiver would allow a psychological assistant to continue their registration, beyond the 72 months limit upon request, and to provide services to clients for up to six months from the expiration date, or when the state of emergency ceases to exist, whichever is sooner. A psychological assistant who has reached the registration limit between 3/4/2020 and 6/30/2020 will qualify for the wavier and can request for such waiver during the state of emergency. This will help with the workforce surge.	Submitted to Director Kirchmeyer on 4/9/2020	Referred to the Board for Delegation. Approved by Board on 4/17/20. Expires when declared emergency is lifted.	Board of Psychology	Active

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MEMORANDUM

DATE	March 8, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Sarah Proteau Central Services Office Technician
SUBJECT	Agenda Item #5 – Approval of Committee Minutes: June 11, 2021

Background:

Attached are the draft minutes for the June 11, 2021 Legislative and Regulatory Affairs Committee Meeting.

Action Requested:

Approve the attached minutes for the June 11, 2021 Legislative and Regulatory Affairs Committee Meeting.

Attachment: Draft minutes of the June 11, 2021 Legislative and Regulatory Affairs Committee Meeting.

California Board of PSYCHOLOGY

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Teleconference Legislative and Regulatory Affairs Committee Meeting Minutes

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, neither Committee member locations nor a public meeting location is provided

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

Members Absent
None

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

Legal Counsel
William Maguire
Heather Hoganson

Friday, June 11, 2021

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

Chairperson Cervantes called the Committee meeting to order at 10:00 a.m., roll was called, and a quorum established.

Agenda Item 2: Chairperson's Welcome and Opening Remarks

Ms. Cervantes read the opening remarks and welcomed all participants to the meeting.

Agenda Item 3: Public Comment for Items Not on the Agenda.

There was no public comment offered.

Agenda Item 4: COVID-19 Waiver Update

Ms. Sorrick provided this update which included an update from May 28, 2021 and was attached in the meeting materials. She stated that two new waivers had been extended; extra time for Continuing Education and an extended exam eligibility period to allow for more time to complete the licensing exam.

Discussion ensued regarding expected impact to licensees regarding the extended state of emergency by the Governor.

Ms. Sorrick stated that the State would be reopened on June 15, 2021, but the emergency order would still be in effect at that time. She stated that all Boards and Bureaus had been waiting on word from DCA as to how the situation would affect the waivers and information would be communicated to licensees and stakeholders as soon as further clarification is received.

Discussion ensued between Drs. Phillips and Casuga with Mr. Glasspiegel how licensees would report the Continuing Education hours at renewal and the internal process in place to allow renewals with the waiver extension. It was expressed that additional efforts would be made to provide clarification on the renewal process during the state of emergency to stakeholders through an email blast.

There was no further Committee and no public comment offered.

Agenda Item 5: Discussion and Possible Approval of the Committee Meeting Minutes: March 19, 2021

Ms. Cervantes introduced this item.

Dr. Phillips provided a minor correction of spacing in the Committee minutes, which was updated in the document.

It was M(Phillips)/S(Casuga)/C to approve the March 19, 2021, Committee Meeting Minutes as amended.

Vote: 3 Ayes, (Cervantes, Casuga, Phillips), 0 Noes

Agenda Item 6: Board Sponsored Legislation for the 2021 Legislative Session: Review and Possible Action

a) SB 401 (Pan) Healing arts: psychology - Amendments to sections 2960 and 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact

Ms. Rivera provided an update to this item and stated the bill was now a 2-year bill. This was provided as information only with no action required.

There was no Committee or public comment offered.

b) Pathways to Licensure Statutory Revisions – Amendments to sections 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2942, 2944, 2946, and 2960 of the Business and Professions Code, and section 1010 of the Evidence Code

Ms. Rivera provided an update to this item. She stated staff has been advised that the vehicle for these amendments will be SB 801 (Roth). However, amendments specific to the Board of Psychology are pending, it currently only applies to the Board of Behavioral Sciences. Until then we are waiting and hoping that our amendments are accepted. We don't know which amendments are going to be made so we will see once we are amended into the bill.

There was no Committee or public comment offered.

c) Sunset Provisions – Amendments to section 2912 of the Business and Professions Code, and Addition of Sections Related to Reinstatement to Active after Voluntary Surrender, Licensure Committee Delegated Authority, and Authority to Issue Waivers

Ms. Rivera advised that these provisions are hopefully going to be amended into SB 801 (Roth) as well.

There was no Committee or public comment offered

Agenda Item 7: Legislative Update, Review, and Consideration of Additional Changes

a) Bills with Active Positions Taken by the Board

1. AB 32 (Aguiar-Curry) Telehealth

Ms. Rivera provided an update on AB 32 (Aguiar-Curry). She stated that the bill had been sent to the Senate and was in Health Committee waiting for a hearing date.

There was no Committee or public comment offered.

2. AB 107 (Salas) Department of Consumer Affairs: boards: temporary licenses: military spouses

Ms. Rivera provided update on AB 107 (Salas). She stated that the bill had been referred to the Senate Business and Professions Committee awaiting hearing.

There was no Committee or public comment offered.

3. SB 731 (Durazo) Criminal records: relief

Ms. Rivera provided update on SB 731 (Durazo). She stated that on May 20, 2021, amendments had been accepted in the Senate Appropriations Committee. This bill is now with the Assembly and had been referred to the Committee on Public Safety.

There was no Committee or public comment offered

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

Ms. Rivera provided an information only update on SB 772 (Ochoa Bogh) which was included in the meeting materials beginning on page 94. She stated that this was a 2-year bill and was not going to move in 2021.

There was no Committee or public comment offered

b) Watch Bills

Ms. Rivera provided a list of bills which were still Active and moving through the process; AB 225 (Gray), AB 339 (Lee), AB 562 (Low), AB 657 (Bonta), AB 830 (Flora), SB 221 (Wiener), and SB 224 (Portantino).

Discussion ensued on Agenda items 5, 12, and 15.

Ms. Rivera provided an update to AB 562 (Low) and stated that the bill had been amended on April 8, 2021, to narrow the scope of who would be considered a frontline provider in the COVID-19 pandemic. She stated that the bill had been referred to the Committees on Business, Professions and Economic Development, and Judiciary.

Ms. Rivera provided an update to AB 1236 (Ting) and stated that Assemblymember Ting had moved the bill to the Inactive file. She stated that DCA had been working with the Office of Statewide Planning and Development (OSHPD) to see what possible options existed for data collection.

Ms. Rivera provided an update to SB 221 (Wiener) and stated that the bill had been moved to the Senate Health Committee and was waiting for a hearing date.

Dr. Casuga requested Board staff to conduct analysis of SB 221 (Wiener) and provide a recommendation to the Committee to consider which was agreed to by Ms. Rivera.

There was no further Committee or public comment offered.

1. AB 29 (Cooper) State bodies: meetings
2. AB 54 (Kiley) COVID-19 emergency order violation: license revocation
3. AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses
4. AB 339 (Lee) State and local government: open meetings
5. AB 562 (Low) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services
6. AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions
7. AB 657 (Bonta) State civil service system: personal services contracts: professionals
8. AB 810 (Flora) Healing arts: reports: claims against licensees
9. AB 830 (Flora) Department of Consumer Affairs: director: powers and duties
10. AB 885 (Quirk) Bagley-Keene Open Meeting Act: teleconferencing
11. AB 1026 (Smith) Business licenses: veterans.
12. AB 1236 (Ting) Healing arts: licensees: data collection
13. AB 1386 (Cunningham) License fees: military partners and spouses
14. SB 102 (Melendez) COVID-19 emergency order violation: license revocation
15. SB 221 (Wiener) Health care coverage: timely access to care
16. SB 224 (Portantino) Pupil instruction: mental health education

c) Update, Consideration, and Possible action on Governor's Budget Trailer Bill proposal on Bagley-Keene Open Meeting Act: Remote Participation in Meetings.

Mr. Maguire, Board counsel, provided update on this item which was included in the meeting materials beginning on page 193. He stated that the hope was to allow Boards to continue with the option to meet remotely.

Mr. Maguire stated that the Assembly had rejected the proposal so the bill would not move forward in the Assembly at that time. He stated that the Senate Committee on Budget decided not to take it up. He provided some topics to consider, namely:

- To allow or not to allow remote teleconferencing for all meetings
- To permit or require video or audio or both
- Whether in person attendance is required for all Board members or not

Discussion ensued regarding access and participation in meetings and that the teleconference model has worked well and shown increased public participation and budget savings. Concern was expressed about vague language and specific provisions listed that as written would be difficult for Board staff to implement. For example, a requirement to monitor attendees' participation and stop the meeting if attendance dropped below 50 percent.

Dr. Phillips expressed concern with vague language regarding audio and/or video access requirements.

Ms. Cervantes echoed those concerns and stated additional concern of cost involved and that she felt the existing model that has been implemented over the COVID-19 pandemic has worked well and hopes that it would be continued.

Dr. Jo Linder-Crow, California Psychological Association, commented that while she felt that the teleconference option had been helpful, she missed seeing the faces of those who were speaking.

There was no further public comment offered.

Agenda Item 8: Legislative Items for Future Meeting.

There was no Committee or Public comment offered

Agenda Item 9: Regulatory Update, Review, and Consideration of Additional Changes

Mr. Glasspiegel provided updates to this item and stated that the Board's Standards of Practice for Telehealth regulatory package had been delivered to the Office of Administrative Law (OAL). He stated that staff was working on a Final Statement of Reasons for the Continuing Professional Development (CPD) Regulatory Package, and a first draft had been created of the Initial Statement of Reasons for the Fee Change Regulatory Package and staff was working on the Notice.

Mr. Glasspiegel stated that all other items were in the DCA review process.

Discussion ensued on Item 9 (b) and (c) as to where the packages were in DCA review process.

Mr. Glasspiegel stated that staff had some delays with review due to change of legal counsel and that would be revisited. In regard to 9(c), he stated that there were forms that needed to be updated, mandatory language that would need to be added as well as legal justification for the updates which were currently with legal counsel.

Public Comment

Discussion ensued between Dr. Jo Linder Crow, CPA, Mr. Glasspiegel and Ms. Hoganson as to how the process would work if the CPD package did not have approval from OAL by the stated implementation date.

Clarification was given that once the package has approval, staff would work with the OAL attorney to make adjustments to the implementation date.

Ms. Cervantes thanked all participants for their comments in the discussion.

a) 16 California Code of Regulations (CCR) 1396.8 – Standards of Practice for Telehealth
b) 16 CCR sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants
c) 16 CCR sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees
16 CCR sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development
d) 16 CCR sections 1391.13, and 1391.14 – Inactive Psychological Assistant Registration and Reactivating a Psychological Assistant Registration
e) 16 CCR sections 1392 and 1392.1 – Psychologist Fees and Psychological Assistant Fees
f) 16 CCR 1395.2 – Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees

Agenda Item 10: Recommendations for Agenda Items for Future Board Meetings.

There was no Committee or public comment offered.

Adjournment

The Committee adjourned at 11:53 a.m.

California Board of PSYCHOLOGY

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6 (a)(1) – SB 401 (Pan) Psychology: unprofessional conduct: disciplinary action: sexual acts

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 Affairs Committee voted to recommend the Board **Support** SB 401. The Board voted to approve the Legislative and Regulatory Affairs Committee's recommendation to support SB 401 on 4/2/2021.

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

On 4/22/2021, SB 401 passed on the Senate Floor on the Consent Calendar (Ayes: 38; Noes: 0) and was ordered to the Assembly.

On 5/25/2021, Board staff was notified that given the bill reduction directive, SB 401 would be a 2-year bill.

Staff was made aware that SB 401 is expected to be heard in the Assembly Business and Professions Committee in April 2022.

Location: Assembly Rules

Status: 6/17/2021 In the Assembly. Re-referred to Com. on RLS. pursuant to Assembly Rule 96.

Action Requested:

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

Attachment A: Board Letter of Support
Attachment B: Senate Floor Analysis
Attachment C: SB 401 (Pan) Bill text

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April 12, 2021

The Honorable Anthony Portantino
Chair, Senate Committee on Appropriations
State Capitol, Room 2206
Sacramento, CA 95814

RE: **SB 401 (Pan) – Psychologist: unprofessional conduct: disciplinary action: sexual acts – SPONSOR**

Dear Senator Portantino:

The Board of Psychology (Board) is pleased to **SPONSOR** SB 401 (Pan). This bill 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 Administrative Law Judge (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. This amendment would not change or diminish the Board's adjudicatory discretion as to the final discipline.

The Board estimates that minor and absorbable costs might be incurred due to SB 401. The bill would change the terms of the proposed decision by an ALJ but would not change the Board's investigation of the allegations nor the adjudicatory process once an accusation is filed against a licensee. Additionally, the Board has no basis upon which to estimate whether a licensee would be more or less likely to appeal the decision or surrender their license in lieu of revocation.

Pursuant to Business and Professions Code (BPC) Section 2960.1, 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 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. 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 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.

The Board sponsored SB 401 due to the Board's experiences adjudicating cases involving inappropriate sexual conduct that did not meet the current definition of sexual contact and therefore did not require the ALJ to recommend revoking the license. 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

The Board is cognizant that during psychotherapy, and especially during therapeutic interventions related to sexual issues, there will be in-depth discussions and communications of a sexual nature with the client. When these discussions are a part of appropriate and documented therapeutic interventions, these communications would not be considered sexual behavior under SB 401.

The Board believes that inappropriate sexual behavior with a client is sexual misconduct and should be prosecuted and adjudicated as such. SB 401 (Pan) would close a loophole in current law and treat sexual behavior between a psychologist and client as the sexual misconduct it is.

For these reasons, the Board asks for your support of SB 401 (Pan) when it is heard in the Senate Committee on Appropriations. If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (925) 325-0157. Thank you.

Sincerely,

Seyron Foo
President, Board of Psychology

cc: Senator Patricia Bates (Vice Chair)
Members of the Senate Committee on Appropriations
Senator Richard Pan, MD
Samantha Lui, Consultant, Senate Committee on Appropriations
Amanda Richie, Consultant, Senate Republican Caucus

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: SB 401
Author: Pan (D)
Amended: 3/4/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 3/22/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

SOURCE: Board of Psychology

DIGEST: This bill revises and recasts the circumstances under which specified sexual acts constitute unprofessional conduct

ANALYSIS:

Existing law:

1) Requires that protection of the public to be the Board of Psychology's (Board) 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)

2) 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))

3) Defines, for purposes of the brochure, "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)

4) Authorizes the Board 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))

5) 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.

Background

Board of Psychology. The Board regulates licensed psychologists, registered psychological assistants, and registered psychologists. 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."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 4/20/21)

Board of Psychology (source)

OPPOSITION: (Verified 4/20/21)

None received

ARGUMENTS IN SUPPORT: The Board of Psychology writes that it "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…The Board is cognizant that during psychotherapy, and especially during therapeutic interventions related to sexual issues, there will be in-depth discussions and communications of a sexual nature with the client. When these discussions are a part of appropriate and documented therapeutic interventions,

these communications would not be considered sexual behavior under SB 401…The Board believes that inappropriate sexual behavior with a client is sexual misconduct and should be prosecuted and adjudicated as such."

Prepared by: Sarah Mason / B., P. & E.D. /
4/21/21 15:12:15

****** END ******

SB-401 Psychology: unprofessional conduct: disciplinary action: sexual acts.

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 ~~registered~~ psychological ~~associate.~~ *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 ~~themselves,~~ *oneself,* any other person, or the public, or to an extent that this use impairs 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 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 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.

~~(o)~~ *(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~~ *psychologist, psychological assistant,* or registered ~~psychological associate.~~ *psychologist.*

(p) Functioning outside of their particular field or fields of competence as established by 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.*

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #11 (b)(1) – AB 32 (Aguiar-Curry) Telehealth

Background:
This bill would require the State Department of Health Care Services to indefinitely continue the telehealth flexibilities put 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).

On 4/2/2021, the Board adopted the Legislative and Regulatory Affairs Committee's recommendation to **Support** AB 32 (Aguiar-Curry).

Location: Senate Health

Status: 7/8/2021. Set for hearing in Senate Health on 7/14/2021. Hearing canceled at the request of the author.

Action Requested:

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

Attachment A: Board Letter of Support
Attachment B: Senate Health Committee Analysis
Attachment C: AB 32 (Aguiar-Curry) Bill Text

California Board of PSYCHOLOGY

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July 1, 2021

The Honorable Richard Pan
Chair, Senate Committee on Health
State Capitol, Room 2191
Sacramento, CA 95814

RE: **AB 32 (Aguiar-Curry) – Telehealth - SUPPORT**

Dear Senator Pan:

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

At its April 2, 2021 meeting, the Board of Psychology (Board) adopted a **SUPPORT** position on AB 32 (Aguiar-Curry). 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 telehealth flexibilities implemented during the COVID-19 pandemic have increased access to care and we applaud these efforts.

The Board asks for your support of AB 32 (Aguiar-Curry) when it is heard in the Senate Committee on Health. If you have any questions or concerns, please feel free to contact the Board's Central Services Manager, Jason Glasspiegel, at (916) 574-7137 or Jason.glasspiegel@dca.ca.gov. Thank you.

Sincerely,

Seyron Foo
President, Board of Psychology

cc: Senator Melissa Melendez (Vice Chair)
Members of the Senate Committee on Health
Melanie Moreno, Staff Director, Senate Committee on Health
Senate Republican Caucus

SENATE COMMITTEE ON HEALTH
Senator Dr. Richard Pan, Chair

BILL NO: AB 32
AUTHOR: Aguiar-Curry
VERSION: May 24, 2021
HEARING DATE: July 14, 2021
CONSULTANT: Teri Boughton

SUBJECT: Telehealth

SUMMARY: Expands the definition of telehealth to include telephone and other virtual communication. Requires medical groups delegated by health plans to comply with telehealth payment parity. Extends telehealth payment parity to Medi-Cal managed care and allows remote eligibility determinations, enrollment, and recertification for Medi-Cal and specified Medi-Cal programs. Requires the Department of Health Care Services to convene a telehealth policy advisory committee and conduct an evaluation of the benefits of telehealth. Makes other policy changes related to telehealth reimbursement for federally qualified health centers, rural health centers and other Medi-Cal enrolled clinics.

Existing law:

1) Requires before the delivery of health care via telehealth, the health care provider initiating the use of telehealth to 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, and requires the consent to be documented. [BPC §2290.5]

2) Defines "telehealth" as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. [BPC §2290.5]

3) Defines "Synchronous interaction" as a real-time interaction between a patient and a health care provider located at a distant site. [BPC §2290.5]

4) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act); California Department of Insurance (CDI) to regulate health and other insurance; and, the Department of Health Care Services (DHCS) to administer the Medi-Cal program. [HSC §1340, et seq., INS §106, et seq., and WIC §14000, et seq.]

5) Requires a contract between a health plan/health insurer and a health care provider to specify that the health plan/health insurer 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 plan/insurer is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment (referred to as telehealth payment parity requirements). [HSC §1374.14 and INS §10123.855]

6) Establishes the Health Care Providers' Bill of Rights, which specifies specified contract terms between health plans/insurers and health care providers, including that a plan/dental insurer does not have the authority to change a material term of the contract, unless the change has first been negotiated and agreed to by the provider and the plan/dental insurer, as specified. [HSC §1375.7 and INS §10133.65]

7) Exempts counties contracting with DHCS for the Medi-Cal managed care expansion to rural counties from the Knox-Keene Act. [WIC §14087.95]

8) Requires a FQHC or RHC "visit" to mean a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse, and other providers, as specified. [WIC §14132.100]

9) Prohibits face-to-face contact or a patient's physical presence on the premises to be required for services provided by an enrolled community clinic to a Medi-Cal beneficiary during or immediately following a state of emergency, as described in existing law.[WIC §14132.723]

10) Requires the following services to be reimbursable when provided by an enrolled community clinic, an enrolled FFS Medi-Cal program provider, clinic, or facility approved by DHCS during or immediately following a state of emergency for any dates of service on or after the date that the department obtains federal approvals and federal matching funds to implement these provisions:
    a) Telehealth services, including services provided by the enrolled community clinic or approved enrolled provider, clinic, or facility at a distant site location, whether on or off the premises, to a Medi-Cal beneficiary located at an originating site, which includes the beneficiary's home, temporary shelter, or any other location, if the services are provided somewhere located within the boundaries of the proclamation declaring the state of emergency.
    b) Telephonic services.
    c) Covered benefit services that are otherwise reimbursable to an FQHC or RHC, but that are provided somewhere off the premises, including, but not limited to, at a temporary shelter, a Medi-Cal beneficiary's home, or any location other than the premises, but within the boundaries of the proclamation declaring the state of emergency. [WIC §14132.723]

11) Requires DHCS to ensure its reimbursement policies reflect the intent of the Legislature to authorize reimbursement for telehealth services appropriately provided by an enrolled community clinic, or, if approved by DHCS, by an enrolled FFS Medi-Cal provider, clinic, or facility, respectively, during or immediately following a state of emergency. This does not limit reimbursement for, or coverage of, or reduce access to, services provided through telehealth on or before the enactment of this section. [WIC §14132.723]

This bill:

1) Revises the definition of "synchronous interaction" to include, but not be limited to, audio-video, audio only, such as telephone, and other virtual communication.

2) Requires if a health plan/health insurer delegates responsibility to a contracted entity, including a medical group or independent practice association, then the delegated entity must

comply with telehealth payment parity requirements pursuant to existing law.

3) Requires the obligation of a health plan/health insurer to comply with telehealth payment parity requirements pursuant to existing law not to be waived if the plan/insurer delegates services or activities that the plan/insurer is required to perform to its provider or another contracting entity. Requires a plan's/insurer's implementation to be consistent with the requirements of the Health Care Providers' Bill of Rights, and a material change in the obligations of a plan's/insurer's contracting network providers to be considered a material change to the provider contract, as specified.

4) Requires a county contracting with DHCS for the Medi-Cal managed care expansion to rural counties, and a subcontractor of a county contracting to provide Medi-Cal services, to comply with telehealth payment parity requirements.

5) Permits for the Family Planning, Access, Care, and Treatment, Presumptive Eligibility for Pregnant Women, and Every Woman Counts programs, a provider to 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.

6) Permits for the Medi-Cal Minor Consent program, a county eligibility worker to determine eligibility for, or recertify eligibility for, an individual remotely through virtual communication modalities, including telephone.

7) Permits DHCS to develop program policies and systems to support implementation of remote eligibility determination, enrollment, and recertification.

8) Permits DHCS to implement, interpret, or make specific this bill by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

9) Defines "enrolled clinic" as a licensed clinic, intermittent clinic exempt from licensure, 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, and a tribal clinic exempt from licensure, or an outpatient setting conducted, maintained, or operated by a federally recognized Indian tribe, tribal organization, or urban Indian organization, as defined in federal law.

10) Requires health care services furnished by a Medi-Cal enrolled clinic through telehealth to be reimbursed by Medi-Cal on the same basis, to the same extent, and at the same payment rate as those services are reimbursed if furnished in person.

11) Prohibits DHCS from restricting the ability of an enrolled clinic to provide and be reimbursed for services furnished through telehealth and having policies that require all of the clinical elements of a service to be met as a condition of reimbursement. Includes as prohibited restrictions all of the following:

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

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

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

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

e) Policies, including reimbursement policies, that impose more stringent requirements on telehealth services than equivalent services furnished in person.

f) Limitations on the means or technologies through which telehealth services are furnished. This paragraph does not prohibit policies that require compliance with applicable federal and state health information privacy and security laws.

12) Includes in the definition of "visit" for purposes of Medi-Cal reimbursement of FQHCs and RHCs a telehealth encounter to the same extent as an in-person encounter.

13) Requires Medi-Cal managed care plans to comply with telehealth payment parity requirements. Prohibits Medi-Cal managed care plans from being required to pay FQHCs and RHCs the same amount for audio-only telehealth visits as equivalent in-person visits on or after January 1, 2025. Applies this to the extent consistent with federal Medicaid requirements that a managed care plan provide payment for services furnished by a FQHC and RHC that is not less than the level and amount of payment the managed care plan would make for the services if the services were furnished by a provider that is not a FQHC or RHC.

14) Requires DHCS to seek any necessary federal approvals and obtain federal financial participation (FFP) in implementing this bill, and this bill to be implemented only to the extent that any necessary federal approvals are obtained and FFP is available and not otherwise jeopardized.

15) Requires DHCS to reimburse each FQHC and RHC for health care services furnished through audio-only telehealth, including telephone, at the applicable prospective payment system per-visit rate, consistent with this bill, until the earlier of January 1, 2025, or the date that the FQHC or RHC elects to participate in an alternative payment methodology (APM) described 23) below.

16) Requires mental health services that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver, furnished through audio-only telehealth, to continue to be reimbursed at the applicable prospective payment system per-visit rate indefinitely, except if the FQHC or RHC elects an APM that covers those services.

17) Requires by January 2022, DHCS to convene an advisory group to provide input to DHCS 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.

18) Requires the advisory group to include representatives from community health centers, designated public hospitals, Medi-Cal managed care plans, consumer groups, labor organizations, behavioral health providers, counties, health care districts, and other Medi-Cal providers. Requires DHCS to utilize any potential federal funding or other nonstate general funding that may be available to support this effort.

19) Requires DHCS to consider disparities in the utilization of, and access to, telehealth, and to support patients and providers in increasing access to the technologies needed to use telehealth.

20) Requires when the care provided during a telehealth visit is commensurate with what would have been provided in person, payment to also be commensurate.

21) Requires by July 2024, DHCS to complete an evaluation to assess the benefits of telehealth in Medi-Cal. Requires the evaluation to 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, and DHCS to utilize any potential federal funding or other nonstate general funding that may be available to support the implementation of this effort.

22) Requires DHCS to provide data and information to the evaluator, as appropriate, and report its findings and recommendations on the evaluation to the appropriate policy and fiscal committees of the Legislature no later than October 31, 2024.

23) Requires DHCS, in consultation with affected stakeholders, including, but not limited to, the California Association of Public Hospitals and Health Systems and the California Primary Care Association, to develop one or more federally permissible APM, consistent with federal law, that FQHCs and RHCs may elect to participate in.

24) Requires the APMs to be designed to enable the continued provision of high-quality health care, while furthering the goals of the Medi-Cal program to improve access and equity, and incentivize and support clinic infrastructure improvements.

25) Requires to the extent that an APM includes a separate per-visit payment rate for audio-only telehealth visits, that payment rate to be less than the rate the FQHC and RHC receives for an in-person visit. Exempts mental health services furnished through audio-only telehealth that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver.

26) Requires DHCS to submit and seek federal approval of the state plan amendment necessary for the implementation to be effective no later than January 1, 2025, and this to be implemented only to the extent that any necessary federal approvals are obtained and FFP is available and not otherwise jeopardized.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

1) The California Health Benefits Review Program (CHBRP) states that some telehealth services replace existing in-person visits, while others are new supplemental visits that would

not have taken place in the absence of telehealth coverage. As the supplemental visits increase overall utilization of health care services, this bill increases health care costs as follows:

a) Total state costs as follows:

   i) $136.5 million total funds ($49 million General Fund (GF)) to Medi-Cal managed care. $24.5 million of this total funds cost ($9 million GF) is attributable to the increase in coverage and payment parity requirements for telehealth services provided by FQHCs and RHCs. The General Fund calculation assumes a FFP, or federal matching percentage of 64%, the same as that calculated for the Remote Patient Monitoring proposal in the Medi-Cal November 2020 Local Assistance Estimate.

   ii) $42.6 million ($15 million GF) for services delivered to beneficiaries enrolled in Medi-Cal County Organized Health Systems and Medi-Cal fee-for-service (FFS).

   iii) $1.1 million to The California Public Employees' Retirement System (CalPERS) for premium increases, $624,000 of which would be borne by the General Fund, federal funds and various special funds, with the remainder borne by local funds.

b) Total non-state costs as follows:

   i) $39.6 million in commercial health care premium increases paid by non-CalPERS employers.

   ii) $21.9 million in premium increases, and $41.7 million in increased cost-sharing, paid by individuals and employees.

c) CHBRP does not identify cost offsets or savings as a result of this bill because it requires payment parity with in-person services and results in increased utilization. CHBRP notes it is unlikely the actual cost of staff, technology and resources used to deliver services via telehealth are less expensive than in-person care.

2) There is a significant amount of uncertainty related to cost estimates. Costs may be higher or lower than estimated by CHBRP. In particular, DHCS estimates potential costs due to the payment parity requirement are indeterminate but could be as high as $300 million total funds annually (about $100 million GF annually), higher than CHBRP estimates.

3) Administrative costs to DHCS to develop an alternative payment methodology for clinics, likely in the hundreds of thousands of dollars (GF and federal funds). To implement SB 147 (Hernandez), Chapter 760, Statutes of 2015, a prior bill that authorized a pilot project to deploy an alternative payment methodology for FQHCs, DHCS requested three-year limited-term positions and spending authority of $240,000 per year for three years and a $300,000 contract for evaluation

4) One-time staff or contract costs to DHCS of $50,000 (GF and federal funds) to support facilitation of an advisory board to provide input to telehealth policies. Costs would be higher if the facilitator was asked to draft recommendations or policies.

5) Unknown potential Medi-Cal costs for increased number of beneficiaries associated with the option for remote eligibility determinations and recertifications, which should reduce the frictional costs of gaining and retaining Medi-Cal eligibility (GF and federal funds)

PRIOR VOTES:

Assembly Floor:	78 - 0
Assembly Appropriations Committee:	16 - 0
Assembly Health Committee:	13 - 0

COMMENTS:

1) *Author's statement.* According to the author, the COVID-19 pandemic has made abundantly clear what we have known for decades – our most vulnerable and marginalized communities continue to struggle for affordable and reliable access to healthcare. This bill will extend the telehealth flexibilities that were put in place during the COVID-19 pandemic, which have been vital to ensuring that health centers can continue providing services. More specifically this bill will ensure that telehealth, including telephonic and video care, are available to patients regardless of who they are, their insurance, what language they speak, or the barriers they may face, such as geographic, transportation, childcare, or the ability to take time off from work.

2) *COVID-19 emergency.* On March 11, 2020 the novel Coronavirus (COVID-19) was declared a global pandemic which set in motion declared public health emergencies across the United States. The COVID-19 outbreak was declared a national emergency on March 13, 2020, and was previously declared a nationwide public health emergency on January 31, 2020 (retroactive to January 27, 2020). On March 16, 2020 Governor Gavin Newsom announced that the state asked federal officials to make it easier for California to quickly and effectively provide care to about 13 million Medi-Cal beneficiaries as California works to protect the public from COVID-19. Specifically, the letter requested to ease certain federal rules governing doctors and other health care providers who treat people covered through Medi-Cal, and loosen rules regarding the use of telehealth and where care can be provided, making it simpler to protect seniors and other populations at high risk for harm if exposed to the virus. The DHCS letter to the federal Centers for Medicare & Medicaid Services (CMS) asked that the rules be waived under Section 1135 of the Social Security Act. The March 13th declared national emergency over COVID-19 allowed DHCS to seek the waiver. Under this authority and also through a California Medicaid State Plan amendment (SPA # 20-0024) was approved by CMS in May of 2020.

3) *DHCS Telehealth Policy.* According to DHCS, temporary policy changes during the COVID-19 public health emergency include:
   a) Expanding the ability for providers to render all applicable Medi-Cal services that can be appropriately provided via telehealth modalities, including those historically not identified or regularly provided via telehealth such as home and community-based services, Local Education Agency and Targeted Case Management services;
   b) Allowing most telehealth modalities to be provided for new and established patients
   c) Allowing many covered services to be provided via telephone/audio-only for the first time;
   d) Allowing payment parity between services provided in-person face-to-face, by synchronous telehealth, and by telephonic/audio only when the services met the

requirements of the billing code by various provider types, including FQHCs and RHCs in both FFS and managed care;

e) Waiving site limitations for both providers and patients for FQHC and RHCs, which allows providers and/or beneficiaries to be in locations outside of the clinic to render and/or receive care, respectively; and,

f) Allowing for expanded access to telehealth through non-public technology platforms. This "good faith" exemption was granted by the federal Office for Civil Rights, which would otherwise not be allowed under federal Health Insurance Portability and Accountability Act requirements.

Both physical and behavioral health providers responded rapidly to the COVID-19 public health emergency and widely pivoted to provide services via synchronous telehealth and telephonic/audio-only modalities. While telehealth has been available for decades as a promising solution to reduce barriers to care, utilization and adoption of these modalities has been historically slow. The COVID-19 public health emergency has led to the adoption of the use of telehealth modalities at an accelerated pace that had been unthinkable prior to the public health emergency. Providers quickly learned how to deliver a variety of services through new technology platforms, and Medi-Cal managed care plans learned how to reimburse those services

4) *California Health Benefits Review Program (CHBRP) analysis.* AB 1996 (Thomson, Chapter 795, Statutes of 2002) requests the University of California to assess legislation proposing a mandated benefit or service and prepare a written analysis with relevant data on the medical, economic, and public health impacts of proposed health plan and health insurance benefit mandate legislation. CHBRP was created in response to AB 1996, and reviewed this bill. Key findings include:

a) *Coverage impacts and enrollees covered*. At baseline, 100% of enrollees with commercial or CalPERS health insurance that would be subject to this bill have coverage for live video telehealth services, whereas 80.4% of enrollees have coverage for telephone services. Approximately 7% of enrollees in CalPERS HMOs do not have benefit coverage for telehealth delivered via telephone. This bill would require commercial and CalPERS health plans and policies to provide new benefit coverage for telephone telehealth services for 19.6% of enrollees. At baseline, 100% of Medi-Cal managed care beneficiaries have existing benefit coverage for live video services. However, 73.5% of beneficiaries in DMHC-regulated Medi-Cal managed care plans have coverage for synchronous telephone services. This bill would require Medi-Cal managed care plans, County Organized Health Systems (COHS), and the FFS program to provide new benefit coverage for synchronous telephone services for 26.5% of beneficiaries.

b) *Medical effectiveness.* Most studies pertinent to this analysis examine the use of telehealth modalities as a substitute for in-person care. In these cases, the relevant studies evaluated whether care provided via these technologies resulted in equal or better outcomes and processes of care than care delivered in person, and whether use of these technologies improved access to care. Some studies assessed the effects of telehealth as a supplement to in-person care; these studies evaluated whether adding these technologies improves processes of care and health outcomes relative to receiving in-person care alone. To examine whether services delivered via telehealth are of the same quality as in-person services, CHBRP examined three sets of outcomes: 1) health outcomes, including both physiological measures and patient-reported outcomes; 2) process of care outcomes,

including treatment adherence and accuracy of diagnoses and treatment plans; and 3) access to care and utilization outcomes, such as wait time for specialty care, or number of outpatient visits, emergency department visits, and hospitalizations. CHBRP found that evidence regarding whether telehealth modalities and services result in equal or better outcomes than care delivered in person is mixed, depending on the disease and condition, telehealth modality, and type of outcome studied: health outcomes, process of care, or use of other services. Because telehealth studies have only focused on a limited number of diseases and conditions, the findings may not be generalizable outside of the specific diseases and conditions studied.

i) For Live Video: There is preponderance of evidence that care delivered by live video is at least as effective as in-person care for health outcomes for several conditions and health care settings, including infectious disease, obesity, diabetes, and abortion. There is clear and convincing evidence that mental health services for attention deficit/hyperactivity disorder (ADHD) depression, and posttraumatic stress disorder (PTSD) delivered by live video are at least as effective as in-person care for processes of care and health outcomes. There is clear and convincing evidence that dermatology diagnoses made via live video are as accurate as diagnoses made during in-person visits. There is a preponderance of evidence that scores on neurocognitive tests administered via live video are similar to scores obtained when tests are administered in person. Studies have also found diagnostic concordance between live video and in-person examination for shoulder disorders, otolaryngology, and fetal alcohol syndrome. There is a limited evidence that care delivered by live video is at least as effective as in-person care for access to care and utilization.
ii) For Telephone: For the diseases and conditions studied, the preponderance of evidence from studies of the effect of telephone consultations suggests that telephone consultations were at least as effective as in-person consultations on health outcomes. For the diseases and conditions studied, findings from studies of the effect of telephone consultations on processes of care and access to care and utilization are inconsistent; therefore, the evidence that medical care provided by telephone compared to medical care provided in person is inconclusive.
iii) Comparing Live Video to Telephone: There is a preponderance of evidence that behavioral health services delivered by live video are comparable to services delivered by telephone consultation on health outcomes. CHBRP found no studies that compared live video to telephone consultation on outcomes for processes of care and access to care and utilization of health services.

c) *Utilization*. Of the new telehealth visits provided postmandate, CHBRP estimates that supplemental services will represent 50% of additional telehealth services and 50% will replace in-person care due to the ongoing effects of the pandemic and reticence by patients to seek in-person care.

d) *Medi-Cal.* In addition to the estimated $136,534,000 increase in premiums for the 8.05 million Medi-Cal beneficiaries enrolled in DMHC-regulated Medi-Cal managed care plans, a proportional increase of $42.62 million is estimated to occur for the beneficiaries enrolled in COHS managed care and the FFS program. CHBRP assumes the two populations to be relatively similar and to have relatively similar benefit coverage. Of the $136,534,000 increase in Medi-Cal managed care expenditures, $134,005,000 would be due to parity requirements and $2,529,000 would be due to new coverage of telehealth services. Additionally, of the $136,534,000 increase in expenditures, $24,450,000

(0.10%) would be due to the increase in coverage and parity requirements for telehealth services provided by FQHCs/RHCs.

e) *Impact on expenditures*. This bill would increase total net annual expenditures by $240,827,000, or 0.18%, for enrollees with DMHC-regulated plans, CDI-regulated policies, and DMHC-regulated Medi-Cal managed care plans. This is due to an increase in total health insurance premiums paid by DMHC-regulated large-group plans ($0.29 per member per month [PMPM]), small-group plans ($0.77 PMPM), individual market plans ($0.20 PMPM), CalPERS HMOs ($0.13 PMPM), Medi-Cal managed care plans for age under 65 years ($1.42 PMPM), Medi-Cal managed care for ages 65 and over ($1.41 PMPM), CDI-regulated large-group ($1.32 PMPM), and CDI-regulated individual market ($0.95 PMPM) policies. The largest increases in expenditures were in Medi-Cal managed care for age under 65 (0.63%), Medi-Cal managed care for age 65+ (0.30%), and CDI-regulated large group (0.26%). CHBRP does not project any cost offsets or savings in expenditures that would result because of the enactment of provisions in this bill.

f) *Public health*. This bill would increase access to health care by reducing transportation barriers to in-person care by covering telephone (audio only) visits. This bill would also increase health care options and reduce travel costs and travel time for those enrollees who use the newly covered telephonic visits or reimbursable live video visits with FQHC/RHC providers. These enrollees and Medi-Cal beneficiaries may have equivalent or better outcomes (compared with in-person care) because they would no longer delay or avoid in-person visits because of travel difficulties. For those rural (and some urban) enrollees and Medi-Cal beneficiaries who have no broadband connectivity (due to lack of infrastructure in remote areas or cost of service or devices), a landline telephone would remain a viable telehealth modality, resulting in equivalent or better outcomes (compared with in-person care).

