

NOTICE OF LEGISLATIVE AND REGULATORY AFFAIRS COMMITTEE MEETING

Friday, June 16, 2023
10:00 a.m. – 2:00 p.m. or until completion of business

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m1bdf8b0b3f947ab06c1275d35c316a8c>

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To avoid potential technical difficulties, please consider submitting written comments by June 9, 2023, 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
Cynthia Whitney, Central Services Manager
Sandra Monterrubio, Enforcement Program Manager
Stephanie Cheung, Licensing Manager
Liesel McCockran, CPD/Renewals Coordinator
Troy Polk, Legislative and Regulatory Analyst
Curtis Gardner, Central Services Analyst
Sarah Proteau, Central Services Office Technician
Brittany Ng – Board Counsel
Karen Halbo – Regulatory Counsel

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. Discussion and Possible Approval of the Committee Meeting Minutes: June 10, 2022 (C. Whitney)
5. Legislation from the 2023 Legislative Session: Review and Possible Action (M. Cervantes)
 - a) Review of Bills for Active Position Recommendations to the Board
 1. SB 815 Healing Arts
 - b) Bills with Active Positions Taken by the Board
 1. AB 282 (Aguiar-Curry) Psychologist: Licensure
 2. AB 883 (Mathis) Business Licenses: U.S. Department of Defense SkillBridge Program
 3. AB 996 (Low) Department of Consumer Affairs: continuing education: conflict-of-interest policy
 4. SB 372 (Menjivar) Department of Consumer Affairs: licensee and registrant records: name and gender changes
 5. SB 816 (Roth) Professions and vocations
 6. SB 887 Consumer Affairs
 - c) Watch Bills
 1. AB 248 (Mathis) Individuals with intellectual or developmental disabilities: The Dignity for All Act
 2. AB 665 (Carrillo) Minors: consent to mental health services
 3. AB 1163 (Rivas) State forms: gender identity
 4. AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law
 5. SB 58 (Wiener) Controlled substances: decriminalization of certain hallucinogenic substances

6. SB 331 (Rubio) Child custody: child abuse and safety
 7. SB 373 (Menjivar) Board of Behavioral Sciences, Board of Psychology, and Medical Board of California: licensee's and registrants' addresses
 8. SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing
 9. SB 802 (Roth) Licensing boards: disqualification from licensure: criminal conviction
6. 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
7. Regulatory Update, Review, and Consideration of Additional Changes (C. Whitney)
- a) 16 CCR sections 1391.13, and 1391.14 – Inactive Psychological Associates Registration and Reactivating a Psychological Associate Registration
 - b) 16 CCR section 1395.2 – Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees
 - c) 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
 - d) 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, and 1397.55 - Enforcement Provisions
 - e) 16 CCR sections 1397.35, 1397.37, 1397.39, and 1937.40 - Corporations
 - f) 16 CCR sections 1381, 1387, 1387.10, 1388, 1388.6, 1389, and 1389.1 EPPP-2
8. 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.

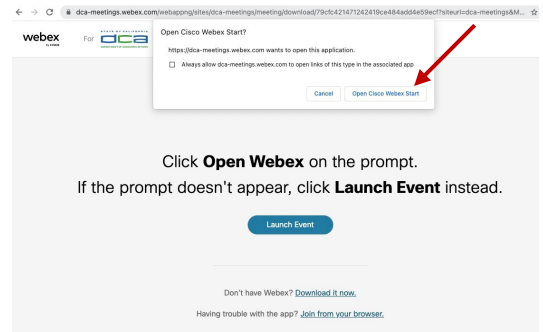
You may access this agenda and the meeting materials at www.psychology.ca.gov. The meeting may be canceled without notice. To confirm a specific meeting, please contact the Board.