5) *FQHC and RHC APM Pilot*. SB 147 (Hernandez, Chapter 760, Statutes of 2015) authorized a three-year APM pilot program for county and community-based FQHCs willing to participate in the pilot program. The purpose of SB 147 to incentivize delivery system and practice transformation at FQHCs through flexibilities available under a capitated model which would move the clinics away from the traditional volume-based, PPS, to a payment methodology that better aligns the evolving financing and delivery of health services. The proposed APM structure provides participating FQHCs the flexibility to deliver care in the most effective manner, without having to worry about the more restrictive traditional billing structure that is in place today. With the flexibility of payment reform, FQHCs will begin to provide and/or expand upon the innovative forms of care which are not reimbursed under traditional volume-based PPS. This pilot has not been implemented.

6) *Budget Act of 2021-22*. As part of the budget, DHCS requested trailer bill language to extend permanent flexibilities for the delivery of certain Medi-Cal benefits through telehealth, telephonic/audio-only, remote patient monitoring, and other virtual communication modalities, to establish a rate for audio-only telehealth services at 65% of the FFS rate, and a comparable alternative to the prospective payment system rates for clinics to maintain an incentive for in-person care. This issue was rejected by the Senate Budget Health and Human Services Subcommittee #3 and instead the subcommittee adopted modified placeholder trailer bill language to align with the provisions of this bill.

7) *Related legislation.* AB 133 (Assembly Committee on Budget), *pending in the Senate Committee on Budget and Fiscal Review*, and SB 133 (Senate Committee on Budget and Fiscal Review), *pending in the Assembly Committee on Budget*, are omnibus health trailer bills, that include a requirement that DHCS seek federal approvals to extend the Public Health Emergency-approved flexibilities related to the delivery and reimbursement of services via telehealth modalities until December 31, 2022, and convene an advisory group to provide recommendations to inform DHCS on establishing and adopting billing and utilization management protocols for telehealth modalities. AB 133/SB 133 also authorize DHCS to enter into contracts or amend existing contracts, for purposes of implementing these provisions and exempts those contracts from specified provisions of law.

8) *Prior legislation.* AB 2164 (Robert Rivas of 2020) would have required a "visit" for purposes of reimbursement by Medi-Cal to include a visit by an FQHC/RHC patient and a health care provider using telehealth through synchronous interaction (face to face over video) or asynchronous store and forward (the sending of images such as x-rays to a health care provider), and would have authorized a FQHCs and RHCs to establish a patient, located within the federal designated service area of the FQHC and RHC, through synchronous interaction or asynchronous store and forward as of the date of service. Would have permitted DHCS to implement, interpret, and make specific the Medi-Cal telehealth provisions of this bill by means of all-county letters, provider bulletins, and similar instructions, and required the adoption of regulations by July 1, 2022. AB 2164 would have sunset 180 days after the state of emergency for the COVID-19 pandemic has been terminated by proclamation of the Governor or by concurrent resolution of the Legislature. AB 2164 was vetoed by the Governor. In his veto message, the Governor writes:

> *While I am supportive of utilizing telehealth to increase access to primary and specialty care services, DHCS is currently in the process of evaluating its global telehealth policy to determine what temporary flexibilities should be extended beyond the COVID-19 pandemic. Changes to FQHC and RHC telehealth is better considered within the context of a global assessment around telehealth in the state of California. Further, the cost of these changes is also more appropriately considered alongside other policy changes in the budget process next year.*

AB 744 (Aguiar-Curry, Chapter 867, Statutes of 2019) requires health care contracts after January 1, 2021, to specify that the health plan or insurer is required to cover and reimburse diagnosis, consultation, or treatment delivered through telehealth on the same basis and to the same extent that the plan or insurer is responsible for coverage and reimbursement for the same service provided through in-person diagnosis, consultation, or treatment. Revises Medi-Cal telehealth requirements so that the law prohibits face-to-face contact between a health care provider and a Medi-Cal patient for health care services that are appropriately provided by store and forward, to the extent that FFP is available, subject to billing and reimbursement policies developed by DHCS.

AB 1494 (Aquiar-Curry, Chapter 829, Statutes of 2019) prohibits face-to-face contact or a patient's physical presence on the premises of an enrolled community clinic, as specified, to be required for services provided to a Medi-Cal beneficiary during or immediately following a state of emergency. Requires DHCS on or before July 1, 2020, to issue and publish on its Website guidance to facilitate reimbursement for services provided by enrolled community clinics to a Medi-Cal beneficiary during or immediately following a state of emergency.

AB 1174 (Bocanegra, Chapter 662, Statutes of 2014) expands the scope of practice for a registered dental assistant in extended functions, registered dental hygienist, and registered dental hygienist in alternative practice to better enable the practice of teledentistry in accordance with the findings of a Health Workforce Pilot Program, and authorizes Medi-Cal payments for teledentistry services provided to individuals participating in the Medi-Cal program.

AB 415 (Logue, Chapter 547, Statutes of 2011) establishes the Telehealth Advancement Act of 2011 to revise and update existing law to facilitate the advancement of telehealth as a service delivery mode in managed care and the Medi-Cal Program.

6) *Support if amended.* Health Access California writes that while they support ongoing expansion of telehealth modalities, they have emphasized the need to proceed in a manner that centers consumer interests with a data-driven approach. Health Access California suggests additional amendments as follow to ensure consumer choice is not sacrificed as a result of telehealth expansions, and to ensure strong data evaluation requirements:
   a) Add language to Health and Safety Code and Insurance Code to specify that consumers may always opt for in-person care, even if previously that elected to receive services via telehealth.
   b) Apply evaluation requirements for telehealth services delivered to consumers in the commercial market as well as those in Medi-Cal managed care plans, and strengthen requirements to include full evaluation of the impact telehealth has had on delivery, access, and quality of healthcare, including health outcomes, and how telehealth has impact diverse communities.

   The Center for Autism and Related Disorders (CARD) writes existing law allows for telehealth to be provided by qualified autism providers and qualified autism service professionals. However, during the Public Health Emergency, flexibilities have been granted to allow services by qualified autism service paraprofessionals who often provide direct one-on-one treatment, and we respectfully urge an amendment to continue the flexibility that permits qualified autism service paraprofessionals to deliver services via telehealth.

   The Los Angeles Unified School District Los Angeles Unified seeks an amendment that would clarify that school districts can also take advantage of the policy this bill seeks to accomplish.

7) *Support*. Essential Access Health, a cosponsor of this bill writes, telehealth has become a crucial pathway for patients to access care during the pandemic and will remain so beyond the public health emergency period. Access to telehealth decreases barriers, increases access to care for patients, and reduces no-show rates significantly. Telephonic care in particular has become a reliable modality of care. Recent surveys conducted by the California HealthCare Foundation found that most patients would like the option of a telephone or video visit and would likely choose a phone or video visit over an in-person visit whenever possible. Essential Access Health conducted a survey of Title X provider network last fall and respondents reported that on average, nearly 60% of their remote sexual and reproductive health visits were conducted by telephone. A majority said that more than half of their patients are expected to choose telehealth visits over in-person appointments by April 2021. Over 40% of California teen respondents reported that they would prefer telehealth visits by phone. Nearly 60% of California teen respondents indicated they would be much more or somewhat more likely to get health care using telehealth than if they had to go to a clinic.

The California Medical Association, another cosponsor, writes the provisions of this bill guarantee that Medi-Cal patients will have the same access to telehealth services as commercially-insured patients. This is a key change, as Medi-Cal patients are most likely to have transportation challenges, child care issues, or other challenges that make it difficult to get to an in-person visit. California Health+ Advocates, another cosponsor, writes community health centers are leveraging telehealth technology to improve access to care and meet increased patient demands. Telehealth has been an important way for patients to access care during the pandemic and it will be critical to providing post-pandemic care, and telephonic (audio only) care has become a reliable modality of care. Another sponsor, Planned Parenthood, writes centers now provide about 25% of their visits through telehealth – which includes both video and audio-only visits. The majority of Planned Parenthood's telehealth visits are for birth control, sexually transmitted infections screening and treatment, pregnancy counselling, gender affirming care, PrEP and PEP follow-ups, and UTI screenings. All visits, regardless of modality, meet the time, medical decision-making, and documentation requirements of billing codes to be reimbursed. The California Public Hospitals and Health Systems, another cosponsor, writes Telehealth has opened up new options for patients who struggle with traditional visits, thereby expanding access to ensure their needs are met and helping to prevent the devastating consequences of delayed and avoided care. Increasing take-up of primary, preventive and chronic disease care via telehealth will likely result in better health outcomes and lower total costs to Medi-Cal over the long term. Telehealth is not a substitute for all types of in person care and all situations, but when it is appropriate, we must ensure the option is available. California's public health care systems are successfully using telehealth to provide a broad array of care, including primary and specialty care, chronic disease management, bedside consults for patients in the hospital, behavioral health care, and the support of care coordinators and social workers.

9) *Concerns*. The Service Employees International Union, California (SEIU) writes that the COVID-19 pandemic has disrupted our healthcare delivery system, and telehealth is an important modality for the delivery of healthcare during the emergency and moving forward. As this effort moves forward, it is vital that California understands the impact of this modality on the workforce, just like the introduction of other invocations like x-rays, election health records or cardiac catheterization. SEIU requests that the evaluation process described in this bill are expanded to include the impact on the healthcare workforce. Below is sample of language that expands the evaluation section of this bill, to help understand the impact of telehealth on the workforce.

   The impact of telehealth on the healthcare workforce, including types of positions or roles, expansion or reduction in types of workers, and skills or certifications that are needed to prepare workers and providers to effectively provide care through telehealth. Best telehealth workforce practices or models for delivering high-quality care as they relate to outcomes in the bill.

   The current language of this bill creates a stakeholder process that calls out employers to develop APMs for payment of telehealth services. The types of services and level of reimbursement have a significant impact on SEIU members, and that process would be incomplete without their perspective. If this provision moves forward, SEIU requests to be included in that stakeholder process.

10) *Opposition*. The California Association of Health Plans, the Association of California Life and Health Insurance Companies, and America's Health Insurance Plans write to oppose this bill because it is one of the fourteen health insurance mandate will increase costs, reduce choice and competition, and further incent some employers and individuals to avoid state

regulation by seeking alternative coverage options. Large employers, unions, small businesses and hard-working families value their ability to shop for the right health plan, at the right price, that best fits their needs. Benefit mandates impose a one-size-fits-all approach to medical care and benefit design driven by the Legislature, rather than consumer choice. The California Chamber of Commerce (Chamber) believes this bill's current definition of telehealth will increase the cost of care delivery since it places no parameters on the telephone-only parity provision. The Chamber indicates a clear definition is needed for exactly which virtual/remote services will be placed at parity with in-person presentations and to what extent they will be at parity, and states without this guardrail, the bill could potentially place even the simplest and shortest patient-provider telephone interactions at parity with in-person presentations.

11) *Policy comment*. Policy comment.
12) *Amendments.*
    a) The amendments to the Insurance Code are unnecessary as health insurers do not delegate services to medical groups and other entities.
    b) Does the committee wish to adopt amendments requested by SEIU, Health Access California, CARD or Los Angeles Unified?

SUPPORT AND OPPOSITION:

Support: California Association of Public Hospitals and Health Systems (cosponsor)
California Medical Association (cosponsor)
CommunityHealth+ Advocates (cosponsor)
Essential Access Health (cosponsor)
Planned Parenthood Affiliates of California (cosponsor)
AARP California
AIDS Healthcare Foundation
Alameda Health Consortium
Alameda Health System
All Inclusive Community Health Center
Alliance Medical Center
AltaMed Health Services
American College of Obstetricians and Gynecologists District IX
Ampla Health
APLA Health
Arnold & Associates
Arroyo Vista Family Health Center
Asian Health Services
Asian Pacific Health Care Venture, Inc.
Association for Clinical Oncology
Association of California Healthcare Districts
Bartz-Altadonna Community Health Centers
Behavioral Health Services, Inc.
Borrego Health
Business & Professional Women of Nevada County
California Academy of Family Physicians
California Association of Health Facilities
California Association of Social Rehabilitation Agencies
California Behavioral Health Planning Council

California Board of Psychology
California Chapter of the American College of Emergency Physicians
California Chronic Care Coalition
California Commission on Aging
California Commission on the Status of Women and Girls
California Consortium for Urban Indian Health
California Dialysis Council
California Hospital Association
California Primary Care Association
California Podiatric Medical Association
California Psychological Association
California School-based Health Alliance
California Solar & Storage Association
California State Association of Psychiatrists
California Telehealth Network
California Telehealth Policy Coalition
Center for Family Health & Education
Central California Partnership for Health
Central Valley Health Network
ChapCare Medical and Dental Health Center
CHE Behavioral Services
Children Now
Children's Specialty Care Coalition
Chinatown Service Center
Citizens for Choice
City of San Francisco
Coalition of Orange County Community Health Centers
CommuniCare Health Centers
Community Clinic Association of Los Angeles County
Community Health Councils
Community Health Partnership
Community Medical Wellness Centers
County Health Executives Association of California
County of Contra Costa
County of San Diego
County of San Francisco
County of Santa Barbara
County of Santa Clara
County Welfare Directors Association of California
Desert Aids Project
District Hospital Leadership Forum
Eisner Health
El Proyecto Del Barrio, Inc.
Family Health Care Centers of Greater Los Angeles, Inc.
Father Joe's Villages
First 5 Association of California
Golden Valley Health Centers
Governmental Advocates, Inc.
Health Access California
Health Alliance of Northern California

Health Care LA
Health Center Partners of Southern California
Health Improvement Partnership of Santa Cruz
Kheir Clinic
Kheir Health Services
LA Clinica De LA Raza, INC.
Lifelong Medical Care
Los Angeles Homeless Services Authority
Los Angeles LGBT Center
Mission City Community Network
Morongo Basin Healthcare District
MPact Global Action for Gay Men's Health and Human Rights
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
National Multiple Sclerosis Society
Natividad Medical Center - County of Monterey
Neighborhood Healthcare
North Coast Clinics Network
North East Medical Services
Northeast Valley Health Corporation
Occupational Therapy Association of California
OCHIN
Ole Health
ParkTree Community Health Centers
Petaluma Health Center
Queens Care Health Centers
Redwood Community Health Coalition
Rural County Representatives of California
Saban Community Clinic
Salud Para La Gente
San Fernando Community Health Center
San Francisco Department of Public Health
San Mateo County Board of Supervisors
San Ysidro Health
Santa Barbara Women's Political Committee
Santa Barbara; County of
Santa Cruz Community Health Centers
Santa Rosa Community Health
Shasta Community Health Center
Solano County Board of Supervisors
South Bay Family Health Center
South Central Family Health Center
St. John’s Well Child and Family Center
Steinberg Institute
Sutter Health
TCC Family Health
Tenet Healthcare Corporation
The Achievable Foundation
The California Association of Local Behavioral Health Boards and Commissions
The Los Angeles Trust for Children's Health

Triple P America Inc.
TrueCare
UMMA Community Clinic
Unicare Community Health Center
Universal Community Health Center
Urban Counties of California
Venice Family Clinic
WellSpace Health
Western Center on Law & Poverty
Westside Family Health Center
Women's Health Specialists

Oppose: America's Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans
California Chamber of Commerce (unless amended)

-- END --

AB 32 (Aguiar-Curry) – Telehealth

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.

~~(D) An associate clinical social worker functioning pursuant to Section 4996.23.2.~~

~~(E) An associate professional clinical counselor functioning pursuant to Section 4999.46.3.~~

(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. 3.

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

1374.14.

(a) (1) A contract 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 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 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.~~

~~(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.~~

SEC. 4.

Section 10123.855 of the Insurance Code is amended to read:

10123.855.

(a) (1) A contract 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 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.

~~(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.~~

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, and subject to paragraph (2) of subdivision (c), 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 and this subdivision shall not prohibit policies that require all of the clinical elements of a service to be met as a condition of reimbursement. 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.

(6) Limitations on the means or technologies through which telehealth services are furnished. This paragraph does not prohibit policies that require compliance with applicable federal and state health information privacy and security laws.

(c) (1) 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.

(2) Health care services furnished through audio-only telehealth, including by telephone, by a federally qualified health center or a rural health clinic, other than mental health services that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver, shall be reimbursed pursuant to Section 14132.722.

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

(2) Medi-Cal managed care plans shall comply with 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. Medi-Cal managed care plans shall not be required to pay federally qualified health centers and rural health clinics the same amount for audio-only telehealth visits as equivalent in-person visits on or after January 1, 2025. This paragraph shall be applied to the extent consistent with federal Medicaid requirements that a managed care plan provide payment for services furnished by a federally qualified health center or rural health clinic that is not less than the level and amount of payment the managed care plan would make for the services if the services were furnished by a provider that is not a federally qualified health center or rural health clinic.

(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) 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.

(h) 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.

(i) 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) (1) Except as described in paragraph (2), the department shall indefinitely continue the telehealth flexibilities in place during the COVID-19 pandemic, including those implemented pursuant to Section 14132.723.

(2) (A) The department shall reimburse each federally qualified health center and rural health clinic for health care services furnished through audio-only telehealth, including telephone, at the applicable prospective payment system per-visit rate, consistent with Section 14132.721, until the earlier of January 1, 2025, or the date that the federally qualified health center or rural health clinic elects to participate in an alternative payment methodology described in subdivision (d).

(B) Notwithstanding subparagraph (A), mental health services that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver, furnished through audio-only telehealth, shall continue to be reimbursed at the applicable prospective payment system per-visit rate indefinitely,

except if the federally qualified health center or rural health clinic elects an alternative payment methodology that covers those services.

(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, health care districts formed pursuant to Chapter 1 (commencing with Section 32000) of Division 23 of the Health and Safety Code, and other Medi-Cal providers. The department shall utilize any potential federal funding or other nonstate general funding that may be available to support the implementation of this subdivision.

(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 July 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. The department shall utilize any potential federal funding or other nonstate general funding that may be available to support the implementation of this subdivision.

(2) The department shall provide data and information to the evaluator, as appropriate, and report its findings and recommendations on the evaluation to the appropriate policy and fiscal committees of the Legislature no later than October 31, 2024.

(d) (1) The department, in consultation with affected stakeholders, including, but not limited to, the California Association of Public Hospitals and Health Systems and the California Primary Care Association, shall develop one or more federally permissible alternative payment models, consistent with Section 1396a(bb)(6) of Title 42 of the

United States Code, that federally qualified health centers and rural health clinics may elect to participate in.

(2) (A) The alternative payment models shall be designed to enable the continued provision of high-quality health care, while furthering the goals of the Medi-Cal program to improve access and equity, and incentivize and support clinic infrastructure improvements.

(B) To the extent that an alternative payment model includes a separate per-visit payment rate for audio-only telehealth visits, that payment rate shall be less than the rate the federally qualified health center or rural health clinic receives for an in-person visit. This subparagraph shall not apply with respect to mental health services furnished through audio-only telehealth that are excluded from the benefits provided by county mental health plans under the specialty mental health services waiver.

(3) The department shall submit and seek federal approval of the state plan amendment necessary for the implementation of this subdivision, to be effective no later than January 1, 2025. 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.

California Board of PSYCHOLOGY

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(b)(2) – SB 731 (Durazo) Criminal records: relief

Background:

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.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to **Oppose** SB 731 (Durazo).

On 4/2/2021, the Board approved the Legislative and Regulatory Affairs Committee recommendation to **Oppose** SB 731 (Durazo).

On 5/20/2021, amendments were accepted in the Appropriations Committee. These amendments exclude serious, violent, and sex felonies from automatic relief; delay automatic relief for four years where there is a supervision violation or a new felony conviction; strike the restriction on the access to cleared records; and limit retroactivity to January 1, 2005.

On 6/23/2021, amendments were accepted in the Public Safety Committee. These amendments state that relief granted pursuant to Section 1203.41 do not release a defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court. Protective orders shall remain in effect until expiration or until the court modifies or terminated the order.

Location: Assembly Appropriations.

Status: 9/10/2021 Read third time. Refused passage (Ayes 35. Noes 28). Motion to reconsider made by Assembly Member Ting.

Action Requested:

Since there are still concerns with the bill, no action on this bill is requested.

Attachment A: Board Letter of Opposition
Attachment B: Senate Floor Analysis
Attachment C: SB 731 (Durazo) Bill Text

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PSYCHOLOGY

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August 18, 2021

The Honorable Lorena Gonzalez
Chair, Assembly Committee on Appropriations
1020 N. Street, Room 111
Sacramento, CA 95814

RE: SB 731 (Durazo) – Criminal Records: Relief

Dear Chair Gonzalez:

The Board of Psychology (Board) regrets to share our OPPOSE position on SB 731 (Durazo). This bill would significantly impair the Board's ability to access critical arrest and conviction information regarding its licensees, petitioners, and applicants, and would significantly undermine the Board's ability to carry out its mission of consumer protection.

Specifically, SB 731 (Durazo) would implement a system to prospectively and retroactively seal criminal and arrest records and would require the Department of Justice, beginning on January 1, 2022, to archive all criminal records. These archived criminal records would 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.

The bill would diminish the Board's ability to adequately protect the health and safety of California consumers of psychological services by removing the Board's ability to review and evaluate a current licensee's arrest and conviction information for the purposes of approving an application for licensure. Such arrest records have provided a comprehensive proof of an applicant's ability to practice without harm to the public. For example, an initial arrest record has revealed instances of domestic violence that might not have been shared with the Board previously. While these types of arrest warrants are usually dropped, some arrest reports include information regarding substance abuse or cognitive issues. We have seen arrests for possession of child pornography, indecent exposure, stalking, possession of drugs and violating a restraining order. These types of reports provide a holistic view of an applicant in the context of consumer protection and are vital to our vetting process.

Due to the bill's weakening of the consumer protections integral to the Board's enforcement processes and the bill's undermining of the Board's legislative mandate of consumer protection, the Board asks for a "**No**" vote on SB 731 (Durazo).

If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (916) 574-7113.

Sincerely,

SEYRON FOO
President, Board of Psychology

cc: Assemblyman Frank Bigelow (Vice Chair)
Assemblymember Durazo
Members of the Assembly Appropriations Committee
Jennifer Swenson, Principal Consultant, Committee on Appropriations

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 731
Author: Durazo (D) and Bradford (D), et al.
Amended: 9/2/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 4/13/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 30-7, 6/2/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Ochoa Bogh, Wilk
NO VOTE RECORDED: Hurtado, Melendez, Nielsen

ASSEMBLY FLOOR: Not available

SUBJECT: Criminal records: relief

SOURCE: Californians for Safety and Justice

DIGEST: This bill permits additional relief by way of withdrawing a plea and deleting arrest records for the purpose of most criminal background checks.

Assembly Amendments:

1) Provide that relief granted by this bill does not release a defendant from unexpired criminal protective orders.

2) Clarify that these provisions do not limit people from seeking relief under any other provisions.

3) Provide that a person denied relief continues to be eligible to relief in other provisions.

4) Clarify that the provision stating that the order does not relieve them from an obligation to disclose the conviction to any direct question contained in an application for public office or licensure by a state or federal agency to also include applications or licensure by a federally recognized tribe.

5) Clarify that Department of Social Services can take action based on records that have been granted relief.

6) Change the effective date to July 1, 2023.

7) Remove California Department of Corrections and Parole from procedures related to both the petition based relief and automated relief.

8) Make updates based on changes to existing law made by the Budget Act.

9) Add double-jointing amendments.

ANALYSIS:

Existing law:

1) Provides that on a monthly basis the Department of Justice (DOJ) shall review the records in the statewide criminal databases and shall identify persons with records of arrest that are eligible for arrest record relief, with no requirement that the person file a motion seeking relief. A person is eligible for relief if the arrest occurred on or after January 1, 2021 and meets any of the following conditions:

    a) The arrest was for a misdemeanor and the charge dismissed.
    b) The arrest was for a misdemeanor and no criminal proceedings have been initiated one year from the date of the arrest.
    c) If the arrest was for a jail felony, punishable by 8 or more years and no proceedings have been initiated 3 years after the date of the arrest, and no conviction occurred, or the arrestee was a acquitted of the charges.
    d) If the person successfully completed a specified diversion program.

2) Subjects the relief granted to the following conditions:

a) It does not relieve a person of an obligation to disclose an arrest in an application for employment as a peace officer.
b) It does not limit the ability of a criminal justice agency to access the arrest information.
c) It does not limit the ability of a district attorney to prosecute for the offense if it is within the statute of limitations.
d) It does not impact a person's authorization to own or possess a firearm
e) It does not impact any prohibition on holding public office.
f) It does not impact licensing for foster homes and similar facilities.
g) It does not limit other motions for relief. (Penal Code Section 851.93)

3) Provides that if a person is sentenced to a jail felony, the court, in its discretion, in the interest of judgement may allow a person to withdraw their guilty plea and enter a plea of not guilty and the court shall set aside the verdict and dismiss the accusations or information against the defendant when specified conditions are met. The relief shall be not be granted unless the prosecuting attorney has been given 15 days' notice of the petition for relief. (Penal Code Section 1203.41)

4) Provides that commencing July 1, 2022, and subject to a Budget appropriation, on a monthly basis, the DOJ shall review records in the statewide criminal justice databases and shall identify person with convictions that meet specified criterial and are eligible for automatic conviction relief. A person is eligible for relief if they meet all of the following conditions:

a) The person is not required to register as a Sex Offender.
b) The person does not have an active record for local, state, or federal supervision in the Supervised Release file.
c) Based on the information available, it does not appear the person is currently serving a sentence for an offense and there is no indication of pending criminal charges.
d) There is no indication that the conviction resulted in a sentence of incarceration in state prison.
e) The conviction occurred on or after January 1, 2021 and the defendant either was sentenced to probation and appears to have completed their term of probation without revocation or, the defendant was convicted of an infraction or misdemeanor, was not granted probation, and at least one calendar year has passed since the date of judgement. (Penal Code Section 1203.425(a)(1))

5) Provides that automatic conviction record relief is subject to the following conditions:

   a) It does not relieve a person of the obligation to disclose a conviction when applying to be a peace officer.
   b) It does not relieve a person of the obligation to disclose the conviction in response to a direct question contained in a questionnaire for public office or for contracting with the California State Lottery Commission
   c) It does not affect a person's authorization to own, possess, etc. a firearm.
   d) It does not affect a prohibition from holding public office that would otherwise apply as a result of the conviction.
   e) It does not affect the authority to receive, or take action based on, criminal history information including the authority to receive certified court records.
   f) It does not make eligible a person otherwise ineligible to provide in-home supportive services.
   g) It may still act as a prior for future arrests and convictions. (Penal Code Section 1203.425(a)(3))

This bill:

1) Makes an arrest for a felony and there is no indication that the criminal proceeding has been initiated at least 3 years after the arrest eligible for relief and amends existing law to provide that if the arrest was for a jail or prison felony with a sentence of 8 or more yeas shall be eligible for relief when no criminal proceedings have happened 6 years after the arrest.

2) Makes Penal Code Section 1203.41 apply to all felonies not just jail felonies and provides that if the defendant was on mandatory supervision, the parole officer shall notify the prosecuting attorney when a petition is filed.

3) Deletes the prohibition on granting relief if the person was incarcerated in the state prison.

4) Provides, in addition, that relief granted does not release the defendant from the terms and conditions of any unexpired criminal protective orders.

5) Adds an additional criteria for relief providing for relief if the conviction occurred on or after January 1, 2005, the defendant was convicted of a felony other than one for which the defendant completed probation without revocation, and based on the disposition date and the sentence specified in DOJ's records, appears to have completed all terms of incarceration, probation, mandatory

supervision, postrelease supervision, and parole and a period of four years has eleapsed since the date on which the defendant completed probation or supervision for that conviction during which the person was not convicted of a new felony. This does not apply to a serious or violent felony as defined in the Penal Code or an offense for which a person must register as a sex offender.

6) Contains an effective date of July 1, 2023.

Comments

According to the author:

> Nationally, 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.1 The vast majority of people with convictions have long finished their sentence in prison, jail, parole or probation and exited the 'deepest end' of the justice system.

Despite the data on recidivism, California still maintains these records until the person reaches 100 years of age. Due to the widespread usage of background checks in today's society, the availability of these records activate thousands of barriers for one quarter of the state's population resulting in chronic housing insecurities, long-term unemployment, and widespread lack of civic participation. These collateral consequences disproportionately affect Black and Latino communities and have become one of the leading drivers of multi-generational poverty.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

1) One-time costs (Fingerprint Fees Account) of $946,000 to the Department of Justice (DOJ) to update existing technological infrastructure designed to identify an expanded universe of arrest and conviction records for relief. Costs to implement the initial review of arrests and convictions occurring on or after January 1, 2021, was approximately $3 million. This bill increases costs to DOJ for expanded review of arrests and convictions.
2)
3) Costs (General Fund (GF)) of approximately $189,000 annually to the Department of Social Services in federal reimbursements for In-Home Supportive Services (IHSS) providers that receive relief for crimes not

considered exempt by the federal government. Additional costs, possibly in the millions of dollars annually, to DSS in Title IV-E compliances issues and subsequent loss in funding that would shift to the GF. Possible additional costs of approximately $25 million annually because of a decline in the federal discount rate calculation.

4)

5) Cost pressures (Trial Court Trust Fund) in the hundreds of thousands of dollars annually for courts to hear additional felony expungement motions pursuant to Penal Code section 1203.41. One hour of court time costs approximately $1,000. If courts are required to hear 20 additional motions for felony expungement statewide requiring an average of 12 hours of court time each, the cost to the courts would be $240,000. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the GF to perform existing duties. This is particularly true, given that courts have delayed hundreds of trials and civil motions during the COVID-19 pandemic resulting in a serious backlog that must be resolved. The Budget Act of 2021 allocates $118.3 million from the GF to backfill continued reduction in fine and fee revenue for trial court operations and $72 million in ongoing GF revenue for trial courts to continue addressing the backlog of cases caused by the pandemic.

SUPPORT: (Verified 9/3/21)

California for Safety and Justice (source)
A New Way of Life Re-entry Project
All of Us or None Los Angeles
All of Us or None Riverside
Alliance of Californians for Community Empowerment Action
American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties
Anti-Recidivism Coalition
Arts for Healing and Justice Network
Asian Americans Advancing Justice - California
Asian Solidarity Collective
Bend the Arc: Jewish Action
Black Los Angeles Young Democrats
Blameless and Forever Free Ministries
Building Opportunities for Self-Sufficiency
California Attorneys for Criminal Justice
California Calls

California Catholic Conference
California Immigrant Policy Center
California Labor Federation, AFL-CIO
California Public Defenders Association
California Religious Action Center of Reform Judaism
California State Council of Laborers
Californians Coalition for Women Prisoners
Californians United for a Responsible Budget
Cat Clark Consulting Services LLC
Center of Hope LA
Chrysalis Center
Code for America
Communities United for Restorative Youth Justice
Community Advocates for Just and Moral Governance
Community Legal Services in East Palo Alto
Community Works
County of Los Angeles Board of Supervisors
Courage California
Cure California
Defy Ventures
Dignity and Power Now
Drug Policy Alliance
Ella Baker Center for Human Right
Faith in Action Bay Area
Faith in Action East Bay
Family Reunification Equity & Empowerment
Felony Murder Elimination Project
Forward Impact Dba Represent Justice
Fresno Barrios Unidos
Friends Committee on Legislation of California
Homeboy Industries
Initiate Justice
Inland Empire Fair Chance Coalition
Inland Equity Partnership
Kehilla Community Synagogue
LA Voice
Last Prisoner Project
Law Enforcement Action Partnership
Legal Aid At Work
Legal Services for Prisoners With Children

Livefree California
Los Angeles Regional Reentry Partnership
Michelson Center for Public Policy
National Association of Social Workers, California Chapter
People Objective LLC
Phenomenal Angels of the Community
Pico California
Pillars of the Community
Re:store Justice
Riverside Community College District
Root & Rebound
Rubicon Programs
San Bernardino Free Them All
San Francisco Public Defender
Santa Cruz Barrios Unidos Inc.
Shields for Families
Showing Up for Racial Justice Bay Area
Showing Up for Racial Justice San Diego
Showing Up for Racial Justice North County
Showing Up for Racial Justice San Diego
Showing Up for Racial Justice, Bay Area
Smart Justice California
Social & Environmental Justice Committee of the Universalist Unitarian Church of Riverside
Social Justice Research Partnership
Starting Over, Inc.
Team Justice
The Dream Corps
The Experience Christian Ministries
The Reverence Project
Think Dignity
Time for Change Foundation
Timelist Group
Transitions Clinic Network
Uncommon Law
Underground Grit
Underground Scholars Initiative at UC Riverside
Underground Scholars Initiative Berkeley
Underground Scholars Initiative, University of California Davis
Unite-la, Inc.

We the People - San Diego
Young Women's Freedom Center

OPPOSITION: (Verified 9/3/21)

Alliance for Constitutional Sex Offense Laws
California Association of Licensed Investigators
California Board of Psychology
California District Attorneys Association
California Statewide Law Enforcement Association
Dental Hygiene Board of California
Peace Officers Research Association of California
Physician Assistant Board
Veterinary Medical Board
Individual

ARGUMENTS IN SUPPORT: Californians for Safety and Justice, the sponsor of this bill, states:

> Nationally, 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 in today's society, the permanence of these records present thousands of barriers resulting in widespread constraints on civic participation.
> Examples of these barriers are felt by families seeking to live outside of impoverished areas, individuals that want careers in education or healthcare, others who want to coach, homeowners that want to joint heir HOA board, couples that want to adopt, or grandchildren that want to care for their elderly grandparent. Old criminal records go beyond economics and into denial of human decency, family responsibility, and basic citizenship.
>
> Lack of access to employment and housing are primary factors driving recidivism, criminal records are serious barriers to successful reentry and come at a cost of $20 billion annually to California's economy. Nationally, it has been estimated that the U.S. loses roughly $372.3 billion per year in terms of gross domestic product due to employment losses among people living with convictions.

SB 731 proposes a structured, automated approach to sunsetting criminal records. Automated sealing of all arrest records that do not result in conviction, and 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. For the reasons listed above, Californians for Safety and Justice is proud to co-sponsor SB 731.

ARGUMENTS IN OPPOSITION: Peace Officers Research Association of California opposes this bill stating:

Current 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. Current law 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.

PORAC believes that by expanding the relief of penalties for all felonies, we are placing our communities at risk. Oftentimes, felony crimes are violent and leave behind innocent victims whose lives will never be the same. By allowing violent criminals back on the street, with their record dismissed, they will have less deterrent to commit another crime. Thus, leaving more victims in their wake. If the author is willing to amend the bill to exclude violent criminals, we would be inclined to remove our opposition.

Click here to enter text.

Prepared by: Mary Kennedy / PUB. S. /
9/10/21 18:01:01

****** END ******

SB-731 Criminal records: relief

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, 1973, and meets any of the following conditions:

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

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

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

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

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

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

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

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

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

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

(h) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.

SEC. 2.
Section 851.93 is added to the Penal Code, 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, 1973, and meets any of the following conditions:

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

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

(C) (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.

(ii) If the arrest was for an offense punishable by imprisonment in the state prison for eight years or more or by imprisonment pursuant to subdivision (h) of Section 1170 for eight years or more, there is no indication that criminal proceedings have been initiated, at least 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.

(g) This section shall be operative commencing July 1, 2023, subject to an appropriation in the annual Budget Act.

SEC. 3.
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~~ *agency or by a federally recognized tribe, 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.

(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.

(g) Relief granted pursuant to this section does not release the defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

(h) 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. 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.

SEC. 4.
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.

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

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

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

(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) ~~(A)~~ 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.

~~(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring~~

~~court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.~~

~~(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from the transferring court. The department shall electronically submit a notice to the superior court that sentenced the defendant. If probation is transferred multiple times, the department shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.~~

~~(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief 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 release a person from the terms and conditions of any unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying conviction.~~

~~(H)~~ *(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.

~~(I)~~ *(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.

~~(J)~~ *(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 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. ~~If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.~~

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

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

summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

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

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

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

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing 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. ~~If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.~~

(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. ~~If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to the transferring court and, if probation was transferred multiple times, to all other involved courts.~~

(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.

(d) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.

SEC. 4.1.

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.

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

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

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

(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) (A) 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.

(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.

(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from the transferring court. The department shall electronically submit a notice to the superior court that sentenced the defendant. If probation is transferred multiple times, the department shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.

(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief 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 release a person from the terms and conditions of any unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying conviction.~~

~~(H)~~ *(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.

~~(I)~~ *(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.

~~(J)~~ *(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 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. If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.