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

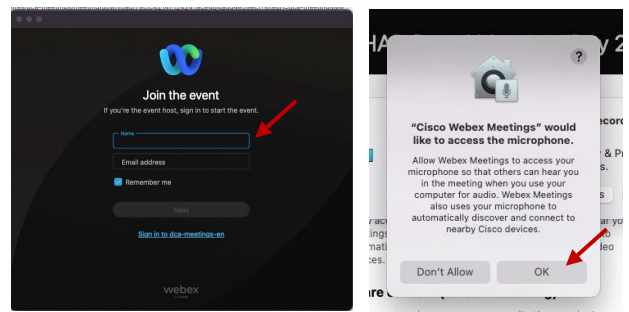
The goal of this committee is to advocate and promote legislation that advances the ethical and competent practice of psychology to protect consumers of psychological services. The committee reviews and tracks legislation that affects the Board, consumers, and the profession of psychology, and recommends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

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.



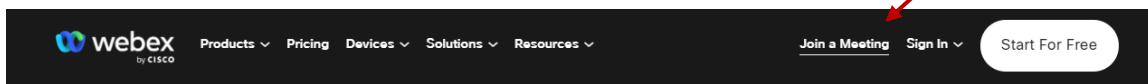
- 3 Enter your name and email address. Click "Join as a guest". Accept any request for permission to use your microphone and/or camera.



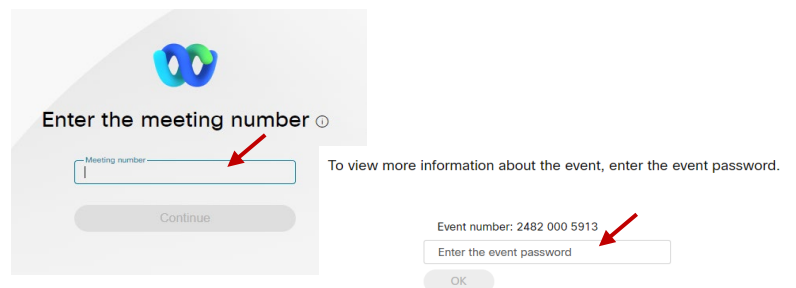
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If joining from Webex.com

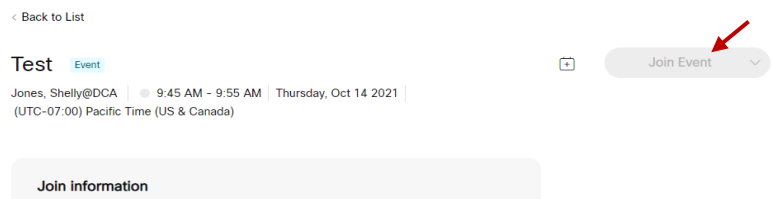
- 1 Click on "Join a Meeting" at the top of the Webex window.



- 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".



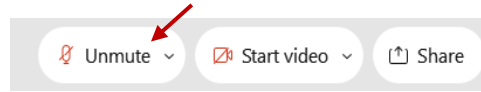
OR

Connect via telephone*:

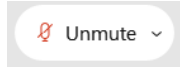
You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

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

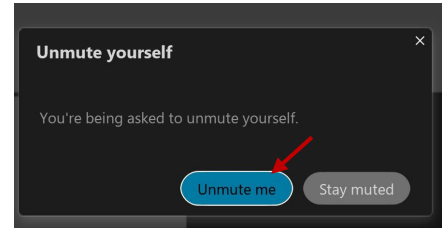


Green microphone = Unmuted: People in the meeting can hear you.



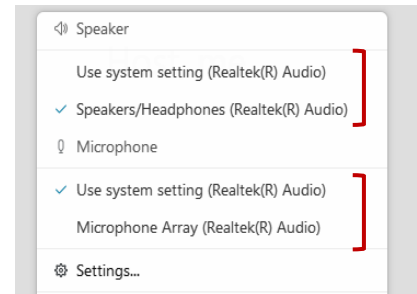
Red microphone = Muted: No one in the meeting can hear you.

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".



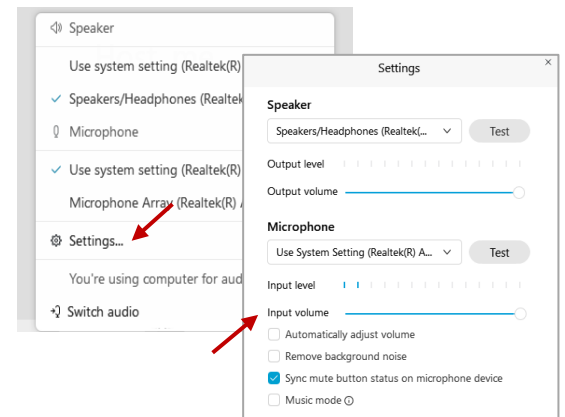
If you cannot hear or be heard

- 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

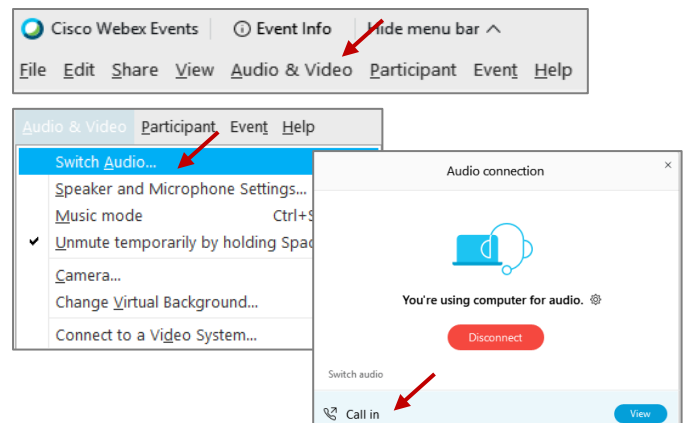
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on "Settings...":
 - Drag the "Input Volume" located under microphone settings to adjust your volume.



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.

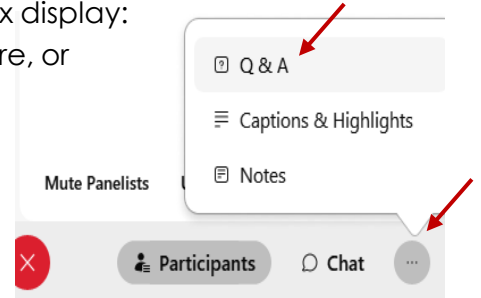
- 1 Click on "Audio & Video" from the menu bar.
- 2 Select "Switch Audio" from the drop-down menu.
- 3 Select the "Call In" option and following the directions.



The question-and-answer feature (Q&A) is utilized for questions or comments. Upon direction of the meeting facilitator, the moderator will open the Q&A panel for meeting participants to submit questions or comments. *NOTE: This feature is not accessible to those joining the meeting via telephone.*

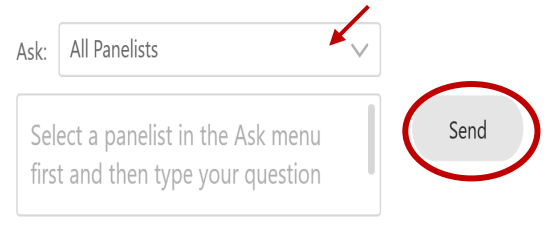
1 Access the Q&A panel at the bottom right of the Webex display:

- Click on the icon that looks like a “?” inside of a square, or
- Click on the 3 dots and select “Q&A”.



2 In the text box:

- Select “All Panelists” in the dropdown menu,
- Type your question/comment into the text box, and
- Click “Send”.



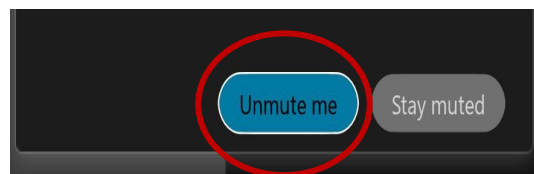
OR

If connected via telephone:

- Utilize the raise hand feature by pressing *6 to raise your hand.
- Repeat this process to lower your hand.

3 The moderator will call you by name and indicate a request has been sent to unmute your microphone. Upon hearing this prompt:

- Click the **Unmute me** button on the pop-up box that appears.