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

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

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

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

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

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing 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. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.

(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. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to the transferring court and, if probation was transferred multiple times, to all other involved courts.

(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.

(d) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.

SEC. 4.2.
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.

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

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

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

(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) ~~(A)~~ -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.

~~(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.~~

~~(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from the transferring court. The department shall electronically submit a notice to the superior court that sentenced the defendant. If probation is transferred multiple times, the department shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.~~

~~(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief 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 release a person from the terms and conditions of any unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying conviction.

(H) 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.

(I) 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.

(J) 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 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. ~~If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.~~

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

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

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

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

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

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing 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. ~~If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.~~

(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. ~~If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to the transferring court and, if probation was transferred multiple times, to all other involved courts.~~

(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.

(d) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.

SEC. 4.3.

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.

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

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

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

(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) (A) 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.

(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.

(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from

the transferring court. The department shall electronically submit a notice to the superior court that sentenced the defendant. If probation is transferred multiple times, the department shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.

(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief 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 release a person from the terms and conditions of any unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by

the court modifying or terminating the order, despite the dismissal of the underlying conviction.

(H) 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.

(I) 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.

(J) 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 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. If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.

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

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

(4) The prosecutor or probation department has the initial burden of proof to show that granting conviction relief would pose a substantial threat to the public safety. In

determining whether granting relief would pose a substantial threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

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

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

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing 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. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.

(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. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to the transferring court and, if probation was transferred multiple times, to all other involved courts.

(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.

(d) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.

SEC. 5.
Section 1203.425 is added to the Penal Code, to read:

1203.425.
(a) (1) (A) Commencing July 1, 2023, 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) The conviction meets either of the following criteria:

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

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

(ib) 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, 2005, 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, and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction and during which the defendant was not convicted of a new felony offense. This subclause does not apply to a conviction of a serious felony defined in subdivision (c) of Section 1192.7, a violent felony as defined in Section 667.5, or a felony offense requiring registration pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

(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.

(J) Relief granted pursuant to this section does not release the defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

(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 1016.5, 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.49 and 1473.7. This section shall not limit petitions for a certificate of rehabilitation or pardon pursuant to Chapter 3.5 of Title 6 of Part 3.

(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 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 prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local

summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

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

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

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

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing 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 law, including, but not limited to, Section 1203.4, 1203.4a, 1203.4b, or 1203.41. 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. 5.1.
Section 1203.425 is added to the Penal Code, to read:

1203.425.
(a) (1) (A) Commencing July 1, 2023, 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) The conviction meets either of the following criteria:

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

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

(ib) 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, 2005, 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, and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction and during which the defendant was not convicted of a new felony offense. This subclause does not apply to a conviction of a serious felony defined in subdivision (c) of Section 1192.7, a violent felony as defined in Section 667.5, or a felony offense requiring registration pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

(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) (A) 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.

(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.

(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from the transferring court. The department shall electronically submit a notice to the superior court that sentenced the defendant. If probation is transferred multiple times, the department shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.

(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief 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.

(J) Relief granted pursuant to this section does not release the defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

(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 1016.5, 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.49 and 1473.7. This section shall not limit petitions for a certificate of rehabilitation or pardon pursuant to Chapter 3.5 of Title 6 of Part 3.

(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 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. If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.

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

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

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

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

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

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing 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. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.

(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.4b, or 1203.41. 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. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to the transferring court and, if probation was transferred multiple times, to all other involved courts.

(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. 6.

(a) Section 4.1 of this bill incorporates amendments to Section 1203.425 of the Penal Code proposed by both this bill and Assembly Bill 898. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 1203.425 of the Penal Code, and (3) Assembly Bill 1281 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 898, in which case Sections 4, 4.2, and 4.3 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 1203.425 of the Penal Code proposed by both this bill and Assembly Bill 1281. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 1203.425 of the Penal Code, (3) Assembly Bill 898 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 1281 in which case Sections 4, 4.1, and 4.3 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 1203.425 of the Penal Code proposed by this bill, Assembly Bill 898, and Assembly Bill 1281. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2022, (2) all three bills amend Section 1203.425 of the Penal Code, and (3) this bill is enacted after Assembly Bill 898 and Assembly Bill 1281, in which case Sections 4, 4.1, and 4.2 of this bill shall not become operative.

SEC. 7.

(a) Section 5.1 of this bill incorporates amendments to Section 1203.425 of the Penal Code proposed by this bill and Assembly Bill 898. That section of this bill shall become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 1203.425 of the Penal Code, and (3) Assembly Bill 1281 is not enacted or as enacted does not amend that section, and (4) this bill is

enacted after Assembly Bill 898, in which case Section 5 of this bill shall not become operative and subdivision (b) of this section shall not apply.

(b) Section 5.1 of this bill incorporates amendments to Section 1203.425 of the Penal Code proposed by this bill, Assembly Bill 898, and Assembly Bill 1281. That section of this bill shall become operative if (1) all three bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 1203.425 of the Penal Code, and (3) this bill is enacted after Assembly Bill 898 and Assembly Bill 1281, in which case Section 5 of this bill shall not become operative and subdivision (a) of this section shall not apply.

California Board of PSYCHOLOGY

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MEMORANDUM

DATE	March 9, 2022
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(b)(3) – SB 772 (Ochoa Bogh): Professions and vocations: citations: minor violations.

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

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).

On 4/2/20201, the Board voted to adopt the **Oppose Unless Amended** recommendation made by the Legislative and Regulatory Affairs Committee.

On 2/2/2022, this bill was returned to the Secretary of the Senate as the bill failed to pass out of the house of origin by January 31, 2022.

Location: Dead

Status: 2/22/2022 Returned to Secretary of Senate pursuant to Joint Rule 56.

Action Requested:

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

Attachment A: SB 772 (Ochoa Bogh) Bill Text

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

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.

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item # 6(c)(1) – AB 29 (Cooper): State bodies – meetings.

Background:
This bill would expand the Bagley-Keene Open Meeting Act requirements to include all writings or materials provided for the noticed meeting be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier.

Location: Assembly

Status: 1/31/2022 Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

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

Attachment A: AB 29 (Cooper) Bill Text

AB-29 State bodies: meetings

SECTION 1.

Section 11125 of the Government Code is amended to read:

11125.

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

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

(c) (1) A notice provided pursuant to subdivision (a) shall include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting.

(2) The writings or materials described in paragraph (1) shall be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier.

(3) A state body may not distribute or discuss writings or materials described in paragraph (1), or take action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with this subdivision.

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

that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

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

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

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

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MEMORANDUM

DATE	August 6, 2021
TO	Board of Psychology
FROM	Cristina Rivera Legislative and Regulatory Analyst
SUBJECT	Agenda Item #6(c)(2) – 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).

On 4/2/2021, the Board approved the Legislative and Regulatory Affairs Committee recommendation to watch AB 54 (Kiley).

On 4/5/2021, this bill was amended to exempt healing arts boards.

On 2/1/2022, this bill failed to pass out of the house of origin, and has died.

Location: Committee on Business and Professions

Status: 2/1/2022 From committee: Without further action pursuant to Joint Rule 62(a).

Action Requested:

This is for informational purposes only. No action is requested as this time.

Attachment A: AB 54 (Kiley) Bill Text

AB 54 (Kiley) - COVID-19 emergency order violation: license revocation.

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 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.

(b) This section shall not apply to any board or licensee within Division 2 (commencing with Section 500).

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

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item # 6(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).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 225 (Gray).

Location: Senate

Status: 6/30/2021 In committee: Hearing postponed by committee.

Action Requested:

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

Attachment A: AB 225 (Gray) Bill Text

AB 225 (Gray) - Department of Consumer Affairs: boards: veterans: military spouses: licenses.

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 one of the following:

~~(1)~~ *(A)* ~~The applicant shall supply evidence satisfactory to the board that the applicant is married~~ *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.

(B) A veteran of the Armed Forces of the United States within 60 months of separation from active duty under other than dishonorable conditions.

(C) A veteran of the Armed Forces of the United States within 120 months of separation from active duty under other than dishonorable conditions and a resident of California prior to entering into military service.

(D) An active duty member of the Armed Forces of the United States with official orders for separation within 90 days under other than dishonorable conditions.

(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 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,~~ *a standard license, a license by endorsement, or an expedited license pursuant to Section 115.5,* whichever occurs first.

~~(h) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.~~

SEC. 2.

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

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(4) – AB 339 (Lee): Local government: open and public meetings

Background:

This bill requires the following: all open and public meetings of a city council or a county board of supervisors that governs a jurisdiction containing at least 250,000 people to include an opportunity for members of the public to attend via a telephonic option or an internet-based service option; all open and public meetings include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency; all open and public meetings to provide the public with an opportunity to comment on proposed legislation in person and remotely via a telephonic or an internet-based service option.

On 10/7/2021, this bill was Vetoed by Governor Newsom. He provided the following message:

To the Members of the California State Assembly:

I am returning Assembly Bill 339 without my signature.

This bill requires, until December 31, 2023, that city councils and boards of supervisors in jurisdictions with over 250,000 residents provide both in-person and teleconference options for the public to attend their meetings.

While I appreciate the author's intent to increase transparency and public participation in certain local government meetings, this bill would set a precedent of tying public access requirements to the population of jurisdictions. This patchwork approach may lead to public confusion. Further, AB 339 limits flexibility and increases costs for the affected local jurisdictions trying to manage their meetings.

Additionally, this bill requires in-person participation during a declared state of emergency unless there is a law prohibiting in-person meetings in those situations. This could put the health and safety of the public and employees at risk depending on the nature of the declared emergency.

I recently signed urgency legislation that provides the authority and procedures for local entities to meet remotely during a declared state of emergency. I remain open to revisions

to the Brown Act to modernize and increase public access, while protecting public health and safety. Unfortunately, the approach in this bill may have unintended consequences.

Sincerely,

Gavin Newsom

Location: Not applicable

Status: 10/7/2021 Vetoed by Governor

Action Requested:

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

Attachment A: AB 339 (Lee) Bill Text

AB-339 Local government: open and public meetings

SECTION 1.

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,~~ *agency in person,* except as otherwise provided in this chapter. *Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.*

(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 ~~otherwise applicable~~ 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 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, 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 ~~subdivisions (d) and (e).~~ *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.

(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.

~~(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:~~

~~(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.~~

~~(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.~~

~~(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.~~

~~(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:~~

~~(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.~~

~~(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

~~(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.~~

~~(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.~~

~~(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

~~(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be~~

~~required to register as required by the third-party internet website or online platform to participate.~~

~~(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.~~

~~(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.~~

~~(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.~~

~~(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:~~

~~(A) The legislative body has reconsidered the circumstances of the state of emergency.~~

~~(B) Any of the following circumstances exist:~~

~~(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.~~

~~(ii) State or local officials continue to impose or recommend measures to promote social distancing.~~

~~(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).~~

~~(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.~~

SEC. 1.1.

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,~~ *agency in person,* except as otherwise provided in this chapter. *Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.*

(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 otherwise applicable 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 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, 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 subdivisions (d) and (e). 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.

(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.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph ~~(B),~~ *(B)* that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 1.2.

Section 54953 is added to the Government Code, 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 in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(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 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, 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.

(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.

(e) This section shall become operative January 1, 2024.

SEC. 2.

Section 54953.9 is added to the Government Code, to read:

54953.9.

(a) A city council or a county board of supervisors that governs a jurisdiction containing at least 250,000 people shall comply with the following requirements:

(1) (A) All open and public meetings shall include an opportunity for members of the public to attend via a two-way telephonic option or a two-way internet-based service option.

(B) If a city council or a county board of supervisors elects to provide a two-way internet-based service option, the local agency shall publicly post and provide a call-in option, and activate any automatic captioning function during the meeting if an automatic captioning function is included with the system.

(2) (A) If a city council or county board of supervisors has, as of June 15, 2021, provided video streaming of at least one open and public meeting, the city council or county board of supervisors shall continue to provide that video streaming.

(B) "Video streaming" means media in which the data from a live filming or a video file is continuously delivered via the internet to a remote user, allowing a video to be viewed online by the public without being downloaded on a host computer or device.

(3) (A) Unless there are any laws that prohibit in-person government meetings in the case of a declared state of emergency, including a public health emergency, all open and public 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. The location of the designated site and any relevant instructions on in-person commenting shall be included with the public posting of the agenda.

(B) All open and public meetings shall provide the public with an opportunity to comment on proposed legislation via a two-way telephonic or internet-based service option, and ensure the opportunity for the members of the public participating via a two-way telephonic or internet-based option to comment on agenda items with the same time allotment as a person attending a meeting in person.

(b) This section shall remain in effect only until December 31, 2023, and as of that date is repealed.

SEC. 3.
No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result either 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, or 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.

SEC. 4.
The Legislature finds and declares that Sections 1 and 2 of this act, which amends Section 54953 of, and adds Section 54953.9 to, the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The provisions of the act allow for greater public access through requiring specified entities to provide a telephonic or internet-based service option and instructions on how to access these options to the public for specified meetings.

SEC. 5.
The Legislature finds and declares that improving accessibility to open and public meetings of local legislative bodies is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act adding Section 54953.9 to the Government Code applies to all cities and counties, including charter cities and counties.

SEC. 6.

Sections 1.1 and 1.2 of this bill incorporates amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 361. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 361, in which case Section 54953 of the Government Code, as amended by Assembly Bill 361, shall remain operative only until the operative date of this bill, at which time Sections 1.1 and 1.2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Legislative and Regulatory Analyst
SUBJECT	Agenda Item #6(c)(5) – AB 562 (Low) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services.

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.

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 562 (Low).

On 4/8/2021, this bill was amended to, among other things, define "board" as the Board of Registered Nursing, the Medical Board of California, the Osteopathic Medical Board of California, the Physician Assistant Board, and the Respiratory Care Board; define "eligible licensee" as a person licensed as a healing arts provider who is or was also a frontline health care COVID-19 provider; and define "frontline COVID-19 health care provider" as a person who provides or has provided consistent in-person health care services to patients with COVID-19.

On 7/8/2021, staff contacted the author's office to ask whether they would consider adding the Board of Psychology. The author's office indicated that they are open to adding additional boards such as the Board of Behavioral Sciences and Board of Psychology. They are waiting for an opportunity to amend the bill. Staff will maintain communications with the author's office and assist as needed.

Location: Senate Appropriations

Status: 8/26/2021 In committee: Held under submission.

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

Attachment A: AB 562 (Low) Bill Text

AB 562 (Low) - Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services.

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 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) "Board" means the following:

(1) The Board of Registered Nursing.

(2) The Medical Board of California.

(3) The Osteopathic Medical Board of California.

(4) The Physician Assistant Board.

(5) The Respiratory Care Board of California.

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

(c) “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.

(d) “Mental health services” means targeted in-person, online, and telehealth psychological distress and behavioral health 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.

(e) “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 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. The director may in addition contract or partner with vendors or agencies that offer services that are publicly available and free of charge.

(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 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 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 boards shall grant all eligible licensees access to the program.

(6) The relevant boards shall include in the application a voluntary survey of race or ethnicity and gender identity.

(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 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 deidentified aggregate number of applicants and eligible licensees and a monthly breakdown.

(c) The deidentified and aggregate number of eligible licensees by location, race, ethnicity, and gender identity.

(d) Utilization rates from the vendors.

(e) The costs associated with the program.

955.

(a) 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).

(b) 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.

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.

SEC. 5.

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 preserve the current and future health care workforce by ensuring that frontline health care providers have access to necessary services to address the ongoing stress and trauma of the COVID-19 pandemic as soon as possible, it is necessary that this act take effect immediately.

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(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 online license search system 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 its online license search system. 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 online license search system that the person's license was revoked and information previously posted regarding arrests, charges, and convictions. The bill would require the board to charge a fee of $25 to the person to cover the reasonable regulatory cost of administering the bill's provisions, unless there is no associated cost. The bill would require the fee to be deposited by the board into the appropriate fund and would make the fee available only upon appropriation by the Legislature.

Location: Senate

Status: 2/1/2022 In Senate. Read first time. To Committee on Rules for assignment.

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

Attachment A: AB 646 (Low) Bill Text

AB 646 (Low) - Department of Consumer Affairs: boards: expunged convictions.

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 online license search system 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 online license search system.

(2) If the person is not currently licensed and does not reapply for licensure, remove the initial posting on its online license search system that the person's license was revoked and information previously posted regarding arrests, charges, and convictions.

(b) (1) Except as provided in paragraph (2), a board within the department shall charge a fee of twenty-five dollars ($25) to a person described in subdivision (a) to cover the reasonable regulatory cost associated with administering this section.

(2) A board shall not charge the fee if there is no cost associated with administering this section.

(3) A board may adopt regulations to implement this subdivision. The adoption, amendment, or repeal of a regulation authorized by this subdivision is hereby exempted from the rulemaking provisions 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).

(4) 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.

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MEMORANDUM

DATE	March 9, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(7) – AB 657 (Cooper) 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.

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 657 (Cooper).

On 4/21/2021, this bill was amended to add Assemblymember Cooper as the lead author and to exempt boards within DCA.

On 6/15/2021, this bill was amended to add the Department of Human Resources, during a state of emergency, as the contract approving entity and exempts the Department of Consumer Affairs and any boards/bureaus within it from its provisions.

Location: Senate

Status: 7/6/2021 In committee: Set, first hearing. Failed passage. Reconsideration granted.

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

Attachment A: AB 657 (Cooper) Bill Text as Amended

AB-657 (Cooper) - State civil service system: personal services contracts: professionals.
As Amends the Law Today – August 10, 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 (c), 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) (1) Notwithstanding subdivision (a), during a state of emergency declared by the Governor pursuant to Section 8625, a state agency may renew a personal services contract with a professional even if the renewal will exceed the time period limitations described in subdivision (a) if it receives approval for the renewal from the Department of Human Resources. The request to renew shall include at least all of the following:

(A) A detailed accounting of the state agency's expenditures in efforts to increase and expand recruitment and retention efforts for the agency.

(B) An analysis of the state agency's vacancies for the position for which the professional was contracted. The analysis shall include a comparison of current vacancies for the position and vacancies for the position one year prior.

(C) A detailed analysis of the state agency's efforts to fill the position with permanent civil service employees.

(D) A discussion of how the renewal of the contract will assist the agency in addressing the state of emergency.

(2) A state agency shall be required to seek authorization to renew pursuant to this subdivision each time it renews a contract under this subdivision. A renewed personal services contract pursuant to this subdivision shall not be between a professional and any state agency for a time period that exceeds either of the following:

(A) Three hundred sixty-five consecutive days to the state agency.

(B) Three hundred sixty-five nonconsecutive days in a 24-month period.

(3) The Department of Human Resources shall not approve a renewal of a personal services contract with a professional pursuant to this subdivision unless the renewal is necessary for the state agency to address the state of emergency.

(4) This subdivision shall not be construed to limit the Governor's authority to suspend statutes pursuant to Section 8571.

(c) 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.

(d) Each state agency that has a contract with a professional to which this section applies shall assign a unique identification number to each of those professionals for purposes of determining compliance with this section and complying with subdivisions (e) and (f).

(e) Each state agency that has a contract with a professional to which this section applies 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 unique identification numbers, as assigned pursuant to subdivision (d), 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.

(f) 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.

(g) This section shall not apply to the Department of Consumer Affairs or a board or bureau of the Department of Consumer Affairs, as described in Section 101 of the Business and Professions Code.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(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).

On 4/2/2020, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 810 (Flora).

Location: Assembly Chief Clerk

Status: 1/31/2022 Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

Action Requested:

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

Attachment A: AB 810 (Flora) Bill Text

AB-810 (Flora) Healing arts: reports: claims against licensees.

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).

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(9) – AB 830 (Flora): Business: Department of Consumer Affairs: Architects Practice Act: Contractor's State License Law: Alarm Company Act: Real Estate Law: process servers: professional photocopiers.

Background:

Requires the Director of Consumer Affairs to notify the appropriate policy committees of the Legislature within 60 days after the position of chief or executive officer of any bureau or board within the department becomes vacant.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 830 (Flora).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 830 (Flora).

Location: Secretary of State

Status: 9/28/2021 Chaptered by Secretary of State - Chapter 376, Statutes of 2021.

Action Requested:

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

Attachment A: AB 830 (Flora) Bill Text

AB-830 (Flora) - Department of Consumer Affairs: licensed professions and vocations

SECTION 1.

Section 308 is added to the Business and Professions Code, to read:

308.

The director shall notify the appropriate policy committees of the Legislature within 60 days after the position of chief or executive officer of any bureau or board within the department becomes vacant pursuant to Section 1770 of the Government Code.

SEC. 2.

Section 5535.2 of the Business and Professions Code is amended to read:

5535.2.

(a) This chapter does not prevent an architect from forming a business entity or collaborating with persons who are not architects, provided that any architects' professional services that are provided through that entity or collaboration are offered and provided under the responsible control of an architect, or architects, and in accordance with the provisions of this chapter.

(b) (1) A business entity organized as a general corporation may include in its name any or all of the following:

(A) A fictitious name.

(B) The name of one or more licensed architects.

(C) The term "architect," the term "architecture," or a variation of the term "architect" or "architecture."

(2) Nothing in paragraph (1) shall limit a business entity organized as a general corporation from including in its name any other word or name that is not otherwise prohibited by law.

(3) Notwithstanding paragraphs (1) and (2), a business entity organized as a general corporation shall not include in its name the term "professional corporation."

SEC. 3.

Section 6980.77 is added to the Business and Professions Code, immediately following Section 6980.76, to read:

6980.77.

Notwithstanding any other law, the failure of any person licensed to do business as a corporation in this state to be registered and in good standing with the Secretary of State and the Franchise Tax Board after notice from the bureau shall result in the automatic suspension of the licensee by operation of law. The bureau shall notify the licensee in writing of its failure to be registered and in good standing with the Secretary of State or Franchise Tax Board, or both, and that the licensee shall be suspended 30 days from the date of the notice if the licensee does not provide proof satisfactory to the bureau that it is properly registered and in good standing with the Secretary of State or Franchise Tax Board, or both. Reinstatement may be made at any time following the suspension by providing proof satisfactory to the bureau that the license is properly registered and in good standing and the payment of the reinstatement fee as prescribed by this chapter.

SEC. 4.

Section 6980.79 of the Business and Professions Code is amended to read:

6980.79.

The fees prescribed by this chapter are those fixed in the following schedule:

(a) A locksmith license application fee shall be at least two hundred fifty dollars ($250) and may be increased to an amount not to exceed two hundred seventy-five dollars ($275).

(b) An original license fee for a locksmith license shall be at least two hundred fifty dollars ($250) and may be increased to an amount not to exceed two hundred seventy-five dollars ($275), and a renewal fee for a locksmith license shall be at least five hundred dollars ($500) and may be increased to an amount not to exceed five hundred fifty dollars ($550).

(c) A branch office initial registration fee shall be at least two hundred fifty dollars ($250) and may be increased to an amount not to exceed two hundred seventy-five dollars ($275), and a branch office renewal fee shall be at least one hundred fifty dollars ($150) and may be increased to an amount not to exceed one hundred sixty-five dollars ($165).

(d) Notwithstanding Section 163.5, the reinstatement fee as required by Section 6980.28 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(e) An initial registration fee for an employee performing the services of a locksmith shall be at least fifty-five dollars ($55) and may be increased to an amount not to exceed sixty dollars ($60).

(f) A registration renewal fee for an employee performing the services of a locksmith shall be at least forty dollars ($40) and may be increased to an amount not to exceed forty-four dollars ($44).

(g) The fingerprint processing fee is that amount charged to the bureau by the Department of Justice.

(h) All applicants seeking a license pursuant to this chapter shall also remit to the bureau the fingerprint fee that is charged to the bureau by the Department of Justice.

(i) The fee for a Certificate of Licensure, as specified in Section 6980.24, shall be at least twenty-five dollars ($25).

(j) A delinquency fee is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(k) The fee for an endorsed verification of licensure or registration shall be twenty-five dollars ($25). The verification document shall include the license or registration number, the license or registration history and current status, the date of the endorsement, an embossed seal, and the signature of the chief.

(l) The fee for the replacement of a lost or destroyed registration card, license, or certificate authorized by this chapter shall be twenty-five dollars ($25). The request for a replacement of a registration card, license, or certificate shall be made in the manner prescribed by the bureau.

(m) The reinstatement fee following a suspension pursuant to Section 6980.77 shall be 25 percent of the renewal fee.

SEC. 5.

Section 7068 of the Business and Professions Code is amended to read:

7068.

(a) The board shall require an applicant to show the degree of knowledge and experience in the classification applied for, and the general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business that the board deems necessary for the safety and protection of the public.

(b) An applicant shall qualify in regard to their experience and knowledge in one of the following ways:

(1) If an individual, they shall qualify by personal appearance or by the appearance of their responsible managing employee who is qualified for the same license classification as the classification being applied for.

(2) If a partnership or a limited partnership, it shall qualify by the appearance of a general partner or by the appearance of a responsible managing employee who is qualified for the same license classification as the classification being applied for.

(3) If a corporation, or any other combination or organization, it shall qualify by the appearance of a responsible managing officer or responsible managing employee who is qualified for the same license classification as the classification being applied for.

(4) If a limited liability company, it shall qualify by the appearance of a responsible managing officer, a responsible managing manager, responsible managing member, or a responsible managing employee who is qualified for the same license classification as the classification being applied for.

(c) (1) For purposes of this chapter, “a responsible managing employee” means an individual who is a bona fide employee of the applicant and is actively engaged in the classification of work for which that responsible managing employee is the qualifying person on behalf of the applicant.

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

(A) “Bona fide employee of the applicant” means an employee who is permanently employed by the applicant.

(B) “Actively engaged” means working 32 hours per week, or 80 percent of the total hours per week that the applicant’s business is in operation, whichever is less.

(d) The board shall, in addition, require an applicant who qualifies by means of a responsible managing employee under either paragraph (1) or (2) of subdivision (b) to show their general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(e) Except in accordance with Section 7068.1, no person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) shall hold any other active contractor’s license while acting in the capacity of a qualifying individual pursuant to this section.

(f) At the time of application for renewal of a license, the current qualifying individual shall file a statement with the registrar, on a form prescribed by the registrar, verifying their capacity as a qualifying individual to the licensee.

(g) Statements made by or on behalf of an applicant as to the applicant’s experience in the classification applied for shall be verified by a qualified and responsible person. In addition, the registrar shall, as specified by board regulation, randomly review a percentage of such statements for their veracity.

(h) The registrar shall review experience gained by applicants from other states to determine whether all of that experience was gained in a lawful manner in that state.

SEC. 6.

Section 7068.1 of the Business and Professions Code is amended to read:

7068.1.

(a) The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of Section 7068 shall be responsible for exercising supervision and control of their employer's or principal's construction operations to secure compliance with this chapter and the rules and regulations of the board. This person shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists:

(1) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.

(2) The additional firm is a subsidiary of or a joint venture with the first. "Subsidiary," as used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the other firm.

(3) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section 7068, the majority of the partners, officers, or managers are the same.

(b) Notwithstanding paragraphs (1) to (3), inclusive, of subdivision (a), a qualifying individual may act as the qualifier for no more than three firms in any one-year period.

(c) The following definitions shall apply for purposes of this section:

(1) "Firm" means a partnership, a limited partnership, a corporation, a limited liability company, or any other combination or organization described in Section 7068.

(2) "Person" is limited to natural persons, notwithstanding the definition of "person" in Section 7025.

(3) "Supervision or control" means direct supervision or control or monitoring and being available to assist others to whom direct supervision and control has been delegated.

(4) "Direct supervision or control" means any of the following:

(A) Supervising construction.

(B) Managing construction activities by making technical and administrative decisions.

(C) Checking jobs for proper workmanship.

(D) Supervision on construction sites.

(d) The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations, including, but not limited to, an employment duty statement prepared by the qualifier's employer or principal. Failure of an applicant or licensee to provide information required by this subdivision constitutes a violation of this section.

(e) Violation of this section shall constitute a cause for disciplinary action and shall be punishable as a misdemeanor by imprisonment in a county jail not to exceed six months, by a fine of not less than three thousand dollars ($3,000), but not to exceed five thousand dollars ($5,000), or by both the fine and imprisonment.

SEC. 7.

Section 7510.3 is added to the Business and Professions Code, to read:

7510.3.

Notwithstanding any other law, the failure of any person licensed to do business as a corporation or limited liability company in this state to be registered and in good standing with the Secretary of State and the Franchise Tax Board after notice from the bureau shall result in the automatic suspension of the licensee by operation of law. The bureau shall notify the licensee in writing of its failure to be registered and in good standing with the Secretary of State or Franchise Tax Board, or both, and that the licensee shall be suspended 30 days from the date of the notice if the licensee does not provide proof satisfactory to the bureau that it is properly registered and in good standing with the Secretary of State or Franchise Tax Board, or both. Reinstatement may be made at any time following the suspension by providing proof satisfactory to the bureau that the license is properly registered and in good standing and the payment of the reinstatement fee as prescribed by this chapter.

SEC. 8.

Section 7511 of the Business and Professions Code is amended to read:

7511.

The bureau shall establish and assess fees and penalties for licensure and registration as displayed in this section. The fees prescribed by this chapter are as follows:

(a) The application fee for an original repossession agency license shall be at least nine hundred seventy dollars ($970) and may be increased to an amount not to exceed one thousand sixty-seven dollars ($1,067).

(b) The application fee for an original qualified manager certificate shall be at least three hundred fifty dollars ($350) and may be increased to an amount not to exceed three hundred eighty-five dollars ($385).

(c) The renewal fee for a repossession agency license shall be at least seven hundred fifty dollars ($750) and may be increased to an amount not to exceed eight hundred twenty-five dollars ($825) biennially.

(d) The renewal fee for a qualified manager certificate shall be at least two hundred twenty-five dollars ($225) and may be increased to an amount not to exceed two hundred forty-eight dollars ($248) biennially.

(e) Notwithstanding Section 163.5, the reinstatement fee for a repossession agency license required pursuant to Sections 7503.11 and 7505.3 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(f) Notwithstanding Section 163.5, the reinstatement fee for a qualified manager certificate required pursuant to Sections 7503.11 and 7504.7 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) A fee for reexamination of an applicant for a qualified manager shall be at least sixty dollars ($60) and may be increased to an amount not to exceed sixty-six dollars ($66).

(h) An initial registrant registration fee shall be at least seventy-five dollars ($75) and may be increased to an amount not to exceed eighty-two dollars ($82), a registrant reregistration fee shall be at least seventy-five dollars ($75) and may be increased to an amount not to exceed eighty-two dollars ($82), and a registrant biennial renewal fee shall be at least forty dollars ($40) and may be increased to an amount not to exceed forty-four dollars ($44) per registration. Notwithstanding Section 163.5 and this subdivision, the reregistration fee for a registrant whose registration expired more than one year prior to the filing of the application for reregistration shall be at least seventy-five dollars ($75) and may be increased to an amount not to exceed eighty-two dollars ($82).

(i) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(j) The fingerprint processing fee is that amount charged to the bureau by the Department of Justice.

(k) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee not to exceed ten dollars ($10) plus sales tax for each additional copy, which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

(l) The processing fee for the assignment of a repossession agency license pursuant to Section 7503.9 shall be at least four hundred dollars ($400) and may be increased to an amount not to exceed four hundred forty dollars ($440).

(m) The fee for an endorsed verification of licensure, certification, or registration shall be twenty-five dollars ($25). The verification document shall include the license, certificate, or registration number, the license, certificate, or registration history and current status, the date of the endorsement, an embossed seal, and the signature of the chief.

(n) The fee for the replacement of a lost or destroyed registration card, license, or certificate authorized by this chapter shall be twenty-five dollars ($25). The request for a replacement of a registration card, license, or certificate shall be made in the manner prescribed by the bureau.

(o) The reinstatement fee following a suspension pursuant to Section 7510.3 shall be 25 percent of the renewal fee.

SEC. 9.

Section 7542.2 of the Business and Professions Code is amended to read:

7542.2.

The bureau shall issue a firearms permit when all of the following conditions are satisfied:

(a) (1) The applicant is a licensee or a qualified manager of a licensee.

(b) The firearms permit is associated with one of the following:

(1) An individual licensed as a private investigator pursuant to Section 7525.1.

(2) A partner of a partnership licensed as a private investigator pursuant to Section 7525.1.

(3) A qualified manager of a licensed private investigator pursuant to Section 7536.

(c) (1) A bureau-certified firearms training instructor certifies that the applicant has successfully completed a written examination prepared by the bureau and a training course in the carrying and use of firearms approved by the bureau.

(2) An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the requirements of paragraph (1) and shall instead carry out the requirements under another bureau-certified firearms training instructor.

(d) The applicant has filed with the bureau a classifiable fingerprint card, a completed application for a firearms permit on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct. In lieu of a classifiable fingerprint card, the applicant may submit fingerprints into an electronic fingerprinting system administered by the Department of Justice. An applicant who submits their fingerprints by electronic means shall have their fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic fingerprinting. The terminal operator may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(e) The applicant is at least 21 years of age and the bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of the applicant's duties, presents no apparent threat to the public safety, or that the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(f) The applicant has produced evidence to the firearm training facility that the applicant is a citizen of the United States or has permanent legal immigration status in the United States. Evidence of citizenship or permanent legal immigration status shall be deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, United States Department of Justice, Immigration and Naturalization Service Form I-151 or United States Citizenship and Immigration Services Form I-551 (Permanent Resident Card), naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(g) The application is accompanied by the application fees prescribed in this chapter.

SEC. 10.

Section 7542.11 of the Business and Professions Code is amended to read:

7542.11.

(a) A firearms qualification card expires two years from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card shall file an application for renewal at least 60 days prior to the card's expiration. A person whose card has expired shall not carry a firearm until the person has been issued a renewal card by the bureau.

(b) The bureau shall not renew a firearms qualification card unless all of the following conditions are satisfied:

(1) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(2) (A) The applicant has requalified on the range and has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(B) An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the requirements of subparagraph (A) and shall instead carry out the requirements under another bureau-certified firearms training instructor.

(3) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(4) The applicant has produced evidence to the firearms training facility, either upon receiving their original qualification card or upon filing for renewal of that card, that the applicant is a citizen of the United States or has permanent legal immigration status in the United States. Evidence of citizenship or permanent legal immigration status is that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, the United States Department of Justice, Immigration and Naturalization Service Form I-151 or United States Citizenship and Immigration Services Form I-551 (Permanent Resident Card), naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(c) An expired firearms qualification card may not be renewed. A person with an expired registration is required to apply for a new firearms qualification in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until that person has been issued a new firearms qualification card by the bureau.

(d) Paragraph (2) of subdivision (b) shall not apply to a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who is authorized to carry a firearm in the course of the officer's duties and who has successfully completed requalification training or to a federal qualified law enforcement officer, as defined in Section 926B of Title 18 of the United States Code, who is authorized to carry a firearm in the course of the officer's duties and who has successfully completed requalification training.

SEC. 11.

Section 7561.2 is added to the Business and Professions Code, to read:

7561.2.

Notwithstanding any other law, the failure of any person licensed to do business as a corporation or limited liability company in this state to be registered and in good standing with the Secretary of State and the Franchise Tax Board after notice from the bureau shall result in the automatic suspension of the licensee by operation of law. The bureau shall notify the licensee in writing of its failure to be registered and in good standing with the Secretary of State or Franchise Tax Board, or both, and that the licensee shall be suspended 30 days from the date of the notice if the licensee does not provide proof satisfactory to the bureau that it is properly registered and in good standing with the Secretary of State or Franchise Tax Board, or both. Reinstatement may be made at any time following the suspension by providing proof satisfactory to the

bureau that the license is properly registered and in good standing and the payment of the reinstatement fee as prescribed by this chapter.

SEC. 12.

Section 7570 of the Business and Professions Code is amended to read:

7570.

The fees prescribed by this chapter are as follows:

(a) The application and examination fee for an original license shall be at least three hundred forty dollars ($340) and may be increased to not more than three hundred seventy-four dollars ($374).

(b) The application fee for an original branch office certificate shall be at least ninety dollars ($90) and may be increased to not more than ninety-nine dollars ($99).

(c) The fee for an original license for a private investigator shall be at least three hundred eighty-five dollars ($385) and may be increased to not more than four hundred twenty-four dollars ($424).

(d) The renewal fee is as follows:

(1) For a license as a private investigator, the fee shall be at least two hundred sixty-five dollars ($265) and may be increased to not more than two hundred ninety-two dollars ($292).

(2) For a branch office certificate for a private investigator, the fee shall be at least sixty-five dollars ($65) and may be increased to not more than seventy-two dollars ($72).

(e) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration.

(f) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(g) The fee for reexamination of an applicant or their qualified manager shall be at least sixty dollars ($60) and may be increased to not more than sixty-six dollars ($66).

(h) The processing fee for the assignment of a license pursuant to Section 7530 shall be at least four hundred dollars ($400) and may be increased to not more than four hundred forty dollars ($440).

(i) The firearms permit fee shall be at least one hundred dollars ($100), but shall not exceed one hundred ten dollars ($110).

(j) The firearms permit renewal fee shall be at least eighty dollars ($80), but shall not exceed eighty-eight dollars ($88).

(k) The replacement fee for a lost or destroyed registration card, license, certificate, or permit authorized by this chapter shall be twenty-five dollars ($25). A request to replace a lost or destroyed registration card, license, certificate, or permit shall be made in the manner prescribed by the bureau.

(l) The fee for a Certificate of Licensure, as specified in Section 7528, shall be twenty-five dollars ($25).

(m) The fee for an endorsed verification of licensure, certification, or permit shall be twenty-five dollars ($25). The verification document shall include the history and current status of the license, certificate, or permit number, the date of the endorsement, an embossed seal, and the signature of the chief.

(n) The reinstatement fee following a suspension pursuant to subdivision (e) of Section 7520.3 shall be no more than 50 percent of the renewal fee.