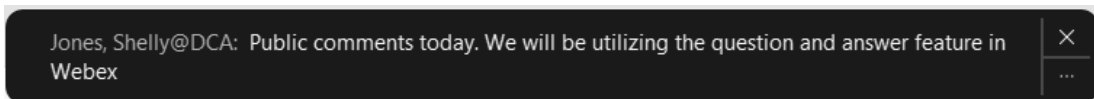


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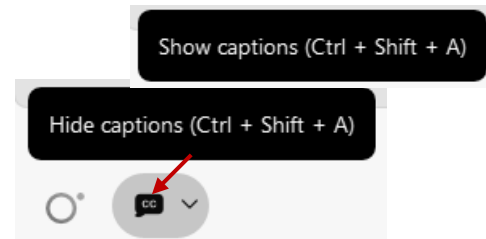
If connected via telephone:

- Press *3 to unmute your microphone.

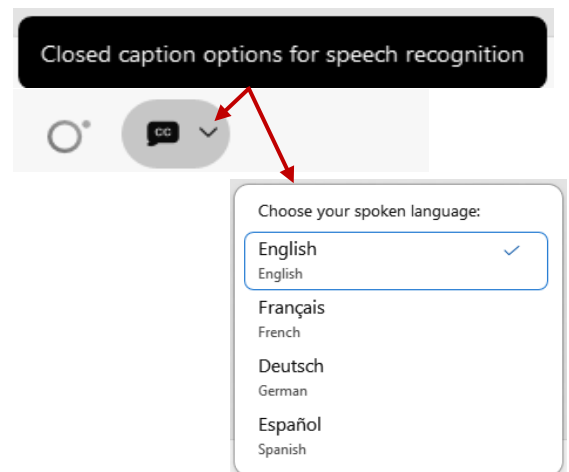
Webex provides real-time closed captioning displayed in a dialog box on your screen. The captioning box can be moved by clicking on the box and dragging it to another location on your screen.



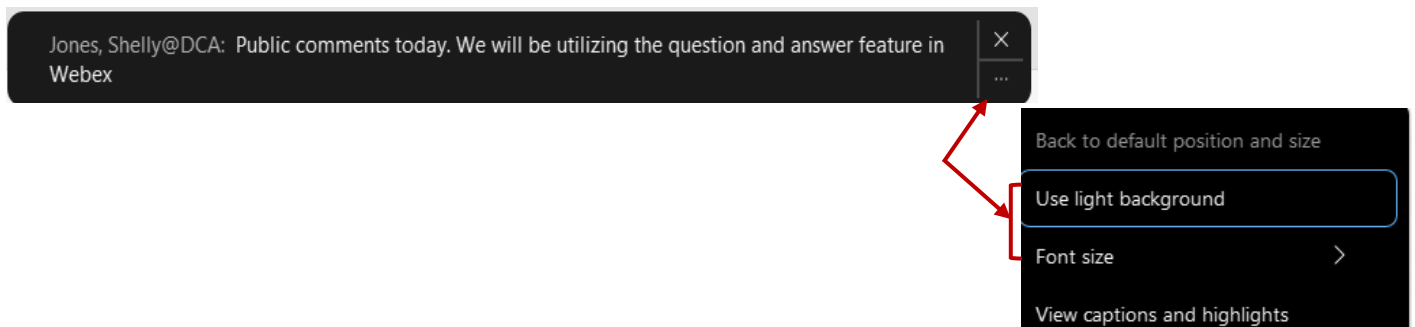
The closed captioning can be hidden from view by clicking on the closed captioning icon. You can repeat this action to unhide the dialog box.



You can select the language to be displayed by clicking the drop-down arrow next to the closed captioning icon.



You can view the closed captioning dialog box with a light or dark background or change the font size by clicking the 3 dots on the right side of the dialog box.



MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Cynthia Whitney Central Services Manager
SUBJECT	Agenda Item # 4 – Discussion and Possible Approval of the Committee Meeting Minutes: June 10, 2022

Background:

Attached are the draft minutes of the June 10, 2022, Committee Meeting.

Action Requested:

Review and approve the minutes of the June 10, 2022, Committee Meeting.