(o) The reinstatement fee following a suspension pursuant to Section 7561.2 shall be 25 percent of the renewal fee.

SEC. 13.

Section 7574.35 of the Business and Professions Code is amended to read:

7574.35.

The fee for an endorsed verification of registration shall be twenty-five dollars ($25). The verification document shall include the registration number the registration history and current status, the date of the endorsement, an embossed seal, and the signature of the chief.

SEC. 14.

Section 7574.36 is added to the Business and Professions Code, immediately following Section 7574.35, to read:

7574.36.

(a) Notwithstanding any other law, the failure of any person licensed to do business as a corporation or limited liability company in this state to be registered and in good standing with the Secretary of State and the Franchise Tax Board after notice from the bureau shall result in the automatic suspension of the licensee by operation of law. The bureau shall notify the licensee in writing of its failure to be registered and in good standing with the Secretary of State or Franchise Tax Board, or both, and that the licensee shall be suspended 30 days from the date of the notice if the licensee does not provide proof satisfactory to the bureau that it is properly registered and in good standing with the Secretary of State or Franchise Tax Board, or both. Reinstatement may be made at any time following the suspension by providing proof satisfactory to the

bureau that the license is properly registered and in good standing and the payment of the reinstatement fee as prescribed by this chapter.

(b) The reinstatement fee following a suspension pursuant to this section shall be 25 percent of the renewal fee.

SEC. 15.

Section 7583.23 of the Business and Professions Code is amended to read:

7583.23.

The bureau shall issue a firearms permit when all of the following conditions are satisfied:

(a) The applicant is a licensee, a qualified manager of a licensee, or a registered security guard subject to the following:

(1) The firearms permit may only be associated with the following:

(A) A sole owner of a sole ownership licensee, pursuant to Section 7582.7 or 7525.1.

(B) A partner of a partnership licensee, pursuant to Section 7582.7 or 7525.1.

(C) A qualified manager of a licensee, pursuant to Section 7536 or 7582.22.

(D) A security guard registrant.

(2) If the firearms permit is associated with a security guard registration, they are subject to the provisions of Section 7583.47, regardless of any other license possessed or associated with the firearms permit.

(b) (1) A bureau-certified firearms training instructor has certified that the applicant has successfully completed a written examination prepared by the bureau and training course in the carrying and use of firearms approved by the bureau.

(2) An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the requirements of paragraph (1) and shall instead carry out the requirements under another bureau-certified firearms training instructor.

(c) The applicant has filed with the bureau a classifiable fingerprint card, a completed application for a firearms permit on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct. In lieu of a classifiable fingerprint card, the applicant may submit fingerprints into an electronic fingerprinting system administered by the Department of Justice. An applicant who submits their fingerprints by electronic means shall have their fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic

fingerprinting. The terminal operator may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(d) The applicant is at least 21 years of age and the bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of their duties, presents no apparent threat to the public safety, or that the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(e) The applicant has produced evidence to the firearm training facility that the applicant is a citizen of the United States or has permanent legal immigration status in the United States. Evidence of citizenship or permanent legal immigration status shall be deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, United States Department of Justice, Immigration and Naturalization Service Form I-151 or United States Citizenship and Immigration Services Form I-551 (Permanent Resident Card), naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(f) The application is accompanied by the application fees prescribed in this chapter.

(g) (1) If the applicant is a registered security guard and they have been found capable of exercising appropriate judgment, restraint, and self-control, for the purposes of carrying and using a firearm during the course of their duties, pursuant to Section 7583.47.

(2) The requirement in paragraph (1) shall be completed within six months preceding the date the application is submitted to the bureau.

SEC. 16.

Section 7583.32 of the Business and Professions Code is amended to read:

7583.32.

(a) A firearms qualification card expires two years from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card shall file an application for renewal at least 60 days prior to the card’s expiration. A person whose card has expired shall not carry a firearm until that person has been issued a renewal card by the bureau.

(b) The bureau shall not renew a firearms qualification card unless all of the following conditions are satisfied:

(1) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(2) (A) The applicant has requalified on the range and has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(B) An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the requirements of subparagraph (A) and shall instead carry out the requirements under another bureau-certified firearms training instructor.

(3) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(4) The applicant has produced evidence to the firearm training facility, either upon receiving their original qualification card or upon filing for renewal of that card, that the applicant is a citizen of the United States or has permanent legal immigration status in the United States. Evidence of citizenship or permanent legal immigration status is that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, the United States Department of Justice, Immigration and Naturalization Service Form I-151 or United States Citizenship and Immigration Services Form I-551 (Permanent Resident Card), naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(c) An expired firearms qualification card may not be renewed. A person with an expired registration is required to apply for a new firearms qualification in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until that person has been issued a new firearms qualification card by the bureau.

(d) Paragraph (2) of subdivision (b) shall not apply to a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who is authorized to carry a firearm in the course of the officer's duties and who has successfully completed requalification training or to a federal qualified law enforcement officer, as defined in Section 926B of Title 18 of the United States Code (18 U.S.C. Sec. 926B), who is authorized to carry a firearm in the course of the officer's duties and who has successfully completed requalification training.

SEC. 17.

Section 7587.11 is added to the Business and Professions Code, to read:

7587.11.

Notwithstanding any other law, the failure of any person licensed to do business as a corporation in this state to be registered and in good standing with the Secretary of State and the Franchise Tax Board after notice from the bureau shall result in the

automatic suspension of the licensee by operation of law. The bureau shall notify the licensee in writing of its failure to be registered and in good standing with the Secretary of State or Franchise Tax Board, or both, and that the licensee shall be suspended 30 days from the date of the notice if the licensee does not provide proof satisfactory to the bureau that it is properly registered and in good standing with the Secretary of State or Franchise Tax Board, or both. Reinstatement may be made at any time following the suspension by providing proof satisfactory to the bureau that the license is properly registered and in good standing and the payment of the reinstatement fee as prescribed by this chapter.

SEC. 18.

Section 7588 of the Business and Professions Code is amended to read:

7588.

The fees prescribed by this chapter are as follows:

(a) The application and examination fee for an original license for a private patrol operator shall be at least five hundred fifty dollars ($550) and may be increased to an amount not to exceed six hundred five dollars ($605).

(b) The application fee for an original branch office certificate for a private patrol operator shall be at least two hundred fifty dollars ($250) and may be increased to an amount not to exceed two hundred seventy-five dollars ($275).

(c) The fee for an original license for a private patrol operator shall be at least seven hundred seventy dollars ($770) and may be increased to an amount not to exceed eight hundred forty-seven dollars ($847).

(d) The renewal fee is as follows:

(1) For a license as a private patrol operator, the fee shall be at least nine hundred dollars ($900) and may be increased to an amount not to exceed nine hundred ninety dollars ($990).

(2) For a branch office certificate for a private patrol operator, the fee shall be at least one hundred fifty dollars ($150) and may be increased to an amount not to exceed one hundred sixty-five dollars ($165).

(e) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration but not less than twenty-five dollars ($25).

(f) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(g) The fee for reexamination of an applicant or the applicant's manager shall be at least sixty dollars ($60) and may be increased to an amount not to exceed sixty-six dollars ($66).

(h) Registration fees pursuant to this chapter are as follows:

(1) A registration fee for a security guard shall be at least fifty-five dollars ($55) and may be increased to an amount not to exceed sixty dollars ($60).

(2) A security guard registration renewal fee shall be at least forty dollars ($40) and may be increased to an amount not to exceed forty-four dollars ($44).

(i) Fees to carry out other provisions of this chapter are as follows:

(1) A firearms permit fee shall be at least one hundred dollars ($100) and may be increased to an amount not to exceed one hundred ten dollars ($110).

(2) A firearms permit renewal fee shall be at least eighty dollars ($80) and may be increased to an amount not to exceed eighty-eight dollars ($88).

(3) An initial baton permit fee shall be sixty dollars ($60) and may be increased to an amount not to exceed sixty-six dollars ($66).

(4) An application fee for certification as a firearms training facility shall be at least eight hundred dollars ($800) and may be increased to an amount not to exceed eight hundred eighty dollars ($880).

(5) A renewal fee for certification as a firearms training facility shall be at least seven hundred fifty dollars ($750) and may be increased to an amount not to exceed eight hundred twenty-five dollars ($825).

(6) An application fee for certification as a baton training facility shall be at least seven hundred dollars ($700) and may be increased to an amount not to exceed seven hundred seventy dollars ($770).

(7) A renewal fee for certification as a baton training facility shall be at least five hundred fifty dollars ($550) and may be increased to an amount not to exceed six hundred five dollars ($605).

(8) An application fee for certification as a firearms or baton training instructor shall be at least three hundred fifty dollars ($350) and may be increased to an amount not to exceed three hundred eighty-five dollars ($385).

(9) A renewal fee for certification as a firearms training instructor shall be at least three hundred dollars ($300) and may be increased to an amount not to exceed three hundred thirty dollars ($330).

(10) A renewal fee for certification as a baton training instructor shall be at least two hundred seventy-five dollars ($275) and may be increased to an amount not to exceed three hundred three dollars ($303).

(11) The fee for the replacement of a lost or destroyed registration card, license, certificate, or permit authorized by this chapter shall be twenty-five dollars ($25). The request for a replacement of a registration card, license, certificate, or permit shall be made in the manner prescribed by the bureau.

(12) The fee for a Certificate of Licensure, as specified in Section 7582.11, shall be twenty-five dollars ($25).

(j) The fee for an endorsed verification of registration, licensure, certification, or permit shall be twenty-five dollars ($25).The verification document shall include the registration, license, certificate, or permit number, the registration, license, certificate, or permit history and current status, the date of the endorsement, an embossed seal, and the signature of the chief.

(k) The reinstatement fee following a suspension pursuant to Section 7587.11 shall be 25 percent of the renewal fee.

SEC. 19.

Section 7590.1 of the Business and Professions Code is amended to read:

7590.1.

The following terms as used in this chapter have the meaning expressed in this article:

(a) (1) “Advertisement” means:

(A) Any written or printed communication for the purpose of soliciting, describing, or promoting the licensed business of the licensee, including a brochure, letter, pamphlet, newspaper, periodical, publication, or other writing.

(B) A directory listing caused or permitted by the licensee which indicates their licensed activity.

(C) A radio, television, or similar airwave transmission that solicits or promotes the licensed business of the licensee.

(2) “Advertisement” does not include any of the following:

(A) Any printing or writing used on buildings, vehicles, uniforms, badges, or other property where the purpose of the printing or writing is identification.

(B) Any printing or writing on communications, memoranda, or any other writings used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of business.

(C) Any printing or writing on novelty objects used in the promotion of the licensee’s business where the printing of the information required by this chapter would be impractical due to the available area or surface.

(b) “Alarm agent” means a person employed by an alarm company operator whose duties, being physically conducted within the state, include selling on premises, altering, installing, maintaining, moving, repairing, replacing, servicing, responding, or monitoring an alarm system, and those ancillary devices connected to and controlled by the alarm system, including supplementary smoke detectors, or a person who manages or supervises a person employed by an alarm company to perform any of the duties described in this subdivision or any person in training for any of the duties described in this subdivision.

(c) (1) “Alarm system” means an assembly of equipment and devices arranged to detect a hazard or signal the presence of an off-normal situation.

(2) “Alarm system” does not include a fire protection system, as defined in the California Fire Code.

(d) “Branch office” means any location, other than the principal place of business of the licensee, which is licensed as set forth in Article 11 (commencing with Section 7599.20).

(e) “Branch office manager” means an individual designated by the qualified manager to manage the licensee’s branch office and who has met the requirements as set forth in Article 11 (commencing with Section 7599.20).

(f) “Bureau” means the Bureau of Security and Investigative Services.

(g) “Chief” means the Chief of the Bureau of Security and Investigative Services.

(h) “Deadly weapon” means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, or metal knuckles; any dirk, dagger, pistol, revolver, or any other firearm; any knife having a blade longer than five inches; any razor with an unguarded blade; or any metal pipe or bar used or intended to be used as a club.

(i) “Department” means the Department of Consumer Affairs.

(j) “Director” means the Director of Consumer Affairs.

(k) “Employee” means an individual who works for an employer, is listed on the employer’s payroll records, and is under the employer’s direction and control.

(l) “Employer” means a person who employs an individual for wages or salary, lists the individual on the employer’s payroll records, and withholds all legally required deductions and contributions.

(m) “Employer-employee relationship” means an individual who works for another and where the individual’s name appears on the payroll records of the employer.

(n) “Firearm permit” means and includes “firearms permit,” “firearms qualification card,” “firearms qualification,” and “firearms qualification permit.”

(o) “Firearms permit” means a permit issued by the bureau, pursuant to Article 6 (commencing with Section 7596), to a licensee, a qualified manager, or an alarm agent, to carry an exposed firearm while on duty.

(p) “Licensee” means a business entity, whether an individual, partnership, limited liability company, or corporation licensed under this chapter.

(q) “Manager” means an individual designated under an operating agreement of a manager-managed limited liability company who is responsible for performing the management functions for the limited liability company specified in subdivision (c) of Section 17704.07 of the Corporations Code.

(r) “Member” means an individual who is a member of a limited liability company as defined in subdivision (p) of Section 17701.02 of the Corporations Code.

(s) “Person” means any individual, firm, company, association, organization, partnership, limited liability company, or corporation.

(t) “Qualified manager” means an individual who is in active control, management, and direction of the licensee’s business, and who is in possession of a current and valid qualified manager’s certificate pursuant to this chapter.

(u) “Registrant” means any person registered or who has applied for registration under this chapter.

(v) “Residential sales agreement” means and includes an agreement between an alarm company operator and an owner or tenant for the purchase of an alarm system to be utilized in the personal residence of the owner or tenant.

SEC. 20.

Section 7590.2 of the Business and Professions Code is amended to read:

7590.2.

(a) An “alarm company operator” means a person who, for any consideration whatsoever, engages in business or accepts employment to install, maintain, alter, sell on premises, monitor, or service alarm systems, and those ancillary devices connected to and controlled by the alarm system, including supplementary smoke detectors, or who responds to alarm systems except for any alarm agent. “Alarm company operator,” includes any entity that is retained by a licensed alarm company operator, a customer, or any other person or entity, to monitor one or more alarm systems, whether or not the entity performs any other duties within the definition of an alarm company operator. The provisions of this chapter, to the extent that they can be made applicable, shall be applicable to the duties and functions performed in monitoring alarm systems.

(b) A person licensed as an alarm company operator shall not conduct any investigation or investigations except those that are incidental to personal injury, or the theft, loss,

embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which they have been hired or engaged to protect.

(c) A person who is licensed, certified, or registered pursuant to this chapter is exempt from locksmithing requirements, pursuant to subdivision (e) of Section 6980.12, if the duties performed that constitute locksmithing are performed in combination with the installation, maintenance, moving, repairing, replacing, servicing, or reconfiguration of an alarm system, as defined in Section 7590.1, and limited to work on electronic locks or access control devices that are controlled by an alarm system control device, including the removal of existing hardware.

SEC. 21.

Section 7590.6 is added to the Business and Professions Code, immediately following Section 7590.5, to read:

7590.6.

(a) Notwithstanding any law, any application for a license, registration, certification, or permit required by this chapter shall be submitted electronically through the online licensing and enforcement platform, including, but not limited to, applications for an original, renewal, reinstatement, or replacement license, registration, certificate, or permit.

(b) This section shall become operative on July 1, 2022.

SEC. 22.

Section 7592.9 of the Business and Professions Code is amended to read:

7592.9.

Notwithstanding Section 7592.8, a city, county, or city and county that requires a person who owns, leases, rents, or otherwise possesses an alarm system to obtain a local use permit to operate the alarm system shall not fine an alarm company for requesting dispatch to a customer, whether residential or commercial, that does not have a current local use permit if either apply:

(a) It was not the alarm company's legal responsibility to obtain the local use permit for the customer or renew the local use permit for the customer.

(b) If it is the alarm company's legal responsibility to renew the local use permit for the customer, the alarm company was not notified that the customer's local use permit had expired.

(c) Except as otherwise required by this chapter, this section shall not be construed to require the bureau to investigate, hear, or adjudicate a cause of action between an

alarm company and a city, county, or city and county that pertains to liability for penalties imposed under an ordinance enacted by the city, county, or city and county.

SEC. 23.

Section 7593.1 of the Business and Professions Code, as amended by Section 10 of Chapter 406 of the Statutes of 2018, is amended to read:

7593.1.

(a) Each individual applicant, partner of a partnership, designated officer of a corporation, member, officer, or manager of a limited liability company, and a qualified manager shall submit with the application one personal identification form provided by the chief, with two legible sets of fingerprints, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background check, and personal description of each such person, respectively. The identification form shall include residence addresses and employment history for the previous five years.

(b) The bureau may impose a fee not to exceed three dollars ($3) for processing classifiable fingerprint cards submitted by applicants excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

(c) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 24.

Section 7593.1 of the Business and Professions Code, as amended by Section 11 of Chapter 406 of the Statutes of 2018, is amended to read:

7593.1.

(a) Each individual applicant, partner of a partnership, designated officer of a corporation, ~~member, officer, or manager of a limited liability company,~~ and a qualified manager shall submit with the ~~application~~ *application,* one personal identification form provided by the chief, with two legible sets of fingerprints, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background check, and personal description of each such person, respectively. The identification form shall include residence addresses and employment history for the previous five years.

(b) The bureau may impose a fee not to exceed three dollars ($3) for processing classifiable fingerprint cards submitted by applicants excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

(c) This section shall ~~remain in effect only until January 1, 2024, and as of that date is repealed.~~ *become operative on January 1, 2024.*

SEC. 25.

Section 7593.7 of the Business and Professions Code is amended to read:

7593.7.

The chief shall issue a pocket identification card to the owner; any partner, officer, member, or manager active in the licensed business; and qualified manager. The chief shall determine the form and content of the card.

SEC. 26.

Section 7596.3 of the Business and Professions Code is amended to read:

7596.3.

The director shall issue a firearms permit when all of the following conditions exist:

(a) The applicant is a licensee, a qualified manager of a licensee, a designated branch office manager of a licensee, or a registered alarm agent. A firearms permit may only be associated with the following:

(1) A sole owner of a sole ownership licensee.

(2) A partner of a partnership licensee.

(3) A qualified manager of a licensee.

(4) A designated branch office manager of a licensee.

(5) A registered alarm agent.

(b) The applicant has filed with the bureau a classifiable fingerprint card, a completed application for a firearms permit on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct. In lieu of a classifiable fingerprint card, the applicant may submit fingerprints into an electronic fingerprinting system administered by the Department of Justice. An applicant who submits their fingerprints by electronic means shall have their fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic fingerprinting. The terminal operator may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(c) (1) A bureau-certified firearms training instructor certifies that the applicant has successfully completed a written examination prepared by the bureau and a training course in the carrying and use of firearms approved by the bureau.

(2) An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the ~~requirement~~ *requirements* of paragraph (1) and shall instead carry out the requirements under another bureau-certified firearms training instructor.

(d) The applicant has provided the bureau with evidence that the applicant has completed a course in the exercise of the powers to arrest.

(e) The applicant is at least 21 years of age and the bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of their duties, presents no apparent threat to the public safety, or the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(f) The applicant has produced evidence to the firearm training facility that the applicant is a citizen of the United States or has permanent legal immigration status in the United States. Evidence of citizenship or permanent legal immigration status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or United States Citizenship and Immigration Services Form I-551 (Permanent Resident Card), naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(g) The application is accompanied by the fee prescribed in this chapter.

~~(h) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.~~

SEC. 26.1.

Section 7596.3 of the Business and Professions Code is amended to read:

7596.3.

The director shall issue a firearms permit when all of the following conditions exist:

(a) The applicant is a licensee, a qualified manager of a licensee, a designated branch office manager of a licensee, or a registered alarm agent. A firearms permit may only be associated with the following:

(1) A sole owner of a sole ownership licensee.

(2) A partner of a partnership licensee.

(3) A qualified manager of a licensee.

(4) A designated branch office manager of a licensee.

(5) A registered alarm agent.

(b) The applicant has filed with the bureau a classifiable fingerprint card, a completed application for a firearms permit on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct. In lieu of a classifiable fingerprint card, the applicant may submit fingerprints into an electronic fingerprinting system administered by the Department of Justice. An applicant who submits their fingerprints by electronic means shall have their fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic fingerprinting. The terminal operator may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(c) (1) A bureau-certified firearms training instructor certifies that the applicant has successfully completed a written examination prepared by the bureau and a training course in the carrying and use of firearms approved by the bureau.

(2) An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the ~~requirement~~ *requirements* of paragraph (1) and shall instead carry out the requirements under another bureau-certified firearms training instructor.

(d) The applicant has provided the bureau with evidence that the applicant has completed a course in the exercise of the powers to arrest.

(e) The applicant is at least 21 years of age and the bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of their duties, presents no apparent threat to the public safety, or the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(f) The applicant has produced evidence to the firearm training facility that the applicant is a citizen of the United States or has permanent legal immigration status in the United States. Evidence of citizenship or permanent legal immigration status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or United States Citizenship and Immigration Services Form I-551 (Permanent Resident Card), naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(g) The application is accompanied by the fee prescribed in this chapter.

(h) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 26.2.

Section 7596.3 is added to the Business and Professions Code, to read:

7596.3.

The director shall issue a firearms permit when all of the following conditions exist:

(a) The applicant is a licensee, a qualified manager of a licensee, a designated branch office manager of a licensee, or a registered alarm agent. A firearms permit may only be associated with the following:

(1) A sole owner of a sole ownership licensee.

(2) A partner of a partnership licensee.

(3) A qualified manager of a licensee.

(4) A designated branch office manager of a licensee.

(5) A registered alarm agent.

(b) The applicant has filed with the bureau a classifiable fingerprint card, a completed application for a firearms permit on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct. In lieu of a classifiable fingerprint card, the applicant may submit fingerprints into an electronic fingerprinting system administered by the Department of Justice. An applicant who submits their fingerprints by electronic means shall have their fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic fingerprinting. The terminal operator may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(c) (1) A bureau-certified firearms training instructor certifies that the applicant has successfully completed a written examination prepared by the bureau and a training course in the carrying and use of firearms approved by the bureau.

(2) An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the requirements of paragraph (1) and shall instead carry out the requirements under another bureau-certified firearms training instructor.

(d) The applicant has provided the bureau with evidence that the applicant has completed a course in the exercise of the power to arrest and the appropriate use of force.

(e) The applicant is at least 21 years of age and the bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of their duties, presents no apparent threat to the public safety, or the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(f) The applicant has produced evidence to the firearm training facility that the applicant is a citizen of the United States or has permanent legal immigration status in the United States. Evidence of citizenship or permanent legal immigration status shall be that

deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or United States Citizenship and Immigration Services Form I-551 (Permanent Resident Card), naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(g) The application is accompanied by the fee prescribed in this chapter.

(h) This section shall become operative on January 1, 2023.

SEC. 27.

Section 7596.7 of the Business and Professions Code is amended to read:

7596.7.

A firearms qualification card expires two years from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card shall file an application for renewal at least 60 days prior to the card's expiration. A person whose card has expired shall not carry a firearm until the person has been issued a renewal card by the bureau.

The director shall not renew a firearms qualification card unless all of the following conditions exist:

(a) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(b) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(c) (1) The applicant has requalified on the range and has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(2) An applicant who is a bureau-certified firearms training instructor is prohibited from self-certifying as having successfully carried out the requirements of paragraph (1) and shall instead carry out the requirements under another bureau-certified firearms training instructor.

(d) The applicant has produced evidence to the firearm training facility, either upon receiving an original qualification card or upon filing for renewal of that card, that the applicant is a citizen of the United States or has permanent legal immigration status in the United States. Evidence of citizenship or permanent legal immigration status is that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting

possession of firearms by persons unlawfully in the United States and may include, but not be limited to, United States Citizenship and Immigration Services Form I-551 (Permanent Resident Card), naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(e) An expired firearms qualification card may not be renewed. A person with an expired firearms qualification card is required to apply for a new card in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until the person has been issued a new firearms qualification card by the bureau.

SEC. 28.

Section 7598.14 of the Business and Professions Code is amended to read:

7598.14.

Upon approval of an application for registration, the chief shall cause to be issued to the applicant, at their last known address, a registration card in a form approved by the director. The applicant may request to be issued an enhanced pocket card that shall be composed of a durable material and may incorporate technologically advanced security features. The bureau may charge a fee sufficient to reimburse the department's costs for furnishing the enhanced license. The fee charged may not exceed the actual costs for system development, maintenance, and processing necessary to provide this service, and may not exceed six dollars ($6). If the applicant does not request an enhanced card, the department shall issue a standard card at no cost to the applicant. Every person, while engaged in any activity for which registration is required, shall display their valid pocket card as provided by regulation.

SEC. 29.

Section 7598.51 of the Business and Professions Code is amended to read:

7598.51.

(a) (1) An alarm agent shall carry on their person, while on duty, either a valid and current registration card or a temporary application for registration and a valid photo identification. The registration card or temporary application may be in a digital format.

(2) The temporary application shall include the application number that is assigned at the time that the application is received.

(b) For purposes of this section, "digital format" shall include, but not be limited to, an easily legible screenshot or image of the registration card or temporary application.

(c) A fine of one hundred fifty dollars ($150) may be assessed for each violation of subdivision (a).

SEC. 30.

Section 7599 of the Business and Professions Code is amended to read:

7599.

Except as otherwise provided in this chapter, an applicant for a qualified manager certificate for an alarm company operator license shall:

(a) Have had at least two years' experience in alarm company work or the equivalent thereof as determined by the director.

A year's experience shall consist of not less than 2,000 hours of actual compensated alarm company work performed by each applicant preceding the filing of an application.

Applicants shall substantiate the claimed years and hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from employers on forms prescribed by the director, subject to independent verification by the director as they may determine. In the event the applicant is unable to supply a written certification from an employer, the applicant may offer such other written certifications as may be properly considered by the director. In addition, applicants shall supply such evidence for consideration, as may be required by the director.

(b) Be at least 18 years of age.

(c) Complete and forward to the bureau an application for a qualified manager certificate for an alarm company operator license, which shall be on a form prescribed by the director. The application shall be accompanied by two classifiable sets of the applicant's fingerprints.

(d) Pass the required examination.

(e) Pay the required application and examination fees to the chief.

SEC. 31.

Section 7599.54 of the Business and Professions Code is amended to read:

7599.54.

(a) Except as provided by Section 7599.56, every agreement, including, but not limited to, lease agreements, monitoring agreements, and service agreements, including all labor, services, and materials to be provided for the installation of an alarm system, shall be in writing. Except as provided by Section 7599.56, all amendments subject to the provisions of this section to an initial agreement shall be in writing. Each initial agreement shall contain, but not be limited to, the following:

(1) (A) The name, business address, business telephone number, and, except as provided in subparagraphs (B) and (C), license number of the licensed alarm company operator and the name and registration number of any alarm agent who solicited or negotiated the agreement.

(B) An alarm agent that is working with a temporary registration pursuant to Section 7598.7 shall include the application number in lieu of the registration number.

(C) This paragraph does not apply to an agreement that was not solicited or negotiated by a registered alarm agent.

(2) The approximate dates when the work will begin and be substantially completed.

(3) A description of the work to be done, a description of the materials to be used, and the agreed consideration for the work.

(4) A disclosure that alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, including the bureau's current address and contact information.

(5) A description of the alarm system including the major components thereof and services to be provided to the purchaser once the alarm is installed, including response or monitoring services, if any.

(6) Other matters agreed to by the parties of the contract. The agreement shall be legible and shall be in a form as to clearly describe any other document which is to be incorporated into the contract, and, before any work is done, the client shall be furnished with a copy of the written agreement signed by the licensee.

(7) A statement setting forth that upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system.

(8) In the event a mechanic's lien is to be utilized, a notice-to-owner statement which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in the office of a contractor's payment bond for private work.

(9) For residential agreements entered into on or after January 1, 2017, that include an automatic renewal provision renewing the agreement for a period of more than one month, a clear and distinct disclosure shall be included separate from the terms and conditions of the agreement advising the consumer that the agreement they are entering into contains an automatic renewal provision. The disclosure shall include the length of time of the renewal term and specify that failure to provide notification of nonrenewal to the licensee, as required in the agreement, will result in the automatic

renewal of the agreement. The consumer shall acknowledge being advised of the automatic renewal provision by signing or initialing the disclosure. The disclosure may be included on the same document as the right to cancel form required by Section 1689.7 of the Civil Code. The automatic renewal provision shall be void and invalid without a separate acknowledgment of the disclosure by the consumer.

(10) In addition to the above, every initial residential sales and lease agreement, the total cost which over the time period fixed by the agreement exceeds two hundred fifty dollars ($250), including the cost of all labor, service, or material to be provided by the licensee for the installation, shall include, but not be limited to, the following:

(A) A schedule of payments showing the amount of each payment as a sum in dollars and cents. This schedule of payments shall be referenced to the amount of work for services to be performed or to any materials or equipment to be supplied.

(B) If the payment schedule contained in the agreement provides for a downpayment to be paid to the licensee by the owner or the tenant before commencement of the work, that downpayment shall not exceed one thousand dollars ($1,000) or 10 percent of the contract price, excluding finance charges, whichever is the lesser.

(C) In no event shall the payment schedule provide that the licensee receive, nor shall the licensee actually receive, payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the licensee may receive an initial downpayment authorized by subparagraph (B). A failure by the licensee, without legal excuse, to substantially commence work within 20 days of the approximate date specified in the contract when work is to commence, shall postpone the next succeeding payment to the licensee for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur.

(D) A notice-to-owner statement which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state’s mechanics’ lien laws and the rights and responsibilities of an owner of property and a contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in the office of a contractor’s payment bond for private work.

(E) A description of what constitutes substantial commencement of work pursuant to the contract.

(F) A disclosure that failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act.

(G) A disclosure informing the buyer of any potential permit fees which may be required by local jurisdictions concerning the monitoring of an existing alarm system.

(H) This section shall not be construed to prohibit the parties to a residential alarm system sale contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

(b) A violation of this section or failure to commence work pursuant to subparagraph (F) of paragraph (10) of subdivision (a) may result in a fine of one hundred dollars ($100) for the first violation and a fine of five hundred dollars ($500) for each subsequent violation.

SEC. 32.

Section 7599.62 is added to the Business and Professions Code, to read:

7599.62.

Notwithstanding any other law, the failure of any person licensed to do business as a corporation or limited liability company in this state to be registered and in good standing with the Secretary of State and the Franchise Tax Board after notice from the bureau shall result in the automatic suspension of the licensee by operation of law. The bureau shall notify the licensee in writing of its failure to be registered and in good standing with the Secretary of State or the Franchise Tax Board, or both, and that the licensee shall be suspended 30 days from the date of the notice if the licensee does not provide proof satisfactory to the bureau that it is properly registered and in good standing with the Secretary of State or the Franchise Tax Board, or both. Reinstatement may be made at any time following the suspension by providing proof satisfactory to the bureau that the licensee is properly registered and in good standing and the payment of the reinstatement fee as prescribed by this chapter.

SEC. 33.

Section 7599.70 of the Business and Professions Code is amended to read:

7599.70.

The bureau shall establish and assess fees and penalties for licensure and registration as follows:

(a) An alarm company operator license application fee shall be at least three hundred seventy dollars ($370) and may be increased to an amount not to exceed four hundred seven dollars ($407).

(b) An original license fee for an alarm company operator license shall be at least six hundred dollars ($600) and may be increased to an amount not to exceed six hundred sixty dollars ($660). A renewal fee for an alarm company operator license shall be seven hundred fifty dollars ($750) and may be increased to an amount not to exceed eight hundred twenty-five dollars ($825).

(c) A qualified manager certificate application and examination fee shall be at least three hundred fifty dollars ($350) and may be increased to an amount not to exceed three hundred eighty-five dollars ($385).

(d) A renewal fee for a qualified manager certificate shall be at least two hundred twenty-five dollars ($225) and may be increased to an amount not to exceed two hundred forty-eight dollars ($248).

(e) An original license fee for a branch office certificate shall be at least two hundred fifty dollars ($250) and may be increased to an amount not to exceed two hundred seventy-five dollars ($275). A renewal fee for a branch office certificate shall be at least one hundred fifty dollars ($150) and may be increased to an amount not to exceed one hundred sixty-five dollars ($165).

(f) Notwithstanding Section 163.5, the reinstatement fee as required by Sections 7593.12 and 7598.17 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) A fee for reexamination of an applicant for a qualified manager shall be at least sixty dollars ($60) and may be increased to an amount not to exceed sixty-six dollars ($66).

(h) An initial registration fee for an alarm agent shall be at least fifty-five dollars ($55) and may be increased to an amount not to exceed sixty dollars ($60).

(i) A registration renewal fee for an alarm agent shall be at least forty dollars ($40) and may be increased to an amount not to exceed forty-four dollars ($44).

(j) A firearms permit fee shall be at least one hundred dollars ($100) and may be increased to an amount not to exceed one hundred ten dollars ($110), and a firearms permit renewal fee shall be at least eighty dollars ($80) and may be increased to an amount not to exceed eighty-eight dollars ($88).

(k) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(l) The processing fee required pursuant to Section 7598.14 is the amount equal to the expenses incurred to provide a photo identification card.

(m) The fee for a Certificate of Licensure, as specified in Section 7593.8, shall be twenty-five dollars ($25).

(n) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(o) The processing fee for the assignment of an alarm company operator license pursuant to Section 7593.15 shall be at least four hundred dollars ($400) and may be increased to an amount not to exceed four hundred forty dollars ($440).

(p) The fee for the replacement of a lost or destroyed registration card, license, certificate, or permit authorized by this chapter shall be twenty-five dollars ($25). The request for a replacement of a registration card, license, certificate, or permit shall be made in the manner prescribed by the bureau.

(q) The fee for an endorsed verification of licensure, certification, registration, or permit shall be twenty-five dollars ($25). The verification document shall include the license, certificate, registration, or permit number, the license, certificate, registration, or permit history and current status, the date of the endorsement, an embossed seal, and the signature of the chief.

(r) The reinstatement fee following a suspension pursuant to subdivision (f) of Section 7599.34 and Section 7599.62 shall be 25 percent of the renewal fee.

SEC. 34.

Section 10140.6 of the Business and Professions Code is amended to read:

10140.6.

(a) A real estate licensee shall not publish, circulate, distribute, or cause to be published, circulated, or distributed in any newspaper or periodical, or by mail, any matter pertaining to any activity for which a real estate license is required that does not contain a designation disclosing that the licensee is performing acts for which a real estate license is required.

(b) (1) A real estate licensee shall disclose their name, license identification number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, if that licensee is a mortgage loan originator, and responsible broker's identity, as defined in Section 10015.4, on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting in a manner that requires a real estate license or mortgage loan originator license endorsement in those transactions. The commissioner may adopt regulations identifying the materials in which a licensee must disclose a license identification number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, and responsible broker's identity.

(2) A real estate licensee who is a natural person and who legally changes the surname in which their license was originally issued may continue to utilize their former surname for the purpose of conducting business associated with their license so long as both names are filed with the department. Use of a former surname shall not constitute a fictitious name for the purposes of Section 10159.5.

(3) For purposes of this section, "solicitation materials" include business cards, stationery, advertising flyers, advertisements on television, in print, or electronic media, "for sale," rent, lease, "open house," and directional signs, and other materials designed

to solicit the creation of a professional relationship between the licensee and a consumer.

(4) Nothing in this section shall be construed to limit or change the requirement described in Section 10236.4 as applicable to real estate brokers.

(c) This section shall not apply to “for sale,” rent, lease, “open house,” and directional signs that do either of the following:

(1) Display the responsible broker’s identity, as defined in Section 10015.4, without reference to an associate broker or licensee.

(2) Display no licensee identification information.

(d) “Mortgage loan originator,” “unique identifier,” and “Nationwide Mortgage Licensing System and Registry” have the meanings set forth in Section 10166.01.

SEC. 35.

Section 22351 of the Business and Professions Code is amended to read:

22351.

(a) The certificate of registration of a registrant who is a natural person shall contain the following:

(1) The name, age, address, email address, and telephone number of the registrant.

(2) A statement, signed by the registrant under penalty of perjury, that the registrant has not been convicted of a felony, or, if the registrant has been convicted of a felony, a copy of a certificate of rehabilitation, expungement, or pardon.

(3) A statement that the registrant has been a resident of this state for a period of one year immediately preceding the filing of the certificate.

(4) A statement that the registrant will perform their duties as a process server in compliance with the provisions of law governing the service of process in this state.

(b) The certificate of registration of a registrant who is a partnership or corporation shall contain the following:

(1) The names, ages, addresses, email addresses, and telephone numbers of the general partners or officers.

(2) A statement, signed by the general partners or officers under penalty of perjury, that the general partners or officers have not been convicted of a felony.

(3) A statement that the partnership or corporation has been organized and existing continuously for a period of one year immediately preceding the filing of the certificate or

a responsible managing employee, partner, or officer has been previously registered under this chapter.

(4) A statement that the partnership or corporation will perform its duties as a process server in compliance with the provisions of law governing the service of process in this state.

(c) The county clerk shall retain the certificate of registration for a period of three years following the expiration date of the certificate, after which time the certificate may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the certificate is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 36.

Section 22452 of the Business and Professions Code is amended to read:

22452.

(a) The application for registration of a natural person shall contain all of the following statements about the applicant certified to be true:

(1) Name, age, address, email address, and telephone number.

(2) They have not been convicted of a felony.

(3) They will perform their duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about each general partner or corporate officer, and be certified to be true:

(1) The names, ages, addresses, email addresses, and telephone numbers of the general partners or officers.

(2) The general partners or officers have not been convicted of a felony.