1 **Legislative And Regulatory Affairs Committee Meeting**

2

3 **Committee Members**

4 Marisela Cervantes, EdD, MPA, Chairperson

5 Sheryll Casuga, PsyD

6 Stephen Phillips, JD, PsyD

7

8 **Board Staff**

9 Antonette Sorrick, Executive Officer

10 Jonathan Burke, Assistant Executive Officer

11 Stephanie Cheung, Licensing Manager

12 Jason Glasspiegel, Central Services Manager

13 Sandra Monterrubio, Enforcement Program Manager

14 Suzy Costa, Legislative and Regulatory Analyst

15 Rebecca Bon, Board Counsel

16 Heather Hoganson, Regulatory Counsel

17

Friday, June 10, 2022

18

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

20

21 Chairperson Cervantes called the open session meeting to order at 10:02 a.m. A
22 quorum was present and due notice had been sent to all interested parties.

23

24 **Agenda Item #2: Chairperson's Welcome and Opening Remarks**

25

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

30

31 Dr. Cervantes called for public comment.

32

33 No public comment was offered.

34

35 **Agenda Item #4: COVID-19 Waiver Update**

36

37 Ms. Sorrick commented that four waivers were currently active. Discussion ensued. Ms.
38 Sorrick confirmed that the Face-to-Face Supervision waiver was still in effect.

39

40 Dr. Cervantes called for public comment.

41

42 No public comment was offered.

43

44 **Agenda Item #5: Discussion and Possible Approval of Legislative and Regulatory**
45 **Affairs Committee Meeting Minutes: March 25, 2022**

46
47 It was (M)Casuga(S)Phillips(C) to adopt the March 25, 2022, Legislative and Regulatory
48 Affairs Committee meeting minutes.

49
50 Votes: 3 ayes (Casuga, Cervantes, Phillips), 0 noes

51
52 Dr. Cervantes called for public comment.

53
54 No public comment was offered.

55
56 Motion passed.

57
58 **Agenda Item #6: Legislation from the 2021 Legislative Session: Review and**
59 **Possible Action**

60
61 Ms. Costa provided the update on this item. This item was informational only and no
62 vote or action was taken.

63
64 a) **Board Sponsored Legislation**

65
66 1) SB 401 (Pan) Healing arts: psychology - Amendments to sections 2960 and
67 2960.1 of the Business and Professions Code Regarding Denial, Suspension and
68 Revocation for Acts of Sexual Contact

69
70 This was a two-year bill, and had been referred to Assembly Business and Professions
71 Committee for a June 21st hearing. Staff submitted a support letter to the Committee
72 and other Capitol staff members.

73
74 No Committee discussion or public comment was offered.

75
76 b) **Bills with Active Positions Taken by the Board**

77
78 1) AB 32 (Aguilar-Curry) Telehealth

79
80 This was a two-year bill, located in Senate Health Committee, and it did not have a
81 hearing date scheduled. This bill had the support of the California Psychological
82 Association.

83
84 No Committee discussion or public comment was offered.

85
86 2) SB 731 (Durazo) Criminal records: relief

87

88 This bill was on the Assembly floor and failed passage in 2021. It was available for
89 reconsideration, however, a vote had not been taken and it had been moved to the
90 inactive file. It was unlikely to be taken up for a vote this year.

91

92 No Committee discussion or public comment offered.

93

94 c) Watch Bills

95

96 1) AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses:
97 licenses

98

99 2) AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions

100

101 No Committee discussion or public comment was offered.

102

103 **Agenda Item #7: Legislation from the 2022 Legislative Session: Review and**
104 **Possible Action**

105

106 Ms. Costa provided the update on this item.

107

108 a) Review of Bills for Active Position Recommendations to the Board

109

110 1) AB 2222 (Reyes) Student financial aid: Golden State Social Opportunities Program
111 Bills with Active Positions Taken by the Board

112

113 Staff recommended that the Committee take a support-if-amended position to remove
114 the requirement for the board to track work settings, to remove the board's role in the
115 repayment exception of registered psychological associates, and to clarify terminology
116 surrounding postgraduate degrees. This bill would be heard in Senate Education
117 Committee on June 30th.

118

119 It was (M)Phillips(S)Casuga(C) to take a support-if-amended position on AB 2222 with
120 the amendments recommended by board staff.

121

122 No Committee discussion or public comment was offered.

123

124 Votes: 3 ayes (Casuga, Cervantes, Phillips), 0 noes

125

126 b) Bills with Active Positions Taken by the Board

127

128 1) AB 1662 (Gipson) Licensing boards: disqualification from licensure: criminal
129 conviction.

130

131 This bill was in the Senate Business Professions and Economic Development
132 Committee and would be heard June 13. Staff submitted an opposed position letter.

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2) AB 1733 (Quirk) State bodies: open meetings.

The Board had adopted a support-if-amended position on this bill. The bill failed to meet the Policy Committee deadline and would not move forward this year.

3) AB 2123 (Villapudua) Bringing Health Care into Communities Act of 2023.

The Board adopted a support-if-amended position on this bill. The bill failed to meet the Policy Committee deadline and will not move forward this year.

4) AB 2754 (Bauer-Kahan) Psychology: supervising psychologists: qualifications.

The Board adopted a support position on this bill, and it was in the Senate Business Professions and Economic Development Committee. This bill would be heard June 13th and is sponsored by the California Psychological Association.

5) SB 1365 (Jones) Licensing boards: procedures.

The Board adopted an opposed position on this bill. On May 23 it was held in Senate Appropriations and would not move forward this year.

6) SB 1428 (Archuleta) Psychologists: psychological testing technician: registration.

On May 23rd the author amended this bill to include the Board's amendment, in addition to another amendment not reviewed by the Board. The Board did not have concerns about this other amendment. The bill would be heard June 21st and was sponsored by the California Psychological Association.

The Board submitted a support letter to the Committee.

Discussion ensued as to whether a motion was needed to take a position once the desired amendment had been made. No motion necessary as no action was taken on this item.

No further Committee discussion or public comment was offered.

c) Watch Bills

All items are informational and no action was taken.

1) AB 1795 (Fong) Open meetings: remote participation.

- 176 2) AB 1860 (Ward) Substance abuse treatment: certification.
177
178 3) AB 1921 (Jones-Sawyer) Correctional officers.
179
180 4) AB 1988 (Bauer-Kahan) Warren-911-Emergency Assistance Act and Miles Hall-988-
181 Mental Health and Suicide Prevention Lifeline
182
183 5) AB 2080 (Wood) Health Care Consolidation and Contracting Fairness Act of 2022.
184
185 6) AB 2104 (Flora) Professions and vocations.
186
187 7) AB 2229 (Luz Rivas) Peace officers: minimum standards: bias evaluation.
188
189 8) AB 2274 (Blanca Rubio) Mandated reporters: statute of limitations.
190
191 9) SB 1031 (Ochoa Bogh) Healing arts boards: inactive license fees.
192
193 10) SB 1223 (Becker) Criminal procedure: mental health diversion.
194

195 This bill had been referred to the Assembly Committee on Public Safety. This bill did not
196 have a hearing date.
197

198 No Committee discussion or public comment was offered.
199

200 **Agenda Item #8: Legislative Items for Future Meeting. The Committee May**
201 **Discuss Other Items of Legislation in Sufficient Detail to Determine Whether Such**
202 **Items Should be on a Future Committee or Board Meeting Agenda and/or Whether**
203 **to Hold a Special Meeting of the Committee or Board to Discuss Such Items**
204 **Pursuant to Government Code Section 11125.4**
205

206 Dr. Casuga requested to add AB 58 (Salas. Pupil health: suicide prevention policies and
207 training) to the Watch list.
208

209 No further Committee discussion or public comment offered.
210

211 **Agenda Item #9: Regulatory Update, Review, and Consideration of Additional**
212 **Changes**
213

214 Mr. Glasspiegel provided the update on this item.
215

- 216 a) 16 CCR sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11,
217 1391.12, 1392.1 – Registered Psychological Associates
218

219 This package had been submitted to the Office of Administrative Law (OAL) and was
220 going to be noticed.
221

222 b) 16 CCR sections 1381.10, 1392, and 1397.69 – Retired License, Renewal of Expired
223 License, Psychologist Fees (retired license)

224
225 Staff was working on this package with OAL and an update would be forthcoming.