(3) The partnership or corporation will perform its duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

(c) The county clerk shall retain the application for registration for a period of three years following the expiration date of the application, after which time the application may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the application is scanned, the scanned image shall be

retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

(d) A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation in the minimum amount of two thousand five hundred dollars ($2,500) and the maximum amount of twenty-five thousand dollars ($25,000). An action for a civil penalty under this provision may be brought by any public prosecutor in the name of the people of the State of California and the penalty imposed shall be enforceable as a civil judgment.

SEC. 37.

Section 8726.2 of the Health and Safety Code is amended to read:

8726.2.

(a) On or after January 1, 2021, a cemetery authority, its board of trustees, or its corporate trustee may apply to the Cemetery and Funeral Bureau to convert its endowment care fund from a net income distribution method to a unitrust distribution method.

(b) The bureau shall approve the application described in subdivision (a) only if all of the following conditions are met:

(1) The cemetery authority, its board of trustees, or its corporate trustee provides the investment objectives of the trust and those objectives promote the mutual goals of (A) growing the principal assets to sufficiently cover the cost of future and ongoing care and maintenance of the cemetery and (B) generating income to support the cemetery, as described in Section 8726.

(2) Evidence is provided that the cemetery authority, its board of trustees, or its corporate trustee will invest and manage the trust under the prudent investor rule, as described in Article 2.5 (commencing with Section 16045) of Chapter 1 of Part 4 of Division 9 of the Probate Code, including, but not limited to, the requirements of Section 16050 of the Probate Code.

(3) The cemetery authority, its board of trustees, or its corporate trustee demonstrates sufficient knowledge and expertise in investing and managing an endowment care fund.

(4) The unitrust amount is no more than 5 percent of the average net fair market value of the endowment care fund.

(5) A reserve is created for future maintenance, repair, restoration of property, or embellishments in the cemetery for use when the endowment fund has inadequate funds for full distribution, as described in subparagraph (C) of paragraph (6). The

cemetery authority, its board of trustees, or its corporate trustee may set aside a portion of the unitrust amount for the reserve.

(6) (A) The distribution of the unitrust amount may be made to the cemetery authority on a monthly, quarterly, semiannual, or annual basis, unless the endowment care fund has inadequate funds for full distribution.

(B) An endowment care fund has inadequate funds for full distribution if either of the following events occur:

(i) The net fair market value of the endowment care fund, after the distribution, is less than 80 percent of the aggregate fair market value of the endowment care fund as of the end of the immediate preceding fiscal year.

(ii) The endowment care fund is less than the cumulative total of all principal contributions to the fund since inception.

(C) (i) If the endowment care fund has inadequate funds for full distribution, the distribution shall be limited to the lesser of net income distribution or an amount no more than a unitrust distribution of 1.5 percent of the average net fair market value of the assets, and the fees and expenses associated with the management of the fund shall be paid by the cemetery authority.

(ii) The cemetery authority, its board of trustees, or its corporate trustee may draw from the reserve described in paragraph (5) only during a fiscal year where there are inadequate funds for full distribution. An amount drawn from the reserve during that fiscal year shall be the lesser of the difference between the unitrust amount described in paragraph (4) and the limited distribution amount described in clause (i), or one-third of the total amount of the reserve.

(7) (A) Notwithstanding Section 8733 or 8733.5, the compensation of the trustee shall be reasonable and shall meet the following conditions:

(i) If the net fair market value of the endowment care fund as of the end of the immediately preceding fiscal year, as of the last trading day, is less than five hundred thousand dollars ($500,000), the annual compensation of the trustee shall not exceed three thousand five hundred dollars ($3,500).

(ii) If the net fair market value of the endowment care fund as of the end of the immediately preceding fiscal year, as of the last trading day, is five hundred thousand dollars ($500,000) or more, the annual compensation of the trustee shall not exceed:

(I) 0.8 percent of the first one million dollars ($1,000,000).

(II) 0.6 percent of the next four million dollars ($4,000,000).

(III) 0.5 percent of the next five million dollars ($5,000,000).

(IV) 0.15 percent of all amounts above ten million dollars ($10,000,000).

(B) The payment of the compensation of the trustee as set forth in subparagraph (A) shall be determined by a contractually prescribed schedule that is annual, semiannual, quarterly, or monthly with a schedule adopted for a period of no less than one year, and with relation to the net fair market value of the endowment care fund as of the end of the scheduled period, and the calculation of those fees as a percentage of that value shall be adjusted for that calculation.

(C) Nothing in this paragraph requires the payment of compensation to the trustee in a fiscal year.

(8) The cemetery authority has submitted all annual reports, pursuant to Section 7612.6 of the Business and Professions Code, for the previous five consecutive years.

(c) The bureau shall deny a cemetery authority's application if the bureau has found any of the conditions described in subdivisions (a) to (f), inclusive, of Section 7613.9 of the Business and Professions Code.

(d) To assist the bureau in making its determination, the cemetery authority, its board of trustees, or its corporate trustee shall provide all relevant trust documents, including a proposed trust instrument, if available. If relevant trust documents become available after the bureau makes a determination, the cemetery authority, its board of trustees, or its corporate trustee shall provide it to the bureau.

(e) (1) The bureau shall review on an annual basis whether a cemetery authority continues to meet the conditions of approval, described in subdivision (b), for the use of the unitrust distribution method.

(2) If the net fair market value of an endowment using the unitrust distribution method as of the end of the immediately preceding fiscal year falls to lower than five hundred thousand dollars ($500,000), the bureau, in its review, shall consider the fees and expenses associated with the management of the fund.

(3) If a cemetery authority is determined not to meet the original conditions of approval described in subdivision (b), or has failed to file an annual report pursuant to Section 7612.6 of the Business and Professions Code, the cemetery authority may be required to revert to the use of the net income distribution method.

(f) The bureau may adopt rules to administer this section and ensure compliance, including, but not limited to, reporting requirements.

(g) The bureau shall evaluate the effectiveness of this section and report at its next two hearings before the Joint Sunset Review Oversight Hearings of the Assembly Committee on Business and Professions and Senate Committee on Business, Professions and Economic Development that occurs after January 1, 2018.

(h) For the purpose of this section, the following words have the following meanings:

(1) “Average net fair market value” means the net fair market value of the assets in the endowment care fund as of the last trading day for each of the three preceding fiscal years. Investment adviser fees and other operating expenses shall be deducted in determining the net fair market value.

(2) “Compensation of the trustee” means the total annual sum of all compensation paid to all trustees of an endowment care fund and to all agents and employees of those trustees.

(3) “Net fair market value” means the fair market value of the endowment care fund at a specified point in time after deducting investment adviser fees and other operating expenses.

(i) Nothing in this section relieves the trustee of the obligation to comply with the prudent investor rule, as described in Article 2.5 (commencing with Section 16045) of Chapter 1 of Part 4 of Division 9 of the Probate Code, including, but not limited to, Section 16050 of the Probate Code.

SEC. 38.

Sections 26.1 and 26.2 of this bill incorporates amendments to Section 7596.3 of the Business and Professions Code proposed by both this bill and Assembly Bill 229. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 7596.3 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 229, in which case Section 26 of this bill shall not become operative.

SEC. 39.

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

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(10) – AB 885 (Quirk) – Bagley-Keene Open Meeting Act: teleconferencing

Background:

The Bagley-Keene Open Meeting Act of 1967 provides the public the ability to actively engage with its government and be a part of the decision-making process. Bagley-Keene mandates open meetings for California State agencies, boards, committees, and commissions and facilitates transparency of government activities to protect the rights of citizens to participate in state government proceedings.

Under existing law, any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference if the meeting complies with the requirements of the Bagley-Keene Act. Existing law requires that when a member of a multimember state advisory body participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting.

AB 885 seeks to modernize the teleconferencing statute of Bagley-Keene to encourage more participation and engagement in public service. This bill ensures accessibility for both the public, as well as members of a state body. AB 885 maintains that public meetings remain transparent, by requiring public meetings that are conducted via teleconference to be observable to the public both audibly and visually. Additionally, AB 885 clarifies that members of a state body participating remotely shall count towards a quorum and would only require public disclosure of the designated primary physical meeting location from which the public may participate. Lastly, the reform in this bill is not replacing physical meetings, but authorizing state bodies to have the ability to have a meeting via teleconference in addition to a physical meeting location.

Location: Assembly Chief Clerk

Status: 1/31/2022 Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

Action Requested:
This is for informational purposes only. Not action is required at this time.

Attachment A: AB 885 (Quirk) Bill Text

AB-885 (Quirk) Bagley-Keene Open Meeting Act: teleconferencing.

SECTION 1.

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.

(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~~ *both audibly and visually observable* 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, it shall post ~~agendas at all teleconference locations and~~ *an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate, 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 *via teleconference* 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.

(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 does not prohibit a state

body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) 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. 2.

Section 11123.5 of the Government Code is amended to read:

11123.5.

(a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is ~~an advisory~~ *a* board, ~~advisory~~ commission, ~~advisory~~ committee, ~~advisory~~ subcommittee, or similar multimember ~~advisory~~ body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.

(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its ~~Internet Web site~~ *internet website* and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).

(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (e), but is not required to disclose information regarding any remote location.

(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance *via teleconference or in person physically* at the primary physical meeting location, and members of the state body participating remotely shall ~~not~~ count towards establishing a quorum. All decisions taken during a meeting by

teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely ~~hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to~~ *observe the meeting's proceedings, both audibly and visually, including the* members of the state body participating remotely. The applicable teleconference phone number or ~~Internet Web site,~~ *internet website,* or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its ~~Internet Web site~~ *internet website* and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may ~~hear audio of the meeting or observe the meeting.~~ *observe the meeting, both audibly and visually.*

(h) For purposes of this section:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

SEC. 3.

The Legislature finds and declares that Section 1 of this act, which amends Section 11123 of the Government 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:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(11) – 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).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 1026 (Smith).

On 5/20/2021, this bill was held in committee.

Location: Assembly Chief Clerk

Status: 1/31/2022 Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

Action Requested:

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

Attachment A: AB 1026 (Smith) Bill Text

AB-1026 (Smith) Business licenses: veterans.

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.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(12) – AB 1236 (Ting): Healing arts: licensees: data collection.

Background:

As amended, this bill would require all boards overseeing healing arts licensees to request workforce data from licensees and registrants for the purposes of future workforce planning. It specifies that the data may be requested at the time of electronic application for a license or license renewal, or at least biennially, from a scientifically selected random sample of licensees and registrants. 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 that cannot be used to identify an individual.

In addition, AB 1236 directs these boards to post the specified demographic information in aggregate, which was collected on the internet website that they each maintain. Lastly, beginning July 1, 2022, this bill 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.

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.

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 1236 (Ting).

Since the Board's initial review of this bill, it has been amended to add sexual orientation and disability status as data points. It also states that a licensee or registrant shall not be required to provide any of the data outlined in the legislation.

The bill is keyed fiscal. Per the Assembly Appropriations Committee, this bill has a fiscal effect of $230,000 in information technology changes to collect the required data.

Staff has learned from the author's office that they are working with OSHPD to gather the data and produce the report specified in the bill. As such, the bill was moved to the inactive file.

Location: Assembly

Status: 2/1/2022 Died on inactive file.

Action Requested:

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

Attachment A: AB 1236 Bill Text

AB-1236 (Ting) Healing arts: licensees: data collection.

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 request workforce data from its licensees and, if designated by the board, its registrants, as specified in subdivision (b) for future workforce planning. The data may be requested at the time of electronic application for a license and license renewal, or at least biennially from a scientifically selected random sample of licensees and registrants.

(b) The workforce data collected by each board about its licensees and, if applicable, registrants 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 identity.

(I) Languages spoken.

(J) Educational background.

(K) Future work intentions.

(L) Job satisfaction ratings.

(M) Sexual orientation.

(N) Disability status.

(c) Each board shall maintain the confidentiality of the information it receives from licensees and registrants under this section and shall release information only 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.

(f) A licensee or registrant shall not be required to provide any of the information listed in subdivision (b).

SEC. 2.

Section 2717 of the Business and Professions Code is repealed.

~~2717.~~
~~(a) The board shall incorporate regional forecasts into its biennial analyses of the nursing workforce conducted pursuant to Section 502.~~

~~(b) The board shall develop a plan to address regional areas of shortage identified by its nursing workforce forecast. The board plan shall identify additional facilities that could offer clinical placement slots.~~

~~(c) The board shall annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the state, including, but not limited to, information concerning the total number of placement slots a clinical facility can accommodate and how many slots the programs that use the facility will need. The board shall place the annual report on its internet website.~~

SEC. 3.

Section 2852.5 of the Business and Professions Code is repealed.

SEC. 4.

Section 3518.1 of the Business and Professions Code is repealed.

SEC. 5.

Section 3770.1 of the Business and Professions Code is repealed.

SEC. 6.

Section 4506 of the Business and Professions Code is repealed.

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 and registrants, while also gathering useful workforce data, it is necessary that some information collected from licensees and registrants only be released in aggregate form.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(13) – AB 1386 (Cunningham) License fees: military partners and spouses

Background:

This bill prohibits a licensing board under the Department of Consumer Affairs from charging an initial or original license fee to an applicant who holds a current similar license in another state and is the spouse of an active duty member of the Armed Forces that is stationed in California.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to watch AB 1386 (Cunningham).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch AB 1386 (Cunningham).

On 5/5/2021, this bill was in committee: Set, first hearing. Referred to APPR. suspense file.

Location: Assembly Chief Clerk

Status: 1/31/2022 Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

Action Requested:

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

Attachment A: AB 1386 (Cunningham) Bill Text

AB-1386 (Cunningham) License fees: military partners and spouses.

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

(2) The board shall not charge an applicant who meets the requirements in subdivision (a) an initial examination fee if the examination is administered by the board.

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

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

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(14) – 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).

On 4/2/2021, the Board agreed with the Legislative and Regulatory Affairs Committee's recommendation to watch SB 102 (Melendez).

Location: Secretary of the Senate

Status: 2/1/2022 Returned to Secretary of Senate pursuant to Joint Rule 56.

Action Requested:

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

Attachment A: SB 102 (Melendez) Bill Text

SB-102 (Melendez) COVID-19 emergency order violation: license revocation.

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.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(15) – SB 221 (Wiener): Health care coverage – timely access to care.

Background:
This bill codifies existing timely access to care standards for health plans and health insurers, applies these requirements to Medi-Cal managed care plans, and adds a standard for non-urgent follow-up appointments for nonphysician mental health care or substance use disorder providers within ten business days of the prior appointment.

On 5/20/2021, this bill was amended to clarify that timely access standards are intended solely to be minimum requirements and not to replace clinical judgment in decisions regarding speed and frequency of medically necessary care.

On 6/28/2021, this bill was amended to add clarifying language: this subparagraph does not limit coverage for nonurgent follow-up appointments with a nonphysician mental health care or substance use disorder provider to once every 10 business days.

Location: Secretary of State

Status: 10/8/2021 Chaptered by Secretary of State. Chapter 724, Statutes of 2021.

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

Attachment A: SB 221 (Wiener) Bill Text

SB-221 Health care coverage: timely access to care.

SECTION 1.
The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to ensure that all enrollees of health care service plans and health insurers who require ongoing courses of medically necessary treatment for mental health and substance use disorders are able to obtain followup appointments with nonphysician providers of mental health and substance use disorder services within timeframes that are clinically appropriate to care for their diagnoses.

(b) Existing law and regulations have been interpreted to set clear timely access standards for health care service plans and health insurers to meet enrollees' requests for initial appointments with nonphysician providers of mental health and substance use disorder services, but not to set similarly clear timely access standards for the provision of followup appointments with these providers for the many enrollees who need them.

(c) This loophole in existing law and regulations has resulted in failures to provide enrollees followup appointments with nonphysician providers of mental health and substance use disorder services within the timeframes consistent with generally accepted standards of care.

(d) Closing this loophole is urgently necessary to address the widespread and lengthy delays in access to followup appointments with nonphysician providers of mental health and substance use disorder services experienced by thousands of Californians, including individuals suffering from major disorders and reporting suicidal ideation.

(e) Closing this loophole has grown even more urgent as the prevalence of mental health and substance use disorders has increased dramatically during the COVID-19 pandemic, and efforts to meet increased demand have focused on providing initial appointments while timely access to appropriate followup care has further diminished.

(f) Closing this loophole would in no way prohibit a health care service plan or health insurer from offering enrollees or insureds followup appointments with nonphysician mental health care or substance use disorder providers faster or more frequently than required by this act. The timely access standards codified by this act are intended solely to be minimum requirements. The clinical judgment of the treating mental health care or substance use disorder provider shall continue to play the primary role in decisions regarding the speed and frequency of medically necessary care for mental health and substance use disorders.

SEC. 2.

Section 1367.03 of the Health and Safety Code is amended to read:

1367.03.

(a) A health care service plan that provides or arranges for the provision of hospital or physician services, including a specialized mental health plan that provides physician or hospital services, or that provides mental health services pursuant to a contract with a full service plan, shall comply with the following timely access requirements:

(1) A health care service plan shall provide or arrange for the provision of covered health care services in a timely manner appropriate for the nature of the enrollee's condition consistent with good professional practice. A plan shall establish and maintain provider networks, policies, procedures, and quality assurance monitoring systems and processes sufficient to ensure compliance with this clinical appropriateness standard. A health care service plan that uses a tiered network shall demonstrate compliance with the standards established by this section based on providers available at the lowest cost-sharing tier.

(2) A health care service plan shall ensure that all plan and provider processes necessary to obtain covered health care services, including, but not limited to, prior authorization processes, are completed in a manner that assures the provision of covered health care services to an enrollee in a timely manner appropriate for the enrollee's condition and in compliance with this section.

(3) If it is necessary for a provider or an enrollee to reschedule an appointment, the appointment shall be promptly rescheduled in a manner that is appropriate for the enrollee's health care needs, and ensures continuity of care consistent with good professional practice, and consistent with this section and the regulations adopted thereunder.

(4) Interpreter services required by Section 1367.04 of this code and Section 1300.67.04 of Title 28 of the California Code of Regulations shall be coordinated with scheduled appointments for health care services in a manner that ensures the provision of interpreter services at the time of the appointment without imposing delay on the scheduling of the appointment. This subdivision does not modify the requirements established in Section 1300.67.04 of Title 28 of the California Code of Regulations, or approved by the department pursuant to Section 1300.67.04 of Title 28 of the California Code of Regulations for a plan's language assistance program.

(5) In addition to ensuring compliance with the clinical appropriateness standard set forth in paragraph (1), a health care service plan shall ensure that its contracted provider network has adequate capacity and availability of licensed health care providers to offer enrollees appointments that meet the following timeframes:

(A) Urgent care appointments for services that do not require prior authorization: within 48 hours of the request for appointment, except as provided in subparagraph (H).

(B) Urgent care appointments for services that require prior authorization: within 96 hours of the request for appointment, except as provided in subparagraph (H).

(C) Nonurgent appointments for primary care: within 10 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(D) Nonurgent appointments with specialist physicians: within 15 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(E) Nonurgent appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(F) Commencing July 1, 2022, nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the prior appointment for those undergoing a course of treatment for an ongoing mental health or substance use disorder condition, except as provided in subparagraph (H). This subparagraph does not limit coverage for nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider to once every 10 business days.

(G) Nonurgent appointments for ancillary services for the diagnosis or treatment of injury, illness, or other health condition: within 15 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(H) The applicable waiting time for a particular appointment may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the enrollee.

(I) Preventive care services, as defined in subdivision (e), and periodic followup care, including standing referrals to specialists for chronic conditions, periodic office visits to monitor and treat pregnancy, cardiac, mental health, or substance use disorder conditions, and laboratory and radiological monitoring for recurrence of disease, may be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed health care provider acting within the scope of their practice.

(J) A referral to a specialist by a primary care provider or another specialist shall be subject to the relevant time-elapsed standard in subparagraph (A), (B), or (D), unless the requirements in subparagraph (H) or (I) are met, and shall be subject to the other provisions of this section.

(K) A plan may demonstrate compliance with the primary care time-elapsed standards established by this subdivision through implementation of standards, processes, and systems providing advanced access to primary care appointments, as defined in subdivision (e).

(6) In addition to ensuring compliance with the clinical appropriateness standard set forth in paragraph (1), each dental plan, and each full service plan offering coverage for dental services, shall ensure that contracted dental provider networks have adequate capacity and availability of licensed health care providers to offer enrollees appointments for covered dental services in accordance with the following requirements:

(A) Urgent appointments within the dental plan network shall be offered within 72 hours of the time of request for appointment, if consistent with the enrollee's individual needs and as required by professionally recognized standards of dental practice.

(B) Nonurgent appointments shall be offered within 36 business days of the request for appointment, except as provided in subparagraph (C).

(C) Preventive dental care appointments shall be offered within 40 business days of the request for appointment.

(7) A plan shall ensure it has sufficient numbers of contracted providers to maintain compliance with the standards established by this section.

(A) This section does not modify the requirements regarding provider-to-enrollee ratio or geographic accessibility established by Section 1300.51, 1300.67.2, or 1300.67.2.1 of Title 28 of the California Code of Regulations.

(B) A plan operating in a service area that has a shortage of one or more types of providers shall ensure timely access to covered health care services as required by this section, including applicable time-elapsed standards, by referring an enrollee to, or, in the case of a preferred provider network, by assisting an enrollee to locate available and accessible contracted providers in neighboring service areas consistent with patterns of practice for obtaining health care services in a timely manner appropriate for the enrollee's health needs. A plan shall arrange for the provision of specialty services from specialists outside the plan's contracted network if unavailable within the network if medically necessary for the enrollee's condition. Enrollee costs for medically necessary referrals to nonnetwork providers shall not exceed applicable copayments, coinsurance, and deductibles. This requirement does not prohibit a plan or its delegated provider group from accommodating an enrollee's preference to wait for a later appointment from a specific contracted provider. If medically necessary treatment of a mental health or substance use disorder is not available in network within the geographic and timely access standards set by law or regulation, a health care service plan shall arrange coverage outside the plan's contracted network in accordance with subdivision (d) of Section 1374.72.

(8) A plan shall provide or arrange for the provision, 24 hours per day, 7 days per week, of triage or screening services by telephone, as defined in subdivision (e).

(A) A plan shall ensure that telephone triage or screening services are provided in a timely manner appropriate for the enrollee's condition, and that the triage or screening waiting time does not exceed 30 minutes.

(B) A plan may provide or arrange for the provision of telephone triage or screening services through one or more of the following means: plan-operated telephone triage or screening services, telephone medical advice services pursuant to Section 1348.8, the plan's contracted primary care and mental health care or substance use disorder provider network, or another method that provides triage or screening services consistent with this section.

(i) A plan that arranges for the provision of telephone triage or screening services through contracted primary care, mental health care, and substance use disorder providers shall require those providers to maintain a procedure for triaging or screening enrollee telephone calls, which, at a minimum, shall include the employment, during and after business hours, of a telephone answering machine, an answering service, or office staff, that shall inform the caller of both of the following:

(I) Regarding the length of wait for a return call from the provider.

(II) How the caller may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

(ii) A plan that arranges for the provision of triage or screening services through contracted primary care, mental health care, and substance use disorder providers who are unable to meet the time-elapsed standards established in subparagraph (A) shall also provide or arrange for the provision of plan-contracted or operated triage or screening services, which shall, at a minimum, be made available to enrollees affected by that portion of the plan's network.

(iii) An unlicensed staff person handling enrollee calls may ask questions on behalf of a licensed staff person to help ascertain the condition of an insured so that the enrollee may be referred to licensed staff. However, an unlicensed staff person shall not, under any circumstances, use the answers to those questions in an attempt to assess, evaluate, advise, or make a decision regarding the condition of an enrollee or determine when an enrollee needs to be seen by a licensed medical professional.

(9) Dental, vision, chiropractic, and acupuncture plans shall ensure that contracted providers employ an answering service or a telephone answering machine during nonbusiness hours, which provide instructions regarding how an enrollee may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

(10) A plan shall ensure that, during normal business hours, the waiting time for an enrollee to speak by telephone with a plan customer service representative

knowledgeable and competent regarding the enrollee's questions and concerns shall not exceed 10 minutes.

(b) Dental, vision, chiropractic, and acupuncture plans shall comply with paragraphs (1), (3), (4), (7), (9), and (10) of subdivision (a).

(c) The obligation of a plan to comply with this section shall not be waived if the plan delegates to its medical groups, independent practice associations, or other contracting entities any services or activities that the plan is required to perform. A plan's implementation of this section shall be consistent with the Health Care Providers' Bill of Rights, and a material change in the obligations of a plan's contracting providers shall be considered a material change to the provider contract, within the meaning of subdivision (b) and paragraph (2) of subdivision (h) of Section 1375.7.

(d) A plan shall not prevent, discourage, or discipline a contracting provider or employee for informing an enrollee or subscriber about the timely access standards.

(e) For purposes of this section:

(1) "Advanced access" means the provision, by an individual provider, or by the medical group or independent practice association to which an enrollee is assigned, of appointments with a primary care physician, or other qualified primary care provider such as a nurse practitioner or physician's assistant, within the same or next business day from the time an appointment is requested, and advance scheduling of appointments at a later date if the enrollee prefers not to accept the appointment offered within the same or the next business day.

(2) "Appointment waiting time" means the time from the initial request for health care services by an enrollee or the enrollee's treating provider to the earliest date offered for the appointment for services inclusive of time for obtaining authorization from the plan or completing any other condition or requirement of the plan or its contracting providers.

(3) "Preventive care" means health care provided for prevention and early detection of disease, illness, injury, or another health condition and, in the case of a full service plan includes all of the basic health care services required by paragraph (5) of subdivision (b) of Section 1345, and subdivision (f) of Section 1300.67 of Title 28 of the California Code of Regulations.

(4) "Provider group" has the meaning set forth in subdivision (g) of Section 1373.65.

(5) "Triage" or "screening" means the assessment of an enrollee's health concerns and symptoms via communication with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an enrollee who may need care for the purpose of determining the urgency of the enrollee's need for care.

(6) “Triage or screening waiting time” means the time waiting to speak by telephone with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an enrollee who may need care.

(7) “Urgent care” means health care for a condition that requires prompt attention, consistent with paragraph (2) of subdivision (h) of Section 1367.01.

(f) (1) Contracts between health care service plans and health care providers shall ensure compliance with the standards developed under this chapter. These contracts shall require reporting by health care providers to health care service plans and by health care service plans to the department to ensure compliance with the standards.

(2) Health care service plans shall report annually to the department on compliance with the standards in a manner specified by the department. The reported information shall allow consumers to compare the performance of plans and their contracting providers in complying with the standards, as well as changes in the compliance of plans with these standards.

(3) The department shall develop standardized methodologies for reporting that shall be used by health care service plans to demonstrate compliance with this section and any regulations adopted pursuant to it, including demonstration of the average waiting time for each class of appointment regulated under this section. The methodologies shall be sufficient to determine compliance with the standards developed under this section for different networks of providers if a health care service plan uses a different network for Medi-Cal managed care products than for other products or if a health care service plan uses a different network for individual market products than for small group market products. The development and adoption of these methodologies shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) until July 1, 2025. The department shall consult with stakeholders in developing standardized methodologies under this paragraph.

(g) (1) The director may investigate and take enforcement action against plans regarding noncompliance with the requirements of this section. Where substantial harm to an enrollee has occurred as a result of plan noncompliance, the director may, by order, assess administrative penalties subject to appropriate notice of, and the opportunity for, a hearing in accordance with Section 1397. The plan may provide to the director, and the director may consider, information regarding the plan’s overall compliance with the requirements of this section. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45. The director shall periodically evaluate grievances to determine if any audit, investigative, or enforcement actions should be undertaken by the department.

(2) The director may, after appropriate notice and opportunity for hearing in accordance with Section 1397, by order, assess administrative penalties if the director determines that a health care service plan has knowingly committed, or has performed with a frequency that indicates a general business practice, either of the following:

(A) Repeated failure to act promptly and reasonably to assure timely access to care consistent with this chapter.

(B) Repeated failure to act promptly and reasonably to require contracting providers to assure timely access that the plan is required to perform under this chapter and that have been delegated by the plan to the contracting provider when the obligation of the plan to the enrollee or subscriber is reasonably clear.

(C) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed warranted by the director to enforce this chapter.

(3) The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(h) The department shall work with the patient advocate to assure that the quality of care report card incorporates information provided pursuant to subdivision (f) regarding the degree to which health care service plans and health care providers comply with the requirements for timely access to care.

(i) The department shall annually review information regarding compliance with the standards developed under this section and shall make recommendations for changes that further protect enrollees. Commencing no later than December 1, 2015, and annually thereafter, the department shall post its final findings from the review on its internet website.

(j) The department shall post on its internet website any waivers or alternative standards that the department approves under this section on or after January 1, 2015.

(k) This section shall apply to Medi-Cal managed care plan contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(l) Nothing in this section shall be construed to prevent the department from developing additional standards to improve timely access to care and network adequacy.

SEC. 3.

Section 1367.031 of the Health and Safety Code is amended to read:

1367.031.

(a) A health care service plan contract that is issued, renewed, or amended on or after July 1, 2017, shall provide information to an enrollee regarding the standards for timely access to care adopted pursuant to Section 1367.03 and the information required by this section, including information related to receipt of interpreter services in a timely manner, no less than annually.

(b) A health care service plan contract that is issued, renewed, or amended on or after July 1, 2022, shall provide information to an enrollee regarding the standards for timely access to care required by Section 1367.032, adopted pursuant to Section 1367.03, and the information required by this section, including information related to receipt of interpreter services in a timely manner, no less than annually.

(c) A health care service plan at a minimum shall provide information regarding appointment wait times for urgent care, nonurgent primary care, nonurgent specialty care, and telephone screening established in Section 1367.032 or pursuant to Section 1367.03 to enrollees and contracting providers. The information shall also include notice of the availability of interpreter services at the time of the appointment pursuant to Section 1367.04. A health care service plan may indicate that exceptions to appointment wait times may apply if the department has found exceptions to be permissible.

(d) The information required to be provided pursuant to this section shall be provided to an enrollee with individual coverage upon initial enrollment and annually thereafter upon renewal, and to enrollees and subscribers with group coverage upon initial enrollment and annually thereafter upon renewal. A health care service plan may include this information with other materials sent to the enrollee. The information shall also be provided in the following manner:

(1) In a separate section of the evidence of coverage titled “Timely Access to Care.”

(2) At least annually, in or with newsletters, outreach, or other materials that are routinely disseminated to the plan’s enrollees.

(3) Commencing January 1, 2018, in a separate section of the provider directory published and maintained by the health care service plan pursuant to Section 1367.27. The separate section shall be titled “Timely Access to Care.”

(4) On the internet website published and maintained by the health care service plan, in a manner that allows enrollees and prospective enrollees to easily locate the information.

(e) (1) A health care service plan shall provide the information required by this section to contracting providers on no less than an annual basis.

(2) A health care service plan shall also inform a contracting provider of all of the following:

(A) Information about a health care service plan's obligation under California law to provide or arrange for timely access to care.

(B) How a contracting provider or enrollee can contact the health care service plan to obtain assistance if a patient is unable to obtain a timely referral to an appropriate provider.

(C) The toll-free telephone number for the Department of Managed Health Care where providers and enrollees can file a complaint if they are unable to obtain a timely referral to an appropriate provider.

(3) A health care service plan may comply with this subdivision by including the information with an existing communication with a contracting provider.

(f) This section shall apply to Medi-Cal managed care plan contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 4.

Section 10133.53 of the Insurance Code is amended to read:

10133.53.

(a) (1) A health insurance policy that is issued, renewed, or amended on or after July 1, 2017, that provides benefits through contracts with providers for alternative rates pursuant to Section 10133 shall provide information to an insured regarding the standards for timely access to care adopted pursuant to Section 10133.5 and the information required by this section, including information related to receipt of interpreter services in a timely manner, no less than annually.

(2) A health insurance policy that is issued, renewed, or amended on or after July 1, 2022, that provides benefits through contracts with providers for alternative rates pursuant to Section 10133 shall provide information to an insured regarding the standards for timely access to care required by Section 10133.54, adopted pursuant to Section 10133.5, and the information required by this section, including information related to receipt of interpreter services in a timely manner, no less than annually.

(b) A health insurer that contracts with providers for alternative rates of payment pursuant to Section 10133 shall, at a minimum, provide information regarding appointment wait times for urgent care, nonurgent primary care, nonurgent specialty care, and telephone screening established in Section 10133.54 or pursuant to Section 10133.5 to insureds and contracting providers. The information shall also include notice of the availability of interpreter services at the time of the appointment pursuant to Section 10133.8. A health insurer may indicate that exceptions to appointment wait times may apply if the department has found exceptions to be permissible.

(c) The information required to be provided pursuant to this section shall be provided to an insured with individual coverage upon initial enrollment and annually thereafter upon renewal, and to insureds and group policyholders with group coverage upon initial enrollment and annually thereafter upon renewal. An insurer may include this information with other materials sent to the insured. The information shall also be provided in the following manner:

(1) In a separate section of the evidence of coverage titled “Timely Access to Care.”

(2) At least annually, in or with newsletters, outreach, or other materials that are routinely disseminated to the policy’s insureds.

(3) Commencing January 1, 2018, in a separate section of the provider directory published and maintained by the insurer pursuant to Section 10133.15. The separate section shall be titled “Timely Access to Care.”

(4) On the internet website published and maintained by the insurer, in a manner that allows insureds and prospective insureds to easily locate the information.

(d) (1) A health insurer shall provide the information required by this section to contracting providers on no less than an annual basis.

(2) A health insurer shall also inform a contracting provider of all of the following:

(A) Information about a health insurer’s obligation under California law to provide or arrange for timely access to care.

(B) How a contracting provider or insured can contact the health insurer to obtain assistance if a patient is unable to obtain a timely referral to an appropriate provider.

(C) The toll-free telephone number for the Department of Insurance where providers and insureds can file a complaint if they are unable to obtain a timely referral to an appropriate provider.

(3) A health insurer may comply with this subdivision by including the information with an existing communication with a contracting provider.

SEC. 5.

Section 10133.54 is added to the Insurance Code, to read:

10133.54.

(a) This section applies to policies of health insurance, as defined by subdivision (b) of Section 106. The requirements of this section apply to all health care services covered by a health insurance policy.

(b) Notwithstanding Section 10133.5, a health insurer shall comply with the timely access requirements in this section, but a specialized health insurance policy as defined

in subdivision (c) of Section 106, other than a specialized mental health insurance policy, is exempt from the provisions of this section, except as specified in paragraph (6) and subdivision (c).

(1) A health insurer shall provide or arrange for the provision of covered health care services in a timely manner appropriate for the nature of the insured's condition, consistent with good professional practice. An insurer shall establish and maintain provider networks, policies, procedures, and quality assurance monitoring systems and processes sufficient to ensure compliance with this clinical appropriateness standard. An insurer that uses a tiered network shall demonstrate compliance with the standards established by this section based on providers available at the lowest cost-sharing tier.

(2) A health insurer shall ensure that all insurer and provider processes necessary to obtain covered health care services, including, but not limited to, prior authorization processes, are completed in a manner that assures the provision of covered health care services to an insured in a timely manner appropriate for the insured's condition and in compliance with this section.

(3) If it is necessary for a provider or an insured to reschedule an appointment, the appointment shall be promptly rescheduled in a manner that is appropriate for the insured's health care needs, and ensures continuity of care consistent with good professional practice, and consistent with the objectives of Section 10133.5, the regulations adopted pursuant to Section 10133.5, and this section.

(4) Interpreter services required by Section 10133.8 of this code and Article 12.1 (commencing with Section 2538.1) of Title 10 of the California Code of Regulations shall be coordinated with scheduled appointments for health care services in a manner that ensures the provision of interpreter services at the time of the appointment, consistent with Section 2538.6 of Title 10 of the California Code of Regulations, without imposing delay on the scheduling of the appointment. This subdivision does not modify the requirements established in Sections 10133.8 and 10133.9 of this code and Section 2538.6 of Title 10 of the California Code of Regulations, or approved by the department pursuant to Section 2538.6 of Title 10 of the California Code of Regulations for an insurer's language assistance program.

(5) In addition to ensuring compliance with the clinical appropriateness standard set forth in paragraph (1), a health insurer shall ensure that its contracted provider network has adequate capacity and availability of licensed health care providers to offer insureds appointments that meet the following timeframes:

(A) Urgent care appointments for services that do not require prior authorization: within 48 hours of the request for appointment, except as provided in subparagraph (H).

(B) Urgent care appointments for services that require prior authorization: within 96 hours of the request for appointment, except as provided in subparagraph (H).

(C) Nonurgent appointments for primary care: within 10 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(D) Nonurgent appointments with specialist physicians: within 15 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(E) Nonurgent appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(F) Commencing July 1, 2022, nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider: within 10 business days of the prior appointment for those undergoing a course of treatment for an ongoing mental health or substance use disorder condition, except as provided in subparagraph (H). This subparagraph does not limit coverage for nonurgent followup appointments with a nonphysician mental health care or substance use disorder provider to once every 10 business days.

(G) Nonurgent appointments for ancillary services for the diagnosis or treatment of injury, illness, or other health condition: within 15 business days of the request for appointment, except as provided in subparagraphs (H) and (I).

(H) The applicable waiting time for a particular appointment may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the insured.

(I) Preventive care services, as defined in subdivision (e), and periodic follow up care, including standing referrals to specialists for chronic conditions, periodic office visits to monitor and treat pregnancy, cardiac, mental health, or substance use disorder conditions, and laboratory and radiological monitoring for recurrence of disease, may be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed health care provider acting within the scope of their practice.

(J) A referral to a specialist by a primary care provider or another specialist shall be subject to the relevant time-elapsed standard in subparagraph (A), (B) or (D), unless the requirements in subparagraph (H) or (I) are met, and shall be subject to the other provisions of this section.

(6) (A) The following types of health insurance policies shall be subject to the requirements in subparagraph (B):

(i) A health insurance policy covering the pediatric oral or vision essential health benefit.