226
227 c) 16 CCR sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing
228 Professional Development

229
230 This package had been resubmitted to OAL

231
232 d) 16 CCR sections 1391.13, and 1391.14 – Inactive Psychological Associates
233 Registration and Reactivating a Psychological Associate Registration

234
235 This package was in the drafting phase.

236
237 e) 16 CCR sections 1392 and 1392.1 – Psychologist Fees and Psychological Associate
238 Fees

239
240 The fee package had been approved and would go into effect July 1.

241
242 f) 16 CCR 1395.2 – Disciplinary Guidelines and Uniform Standards Related to
243 Substance-Abusing Licensees

244
245 Staff was working on this package.

246
247 g) 16 CCR sections 1380.3, 1381, 1381.1, 1381.2, 1381.4, 1381.5, 1382, 1382.3,
248 1382.4, 1382.5, 1386, 1387, 1387.1, 1387.2, 1387.3, 1387.4, 1387.5, 1387.6, 1387.10,
249 1388, 1388.6, 1389, 1389.1, 1391, 1391.1, 1391.3, 1391.4, 1391.5, 1391.6, 1391.8,
250 1391.11, and 1391.12 – Pathways to Licensure

251
252 h) 16 CCR sections 1380.6, 1393, 1396, 1396.1, 1396.2, 1396.3, 1396.4, 1396.5, 1397,
253 1397.1, 1397.2, 1397.35, 1397.37, 1397.39, 1397.50, 1397.51, 1397.52, 1397.53,
254 1397.54, 1397.55 - Enforcement Provisions

255
256 No update on g) or h) except to say that staff would be taking these up next.

257
258 No further Committee discussion or public comment was offered.

259
260 **Agenda Item #10: Recommendations for Agenda Items for Future Board**
261 **Meetings. Note: The Committee May Not Discuss or Take Action on Any Matter**
262 **Raised During This Public Comment Section, Except to Decide Whether to Place**
263 **the Matter on the Agenda of a Future Meeting [Government Code Sections 11125**
264 **and 11125.7(a)].**

265
266 No Committee discussion or public comment was offered.

267

268 **ADJOURNMENT**

269

270 The meeting adjourned at 11:10 a.m.

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275

DRAFT

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(a)(1) SB 815 (Roth) – Healing Arts

Background:

This bill would make various changes to the Medical Board of California (MBC) by the Legislature through the Sunset Process. Section 10 of the bill would transfer the registration, regulations, and enforcement of Research Psychoanalysts from the MBC to the Board of Psychology (Board). The bill would transfer funds collected from the licensing and regulation of Research Psychoanalysts from MBC to the Board.

On April 26, 2023, the bill passed the Senate Committee on Business, Professions, and Economic.

On, May 1, 2023, the bill was referred to the Senate Appropriations.

On May 2, 2023, Board staff met with MBC staff and requested a delayed implementation of the provisions related to the Research Psychoanalysts until January 1, 2025.

On May 19, 2023, the Board adopted a Support if Amended position. The amendment included the delayed implementation until January 1, 2025.

On May 23, 2023, a Floor Alert Position Letter was submitted to the Senate Members.

Board staff will continue to monitor this proposal.

Action Requested

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

Attachment 1: Senate Bill 815 bill analysis

Attachment 2: Senate Floor Alert Letter

Attachment 3: Senate Floor Analysis

Attachment 4: Senate Bill 815 amended bill text

2023 Bill Analysis

Author: Senator Richard D. Roth	Bill Number: SB 815	Related Bills:
Sponsor:	Version: Amended Senate 4/27/23	
Subject: Healing arts		

SUMMARY

This bill would make various changes to the Medical Board of California (MBC) by the Legislature through the Sunset Process. Section 10 of the bill would transfer the registration, regulations and enforcement of Research Psychoanalyst from the Medical Board of California (MBC) to the Board of Psychology (Board). The bill would transfer funds collected from the licensing and regulation of Research Psychoanalysts from MBC to the Board.

RECOMMENDATION - Staff recommends a delayed implementation until 2025.

FOR DISCUSSION – Staff recommend the Board discuss SB 815 and consider taking a position.