(ii) A specialized health insurance policy that provides coverage for the pediatric oral essential health benefit, as defined in paragraph (5) of subdivision (a) of Section 10112.27.

(iii) A specialized health insurance policy that covers dental benefits only, as defined in subdivision (c) of Section 106.

(B) In addition to ensuring compliance with the clinical appropriateness standard set forth in paragraph (1), each health insurance policy specified in subparagraph (A) shall ensure that contracted oral or vision provider networks have adequate capacity and availability of licensed health care providers, including generalist and specialist dentists, ophthalmologists, optometrists, and opticians, to offer insureds appointments for covered oral or vision services in accordance with the following requirements:

(i) Urgent appointments within the plan network shall be offered within 72 hours of the time of request for appointment, if consistent with the insured's individual needs and as required by professionally recognized standards of dental practice.

(ii) Nonurgent appointments shall be offered within 36 business days of the request for appointment, except as provided in clause (iii).

(iii) Preventive care appointments shall be offered within 40 business days of the request for appointment.

(iv) The applicable waiting time for a particular appointment in this paragraph may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of the provider's practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the insured.

(7) An insurer shall ensure it has sufficient numbers of contracted providers to maintain compliance with the standards established by this section.

(A) This section does not modify the requirements regarding accessibility established by Article 6 (commencing with Section 2240) of Title 10 of the California Code of Regulations.

(B) An insurer shall ensure timely access to covered health care services as required by this section, including applicable time-elapsed standards, by assisting an insured to locate available and accessible contracted providers in a timely manner appropriate for the insured's health needs. An insurer shall arrange for the provision of services outside the insurer's contracted network if unavailable within the network if medically necessary for the insured's condition. Insured costs for medically necessary referrals to nonnetwork providers shall not exceed applicable in-network copayments, coinsurance, and deductibles.

(8) An insurer shall provide or arrange for the provision, 24 hours per day, 7 days per week, of triage or screening services by telephone, as defined in subdivision (f).

(A) An insurer shall ensure that telephone triage or screening services are provided in a timely manner appropriate for the insured's condition, and that the triage or screening waiting time does not exceed 30 minutes.

(B) An insurer may provide or arrange for the provision of telephone triage or screening services through one or more of the following means: insurer-operated telephone triage or screening services, telephone medical advice services pursuant to Section 10279, the insurer's contracted primary care and mental health care or substance use disorder provider network, or other method that provides triage or screening services consistent with this section.

(i) An insurer that arranges for the provision of telephone triage or screening services through contracted primary care and mental health care and substance use disorder providers shall require those providers to maintain a procedure for triaging or screening insured telephone calls, which, at a minimum, shall include the employment, during and after business hours, of a telephone answering machine, an answering service, or office staff, that shall inform the caller of both of the following:

(I) Regarding the length of wait for a return call from the provider.

(II) How the caller may obtain urgent or emergency care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

(ii) An insurer that arranges for the provision of triage or screening services through contracted primary care and mental health care and substance use disorder providers who are unable to meet the time-elapsed standards established in subparagraph (A) shall also provide or arrange for the provision of insurer-contracted or operated triage or screening services, which shall, at a minimum, be made available to insureds affected by that portion of the insurer's network.

(iii) An unlicensed staff person handling insured calls may ask questions on behalf of a licensed staff person to help ascertain the condition of an insured so that the insured may be referred to licensed staff. However, an unlicensed staff person shall not, under any circumstances, use the answers to those questions in an attempt to assess, evaluate, advise, or make a decision regarding the condition of an insured or determine when an insured needs to be seen by a licensed medical professional.

(9) A health insurance policy providing coverage for the pediatric oral and vision essential health benefit, and a specialized health insurance policy that provides coverage for dental care expenses only, shall require that contracted providers employ an answering service or a telephone answering machine during nonbusiness hours, which provides instructions regarding how an insured may obtain urgent or emergency

care, including, if applicable, how to contact another provider who has agreed to be on call to triage or screen by phone, or if needed, deliver urgent or emergency care.

(10) An insurer shall ensure that, during normal business hours, the waiting time for an insured to speak by telephone with an insurer customer service representative knowledgeable and competent regarding the insured's questions and concerns shall not exceed 10 minutes, or that the covered person will receive a scheduled call-back within 30 minutes.

(c) Notwithstanding subdivision (b), a specialized health insurance policy, as defined in subdivision (c) of Section 106, other than a specialized mental health insurance policy, is exempt from this section, except as specified in this subdivision. A specialized health insurance policy that provides coverage for dental care expenses only shall comply with paragraphs (1), (3), (4), (6), (7), (9), and (10) of subdivision (b).

(d) An insurer shall not prevent, discourage, or discipline a contracting provider or employee for informing an insured or policyholder about the timely access standards.

(e) For purposes of this section:

(1) "Appointment waiting time" means the time from the initial request for health care services by an insured or the insured's treating provider to the earliest date offered for the appointment for services inclusive of time for obtaining authorization from the insurer or completing any other condition or requirement of the insurer or its contracting providers.

(2) "Preventive care" means health care provided for prevention and early detection of disease, illness, injury, or other health condition and includes, but is not limited to, all of the services required by all of the following laws:

(A) Section 146.130 of Title 45 of the Code of Federal Regulations.

(B) Section 10112.2 (incorporating the requirements of Section 2713 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-13)).

(C) Clause (ii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 10112.27.

(3) "Provider group" has the meaning set forth in subdivision (v) of Section 10133.15.

(4) "Triage" or "screening" means the assessment of an insured's health concerns and symptoms via communication with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an insured who may need care for the purpose of determining the urgency of the insured's need for care.

(5) "Triage or screening waiting time" means the time waiting to speak by telephone with a physician, registered nurse, or other qualified health professional acting within their scope of practice and who is trained to screen or triage an insured who may need care.

(6) “Urgent care” means health care for a condition which requires prompt attention, consistent with paragraph (2) of subdivision (h) of Section 10123.135.

(f) The department may issue guidance to insurers regarding annual timely access and network reporting methodologies. The development and adoption of these methodologies shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) until July 1, 2025.

(g) Nothing in this section shall be construed to prevent the department from developing additional standards to improve timely access to care and network adequacy.

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.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #6(c)(16) – 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 that offers one or more courses in health education to pupils in middle school or high school to include in those courses instruction in mental health that meets the requirements of the bill, as specified. 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. The bill would require the State Department of Education to develop a plan to expand mental health instruction in California public schools on or before January 1, 2024.

Location: Secretary of State

Status: 10/8/2021 Chaptered by Secretary of State. Chapter 675, Statutes of 2021.

Action Requested:

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

Attachment A: SB 224 (Portantino) Bill Text

SB-224 (Portantino) Pupil instruction: mental health education.

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 that offers one or more courses in health education to pupils in middle school or high school shall include in those courses instruction in mental health that meets the requirements of this article. This section shall not be construed to limit a school district, county office of education, state special school, or charter school in offering or requiring instruction in mental health as specified in this article. This instruction shall include all of the following:

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

(b) Defining signs and symptoms of 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 evidence-based services and supports that effectively help individuals manage mental health challenges.

(d) Promoting mental health wellness and protective factors, which includes positive development, social and cultural 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 professionals and services within the school district that includes, but is not limited to, school counselors with a pupil personnel services credential, school psychologists, and school social workers, and in the community for themselves or others.

(2) Evidence-based 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.

(d) Be coordinated with any existing on-campus mental health providers including, but not limited to, providers with a pupil personnel services credential, who may be immediately called upon by pupils for assistance.

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) "Evidence-based" 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.

(d) "Instructors trained in the appropriate courses" means instructors with knowledge of the most recent evidence-based research on mental health.

51929.
On or before January 1, 2024, the department shall develop a plan to expand mental health instruction in California public schools.

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MEMORANDUM

DATE	March 14, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Suzy Costa Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(1) – AB 1662 (Gipson) Licensing boards: disqualification from licensure: criminal conviction.

Background:
This bill would authorize a prospective applicant that has been convicted of a crime to submit to any board or bureau a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction. The bill would require the Board that receives that request to determine if the prospective applicant would be disqualified from licensure by the Board based on the information submitted with the request and deliver that determination to the prospective applicant.

Location: Assembly Committee on Business and Professions

Status: 1/27/2022 Referred to Committee on Business and Professions

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee take an **Oppose** position on AB 1662 (Gipson), and requests that the Committee recommends that position to the full Board.

Attachment A: AB 1662 (Gipson) Analysis
Attachment B: AB 1662 (Gipson) Bill Text

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2022 Bill Analysis

Author:	Bill Number:	Related Bills:
Assembly Member Mike Gipson	AB 1662	SB 1365 (2022) AB 2138 (2018)
Sponsor:	**Version:**	
Unknown	Introduced	
Subject:		
Licensing boards: disqualification from licensure: criminal conviction.		

SUMMARY

This bill would authorize a prospective applicant that has been convicted of a crime to submit to any board or bureau a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction. The bill would require the Board that receives that request to determine if the prospective applicant would be disqualified from licensure by the Board based on the information submitted with the request and deliver that determination to the prospective applicant.

RECOMMENDATION

OPPOSE – Staff recommends the Legislative and Regulatory Affairs Committee take an oppose position on AB 1662 (Gipson), and requests that the Committee recommends that position to the full Board.

Board Staff recommends this position because of the following concerns:

- Significant Cost pressures.
- Increased workload.
- Omission of charging fees to prospect applicants.
- Unanswered questions and lack of specificity.

REASON FOR THE BILL

According to the author, “AB 1662 is focused on getting people back to work, improving access to licensed professions, and eliminating barriers that keep individuals that are going through the re-entry process from obtaining a license. We are talking about an untapped pool of job talent who are ready to work and contribute to society but have historically faced the most barriers at a very basic level. This is about opportunity and hope for those that have been held accountable and paid their dues and deserve a second chance. One of the main barriers that folks face when trying to apply for a licensed profession is the expensive tuition that comes with training and courses one needs to take just to find out that they were denied due to their criminal record. This bill would provide notice on whether their record will disqualify them from receiving an

occupational license, prior to financial and educational investment in the requirements for the license."

ANALYSIS

This bill would allow any individual to submit a request for determination at any time, as to whether one or multiple convictions they received, would disqualify them from licensure based on the information submitted with the request. Board Staff has the following concerns:

Cost to the Board:

Currently, applications for licensure or registration with a history of convictions or administrative discipline are reviewed by the Board's Enforcement Unit, with no cost to the applicant. This review is to determine if the conviction or discipline is substantially related to the qualifications, functions, or duties of the profession of psychology, and whether that conviction or discipline should cause the Board to deny the application. Each one of these referrals requires a Staff Services Analyst to spend four and a half hours to review each case, on average.

Additionally, the Board is facing a structural imbalance, and is expected to be insolvent in fiscal year 2024-2025 which begins on July 1, 2024.

Because this bill would allow any individual to submit a request for preapplication determination at any time, including prior to receiving any education towards licensure, Board staff are unable to quantify the number of requests the Board may receive or the cost to the Board to absorb these requests should this bill be signed into law.

Currently, the Board completes reviews applicants' criminal history at the end of the application process. This bill would require the Enforcement Unit to complete the review process for both applicants and potential applicants. Part of the applicants' application fees pay for this review. As written, the bill does not allow the Board to charge for preapplication determination and the tasks associated with making the determination. Based on the structural imbalance, the Board would have to recoup the costs of this work, and one way to accomplish that is through charging a fee to pre-applicants.

The Board did provide the Department of Consumer Affairs with an estimation based on a three-year average of applications reviewed by the Enforcement Unit. This calculation is included under the Fiscal Impact.

Lack of Specificity:

In multiple instances this bill lacks specificity and leaves questions unanswered about processes. These questions include:

- What documents can the Board require for a preapplication determination?
- What constitutes a reasonable amount of time for the Board to complete its review and provide the response?

- Can the Board request additional information from the pre-applicant or from the Department of Justice to complete its review?
- If the Board is required to rely on information provided by the applicant, would the Board be held liable if the predetermination is inaccurate?

LEGISLATIVE HISTORY
SB 1365 (Jones – 2022)
Would require each board or bureau within DCA to post on its website a list of criteria used to evaluate applicants with criminal convictions so potential applicants can understand their probability of gaining licensure. It would require DCA to develop an informal process for verifying applicant information, including performing background checks of applicants and requiring applicants with prior convictions to provide certified court documents so that the proper convictions are recorded in the process. This bill is in the Senate Rules Committee, awaiting referral.

AB 2138 (Chiu – 2018)
Chapter 995, Statutes of 2018
Reduces barriers to licensure for individuals with prior criminal convictions by limiting a 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.

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 and psychological associates.

FISCAL IMPACT
The Department of Consumer Affairs requested the Board provide data on what the bill would cost the Board. In response, the Board used 172.67 cases per year, which is a three-year average of enforcement reviews, at four and a half hours per case review, using a Staff Services Analyst position. The total the Board provided to the Department of Consumer Affairs, is $41,663.54 annually.

Additionally, the Board would need to request 0.5 Staff Service Analyst positions to meet the workload as required by the bill.

ECONOMIC IMPACT
Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS
Not Applicable

SUPPORT/OPPOSITION

Support: Unknown.

Opposition: Unknown.

ARGUMENTS

Proponents: Not Applicable.

Opponents: Not Applicable.

AB-1662 Licensing boards: disqualification from licensure: criminal conviction

SECTION 1.
Section 480 of the Business and Professions Code is amended to read:

480.
(a) Notwithstanding any ~~other~~ provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) Chapter 6 (commencing with Section 6500) of Division 3.

(ii) Chapter 9 (commencing with Section 7000) of Division 3.

(iii) Chapter 11.3 (commencing with Section 7512) of Division 3.

(iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(v) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section

1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any ~~other~~ provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any ~~other~~ provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any ~~other~~ provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) A prospective applicant that has been convicted of a crime may submit to a board, by mail or email, and at any time, including before obtaining any training or education required for licensure by that board or before paying any application fee, a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction.

(2) Upon receiving a request submitted pursuant to paragraph (1), a board shall determine if the prospective applicant may be disqualified from licensure by the board based on the information submitted with the request, and deliver the determination by mail or email to the prospective applicant within a reasonable time.

~~(g)~~ *(h)* (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

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

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

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

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

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

~~(h)~~ *(i)* “Conviction” as used in this section shall have the same meaning as defined in Section 7.5.

~~(i)~~ *(j)* This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

~~(j) This section shall become operative on July 1, 2020.~~

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MEMORANDUM

DATE	March 14, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Suzy Costa Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(2) – AB 1733 (Quirk) State bodies: open meetings.

Background:

The bill would require all open meetings to be held by teleconference, would allow for use of teleconference in closed sessions, and would remove existing provisions of the act that require each teleconference location to be identified in the notice and agenda and accessible to the public.

The bill would instead require the state body to provide a means by which the public may remotely hear, or hear and observe, the meeting and may remotely address the state body via two-way audio-visual platform or two-way telephonic service and would require information to be provided in any notice to the public indicating how the public can access the meeting remotely.

The bill would require the state body to provide members of the public a physical location to hear, observe, and address the state body, and would authorize the members of the state body to participate in a meeting remotely or at a designated physical meeting location, and specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting.

Additionally, this bill would take effect immediately.

Location: Assembly Committees on Governmental Organization and Business and Professions

Status: 2/18/2022 Referred to Committees on Governmental Organization and Business and Professions

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee take a **Support If Amended** position on AB 1733 (Quirk), and requests that the Committee recommends that position to the full Board.

Attachment A: AB 1733 (Quirk) Analysis
Attachment B: AB 1733 (Quirk) Bill Text

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2022 Bill Analysis

Author:	Bill Number:	Related Bills:
Assembly Member Bill Quirk	AB 1733	AB 1795 (2022) AB 885 (2021) AB 361 (2021)
Sponsor:	**Version:**	
Unknown	Introduced	
Subject:		
State bodies: open meetings		

SUMMARY

The bill would require all open meetings to be held by teleconference, would allow for use of teleconference in closed sessions, and would remove existing provisions of the act that require each teleconference location to be identified in the notice and agenda and accessible to the public.

The bill would instead require the state body to provide a means by which the public may remotely hear, or hear and observe, the meeting and may remotely address the state body via two-way audio-visual platform or two-way telephonic service and would require information to be provided in any notice to the public indicating how the public can access the meeting remotely.

The bill would require the state body to provide members of the public a physical location to hear, observe, and address the state body, and would authorize the members of the state body to participate in a meeting remotely or at a designated physical meeting location, and specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting.

Additionally, this bill would take effect immediately.

RECOMMENDATION

SUPPORT IF AMENDED – Staff recommends the Legislative and Regulatory Affairs Committee take a Support If Amended position on AB 1733 (Quirk), and requests that the Committee recommends that position to the full Board. The Board has moved to exclusively remote meetings because of COVID-19 and has found the public participation to have increased. The Board would like the option to continue holding remote, webcasted meetings, and meetings that are webcast, in person, but not teleconference.

Summary of Suggested Amendments

- Provides a state body the option to hold an open meeting by teleconference (applies to Section 3 of the bill only).

REASON FOR THE BILL
Unavailable.

ANALYSIS
In March of 2020, the Governor issued Executive Order N-29-20, which stated that: "Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived. All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures."

On September 16, 2021, Governor Newsom signed AB 361 (Robert Rivas – Chapter 165), which authorized state bodies to provide a teleconferencing option for meetings via audio or audiovisual means, through January 31, 2022, thereby extending N-29-20. Additionally, Governor Newsom signed Executive Order N-1-22 to extend N-29-20 and AB 361 to authorize state bodies to conduct meetings through teleconference through April 1, 2022.

Since April 2020, the Board has conducted public meetings through WebEx, a teleconferencing and videoconferencing service that allows public participants to listen to the meeting, provide public comment, and view documents through the platform. Other Department of Consumer Affairs boards and bureaus have used WebEx for public meetings as well. Using this platform has allowed Board Members, staff, and the public to participate in the meetings from home and maintain social distancing requirements.

Given the Board’s looming fiscal insolvency, using a teleconferencing platform has had significant cost savings. Prior to the use of remote meetings, the Board would pay for expenses for Board Members to attend physical, in-person meetings. These expenses included flight, lodging, and transportation. Additionally, at times the Board would have to pay for the cost of reserving the physical meeting room. The Board’s Members live all over the State and the full Board meets four times a year. Therefore, the Board would like to have the option of conducting meetings remotely without the requirement of an in-person meeting for the foreseeable future.

LEGISLATIVE HISTORY
AB 1795 (Fong): Open meetings: remote participation.
Session: 2021-22
Status: Referred to Assembly Governmental Organization Committee

Would require state boards that previously held exemptions from the Bagley-Keene Open Meeting Act to create access for persons who wish to attend the body's meetings. Specifically, this bill would require all state boards to be accessible for participation both in-person and remotely.

AB 885 (Quirk): Bagley-Keene Open Meeting Act: teleconferencing.
Session: 2021-22
Status: Dead (Did not meet House of Origin deadline)
This bill would have required a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. It would have required a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would have further required any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting.

AB 361 (Robert Rivas): Open meetings: state and local agencies: teleconferences.
Session: 2021-22
Status: Chapter 165, Statutes of 2021
Authorizes state bodies subject to the Bagley-Keene Act to provide a teleconferencing option—which may be via audio or audiovisual means—for its meetings for the benefit of the public, subject to relevant requirements. This bill also extended the Governor's Executive Order N-29-20 for remote Bagley-Keene meetings through January 31, 2022.

OTHER STATES' INFORMATION
Since the COVID-19 pandemic affected the entire country, many states had agencies and boards switch from in-person meetings to remote meetings that utilized online platforms with teleconferencing or videoconferencing technology. However, Texas has the most readily available information on their policies and laws on remote public meetings.

Texas
Texas' Government Code section 551, Subchapter F addresses meetings by telephone, videoconference, and the Internet. Some specific governmental bodies possess broad authority to use different technologies to conduct their meetings remotely, regardless of the type of meeting held. In the absence of authority specific to the governmental body, general provisions allow for teleconferencing or videoconferencing in limited circumstances.

Unless a specific statute provides otherwise, a meeting by teleconference call may be held only if: (1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and (2) the convening at one location of a quorum of the governmental body is difficult or impossible; or (3) the meeting is held by an advisory board.

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 and psychological associates.

Since April 2020, the Board has conducted public meetings through WebEx, a teleconferencing and videoconferencing service that allows public participants to listen to the meeting, provide public comment, and view documents through the platform. Other Department of Consumer Affairs boards and bureaus have used WebEx for public meetings as well. Using this platform has allowed Board Members and staff to continue having productive meetings, and allowed the public to participate in the meetings while maintaining COVID health and safety protocols.

FISCAL IMPACT
Depending on how many teleconference meetings are utilized, Board staff believe this bill could save between $40,000 and $60,000 annually.

ECONOMIC IMPACT
Not Applicable.

LEGAL IMPACT
Not Applicable.

APPOINTMENTS
Not Applicable.

SUPPORT/OPPOSITION

Support: Unknown.

Opposition: Unknown.

ARGUMENTS

Proponents: Not Applicable.

Opponents: Not Applicable.

AMENDMENTS

SEC. 3.
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.
(b) (1) This article ~~requires~~ **allows** a state body to hold an open- meeting by teleconference for the benefit of the public and state body, and allows for use of teleconference in closed sessions. 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 all of the following:
(A) The teleconferenced 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 at any physical location specified in the notice of the meeting shall be visible and audible to the public at the location specified in the notice of the meeting.
(C) The state body shall conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. The state body shall provide a means by which the public may remotely hear audio of the meeting or remotely hear and observe the meeting, and a means by which the public may remotely address the state body, as appropriate, via either a two-way audio-visual platform or a two-way telephonic service. Should the state body elect to use a two-way telephonic service only, it must also provide live webcasting of the open meeting. The applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be specified in any notice required by this article. The agenda shall provide an opportunity for members of the public to remotely address the state body directly pursuant to Section 11125.7.
(D) The state body shall provide members of the public with a physical location at which the public may hear, observe, and address the state body. Each physical location shall be identified in the notice of the meeting.
(E) Members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments prior to the meeting or in writing.
(F) The members of the state body may remotely participate in a meeting. The members of the state body may also be physically present and participate at a designated physical meeting location, but no member of the state body shall be required to be physically present at any physical meeting location designated in the notice of the meeting in order to be deemed present at the meeting. All votes taken during a teleconferenced meeting shall be by rollcall.
(G) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting in accordance with the applicable notice requirements of this article, including Section 11125, requiring the state body post an agenda of a meeting at least 10 days in advance of the meeting, Section 11125.4, applicable to special meetings, and Sections 11125.5 and 11125.6, applicable to emergency meetings. The state body shall post the agenda on its internet website and, on the day of the meeting, at any physical meeting location designated in the notice of the meeting. The notice and agenda shall not disclose information regarding any remote location from which a member is participating.

(H) Upon discovering that a means of remote participation required by this section has failed during a meeting and cannot be restored, the state body shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on the state body's internet website and by email to any person who has requested notice of meetings of the state body by email under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, internet website, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.
(2) For the purposes of this subdivision, all of the following definitions shall apply:
(A) "Teleconference" means a meeting of a state body that provides for a connection by electronic means, including by telephone, an internet website, or other online platform, through audio and video. This section does not prohibit a state body from providing members of the public with additional physical locations in which the public may observe and address the state body by electronic means, through either audio or both audio and video.
(B) "Remote location" means a location from which a member of a state body participates in a meeting other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.
(C) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute participation remotely.
(D) "Two-way audio-visual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.
(E) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audio-visual platform, and allows participants to dial a telephone number to listen and verbally participate.
(F) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers. This section does not prohibit a state body from providing members of the public with additional physical locations in which the public may observe and address the state body by electronic means.
(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
(d) A state body that is organized within the Department of Consumer Affairs and meets at least two times each calendar year shall be deemed to have met the requirements of subdivision (a) of Section 101.7 of the Business and Professions Code.
(e) This section shall not be construed to deny state bodies the ability to encourage full participation by appointees with developmental or other disabilities.
(f) If a member of a state body attends a meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or

older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

AB-1733 State bodies: open meetings

SECTION 1.
Section 101.7 of the Business and Professions Code is amended to read:

101.7.
(a) Notwithstanding any other provision of law, boards shall meet at least two times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its ~~licensees.~~ *licensees, unless the board's meetings are held entirely by teleconference.*

(b) The director has discretion to exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least two times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to webcast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to webcast the meeting. An agency may webcast a meeting even if the agency fails to include that statement of intent in the notice.

SEC. 2.
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 at the same time and ~~place~~ *place, including one held entirely by teleconference,* 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. 3.
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.

(b) (1) This article ~~does not prohibit~~ *requires* a state body ~~from holding~~ *to hold* an open ~~or closed~~ meeting by teleconference for the benefit of the public and state ~~body.~~ *body, and allows for use of teleconference in closed sessions.* 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 *all of* the following:

(A) The ~~teleconferencing~~ *teleconferenced* 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~~ *at any physical location specified in the notice of the meeting shall be visible and* 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, it shall post agendas at all teleconference locations and~~ *The state body shall* 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~~ *The state body shall provide a means by which the public may remotely hear audio* of the meeting or ~~proceeding, and each teleconference location shall be accessible to the public.~~ *remotely hear and observe the meeting, and a means by which the public may remotely address the state body, as appropriate, via either a two-way audio-visual platform or a two-way telephonic service. Should the state body elect to use a two-way telephonic service only, it must also provide live webcasting of the open meeting. The applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be specified in any notice required by this article.* The agenda shall provide an opportunity for members of the public to *remotely* address the state body directly pursuant to Section ~~11125.7 at each teleconference location.~~ *11125.7.*

(D) The state body shall provide members of the public with a physical location at which the public may hear, observe, and address the state body. Each physical location shall be identified in the notice of the meeting.

(E) Members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments prior to the meeting or in writing.

~~(D)~~ *(F) The members of the state body may remotely participate in a meeting. The members of the state body may also be physically present and participate at a designated physical meeting location, but no member of the state body shall be required to be physically present at any physical meeting location designated in the notice of the meeting in order to be deemed present at the meeting.* All votes taken during a teleconferenced meeting shall be by rollcall.

~~(E)~~ *(G)* ~~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.~~ *This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting in accordance with the applicable notice requirements of this article, including Section 11125, requiring the state body post an agenda of a meeting at least 10 days in advance of the meeting, Section 11125.4, applicable to special meetings, and Sections 11125.5 and 11125.6, applicable to emergency meetings. The state body shall post the agenda on its internet website and,*

on the day of the meeting, at any physical meeting location designated in the notice of the meeting. The notice and agenda shall not disclose information regarding any remote location from which a member is participating.

~~(F)~~ *(H)* ~~At least one member of~~ *Upon discovering that a means of remote participation required by this section has failed during a meeting and cannot be restored,* the state body shall ~~be physically present at the location specified in the~~ *end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide* notice of the *meeting's end or adjournment on the state body's internet website and by email to any person who has requested notice of meetings of the state body by email under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, internet website, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the* meeting.

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

~~(2)~~ *(A)* ~~For the purposes of this subdivision, "teleconference"~~ *"Teleconference"* means a meeting of a state ~~body, the members of which are at different locations, connected~~ *body that provides for a connection* by electronic means, ~~through either audio or both~~ *including by telephone, an internet website, or other online platform, through* audio and video. This section does not prohibit a state body from providing members of the public with additional *physical* locations in which the public may observe ~~or~~ *and* address the state body by electronic means, through either audio or both audio and video.

(B) "Remote location" means a location from which a member of a state body participates in a meeting other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(C) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute participation remotely.

(D) "Two-way audio-visual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(E) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audio-visual platform, and allows participants to dial a telephone number to listen and verbally participate.

(F) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers. This section does not prohibit a state body from providing

members of the public with additional physical locations in which the public may observe and address the state body by electronic means.

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

(d) A state body that is organized within the Department of Consumer Affairs and meets at least two times each calendar year shall be deemed to have met the requirements of subdivision (a) of Section 101.7 of the Business and Professions Code.

(e) This section shall not be construed to deny state bodies the ability to encourage full participation by appointees with developmental or other disabilities.

(f) If a member of a state body attends a meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

SEC. 4.
Section 11123.5 of the Government Code is repealed.

~~**11123.5.**~~
~~(a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.~~

~~(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.~~

~~(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its Internet Web site and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).~~

~~(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (e), but is not required to disclose information regarding any remote location.~~

~~(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state~~

~~body shall be in attendance at the primary physical meeting location, and members of the state body participating remotely shall not count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.~~

~~(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or Internet Web site, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.~~

~~(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its Internet Web site and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.~~

~~(h) For purposes of this section:~~

~~(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.~~

~~(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.~~

~~(3) "Teleconference" has the same meaning as in Section 11123.~~

~~(i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.~~

SEC. 5.
Section 11124 of the Government Code is amended to read:

11124.
(a) No person shall be required, as a condition to attendance at a meeting of a state body, to register ~~his or her~~ *the person's* name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to ~~his or her~~ *the person's* attendance.

(b) If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or *electronically posted, or* is circulated to persons present during the meeting, it shall state clearly that

the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(c) This section does not apply to an internet website or other online platform that may require identification to log into a teleconference.

SEC. 6.
Section 11125 of the Government Code is amended to read:

11125.
(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the ~~Internet~~ *state body's internet website* at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the ~~Internet site~~ *internet website* where notices required by this article are made available. *The notice shall specify the means by which a meeting may be accessed by teleconference in accordance with the requirements of subparagraph (C) of paragraph (1) of subdivision (b) of Section 11123, including sufficient information necessary to access the teleconference. The notice shall also specify any designated physical meeting location at which the public may observe and address the state body.*

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

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

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

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

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

(f) State bodies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

SEC. 7.
Section 11125.4 of the Government Code is amended to read:

11125.4.
(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(10) To deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by

newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the ~~Internet Web site~~ *internet website* where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the ~~Internet.~~ *state body's internet website.* Failure to adopt the finding terminates the meeting.

SEC. 8.
Section 11128.5 of the Government Code is amended to read:

11128.5.
The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and ~~place~~ *place, including by teleconference,* specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and ~~place and he or she~~ *place, including by teleconference, and the clerk or the secretary* shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on *the state body's internet website, and if applicable, on* or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

SEC. 9.
Section 11129 of the Government Code is amended to read:

11129.
Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on *the state body's internet website, and if applicable, on* or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

SEC. 10.
It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, and related executive orders, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 11.
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 public health, expand access to government participation by the public, and increase transparency in state government operations during the COVID-19 pandemic, it is necessary that this act take effect immediately.

California Board of PSYCHOLOGY

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MEMORANDUM

DATE	March 14, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Suzy Costa Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(3) – AB 2123 (Villapudua) Bringing Health Care into Communities Act of 2023

Background:
This bill, the Bringing Health Care into Communities Act of 2023, would establish the Bringing Health Care into Communities Program to be administered by the agency to provide housing grants to specified health professionals to be used for mortgage payments for a permanent residence in a health professional shortage area, as specified. Under the bill, a health professional would be eligible for a grant for up to 5 years. The bill would make its provisions operative upon appropriation by the Legislature.

Location: Assembly Committee on Health

Status: 2/24/2022 Referred to Committee on Health

Action Requested:
Staff recommends the Legislative and Regulatory Affairs Committee take a **Support If Amended** position on AB 2123 (Villapudua), and requests that the Committee recommends that position to the full Board.

Attachment A: AB 2123 (Villapudua) Analysis
Attachment B: AB 2123 (Villapudua) Bill Text

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2022 Bill Analysis

Author:	Bill Number:	Related Bills:
Assembly Member Carlos Villapudua	AB 2123	
Sponsor:	**Version:**	
Unknown.	Introduced	
Subject:		
Bringing Health Care into Communities Act of 2023.		

SUMMARY

The Bringing Healthcare into Communities Act, AB 2123, would increase the number of medical professionals in federally designated California Health Professional Shortage Areas by offering five years of housing grants for mortgage payments for a permanent residence to the health professionals who practice and live in these areas. The housing grants would be provided by the California Housing Finance Agency. This bill would be operative upon an appropriation from the Legislature.

RECOMMENDATION

SUPPORT IF AMENDED - Staff recommends the Legislative and Regulatory Affairs Committee take a Support If Amended position on AB 2123 (Villapudua), and requests that the Committee recommends that position to the full Board.

Summary of Suggested Amendments

- Specify that licensed psychologists and registered psychological associates are eligible for housing grants.

REASON FOR THE BILL

The author states, “Health Professional Shortage Area (HPSA) designations are used to identify areas and population groups within the United States that are experiencing a shortage of health professionals. There are three categories of HPSA designation based on the health discipline that is experiencing a shortage: 1) primary medical; 2) dental; and 3) mental health. The primary factor used to determine a HPSA designation is the number of health professionals relative to the population with consideration of high need. Federal regulations stipulate that, in order to be considered as having a shortage of providers, an area must have a population-to-provider ratio of a certain threshold.”

“According to a 2020 California Health Care Foundation (CHCF) publication titled: Shortchanged: Health Workforce Gaps in California, an estimated 11,226,111 people in California live in an area that has a shortage of primary care providers. Approximately

150,675 people are experiencing homelessness and in need of housing, health, and social services."

"The data provided in the CHCF publication and many other publications and reports illustrate the magnitude of the health workforce shortages around the state where almost a third of Californians are in a Primary Care Health Professional Shortage Area, including people who are experiencing homelessness — many of whom have extensive health needs. Those who live on the streets die an average of 20 years earlier than people who are housed."

"Having access to a health care provider is an important part of increasing health outcomes and reducing morbidity and ultimately improve quality of life."

"California continues to experience shortages of health professionals, particularly in areas designated as federal health professional shortage areas (HPSA). Individuals living in HPSAs have reduced health outcomes due to the lack of availability of medical care. One of the biggest issues that individuals who reside in rural areas continue to face is access to health care services due to a shortage of health professionals who live and work in those communities. California is a state in which over 75% of the land mass is classified as rural (Wilburn 2002). In 2020, California led the nation in federally designated Health Professional Shortage Areas. This continues to threaten the wellbeing of too many communities across our state as we aim to expand access to health insurance to every resident of California."

"AB 2123 seeks to increase the number of health professionals in HPSAs by providing housing grants to specified health professionals to be used for mortgage payments. This bill also seeks to ensure health professionals will become part of the communities they serve and will ensure rural residents have access to the healthcare they need and deserve."

ANALYSIS

The California Housing Finance Agency (CalHFA) was established in 1975 and has served as the state's affordable housing lender. Its Single-Family Division provides first mortgage loans and down payment assistance to first-time homebuyers. CalHFA is a completely self-supporting state agency, and its bonds are repaid by revenues generated through mortgage loans. Since AB 2123 would be funded through CalHFA, this bill has no cost to the Board or its licensees. Additionally, this bill would be operative upon an appropriation from the Legislature.

There is an existing program in the State that support professionals with loan repayment or scholarships outside of taxpayer funding. The Health Professions Education Foundation (HPEF) was established in 1987 and is the state's only non-profit foundation statutorily created to encourage persons from underrepresented communities to become health professionals and increase access to health providers in medically underserved areas. Supported by Board licensing fees, grants, donations, and special

funds, HPEF provides scholarship and loan repayment programs to students and graduates who agree to practice in California's medically underserved communities.

Within the HPEF exists the Licensed Mental Health Services Provider Education Program, which is funded through a $20 surcharge from renewal fees of psychologists, marriage and family therapists, and licensed clinical social workers in California. The surcharges paid by psychologists are not given to other license types. Eligible applicants may receive loan repayments of up to $15,000 in exchange for a 24-month service obligation practicing and providing direct client care in a publicly funded mental health facility, a nonprofit mental health facility, a mental health professions shortage area, a veteran’s, correctional, or a county facility or in the public mental health system. The purpose of this program is to increase the number of appropriately trained mental healthcare professionals providing direct care in a qualified facility in California.

The Board has a long-standing history of supporting legislative proposals that improve access to psychological services. This bill could better serve the Board’s licensees and registrants if they are explicitly mentioned as potential recipients of mortgage relief.

LEGISLATIVE HISTORY
Not Applicable.

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 and psychological associates.

FISCAL IMPACT
This bill does not have a fiscal impact to the Board since it provides mortgage relief to individual health care providers.

ECONOMIC IMPACT
If amended to include licensed psychologists and registered psychological associates, this bill could increase access to psychological care in rural and underserved communities through mortgage relief.

LEGAL IMPACT
Not Applicable.

APPOINTMENTS
Not Applicable.

SUPPORT/OPPOSITION

Support: Unknown.

Opposition: Unknown.

ARGUMENTS

Proponents: Not Applicable.

Opponents: Not Applicable.

AMENDMENTS

SECTION 1. The Legislature finds and declares all of the following:
(a) California continues to experience shortages of health professionals, particularly in areas declared to be health professional shortage areas.
(b) Individuals living in health professional shortage areas have reduced health outcomes due to the lack of availability of medical care.

(c) Incentivizing health professionals to own homes in those health professional shortage areas would encourage health professionals to become permanently tied to and serving those areas.

SEC. 2. Chapter 9 (commencing with Section 50260) is added to Part 1 of Division 31 of the Health and Safety Code, to read:

CHAPTER 9. Bringing Health care into Communities Act of 2023.

50260. This act shall be known, and may be cited, as the Bringing Health Care into Communities Act of 2023.

50261. (a) The Bringing Health Care into Communities Program is hereby established with the purpose of providing housing assistance grants in accordance with this chapter.

(b) The agency shall administer the program. The agency shall provide housing grants to health professionals listed in Section 50262 to be used for mortgage payments for a permanent residence in a health professional shortage area, as designated by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

(c) A health professional eligible for a grant pursuant to this chapter shall be eligible for up to five years.

(d) A health professional who begins receiving a housing grant based on residency in a health professional shortage area is eligible to continue to receive a housing grant

pursuant to this chapter if that area is no longer a health professional shortage area but shall not receive a housing grant for more than five years.

50262. The following health professionals are eligible for housing grants pursuant to this chapter.

(a) Primary care physicians.
(b) Dentists.
(c) Dental hygienists.
(d) Physician assistants.
(e) Nurse practitioners.
(f) Certified nurse midwives.
(g) Pharmacists.
(h) Mental health providers**, including licensed psychologists and registered psychological associates, as defined by Business and Professions Code sections 2902 and 2913, respectively**.
(i) Behavioral health providers.

50263. This chapter shall be operative upon appropriation by the Legislature.

AB-2123 Bringing Health Care into Communities Act of 2023

SECTION 1.

The Legislature finds and declares all of the following:

(a) California continues to experience shortages of health professionals, particularly in areas declared to be health professional shortage areas.

(b) Individuals living in health professional shortage areas have reduced health outcomes due to the lack of availability of medical care.

(c) Incentivizing health professionals to own homes in those health professional shortage areas would encourage health professionals to become permanently tied to and serving those areas.

SEC. 2.

Chapter 9 (commencing with Section 50260) is added to Part 1 of Division 31 of the Health and Safety Code, to read:

CHAPTER 9. Bringing Health care into Communities Act of 2023.

50260.

This act shall be known, and may be cited, as the Bringing Health Care into Communities Act of 2023.

50261.

(a) The Bringing Health Care into Communities Program is hereby established with the purpose of providing housing assistance grants in accordance with this chapter.

(b) The agency shall administer the program. The agency shall provide housing grants to health professionals listed in Section 50262 to be used for mortgage payments for a permanent residence in a health professional shortage area, as designated by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

(c) A health professional eligible for a grant pursuant to this chapter shall be eligible for up to five years.

(d) A health professional who begins receiving a housing grant based on residency in a health professional shortage area is eligible to continue to receive a housing grant pursuant to this chapter if that area is no longer a health professional shortage area but shall not receive a housing grant for more than five years.

50262.

The following health professionals are eligible for housing grants pursuant to this chapter.

(a) Primary care physicians.

(b) Dentists.

(c) Dental hygienists.

(d) Physician assistants.

(e) Nurse practitioners.

(f) Certified nurse midwives.

(g) Pharmacists.

(h) Mental health providers.

(i) Behavioral health providers.

50263.

This chapter shall be operative upon appropriation by the Legislature.

California Board of PSYCHOLOGY

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MEMORANDUM

DATE	March 14, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Suzy Costa Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(4) – AB 2754 (Bauer-Kahan) Psychology: supervising psychologists: qualifications

Background:
This bill would require the Board of Psychology (Board) to establish regulations for supervising psychologists to include audio and visual modalities.

Location: Assembly

Status: 2/19/2022 From printer. May be heard in committee March 21.

Action Requested:

Staff requests the Legislative and Regulatory Affairs Committee take a **Support if Amended** position on AB 2754 (Bauer-Kahan) and recommend that position to the full Board.

Attachment A: AB 2754 (Bauer-Kahan) Analysis
Attachment B: AB 2754 (Bauer-Kahan) Bill Text

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2022 Bill Analysis

Author:	Bill Number:	Related Bills:
Assembly Member Bauer-Kahan	AB 2754	
Sponsor:	**Version:**	
California Psychological Association (CPA)	Introduced	
Subject:		
Psychology: supervising psychologists: qualifications.		

SUMMARY

This bill would require the Board of Psychology (Board) to establish regulations for supervising psychologists to include audio and visual modalities.

RECOMMENDATION

SUPPORT IF AMENDED – Staff requests the Legislative and Regulatory Affairs Committee take a Support if Amended position on AB 2754 (Bauer-Kahan) and recommend that position to the full Board.

The Board's proposed amendments can be found at the end of this analysis.

Summary of Suggested Amendments

- Clarifying the definition of "real-time" in relation to supervision to include in-person or synchronous audio-visual means in compliance with federal and state laws related to patient health confidentiality.
- Adds an urgency clause.

REASON FOR THE BILL

According to the author: "The COVID-19 pandemic has exacerbated mental health conditions and as a result, there is a critical need for more mental health professionals. In addition, California is experiencing a dire shortage of mental health professionals and grappling with meeting this need. According to the Healthforce Center, California is on track to lose 41% of its psychiatrists and 11% of its psychologists in the next decade. This is on top of the existing scarcity."

"Under current law, psychology trainees in California are required to receive 3,000 hours of supervised professional experience as a condition to receive their license to practice. As part of those hours, trainees are required to be supervised by appropriate psychologist for 10% of the total time worked each week – and have at least one hour per week of face-to-face, direct, individual supervision with their primary supervisor."

This means that, at least once every week, during a two-year period, a trainee has no choice but to be in close quarters with another individual in the midst of a global health pandemic."

"In response, Governor Gavin Newsom temporarily waived face-to-face supervision and permitted supervision to be done remotely via HIPAA-compliant video. Despite the continued spread of COVID-19 and the risks associated with behavioral health professionals working in close quarters, the emergency waiver was only extended until March 31, 2022, at which point it will expire."

"The face-to-face supervision waiver gave practitioners the ability to expand their capacity and protect their health without any negative impacts to patients. The Board of Psychology's continued extensions of the waiver highlights its efficacy. The COVID-19 pandemic illustrated advances in HIPAA-compliant video and practitioner demand for greater flexibility in practice and education."

"The face-to-face waiver alleviated public health constraints, reduced costs to practitioners, both trainees and supervisors, and resulted in increased practitioner availability and access."

"After March 31, 2022, psychology trainees will lose their ability to be supervised remotely, which puts an undue burden on their safety as well as time, costs and access to complete their training."

"AB 2754 codifies Executive Order N-39-20, the face-to-face waiver, and allows for supervision to transpire via audio and visual modalities. This flexibility will improve the safety and availability of training for a necessary workforce."

ANALYSIS

Psychology trainees in California are required to receive 3,000 hours of supervised professional experience as a condition to receive their license to practice. As part of those hours, trainees are required to be supervised 10% of the total time worked each week – and have at least one hour per week of face-to-face, direct, individual supervision with their primary supervisor. Face-to-face supervision is interpreted to mean in-person and in the same room.

On March 30, 2020, Governor Newsom signed Executive Order N-39-20, which allowed DCA to waive any of the professional licensing requirements and amend scopes of practice, including requirements governing the practice and permissible activities for licensees. This language in the waiver allowed the Board to waive face-to-face requirements for psychological supervision of registered psychological associates. This waiver expired on June 30, 2021. Beginning July 1, 2021, the Board provided a six-month grade period to allow the one-hour face-to-face, direct, individual supervision to be conducted through HIPAA-compliant video technology. The Board extended this grace period through March 31, 2022.

This bill would amend Business and Professions Code (BPC) section 2914(c)(2) to require the Board to establish regulations for supervising psychologists to include audio and visual modalities.

Board staff have two major concerns with the bill as written, both of which involve timing. The proposed amendments would address the following concerns.

- As written, the bill relies on the regulatory process for implementation, which based on previous regulatory packages, implementing this bill could take upwards of 2 or 3 years.
- The bill does not include an urgency clause, which means there would be a gap in implementation, leaving registered psychological associates with limited options for supervision.

Since remote supervision is an existing need, the proposed amendments would allow the bill to be self-executing and take effect immediately to benefit the Board's 1,500 registered psychological associates, and countless individuals who are gaining hours necessary towards licensure while providing psychological services in accredited or approved academic institutions, public schools, governmental agencies, under a DHCS wavier, or through a predoctoral internship or postdoctoral placement.

LEGISLATIVE HISTORY
Not Applicable.

OTHER STATES' INFORMATION
According to the Association of State and Provincial Psychological Boards (ASPPB), two states plus the District of Columbia had emergency regulations in place pertaining to remote supervision.

District of Columbia (D.C.)
The Department of Health has issued Administrative Orders to assist in the provision of health care services, including mental health services, during the public health emergency. In addition to those orders, the Board of Psychology issued Policy 2020-002 (6/25/2020) to allow for immediate supervision requirements to be accomplished via "real-time, synchronous communication between the supervisor and the supervisee through the use of appropriate real-time technology such as telephone or audiovisual telecommunication."

North Carolina
Executive Order 130 waived licensure requirements for behavioral health professionals, including: (i) psychologists who are licensed in another state with no prior disciplinary action; (ii) retired psychologists formally licensed in North Carolina with no prior disciplinary action; (iii) unlicensed individuals who have been awarded a master's degree or doctoral degree in psychology from a regionally accredited program that is not an online program, and who shall only provide psychological services as a volunteer; and (iv) individuals who are either currently enrolled or within the past three

months completed a master's or doctoral program from a regionally accredited institution that is not an online program and has completed at least one year of an internship or practicum. Individuals practicing under Executive Order 130 may be required to receive supervision from a North Carolina licensed psychologist. The expiration has been extended until June 26, 2020 and may be further extended.

Ohio
At the psychologist's discretion, 90 practice days may be extended to supervisees with clients living in Ohio. Supervisees must practice psychology under supervision of the authorized psychologist in their home state.

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 and registered psychological associates.

On March 30, 2020, Governor Newsom signed Executive Order N-39-20, which allowed DCA to waive any of the professional licensing requirements and amend scopes of practice, including requirements governing the practice and permissible activities for licensees. This language in the waiver allowed the Board to waive face-to-face requirements for psychological supervision of registered psychological associates. This waiver was extended multiple times since the Governor signed the Executive Order. This waiver is set to expire on March 31, 2022.

During the April 6, 2020 Board meeting, the Board noted their support for remote, HIPAA-compliant video psychological supervision if state and local health authorities recommended social distancing or mandated site closure where a trainee has been performing psychological functions under the immediate supervision of a primary supervisor.

As written, the bill would require the Board to implement this bill through regulations. Recent regulatory packages have taken on average between 2 and 3 years for approval.

FISCAL IMPACT
Not Applicable.

ECONOMIC IMPACT
Not Applicable.

LEGAL IMPACT
Not Applicable.

APPOINTMENTS
Not Applicable.

SUPPORT/OPPOSITION

Support: California Psychological Association

Opposition: Not Applicable.

ARGUMENTS
Not Applicable.

Proponents:

Opponents:

AMENDMENTS
Business and Professions Code
SEC. 1 2914.
(a) An applicant for licensure shall not be subject to denial of licensure under Division 1.5 (commencing with Section 475).
(b) (1) On and after January 1, 2020, an applicant for licensure shall possess an earned doctoral degree in any of the following:
(A) Psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.
(B) Education with the field of specialization in counseling psychology, educational psychology, or school psychology.
(C) A field of specialization designed to prepare graduates for the professional practice of psychology.
(2) (A) Except as provided in subparagraph (B), the degree or training obtained pursuant to paragraph (1) shall be obtained from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education.
(B) Subparagraph (A) does not apply to any student who was enrolled in a doctoral program in psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology or in education with the field of specialization in counseling psychology, educational psychology, or school psychology at a nationally accredited or approved institution as of December 31, 2016.
(3) The board shall make the final determination as to whether a degree meets the requirements of this subdivision.
(4) Until January 1, 2020, the board may accept an applicant who possesses a doctoral degree in psychology, educational psychology, or in education with the field of specialization in counseling psychology or educational psychology from an institution that is not accredited by an accrediting agency recognized by the United States Department of Education, but is approved to operate in this state by the Bureau for Private Postsecondary Education on or before July 1, 1999 and has not, since July 1, 1999, had a new location, as described in Section 94823.5 of the Education Code.

(5) An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that the applicant possesses a doctoral degree in psychology or education as specified in paragraphs (1) and (2) that is equivalent to a degree earned from a regionally accredited academic institution in the United States or Canada by providing the board with an evaluation of the degree by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), or by the National Register of Health Services Psychologists (NRHSP), and any other documentation the board deems necessary. The member of the NACES or the NRHSP shall submit the evaluation to the board directly and shall include in the evaluation all of the following:
(A) A transcript in English, or translated into English by the credential evaluation service, of the degree used to qualify for licensure.
(B) An indication that the degree used to qualify for licensure is verified using primary sources.
(C) A determination that the degree is equivalent to a degree that qualifies for licensure pursuant to paragraphs (1) and (2).
(c) (1) An applicant for licensure shall have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall have occurred after the applicant was awarded the qualifying doctoral degree. **Supervision may be provided in real-time, which is defined as through in-person or synchronous audio-visual means, in compliance with federal and state laws related to patient health confidentiality.** The supervisor shall submit verification of the experience to the trainee as prescribed by the board. If the supervising licensed psychologist fails to provide verification to the trainee in a timely manner, the board may establish alternative procedures for obtaining the necessary documentation. Absent good cause, the failure of a supervising licensed psychologist to provide the verification to the board upon request shall constitute unprofessional conduct.
(2) The board shall establish qualifications by regulation for supervising **psychologists.** ~~psychologists. psychologists, including audio and visual modalities.~~
(d) An applicant for licensure shall take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter.
(e) An applicant for licensure shall complete coursework or provide evidence of training in the detection and treatment of alcohol and other chemical substance dependency.
(f) An applicant for licensure shall complete coursework or provide evidence of training in spousal or partner abuse assessment, detection, and intervention.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve access to psychological care by allowing continued real-time supervision of registered psychological associates, including synchronous

audio-visual means that comply with federal and state laws related to patient health confidentiality, it is necessary for this act to take effect immediately.

AB-2754 Psychology: supervising psychologists: qualifications

SECTION 1.
Section 2914 of the Business and Professions Code is amended to read:

2914.
(a) An applicant for licensure shall not be subject to denial of licensure under Division 1.5 (commencing with Section 475).

(b) (1) On and after January 1, 2020, an applicant for licensure shall possess an earned doctoral degree in any of the following:

(A) Psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.

(B) Education with the field of specialization in counseling psychology, educational psychology, or school psychology.

(C) A field of specialization designed to prepare graduates for the professional practice of psychology.

(2) (A) Except as provided in subparagraph (B), the degree or training obtained pursuant to paragraph (1) shall be obtained from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education.

(B) Subparagraph (A) does not apply to any student who was enrolled in a doctoral program in psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology or in education with the field of specialization in counseling psychology, educational psychology, or school psychology at a nationally accredited or approved institution as of December 31, 2016.

(3) The board shall make the final determination as to whether a degree meets the requirements of this subdivision.

(4) Until January 1, 2020, the board may accept an applicant who possesses a doctoral degree in psychology, educational psychology, or in education with the field of specialization in counseling psychology or educational psychology from an institution that is not accredited by an accrediting agency recognized by the United States Department of Education, but is approved to operate in this state by the Bureau for Private Postsecondary Education on or before July 1, 1999 and has not, since July 1, 1999, had a new location, as described in Section 94823.5 of the Education Code.

(5) An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that the applicant possesses a doctoral degree in psychology or education as specified in paragraphs (1) and (2) that is equivalent to a degree earned from a regionally accredited academic institution in the United States or Canada by providing the board with an evaluation of the degree by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), or by the National Register of Health Services Psychologists (NRHSP), and any other documentation the board

deems necessary. The member of the NACES or the NRHSP shall submit the evaluation to the board directly and shall include in the evaluation all of the following:

(A) A transcript in English, or translated into English by the credential evaluation service, of the degree used to qualify for licensure.

(B) An indication that the degree used to qualify for licensure is verified using primary sources.

(C) A determination that the degree is equivalent to a degree that qualifies for licensure pursuant to paragraphs (1) and (2).

(c) (1) An applicant for licensure shall have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall have occurred after the applicant was awarded the qualifying doctoral degree. The supervisor shall submit verification of the experience to the trainee as prescribed by the board. If the supervising licensed psychologist fails to provide verification to the trainee in a timely manner, the board may establish alternative procedures for obtaining the necessary documentation. Absent good cause, the failure of a supervising licensed psychologist to provide the verification to the board upon request shall constitute unprofessional conduct.

(2) The board shall establish qualifications by regulation for supervising ~~psychologists.~~ *psychologists, including audio and visual modalities.*

(d) An applicant for licensure shall take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter.

(e) An applicant for licensure shall complete coursework or provide evidence of training in the detection and treatment of alcohol and other chemical substance dependency.

(f) An applicant for licensure shall complete coursework or provide evidence of training in spousal or partner abuse assessment, detection, and intervention.

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MEMORANDUM

DATE	March 14, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Suzy Costa Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(5) – SB 1365 (Jones) Licensing boards: procedures

Background:

This bill would require each board within the Department of Consumer Affairs (DCA) to publicly post on its internet website a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure may be better informed about their possibilities of gaining licensure before investing time and resources into education, training, and application fees. The bill would require DCA to establish a process to assist each board in developing its internet website.

The bill would also require DCA to develop a process for each board to use in verifying applicant information and performing background checks of applicants, and would require that process to require applicants with convictions to provide certified court documents instead of listing convictions on application documents. The bill would further require each Board to develop a procedure to provide an informal appeals process that would occur between an initial license denial and an administrative law hearing.

Location: Senate Committees on Business, Professions, and Economic Development, and Public Safety

Status: 3/09/2022 Referred to Committees on Business, Professions, and Economic Development, and Public Safety.

Action Requested:

Staff recommends the Legislative and Regulatory Affairs Committee take an **Oppose** position on SB 1365 (Jones), and requests that the Committee recommend that position to the full Board.

Attachment A: SB 1365 (Jones) Analysis
Attachment B: SB 1365 (Jones) Bill Text

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2022 Bill Analysis

Author:	Bill Number:	Related Bills:
Senator Brian Jones	SB 1365	AB 1662 (2022) AB 2138 (2018)
Sponsor:	**Version:**	
Unknown	Introduced	
Subject:		
Licensing boards: procedures.		

SUMMARY
This bill would require each board within the Department of Consumer Affairs (DCA) to publicly post on its internet website a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure may be better informed about their possibilities of gaining licensure before investing time and resources into education, training, and application fees. The bill would require DCA to establish a process to assist each board in developing its internet website.

The bill would also require DCA to develop a process for each board to use in verifying applicant information and performing background checks of applicants, and would require that process to require applicants with convictions to provide certified court documents instead of listing convictions on application documents. The bill would further require each Board to develop a procedure to provide an informal appeals process that would occur between an initial license denial and an administrative law hearing.

RECOMMENDATION
OPPOSE – Staff recommends the Legislative and Regulatory Affairs Committee take an Oppose position on SB 1365 (Jones), and requests that the Committee recommend that position to the full Board.

Board Staff recommends this position due to the following concerns:

- Lack of clarity regarding the criteria used to evaluate applicants with criminal convictions.
- Lack of clarity regarding the process for verifying applicant information and performing background checks of applicants using court documents instead of listing convictions.
- Potential financial detriment regarding costs to waive associated fees with the background check process.
- Lack of clarity regarding the informal appeals process.

REASON FOR THE BILL

The author states, “SB 1365 requires each board or bureau within the Department of Consumer Affairs (DCA) to post on its website a list of criteria used to evaluate applicants with criminal convictions so potential applicants can understand their probability of gaining licensure.”

“The current laws for licensure make it difficult for the formerly incarcerated population to apply for licenses. There is limited information and few resources available to support these individuals as they apply. Therefore, there is a growing need for clearer instructions and better transparency of this process, so all applicants are aware of the existing rules of each license.”

“The current process does not include a step to provide court documents describing the individual’s criminal history. Since the actual court documents are not required, there is often confusion on what the individual’s particular conviction was, and thus whether or not they would be able to qualify for licensure. Furthermore, in the event the applicant is denied, the process for filing an appeal is complicated and unclear, causing an undue barrier to obtaining a license.”

“SB 1365 will require each board and bureau within DCA to publicly post a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure understand their likelihood of be granted licensure before they apply. SB 1365 would also require DCA to help each board and bureau establish this clarity on its website. The bill will require DCA to develop a clear process for verifying applicant information, including performing background checks of applicants and requiring applicants with prior convictions to provide certified court documents so that the proper convictions are recorded in the process.”

“SB 1365 further requires all boards and bureaus to develop a procedure to provide for an improved appeals process that will be more accessible to applicants who were initially denied.”

“By streamlining the current process and providing accurate information on online platforms, the application will be more straightforward and accessible to all Californians. It will also give formally incarcerated people all the necessary information to decide whether to invest their time and money apply for a license.”

ANALYSIS

SB 1365 would require the Board to post on their website a list of criteria used to evaluate applicants with criminal convictions. It would also require DCA to create processes for informal appeals and verifying applicant information that involves waiving background check fees. The Board has the following concerns with the bill language:

<u>Lack of clarity regarding the criteria used to evaluate applicants with criminal convictions</u>

This bill will require all boards under DCA to post on their respective websites, criteria used to evaluate applicants with criminal convictions. The bill does not provide any additional explanation, or insight into the intent of the bill regarding what would be required to be posted on the webpage.

In addition, the Board's website has the following information included within the regulatory advisory for AB 2138:

Specifically, the Board may not deny a license solely because the applicant was convicted of a crime, or due to the acts underlying the conviction, if the applicant has a certificate of rehabilitation, was granted clemency, made a showing of rehabilitation, or the conviction was dismissed or expunged. Absent these circumstances, these regulations permit the Board to deny a license when an applicant has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the regulated business or profession. The Board may also deny a license for substantially related professional misconduct that results in formal discipline by another licensing board. These regulations also establish the criteria that the Board can utilize to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

Staff are unsure if the information contained within the advisory meets the legislative intent of this bill.

<u>Lack of clarity regarding the process for verifying applicant information and performing background checks of applicants using court documents instead of listing convictions</u>

The bill would require DCA to establish a process for verifying an applicant's criminal information using court documents instead of listing convictions on application documents. Currently, the Board has a form for applicants called the License Disciplinary Action Form. This specific form allows an applicant to disclose their conviction, and provide information on rehabilitation, which is a crucial component of whether the Board issues a license to an applicant. Since this bill would require an analyst to review court documents instead of a narrative, it is unclear if the Board can request information regarding rehabilitation. This change may potentially remove the Board's ability to use discretion when reviewing and approving applicants with a criminal history and may lead to additional application denials.

<u>Potential financial detriment regarding costs to waive associated fees with the background check process</u>

This bill would require DCA to develop a process to expedite the fee-waiver process for any low-income applicant requesting a background check. Currently, the Board requires both a Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) criminal history background check on all licensees, registrants and applicants for licensure or registration. Applicants in California complete a "Live Scan," which is a system for the electronic submission of fingerprints through the DOJ. The process requires applicants

to go to a Live Scan site for fingerprint scanning services. The cost of this process is paid to the Live Scan site directly.

This bill does not have a definition of “low-income.” As the Board is currently facing insolvency and rightsizing a structural imbalance, the Board does not have the additional revenue to pay for the live scan of a potential applicants.

Lack of clarity regarding the informal appeals process

The bill language mentions the informal process of the Bureau of Security and Investigative Services, (BSIS) and encourages DCA to examine their model. BSIS has multiple Disciplinary Review Committees (DRC), which handle denials, revocations, or suspensions of a license, certificate, registration or permits. There are five DRCs total for the professions that BSIS regulates. Each DRC has five members and BSIS pays each member $100 per diem each time the committee meets, along with an additional $100 for reading the relevant materials ahead of time. Additionally, DRCs convene more frequently than the Board, and for example, one DRC convened 17 times in 2021.

This disciplinary review process works for BSIS, since they have a larger number of applicants with criminal histories and issue a high number of denials annually. If this system were in place with the Board, it could be very costly and would not be the most efficient way of handling the Board’s averaged 3.6 denials per year.

LEGISLATIVE HISTORY

AB 1662 (Gipson): Licensing boards: disqualification from licensure: criminal conviction.
Session: 2021-22
Status: Referred to Assembly Business and Professions
This bill would authorize a prospective applicant that has been convicted of a crime to submit to any board or bureau a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction. The bill would require the Board that receives that request to determine if the prospective applicant would be disqualified from licensure by the Board based on the information submitted with the request and deliver that determination to the prospective applicant.

AB 2138 (Chiu): Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.
Session: 2017-18
Chapter 995, Statutes of 2018
Reduces barriers to licensure for individuals with prior criminal convictions by limiting a 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.

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 and psychological associates.

The Board has the authority to deny licensure based on regulations. Currently, the Board has a webpage with the following information that outlines approved regulations pertaining licensure requirements for applicants with criminal backgrounds, pursuant to AB 2138 (Chiu, Chapter 995, Statutes of 2018):

Specifically, the Board may not deny a license solely because the applicant was convicted of a crime, or due to the acts underlying the conviction, if the applicant has a certificate of rehabilitation, was granted clemency, made a showing of rehabilitation, or the conviction was dismissed or expunged. Absent these circumstances, these regulations permit the Board to deny a license when an applicant has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the regulated business or profession. The Board may also deny a license for substantially related professional misconduct that results in formal discipline by another licensing board. These regulations also establish the criteria that the Board can utilize to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

FISCAL IMPACT
Since the bill suggests DCA implement an informal appeals process that occurs between an initial license denial and an administrative law hearing, the Board would be required to follow this type of process. Specifically, the bill language suggests the Board implement the BSIS informal DRC process. Since the Board only issues an average of 3.6 denials per year, using this DRC process would be costly and an inefficient use of the Board's limited resources.

ECONOMIC IMPACT
Not Applicable.

LEGAL IMPACT
Not Applicable.

APPOINTMENTS
Not Applicable.

SUPPORT/OPPOSITION

Support: Unknown.

Opposition: Unknown.

ARGUMENTS

Proponents: Not Applicable.

Opponents: Not Applicable.

SB-1365 Licensing boards: procedures

SECTION 1.
Section 114.6 is added to the Business and Professions Code, to read:

114.6.
(a) Each board within the department shall publicly post on its internet website a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure may be better informed about their possibilities of gaining licensure before investing time and resources into education, training, and application fees.

(b) The department shall do all of the following:

(1) (A) Establish a process to assist each board in developing its internet website in compliance with subdivision (a).

(B) As part of this process, the department shall disseminate materials to, and serve as a clearing house to, boards in order to provide guidance and best practices in assisting applicants with criminal convictions gain employment.

(2) (A) Develop a process for each board to use in verifying applicant information and performing background checks of applicants.

(B) In developing this process, the board may examine the model used for performing background checks of applicants established by the Department of Insurance. The process developed shall require applicants with convictions to provide certified court documents instead of listing convictions on application documents. This process shall prevent license denials due to unintentional reporting errors. This process shall also include procedures to expedite the fee-waiver process for any low-income applicant requesting a background check.

(3) (A) Develop a procedure to provide for an informal appeals process.

(B) In developing this informal appeals process, the department may examine the model for informal appeals used by the Bureau of Security and Investigative Services. The informal appeals process shall occur between an initial license denial and an administrative law hearing.

California Board of PSYCHOLOGY

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MEMORANDUM

DATE	March 14, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Suzy Costa Legislative and Regulatory Analyst
SUBJECT	Agenda Item #7(a)(6) – SB 1428 (Archuleta) Psychologists: psychological testing technician: registration

Background:
This bill would authorize an individual to provide psychological or neuropsychological test administration and scoring services, if that individual is registered with the board as a psychological testing technician and meets specified education requirements, or if the individual is gaining specified education requirements to be a psychological testing technician.

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

Status: 3/09/2022 Referred to Committee on Business, Professions, and Economic Development

Action Requested:

Staff requests the Legislative and Regulatory Affairs Committee adopt a **Support if Amended** position and recommend that to the full Board.

Attachment A: SB 1428 (Archuleta) Analysis
Attachment B: SB 1428 (Archuleta) Bill Text

SB-1428 Psychologists: psychological testing technician: registration

SECTION 1.
Section 2910.5 is added to the Business and Professions Code, to read:

2910.5.
(a) This chapter shall authorize a person to provide psychological or neuropsychological test administration and scoring services if the person is gaining the experience described in subparagraph (C) of paragraph (3) or if all of the following conditions are met:

(1) The person is registered with the board as a psychological testing technician. This registration shall be renewed biannually.

(2) The person holds a bachelor's degree or graduate degree in psychology or a related field from an accredited university, college, or professional school. The board shall make the final determination as to whether a degree meets the requirements of this section.

(3) The person has completed a minimum of 80 hours total of education and training relating to psychological or neuropsychological test administration and scoring, which shall include all of the following:

(A) At least 20 hours of education on topics including, but not limited to, law and ethics, confidentiality, and best practices for test administration and scoring.

(B) At least 20 hours of direct observation of a licensed psychologist or registered psychological testing technician administering and scoring tests, if observation of a licensed psychologist equals at least 50 percent of those hours.

(C) At least 40 hours of administering and scoring tests in the presence of a licensed psychologist or registered psychological testing technician, if a licensed psychologist is present for at least 50 percent of those hours.

(b) The education required by paragraph (3) of subdivision (a) of this section may be obtained by participating in individual or group instruction provided by a licensed psychologist, by taking continuing education courses approved by organizations approved by the board, by engaging in independent learning directed by a licensed psychologist, or by completing graduate-level coursework at an accredited university, college, or professional school.

(c) For purposes of this section, "licensed psychologist" means a psychologist licensed by the board or a psychologist licensed at the doctoral level in another state or territory of the United States or in Canada.

(d) A psychological testing technician shall only use the titles "psychological testing technician" or "neuropsychological testing technician." A registered psychological testing technician shall not use the title "psychologist" or any title incorporating the word "psychologist."

(e) A psychological testing technician may administer and score standardized objective psychological and neuropsychological tests and may observe and describe clients' test behavior and test responses. Psychological testing technicians shall not select tests, or versions of tests, interpret test results, write test reports, or provide test feedback to clients.

(f) (1) All psychological and neuropsychological testing services provided by a psychological testing technician shall be under the immediate supervision of a psychologist licensed by the board.

(2) Supervisors of psychological testing technicians shall be employed by, or contracted to, the same work setting as the psychological testing technician they are supervising.

(3) Supervisors of psychological testing technicians shall be available, in-person, by telephone, or by other appropriate technology, at all times the psychological testing technician provides services.

(4) Supervisors of psychological testing technicians shall be responsible for ensuring that the extent, kind, and quality of the psychological testing services that the psychological testing technician performs are consistent with the technician's training and experience. Supervisors of psychological testing technicians shall be responsible for monitoring the psychological testing technician's compliance with this chapter and regulations.

(5) Supervisors of psychological testing technicians shall ensure that the client is informed prior to the rendering of services by a psychological testing technician that the technician is not registered as a psychological testing technician and is functioning under the authority of the supervisor.

(g) Psychology students, psychological assistants, and any other psychology trainees who meet the requirements described in this section may register with the board as a psychological testing technician. These persons may function in only one role when providing services. When providing services as a psychological testing technician, this section shall apply.

SEC. 2.
Section 2987 of the Business and Professions Code is amended to read:

2987.
The amount of the fees prescribed by this chapter shall be determined by the board, and shall be as follows:

(a) The application fee for a psychologist shall not be more than fifty dollars ($50).

(b) The examination and reexamination fees for the examinations shall be the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination.

(c) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(d) The biennial renewal fee for a psychologist shall be four hundred dollars ($400). The board may increase the renewal fee to an amount not to exceed five hundred dollars ($500).

(e) The application fee for registration as a registered psychological associate under Section 2913 shall not be more than seventy-five dollars ($75).

(f) The annual renewal fee for registration of a psychological assistant shall not be more than seventy-five dollars ($75).

(g) The duplicate license or registration fee is five dollars ($5).

(h) The delinquency fee is 50 percent of the renewal fee for each license type, not to exceed one hundred fifty dollars ($150).

(i) The endorsement fee is five dollars ($5).

(j) The file transfer fee is ten dollars ($10).

(k) The registration fee for a psychological testing technician shall be forty dollars ($40).

Notwithstanding any other provision of law, the board may reduce any fee prescribed by this section, when, in its discretion, the board deems it administratively appropriate.

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.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #Item 7(b)(1) – AB 1795 (Fong) Open meetings: remote participation

Background:
This bill would require state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely.

Location: Assembly Committee on Governmental Organization

Status: 2/18/2022 Referred to Committee on Governmental Organization

Action Requested:

As this bill is unlikely to gain traction with similar language in AB 1733 (Quirk), Staff recommend the Legislative and Regulatory Affairs Committee Watch AB 1795 (Fong).

Attachment A: AB 1795 (Fong) Bill Text

AB-1795 Open meetings: remote participation

SECTION 1.
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~~ *body, including by both in-person and remote participation,* except as otherwise provided in this article. *For purposes of this subdivision, "remote participation" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting via electronic communication.*

(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, 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.

(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 does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) 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. 2.
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~~ *body, including by both in-person and remote participation,* 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. *For purposes of this subdivision, "remote participation" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting via electronic communication.*

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

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

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

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

(e) This section is not applicable to any of the following:

(1) Closed sessions held pursuant to Section 11126.

(2) Decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(3) Hearings conducted by the California Victim Compensation Board pursuant to ~~Sections 13963 and 13963.1.~~ *Section 13959.*

(4) 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.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #Item 7(b)(2) – AB 1860 (Ward) Open meetings: remote participation

Background:
This bill would exempt graduate student interns participating in supervised internships affiliated with graduate university programs in psychology, social work, marriage and family therapy, or counseling, and who are completing supervised practicum hours within alcoholism or drug abuse recovery and treatment programs from the certification requirement.

Location: Assembly Committee on Health

Status: 2/18/2022 Referred to Committee on Health

Action Requested:

As the Board does not have involvement with Substance Abuse Counselor certification programs, Staff recommends the Legislative and Regulatory Affairs Committee Watch AB 1860 (Ward).

Attachment A: AB 1860 (Ward) Bill Text

AB-1860 Substance abuse treatment: certification

SECTION 1.
Section 11833 of the Health and Safety Code is amended to read:

11833.
(a) The department shall have the sole authority in state government to determine the qualifications, including the appropriate skills, education, training, and experience of personnel working within alcoholism or drug abuse recovery and treatment programs licensed, certified, or funded under this part.

(b) (1) Except for licensed professionals, as defined by the department, *and graduate student interns participating in supervised internships affiliated with graduate university programs in psychology, social work, marriage and family therapy, or counseling and who are completing their supervised practicum hours working in a program described in subdivision (a),* the department shall require that an individual providing counseling services working within a program described in subdivision (a) be registered with or certified by a certifying organization approved by the department to register and certify counselors.

(2) The department shall not approve a certifying organization that does not, prior to registering or certifying an individual, contact other department-approved certifying organizations to determine whether the individual has ever had ~~his or her~~ *their* registration or certification revoked.

(c) If a counselor's registration or certification has been previously revoked, the certifying organization shall deny the request for registration and shall send the counselor a written notice of denial. The notice shall specify the counselor's right to appeal the denial in accordance with applicable statutes and regulations.

(d) The department shall have the authority to conduct periodic reviews of certifying organizations to determine compliance with all applicable laws and regulations, including subdivision (c), and to take actions for noncompliance, including revocation of the department's approval.

(e) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time that regulations are adopted.

(2) The department shall adopt regulations by December 31, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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MEMORANDUM

DATE	March 10, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #Item 7(b)(3) – AB 1921 (Jones-Sawyer) Correctional Officers

Background:

This bill would allow a correctional officer employed by the Department of Corrections and Rehabilitation to receive a confidential mental health evaluation every calendar year to determine whether the individual has an emotional or mental condition that might adversely affect their exercise of the duties and powers of a correctional officer. The bill would specify the training and experience required for those conducting the evaluations. If a mental health evaluator determines that the individual has a condition that might adversely affect their exercise of the duties and powers of a correctional officer, the bill would require the evaluator to notify the correctional officer of that determination and to provide mental health resources, as specified. The bill would require the correctional officer to be allowed to receive treatment from a mental health professional of their choosing, and would require the costs of the mental health evaluation and treatment to be paid for by the department. As an incentive to participate in the mental health evaluation and treatment, the bill would allow for monetary bonuses, as specified. The bill would prohibit the evaluation from being shared with the Department of Human Resources without the affirmative and informed written consent of the correctional officer. The bill would prohibit the evaluation from being shared with the Department of Corrections and Rehabilitation, or an individual or entity with authority over the department, as specified, and would prohibit the employer from taking action, as specified, against a correctional officer for being evaluated or for accessing mental health or other resources as a result of that evaluation. The bill would become operative only upon an agreement between an employer and a recognized employee organization or bargaining unit pursuant to specified provisions.

Location: Assembly Committees on Public Safety and Public Employment and Retirement

Status: 2/18/2022 Referred to Committees on Public Safety and Public Employment and Retirement

Action Requested:

As this bill includes psychologists among the list of mental health evaluators, Staff recommends the Legislative and Regulatory Affairs Committee Watch AB 1921 (Jones-Sawyer).

Attachment A: AB 1921 (Jones-Sawyer) Bill Text

AB-1921 Correctional officers

SECTION 1.
Section 13601.5 is added to the Penal Code, to read:

13601.5.
(a) The Legislature finds and declares all of the following:

(1) The emotional and mental well-being of correctional officers is critical to maintaining a safe environment for staff and inmates in the facilities of the Department of Corrections and Rehabilitation.

(2) Correctional officers are exposed to violence at rates roughly comparable to military veterans.

(3) Correctional officers have a high incidence of serious stress-related illnesses compared to average Americans.

(4) Unidentified and untreated mental health issues have serious negative impacts on correctional officers and their families and the dynamics of a correction environment, and affect their ability to carry out their duties in a safe and appropriate manner.

(5) Correctional officers' mental health needs are often overlooked until a response is necessitated by negative behavior or a significant event.

(6) Correctional officers are currently required to have a mental health evaluation prior to employment with the Department of Corrections and Rehabilitation.

(7) Routine engagement and evaluation can improve early detection or even prevent serious mental health issues.

(b) Notwithstanding any other law, a correctional officer for the Department of Corrections and Rehabilitation, as defined in subdivision (b) of Section 830.5, shall be entitled to receive a mental health evaluation once every calendar year. An evaluation pursuant to paragraph (2) of subdivision (a) of Section 13601 within the calendar year satisfies this subdivision. Yearly mental health evaluations conducted pursuant to this subdivision shall be separated by at least six months.

(1) Mental health evaluations shall be conducted through the Department of Human Resources by either of the following:

(A) A physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California who has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and

mental disorders, including the equivalent of three full-time years accrued after receipt of their doctorate degree.

(2) The mental health evaluation shall include a determination of whether the individual has an emotional or mental health condition that might adversely affect their exercise of the duties and powers of a correctional officer employed by the Department of Corrections and Rehabilitation. The evaluator shall share this information with the correctional officer.

(3) The mental health evaluation shall be confidential between the evaluator and the correctional officer and shall only be shared with the Department of Human Resources at the sole discretion, and with the affirmative and informed written consent, of the correctional officer. The evaluation shall not be shared with any individual or entity with authority over the Department of Corrections and Rehabilitation pursuant to a lawfully declared receivership, an appointee, executive, manager, or employee that has supervisorial responsibilities, or any other employee employed by or having jurisdiction over the Department of Corrections and Rehabilitation. The evaluation shall not be shared by any appointee, executive, manager, or other employee who has access to, or may access, personnel records at the Department of Human Resources with the Department of Corrections and Rehabilitation.

(4) (A) The mental health evaluator shall provide the individual with information on mental health treatment or other mental health resources. The mental health evaluator shall provide a list of mental health professionals, including, but not limited to, psychiatrists, psychologists, licensed clinical social workers, marriage family therapists, and other qualified therapists, with specific experience working with mental health issues experienced by first responders, law enforcement, or military personnel.

(B) A participating correctional officer shall receive mental health treatment from a qualified, licensed mental health professional of their choosing. The correctional officer may receive treatment from a mental health professional who is not on the list provided by the mental health evaluator.

(C) Any and all costs for and related to the mental health evaluation, treatment, and other resources shall be paid for by the department. The department shall not pass any costs for or related to the mental health evaluation, treatment, and other resources on to the correctional officer directly or indirectly, including, but not limited to, increased insurance premiums paid by the correctional officer.

(c) (1) Participation in mental health treatment or accessing mental health resources as a result of that evaluation is voluntary. A correctional officer shall not be disciplined, discharged, demoted, suspended, retaliated against, subjected to an adverse action, or in any other manner discriminated against for being evaluated pursuant to subdivision (b), for participating in mental health treatment, or for accessing other mental health resources as a result of that evaluation.

(2) Correctional officers participating in the mental health evaluation or receiving mental health treatment shall receive a bonus of ____ dollars ($____) for each evaluation and subsequent treatment with a mental health professional received pursuant to

subdivision (b). A participating correctional officer shall not be entitled to a bonus for more than one mental health treatment session per quarter. The bonus shall be paid on a quarterly basis.

(d) The provisions of this section, in whole or in part, shall not become operative unless an agreement has been reached between the employer and a recognized employee organization or bargaining unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code.

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MEMORANDUM

DATE	March 11, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item # 7(b)(4) – AB 2080 (Wood) Health Care Consolidation and Contracting Fairness Act of 2022

Background:

This bill, the Health Care Consolidation and Contracting Fairness Act of 2022, would prohibit a contract issued, amended, or renewed on or after January 1, 2023, between a health care service plan or health insurer and a health care provider or health facility from containing terms that, among other things, restrict the plan or insurer from steering an enrollee or insured to another provider or facility or require the plan or insurer to contract with other affiliated providers or facilities. The bill would authorize the appropriate regulating department to refer a plan's or insurer's contract to the Attorney General, and would authorize the Attorney General or state entity charged with reviewing health care market competition to review a health care practitioner's entrance into a contract that contains specified terms. Because a willful violation of these provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

Location: Assembly Committees on Health and Judiciary

Status: 2/24/2022 Referred to Committees on Health and Judiciary

Action Requested:

As the portion of this bill noted above affects the general provisions of the California Business and Professions Code, Staff recommends the Legislative and Regulatory Affairs Committee Watch AB 2080 (Wood).

Attachment A: AB 2080 (Wood) Bill Text

AB-2080 Health Care Consolidation and Contracting Fairness Act of 2022

SECTION 1.

This act shall be known and may be cited as the Health Care Consolidation and Contracting Fairness Act of 2022.

SEC. 2.

Section 685 is added to the Business and Professions Code, to read:

685.

(a) Notwithstanding any other law, a health care practitioner licensed under this division shall not enter into, amend, enforce, or renew a contractual provision on or after January 1, 2023, with a health care service plan or health insurer that directly or indirectly does or implements any of the following:

(1) Restricts the health care service plan or health insurer from doing or implementing either of the following:

(A) Directing or steering enrollees or insureds to other health care practitioners.

(B) Offering incentives to encourage enrollees or insureds to utilize or avoid health care practitioners.

(2) Requires the health care service plan or health insurer to enter into an additional contract with any or all affiliates or individual facilities of the health care practitioner as a condition of entering into a contract with the practitioner.

(3) Requires the health care service plan or health insurer to agree to payment rates or terms for an individual facility or affiliate of the health care practitioner as a condition of entering into a contract with the practitioner, other individual facility, or affiliate.

(4) Requires the health care service plan or health insurer to agree to payment rates or other terms for an affiliate or individual facility that is not party to the contract.

(5) Restricts other health care service plans or health insurers that are not party to the contract from paying a lower rate for items or services than the rate the contracting plan pays for those items or services.

(6) Prevents a health care service plan or health insurer, directly or indirectly, from providing provider-specific cost or quality of care information, through a consumer engagement tool or any other means, to referring providers, the plan or insurer sponsor, enrollees, insureds, or eligible enrollees or insureds of the plan or insurer.

(b) A health care practitioner's entrance into a contract that does or implements any of the conduct described in subdivision (a) may be reviewed by the Attorney General and any other state entity charged with reviewing health care market competition for compliance with this section.

(c) Notwithstanding any other law, the Attorney General and any other state entity charged with reviewing health care market competition shall be entitled to specific performance, injunctive relief, and other equitable remedies a court deems appropriate

for enforcement of this section and shall be entitled to recover attorney's fees and costs incurred in remedying each violation.

(d) The Attorney General and any other state agency charged with reviewing health care market competition may adopt regulations to implement this section.

(e) The authority of the Attorney General to maintain competitive markets and prosecute state and federal antitrust and unfair competition violations shall not be narrowed, abrogated, or otherwise altered by this section.

SEC. 3.
Section 5931 is added to the Corporations Code, to read:

5931.
(a) (1) A medical group, hospital or hospital system, health care service plan, health insurer, or pharmacy benefit manager, except for a nonprofit corporation subject to Sections 5914 and 5920, shall provide written notice to, and obtain the written consent of, the Attorney General before entering into an agreement or transaction to do either of the following:

(A) Sell, transfer, lease, exchange, option, encumber, convey, or otherwise dispose of a material amount of its assets.

(B) Transfer control, responsibility, or governance of a material amount of its assets or operations.

(2) The substitution of a new corporate member or members that transfers the control of, responsibility for, or governance of the nonprofit corporation shall be deemed a transfer for purposes of this article. The substitution of one or more members of the governing body, or an arrangement, written or oral, that would transfer voting control of the members of the governing body, shall also be deemed a transfer for purposes of this article.

(3) This section applies to a material change with a value of five million dollars ($5,000,000) or more.

(b) (1) Subdivision (a) does not apply to a nonphysician provider. For purposes of this section, "nonphysician provider" means an individual or group of individuals licensed under Division 2 (commencing with Section 500) of the Business and Professions Code who does not provide health-related physician, surgery, or laboratory services to consumers.

(2) Subdivision (a) does not apply to an ambulatory surgical center that is not affiliated with or owned by a general acute care facility, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, and is any of the following:

(A) A surgical clinic licensed by the State Department of Public Health.

(B) An ambulatory surgical center certified by the federal Centers for Medicare and Medicaid Services to participate in the Medicare program.

(C) An outpatient setting that is accredited by an accreditation agency approved by the Medical Board of California.

(c) The notice to the Attorney General pursuant to subdivision (a) shall be provided at least 90 days before the changes and shall include and contain the information the Attorney General deems is required. The notice, including any other information that is provided to the Attorney General pursuant to this section and that is in the public file, shall be made available by the Attorney General to the public in written form, as soon as is practicable after it is received by the Attorney General. The notice shall include a list of the threshold languages for Medi-Cal beneficiaries, as determined by the State Department of Health Care Services. The Attorney General may require the nonprofit corporation to provide certain components of the notice in any of these languages.

(d) The Attorney General shall have discretion to consent to, give conditional consent to, or not consent to an agreement or transaction described in subdivision (a). In making the determination, the Attorney General may consider any factors that the Attorney General deems relevant, including all of the following:

(1) Whether or not the proposed material change may have a significant impact on market competition or costs for payers, purchasers, or consumers.

(2) Whether or not the proposed material change may improve the quality of care, such as the ability to offer culturally competent and appropriate care.

(3) Whether or not the proposed material change may have a significant impact on the access to or availability of health care for payers, purchasers, or consumers.

(4) Whether or not the proposed material change is in the public interest.

(5) Whether or not the proposed material change is likely to maintain access to care in a rural community. If the Attorney General finds that access to care in a rural community will become more limited with the proposed material change, the Attorney General may approve the proposed material change, and may place conditions on the proposed material change.

(e) Within 90 days of the receipt of the written notice required by subdivision (a), the Attorney General shall notify the medical group, hospital or hospital system, health care service plan, or health insurer of the decision to consent to, give conditional consent to, or not consent to the agreement or transaction. The Attorney General may extend this period for one additional 45-day period if any of the following conditions apply:

(1) The extension is necessary to obtain additional information.

(2) The proposed agreement or transaction is substantially modified after the original notice was provided to the Attorney General.

(3) The proposed agreement or transaction involves a multifacility health system serving multiple communities, rather than a single facility or entity.

(f) This section applies to a foreign corporation that operates or controls a medical group, hospital or hospital system, health care service plan, health insurer, or pharmacy

benefit manager, if that entity provides similar health care or coverage to a domestic corporation, regardless of whether it is currently operating or has a suspended license.

(g) The Attorney General may adopt regulations to implement this section.

(h) The authority of the Attorney General to maintain competitive markets and prosecute state and federal antitrust and unfair competition violations shall not be narrowed, abrogated, or otherwise altered by this section.

SEC. 4.
Section 5932 is added to the Corporations Code, to read:

5932.
(a) Before issuing a written decision pursuant to Section 5931, the Attorney General shall conduct one or more public meetings on a major transaction. The Attorney General may also conduct one or more public meetings on other transactions.

(b) If the transaction involves a medical group or a hospital or hospital system, one of the public meetings shall be in the county in which the medical group or hospital is located, to hear comments from interested parties.

(c) At least 14 days before conducting the public meeting, the Attorney General shall provide written notice of the time and place of the meeting through publication in one or more newspapers of general circulation in the affected community and to the boards of supervisors of the county or counties in which the medical group or the hospital or hospital system is located. This notice shall be provided in English and in the primary languages spoken at the facility, if any, and the threshold languages for Medi-Cal beneficiaries, as determined by the State Department of Health Care Services.

(d) If a substantive change in the proposed agreement or transaction is submitted to the Attorney General after the initial public meeting, the Attorney General may conduct an additional public meeting to hear comments from interested parties with respect to that change.

(e) (1) With respect to a health care service plan, health insurer, or pharmacy benefit manager, "major transaction" has the same meaning as in Section 1399.65 of the Health and Safety Code.

(2) With respect to a hospital or hospital system, "major transaction" means a transaction that would have been subject to Section 5914 if it involved a nonprofit corporation.

(3) With respect to a medical group, the Attorney General shall define "major transaction" by regulation.

(f) The Attorney General may adopt regulations to implement this section.

SEC. 5.
Section 5933 is added to the Corporations Code, to read:

5933.

(a) (1) Within the time periods designated in Section 5931 and relating to the factors specified in Section 5931, the Attorney General may do both of the following:

(A) Contract with, consult, and receive advice from a state agency on the terms and conditions that the Attorney General deems appropriate.

(B) In the Attorney General's sole discretion, contract with experts or consultants to assist in reviewing the proposed material change in control.

(2) Contract costs shall not exceed an amount that is reasonable and necessary to conduct the review and evaluation. A contract entered into under this section shall be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Upon request, the Attorney General shall be paid promptly by the entities seeking consent for all contract costs.

(3) The Attorney General shall be entitled to reimbursement from the entities seeking consent for all actual, reasonable, direct costs incurred in reviewing, evaluating, and making the determination referred to in this section, including administrative costs. The entity seeking consent shall promptly pay the Attorney General, upon request, for all of those costs.

(b) (1) To monitor effectively ongoing compliance with the terms and conditions of a material change of control subject to Section 5931, the Attorney General may, in their sole discretion, contract with experts and consultants to assist in this regard.

(2) Contract costs shall not exceed an amount that is reasonable and necessary to conduct the review and evaluation. A contract entered into under this section shall be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. The entities seeking consent shall pay the Attorney General promptly for all contract costs.

(3) The Attorney General shall be entitled to reimbursement from either the selling or the acquiring entity, depending upon which one the burden of compliance falls, for all actual, reasonable, and direct costs incurred in monitoring ongoing compliance with the terms and conditions of the sale or transfer of assets, including contract and administrative costs. The Attorney General may bill either the selling or the acquiring entity and the entity billed by the Attorney General shall promptly pay for all of those costs.

(c) The Attorney General may adopt regulations to implement this section.

SEC. 6.
Section 1255.4 is added to the Health and Safety Code, to read:

1255.4.
(a) Notwithstanding any other law, a health facility shall not enter into, amend, enforce, or renew a contractual provision on or after January 1, 2023, with a health care service plan or health insurer that directly or indirectly does or implements any of the following:

(1) Restricts the health care service plan or health insurer from doing or implementing either of the following:

(A) Directing or steering enrollees or insureds to other health facilities.

(B) Offering incentives to encourage enrollees or insureds to utilize or avoid health facilities.

(2) Requires the health care service plan or health insurer to enter into an additional contract with any of all affiliates or individual facilities of the health facility as a condition of entering into a contract with the health facility.

(3) Requires the health care service plan or health insurer to agree to payment rates or terms for an individual facility or affiliate of the health facility as a condition of entering into a contract with the health facility, other individual facility, or affiliate.

(4) Requires the health care service plan or health insurer to agree to payment rates or other terms for an affiliate or individual facility that is not party to the contract.

(5) Restricts other health care service plans or health insurers that are not party to the contract from paying a lower rate for items or services than the rate the contracting plan or insurer pays for those items or services.

(6) Prevents a health care service plan or health insurer, directly or indirectly, from providing provider-specific cost or quality of care information, through a consumer engagement tool or any other means, to referring providers, the plan or insurer sponsor, enrollees, insureds, or eligible enrollees or insureds of the plan or insurer.

(b) The department may refer contracts subject to this section to the Attorney General or any other state entity charged with reviewing health care market competition to review the contract for compliance with this section. The authority of the Attorney General to maintain competitive markets and prosecute antitrust violations shall not be narrowed, abrogated, or otherwise altered by this section.

SEC. 7.

Section 1371.26 is added to the Health and Safety Code, to read:

1371.26.

(a) A contract issued, amended, or renewed on or after January 1, 2023, between a health care service plan offering coverage in the group market or individual market and a health care provider, network or association of health care providers, or other service provider offering access to a network of service providers shall not contain a contract term that directly or indirectly does or implements any of the following:

(1) Restricts the health care service plan from doing or implementing either of the following:

(A) Directing or steering enrollees to other health care providers.

(B) Offering incentives to encourage enrollees to utilize or avoid specific health care providers.

(2) Requires the health care service plan to enter into an additional contract with any or all affiliates or individual facilities of the provider as a condition of entering into a contract with the provider.

(3) Requires the health care service plan to agree to payment rates or terms for an individual facility or affiliate of the provider as a condition of entering into a contract with the provider, other individual facility, or affiliate.

(4) Requires the health care service plan to agree to payment rates or other terms for an affiliate or individual facility that is not party to the contract.

(5) Restricts other health care service plans or health insurers that are not party to the contract from paying a lower rate for items or services than the rate the contracting plan pays for those items or services.

(6) Prevents a health care service plan, directly or indirectly, from providing provider-specific cost or quality of care information, through a consumer engagement tool or any other means, to referring providers, the plan sponsor, enrollees, or eligible enrollees of the plan.

(b) The director may refer contracts subject to this section to the Attorney General or any other state entity charged with reviewing health care market competition to review the contract for compliance with this section. The authority of the Attorney General to maintain competitive markets and prosecute antitrust violations shall not be narrowed, abrogated, or otherwise altered by this section.

SEC. 8.
The heading of Article 10.2 (commencing with Section 1399.65) of Chapter 2.2 of Division 2 of the Health and Safety Code is amended to read:

Article 10.2. Mergers and Acquisitions of and by Health Care Service Plans
SEC. 9.
Section 1399.65 of the Health and Safety Code is amended to read:

1399.65.
(a) (1) A health care service plan that intends to merge or consolidate with, or enter into an agreement resulting in its purchase, acquisition, or control by, any entity, including another health care service plan or a health insurer licensed under the Insurance Code, shall give notice to, and secure prior approval from, the director. *A health care service plan that intends to acquire or obtain control of an entity through a change of governance or control of a material amount of assets of that entity shall give notice to, and secure prior approval from, the director.*

(2) The transactions or agreements described in paragraph (1) may not be completed until the director approves the transaction or agreement.

(3) A health care service plan described in paragraph (1) shall meet all of the requirements of this chapter. The health care service plan shall file all the information necessary for the director to make the determination to approve, conditionally approve, or disapprove the transaction or agreement described in paragraph (1), including, but

not limited to, a complete description of the proposed transaction or agreement, any modified exhibits for plan licensure pursuant to Section 1351, any approvals by federal or other state agencies required for the transaction or agreement, and any supporting documentation required by the director.

(4) The director may conditionally approve the transaction or agreement, contingent upon the health care service plan's agreement to fulfill one or more conditions to benefit subscribers and enrollees of the health care service plan, provide for a stable health care delivery system, ~~and~~ *control costs to subscribers and enrollees, and* impose other conditions specific to the transaction or agreement in furtherance of this chapter. The director shall engage stakeholders in determining the measures for improvement. For a major transaction or agreement, the director shall obtain an independent analysis of the impact of the transaction or agreement on subscribers and enrollees, the stability of the health care delivery system, and other relevant provisions of this chapter. For any other transaction or agreement, the director may obtain an independent analysis consistent with this paragraph.

(5) If an entity involved in the transaction or agreement is a nonprofit corporation described in Section 5046 of the Corporations Code, the health care service plan shall file all the information required by Article 11 (commencing with Section 1399.70).

(b) *(1)* In addition to any grounds for disapproval as a result of information provided by a health care service plan pursuant to paragraph (3) of subdivision (a), the director may disapprove the transaction or agreement if the director finds the transaction or agreement would substantially lessen competition in health care service plan products or create a monopoly in this state, including, but not limited to, health coverage products for a specific line of business. ~~In making this finding, the director may obtain an opinion from a consultant or consultants with the expertise to assess the competitive impact of the transaction or agreement.~~

(2) In addition to any grounds for disapproval as a result of information provided by a health care service plan pursuant to paragraph (3) of subdivision (a) or paragraph (1) of this subdivision, the director may disapprove the transaction or agreement if the director finds the transaction or agreement would substantially lessen competition in the health system or among a particular category of health care providers. In so doing, the director shall provide to the Attorney General information related to competition. The authority of the Attorney General to maintain competitive markets and prosecute antitrust violations shall not be narrowed, abrogated, or otherwise altered by this section.

(3) In making a finding pursuant to paragraph (1) or (2), the director may obtain an opinion from a consultant or consultants with the expertise to assess the competitive impact of the transaction or agreement.

(c) Prior to approving, conditionally approving, or disapproving a major transaction or agreement, the department shall hold a public meeting on the proposed transaction or agreement. For any other transaction or agreement, the department may hold a public meeting on the proposed transaction or agreement. The public meeting shall be conducted pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

The meeting shall permit the parties to the proposed transaction and members of the public to provide written and verbal comments regarding the proposed transaction. If a substantive change in the proposed transaction or agreement is submitted to the director after the initial public meeting, the director may conduct an additional public meeting to hear comments from interested parties with respect to that change. The director shall consider the testimony and comments received at the public meeting in making the determination to approve, conditionally approve, or disapprove the transaction or agreement.

(d) If the director determines a material amount of assets of a health care service plan is subject to purchase, acquisition, or control, the director shall prepare a statement describing the proposed transaction or agreement subject to subdivision (a) and make it available to the public. The statement shall be made available before the public meeting.

(e) This section does not limit the authority of the director to enforce any other provision of this chapter.

(f) For purposes of this section:

(1) "Acquiring" an entity includes the sale, transfer, lease, exchange, option, conveyance, or other disposition of an entity's assets by a health care service plan if a material amount of the assets of the entity are involved in the agreement or transaction.

~~(f)~~ *(2)* ~~For purposes of this section, "entity"~~ *"Entity"* means a health care service plan, an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, any similar entity, or any combination thereof acting in concert.

~~(g)~~ *(3)* ~~(1)~~ *(A)* ~~For purposes of this section, "major~~ *"Major* transaction or agreement" means a transaction or agreement that meets any of the following criteria:

~~(A)~~ *(i)* Affects a significant number of enrollees.

~~(B)~~ *(ii)* Involves a material amount of assets.

~~(C)~~ *(iii)* Adversely affects either the subscribers or enrollees or the stability of the health care delivery system because of the entity's market position, including, but not limited to, the entity's market exit from a market segment or the entity's dominance of a market segment.

~~(2)~~ *(B)* The director shall, upon request, make available to the public ~~his or her~~ *the director's* determination of whether a transaction or agreement meets the criteria set forth in this ~~subdivision.~~ *paragraph.*

(4) "Obtaining control" of an entity occurs if the entity transfers control, responsibility, or governance of a material amount of its assets or operations to a health care service plan.

(5) "Transfer" includes the substitution of one or more new corporate members that would transfer the control of, responsibility for, or governance of the entity. "Transfer" also includes the substitution of one or more members of the entity's governing body, or

an arrangement, written or oral, that would transfer voting control of the members of the governing body.

SEC. 10.

Section 10123.149 is added to the Insurance Code, to read:

10123.149.

(a) A contract issued, amended, or renewed on or after January 1, 2022, between a health insurer offering coverage in the group market or individual market and a health care provider, network or association of health care providers, or other service provider offering access to a network of service providers shall not contain a contract term that directly or indirectly does or implements any of the following:

(1) Restricts the health insurer from doing or implementing either of the following:

(A) Directing or steering insureds to other health care providers.

(B) Offering incentives to encourage insureds to utilize or avoid health care providers.

(2) Requires the health insurer to enter into an additional contract with any or all affiliates or individual facilities of the provider as a condition of entering into a contract with the provider.

(3) Requires the health insurer to agree to payment rates or terms for an individual facility or affiliate of the provider as a condition of entering into a contract with the provider, other individual facility, or affiliate.

(4) Requires the health insurer to agree to payment rates or other terms for an affiliate or individual facility that is not party to the contract.

(5) Restricts other health insurers or health care service plans that are not party to the contract from paying a lower rate for items or services than the rate the contracting plan pays for those items or services.

(6) Prevents a health insurer, directly or indirectly, from providing provider-specific cost or quality of care information, through a consumer engagement tool or any other means, to referring providers, the insurer sponsor, insureds, or eligible insureds of the insurer.

(b) The commissioner may refer contracts subject to this section to the Attorney General or any other state entity charged with reviewing health care market competition to review the contract for compliance with this section. The authority of the Attorney General to maintain competitive markets and prosecute antitrust violations shall not be narrowed, abrogated, or otherwise altered by this section.

SEC. 11.

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 12.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or

school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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MEMORANDUM

DATE	March 11, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item # 7(b)(5) – AB 2104 (Flora) Professions and vocations

Background:
This bill would require the delinquency, penalty, or late fee for any licensee within the department to be 50% of the renewal fee for that license, but not to exceed $150.

Location: Assembly Committee on Business and Professions

Status: 2/24/2022 Referred to Committee on Business and Professions

Action Requested:

As the board is already in compliance with this provision, Staff recommends the Legislative and Regulatory Affairs Committee Watch AB 2104 (Flora).

Attachment A: AB 2104 (Flora) Bill Text

AB-2104 Professions and vocations

SECTION 1.
Section 163 of the Business and Professions Code is amended to read:

163.
Except as otherwise expressly provided by law, the department and each board in the department ~~shall~~ *may* charge a fee ~~of~~ *not to exceed* two dollars ($2) for the certification of a copy of any record, document, or paper in its custody or for the certification of any document evidencing the content of any such record, ~~document~~ *document,* or paper.

SEC. 2.
Section 163.5 of the Business and Professions Code is amended to read:

163.5.
Except as otherwise provided by law, the delinquency, penalty, or late fee for any licensee within the Department of Consumer Affairs shall be 50 percent of the renewal fee for ~~such~~ *that* license in effect on the date of the renewal of the license, but ~~not less than twenty-five dollars ($25) nor more than~~ *shall not exceed* one hundred fifty dollars ($150).

A delinquency, penalty, or late fee shall not be assessed until 30 days have elapsed from the date that the licensing agency mailed a notice of renewal to the licensee at the licensee's last known address of record. The notice shall specify the date for timely renewal, and that failure to renew in a timely fashion shall result in the assessment of a delinquency, penalty, or late fee.

~~In the event~~ *If* a reinstatement or like fee is charged for the reinstatement of a license, the reinstatement fee shall be 150 percent of the renewal fee for such license in effect on the date of the reinstatement of the license, but not more than twenty-five dollars ($25) in excess of the renewal fee, except that in the event that such a fee is fixed by statute at less than 150 percent of the renewal fee and less than the renewal fee plus twenty-five dollars ($25), the fee so fixed shall be charged.

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MEMORANDUM

DATE	March 11, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item # 7(b)(6) – AB 2229 (Luz Rivas) Peace officers: minimum standards: bias evaluation

Background:

Existing law requires peace officers in this state to meet specified minimum standards, including, among other requirements, that peace officers be evaluated by a physician and surgeon or psychologist and found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer.

This bill would require that evaluation to include bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation.

Under existing law, the minimum education requirement for peace officers is high school graduation from a public school or other accredited high school, passing an equivalency test or high school proficiency examination, or attaining a 2-year, 4-year, or advanced degree from an accredited institution. Existing law requires accreditation to be from a state or local government educational agency, a regional accrediting association, an accrediting association recognized by the United States Department of Education, or an organization holding full membership in specified organizations, including AdvancED.

This bill would revise the accreditation standards to include an organization holding full membership in Cognia.

Location: Assembly Committee on Public Safety

Status: 2/24/2022 Referred to Committee on Public Safety

Action Requested:

As this bill affects psychologists who perform these mental health evaluations, Staff recommends the Legislative and Regulatory Affairs Committee Watch AB 2229 (Luz Rivas).

Attachment A: AB 2229 (Luz Rivas) Bill Text

AB-2229 Peace officers: minimum standards: bias evaluation

SECTION 1.
Section 1031 of the Government Code is amended to read:

1031.
Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be a citizen of the United States or a permanent resident who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.

(b) Be at least 18 years of age.

(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in ~~AdvancED,~~ *AdvancED or Cognia,* an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA).

(f) Be found to be free from any physical, emotional, or mental ~~condition~~ *condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation,* that might adversely affect the exercise of the powers of a peace officer.

(1) Physical condition shall be evaluated by a licensed physician and surgeon.

(2) Emotional and mental condition shall be evaluated by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the California Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

(g) This section shall not be construed to preclude the adoption of additional or higher standards, including age.

SEC. 2.

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

In order to provide immediate clarity of the minimum standards applicable to peace officers and to protect the health and safety of the members of the public with whom they interact as soon as possible, it is necessary for this act to take effect immediately.

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MEMORANDUM

DATE	March 11, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item # 7(b)(7) – AB 2274 (Blanca Rubio) Mandated reporters: statute of limitations

Background:

Existing law, the Child Abuse and Neglect Reporting Act, makes certain persons, including teachers and social workers, mandated reporters. Under existing law, mandated reporters are required to report whenever the mandated reporter, in their professional capacity or within the scope of their employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure by a mandated reporter to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor. Under existing law, if the mandated reporter intentionally conceals their failure to report an incident known by the mandated reporter to be abuse or severe neglect, it is a continuing offense until discovered by the appropriate law enforcement agency.

This bill would instead make the failure by a mandated reporter to report an incident of known or reasonably suspected child abuse or neglect a continuing offense until discovered by the appropriate law enforcement agency.

Location: Assembly Committee on Public Safety

Status: 3/03/2022 Referred to Committee on Public Safety

Action Requested:

As psychologists are mandated reporters, Staff recommends the Legislative and Regulatory Affairs Committee Watch AB 2274 (Blanca Rubio).

Attachment A: AB 2274 (Blanca Rubio) Bill Text

AB-2274 Mandated reporters: statute of limitations

SECTION 1.
Section 11166 of the Penal Code is amended to read:

11166.
(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on the person's training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) A report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, the mandated reporter shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which the mandated reporter filed the report. A mandated reporter who files a one-time automated written report because the mandated reporter was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in

lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) This section does not supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. ~~If a mandated reporter intentionally conceals the mandated reporter's~~ *The* failure to report ~~an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report~~ is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of the clergy member's church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of the clergy member's church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in the clergy member's professional capacity or within the scope of the clergy member's employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse and that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) (1) A commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of that person's professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall, immediately or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.

(2) A commercial computer technician who has knowledge of or observes, within the scope of the technician's professional capacity or employment, any representation of information, data, or an image, including, but not limited to, any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or materials are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a brief description of the images or materials.

(3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (43) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, "electronic medium" includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, "sexual conduct" means any of the following:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(B) Penetration of the vagina or rectum by any object.

(C) Masturbation for the purpose of sexual stimulation of the viewer.

(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(E) Exhibition of the genitals, pubic, or rectal areas of a person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, the mandated reporter makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom the person knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, “any other person” includes a mandated reporter who acts in the person’s private capacity and not in the person’s professional capacity or within the scope of the person’s employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article. An internal policy shall not direct an employee to allow the employee’s supervisor to file or process a mandated report under any circumstances.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose the employee’s identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) (1) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney’s office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within

subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child that relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(2) A county probation or welfare department shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation, as defined in subdivision (d) of Section 11165.1.

(3) When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in Section 11165.1, is missing or has been abducted, the county probation or welfare department shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

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MEMORANDUM

DATE	March 11, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item # 7(b)(8) – SB 1031 (Ochoa Bogh) Healing arts boards: inactive license fees

Background:

Existing law establishes healing arts boards in the Department of Consumer Affairs to ensure private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law requires each healing arts board to issue inactive licenses to holders of active licenses whose license is not punitively restricted by that board. Existing law prohibits the holder of an inactive license from engaging in any activity for which an active license is required. Existing law requires the renewal fee for an active license to apply to an inactive license, unless the board establishes a lower fee.

This bill would instead require the renewal fee for an inactive license to be 1/2 of the amount of the fee for a renewal of an active license, unless the board establishes a lower fee. The bill would make conforming and other nonsubstantive changes.

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

Status: 2/23/2022 Referred to Committee on Business, Professions, and Economic Development

Action Requested:

As the Board is already in compliance with this provision, Staff recommends the Legislative and Regulatory Affairs Committee Watch SB 1031 (Ochoa Bogh).

Attachment A: SB 1031 (Ochoa Bogh) Bill Text

SB-1031 Healing arts boards: inactive license fees

SECTION 1.
Section 701 of the Business and Professions Code is amended to read:

701.
(a) As used in this article, "board" refers to ~~any~~ *a* healing arts board, division, or examining committee ~~which~~ *that* licenses or certifies health professionals.

(b) Each healing arts board referred to in this division shall issue, upon application and payment of the ~~normal~~ *inactive license* renewal fee, ~~an~~ *in an amount determined by the board pursuant to Section 703, an* inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by that board.

SEC. 2.
Section 703 of the Business and Professions Code is amended to read:

703.
(a) An inactive healing arts license or certificate issued pursuant to this article shall be renewed during the same time period at which an active license or certificate is renewed. In order to renew a license or certificate issued pursuant to this article, the holder ~~thereof need not~~ *of the license or certificate is not required to* comply with any continuing education requirement for renewal of an active license or certificate.

(b) ~~The~~ *Notwithstanding any other law, the* renewal fee for a license or certificate in an ~~active status shall apply also for~~ *inactive status shall be one-half of the amount of the fee for the* renewal of a license or certificate in an ~~inactive status, unless a lower fee has been established by the issuing board.~~ *active status, unless the issuing board establishes a lower fee.*

SEC. 3.
Section 1006.5 of the Business and Professions Code is amended to read:

1006.5.
Notwithstanding any other law, the amount of regulatory fees necessary to carry out the responsibilities required by the Chiropractic Initiative Act and this chapter are fixed in the following schedule:

(a) Fee to apply for a license to practice chiropractic: three hundred seventy-one dollars ($371).

(b) Fee for initial license to practice chiropractic: one hundred eighty-six dollars ($186).

(c) Fee to renew an active ~~or inactive~~ license to practice chiropractic: three hundred thirteen dollars ($313).

(d) Fee to apply for approval as a continuing education provider: eighty-four dollars ($84).

(e) Biennial continuing education provider renewal fee: fifty-six dollars ($56).

(f) Fee to apply for approval of a continuing education course: fifty-six dollars ($56) per course.

(g) Fee to apply for a satellite office certificate: sixty-two dollars ($62).

(h) Fee to renew a satellite office certificate: thirty-one dollars ($31).

(i) Fee to apply for a license to practice chiropractic pursuant to Section 9 of the Chiropractic Initiative Act: three hundred seventy-one dollars ($371).

(j) Fee to apply for a certificate of registration of a chiropractic corporation: one hundred eighty-six dollars ($186).

(k) Fee to renew a certificate of registration of a chiropractic corporation: thirty-one dollars ($31).

(l) Fee to file a chiropractic corporation special report: thirty-one dollars ($31).

(m) Fee to apply for approval as a referral service: five hundred fifty-seven dollars ($557).

(n) Fee for an endorsed verification of licensure: one hundred twenty-four dollars ($124).

(o) Fee for replacement of a lost or destroyed license: fifty dollars ($50).

(p) Fee for replacement of a satellite office certificate: fifty dollars ($50).

(q) Fee for replacement of a certificate of registration of a chiropractic corporation: fifty dollars ($50).

(r) Fee to restore a forfeited or canceled license to practice chiropractic: double the annual renewal fee specified in subdivision (c).

(s) Fee to apply for approval to serve as a preceptor: thirty-one dollars ($31).

(t) Fee to petition for reinstatement of a revoked license: three hundred seventy-one dollars ($371).

(u) Fee to petition for early termination of probation: three hundred seventy-one dollars ($371).

(v) Fee to petition for reduction of penalty: three hundred seventy-one dollars ($371).

SEC. 4.
Section 2734 of the Business and Professions Code is amended to read:

2734.
Upon application in writing to the board and payment of ~~the biennial renewal fee,~~ *a renewal fee, in an amount determined by the board pursuant to Section 703,* a licensee may have ~~his~~ *their* license placed in an inactive status for an indefinite period of time. A licensee whose license is in an inactive status ~~may~~ *shall* not practice nursing. However,

~~such a~~ *the* licensee ~~does~~ *is* not ~~have~~ *required* to comply with the continuing education standards of Section 2811.5.

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MEMORANDUM

DATE	March 8, 2022
TO	Legislative and Regulatory Affairs Committee
FROM	Jason Glasspiegel Central Services Manager
SUBJECT	Agenda Item #9 – Regulatory Update

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

a) Update on Title 16, California Code of Regulations (CCR) sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Associates

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation

This package was 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.

b) Update on 16 CCR sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Retired License 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

This package was approved by DCA and Agency on 9/30/2021, and was in the Office of Administrative Law (OAL) for their notice register on October 15, 2021. The comment period ended November 31, 2021 and the hearing took place on December 1, 2021. The Board approved the text as noticed on February 18, 2022, and staff submitted the package for Final Departmental Review on March 7, 2022.

c) 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

This package was submitted to the OAL for their final review on 10/1/2021. Staff has been in contact with the Office of Administrative Law (OAL), and is prepared to notice this package in March for a 15-day comment period to change the effective date of this package to January 1, 2023, along with any other changes necessary after OAL's review. The Board will review and ratify any changes at the April 2022 Board meeting.

d) Update on 16 CCR sections 1391.13, and 1391.14 – Inactive Psychological Associate Registration and Reactivating a Psychological Associate 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

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 Associate 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.

e) 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

This package was approved by DCA and Agency on December 7, 2021, and was in the Office of Administrative Law (OAL) for their notice register on December 17, 2021. The comment period ended January 31, 2022, and the hearing took place on February 17, 2022. The Board approved the text as noticed on February 18, 2022, and staff submitted the package for Final Departmental Review on March 7, 2022.

f) 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

Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

g) Update 16 CCR sections 1380.3, 1381, 1381.1, 1381.2, 1381.4, 1381.5, 1382, 1382.3, 1382.4, 1382.5, 1386, 1387, 1387.1, 1387.2, 1387.3, 1387.4, 1387.5, 1387.6, 1387.10, 1388, 1388.6, 1389, 1389.1, 1391, 1391.1, 1391.3, 1391.4, 1391.5, 1391.6, 1391.8, 1391.11, and 1391.12 – Pathways to Licensure

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

Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

h) Update 16 CCR sections 1380.6, 1393, 1396, 1396.1, 1396.2, 1396.3, 1396.4, 1396.5, 1397, 1397.1, 1397.2, 1397.35, 1397.37, 1397.39, 1397.50, 1397.51, 1397.52, 1397.53, 1397.54, 1397.55 - Enforcement Provisions

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

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.