Summary of Suggested Amendments
None on file.

REASON FOR THE BILL

This bill is a Sunset Bill and therefore is the Senate Business, Professions and Economic Developments (Senate BP&ED) proposal for reauthorization of the MBC. Senate BP&ED Committee Staff noted that psychoanalysis is a discipline of psychology and that it does not make sense that MBC administers the Research Psychoanalyst registration program instead of the Board of Psychology, which oversees those practicing psychology and already successfully administers registration programs for individuals with practice limitations in psychology. This bill would transfer the administration and oversight of the Research Psychoanalyst registration program to the Board.

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

ANALYSIS

As provided in the 2021-2022 DCA Annual Report, MBC regulation 86 Research Psychoanalyst, processed 8 new applications, issued 11 new registrations, and renewed 63 registrations. The annual report also reflects that MBC did not receive any enforcement activity for active registrations.

This bill would transfer the registration and oversight of Research Psychoanalysts from MBC to the Board. As provided in MBC sunset report 2022, the question of “Why does MBC administer the RP registration program rather than the Board of Psychology which oversees those practicing in psychology and has experience administering registration programs?” was address by staff recommendation of transferring registration of Research Psychoanalyst to the Board.

Board staff agrees that registration of Research Psychoanalysts by the Board makes sense from a policy and regulatory perspective and that these registrants would be more appropriately overseen by the Board of Psychology due to its expertise in the discipline of Psychology and in administering similar registration programs that allow for limited clinical practice. However, Board staff does note that the statutes and regulations for these registrants would require an extensive review

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 registered psychological associates.

The Board is responsible for reviewing applications, verifying education and experience, determining exam eligibility, as well as issuing licensure, registrations, and renewals.

FISCAL IMPACT

If the bill is passed, the Board would request a delayed implementation until 2025. This is due to current staffing issues and the addition of the Registered Psychological Testing Technicians Registration that will be effective January 1, 2024. The Board will need additional time to complete and implement administrative duties for the Registered Psychological Testing Technicians Registration before the transfer of registration, regulations and enforcement of Research Psychoanalyst to the Board.

The transferring of the Research Psychoanalyst registration would need to be added to the Board's BreZE functions, as the Board currently does functions available for processing and issuing the registrations.

Board staff will provide more detailed cost estimates at a later date.

ECONOMIC IMPACT

Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support: None on File

Opposition: None on File

ARGUMENTS

Proponents: None on File

Opponents: None on File

AMENDMENTS

None on File

FLOOR ALERT

RE: SB 815 (Roth) – Healing arts – Support if Amended

At its May 19, 2023 meeting, the Board of Psychology (Board) adopted a **Support if Amended** position on SB 815 (Roth). This bill would make various changes to the Medical Board of California (MBC) through the sunset review process. Section 10 of the bill would transfer the registration, regulations, and enforcement of Research Psychoanalyst from the MBC to the Board. The bill would transfer funds collected from the licensing and regulation of research psychoanalysts from MBC to the Board.

The Board requests the following amendment to include a delayed implementation:

(14) Existing law authorizes graduates of specified institutes who have completed clinical training in psychoanalysis to engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and authorizes students in those institutes to engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating specified words or that they do not state or imply that they are licensed to practice psychology. Existing law requires those students and graduates seeking to engage in psychoanalysis to register with the Medical Board of California, presenting evidence of their student or graduate status. Existing law requires each person to whom registration is granted under those provisions to pay specified fees into the Contingent Fund of the Medical Board of California. Existing law, the Psychology Law, makes a violation of its provisions a crime.

This bill would transfer the administration and enforcement duties of those provisions from the Medical Board of California to the Board of Psychology on January 1, 2025. The bill would require that any moneys within the Contingent Fund of the Medical Board of California collected pursuant to those provisions be deposited in the Psychology Fund, and would require a registrant to pay into the Psychology Fund those fees fixed by the Board of Psychology. The bill would authorize the Board of Psychology to employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of these provisions. By placing these provisions in the Psychology Law, the bill would expand the definition of a crime, thereby imposing a state-mandated local program.

If you have any questions or concerns, please feel free to contact Troy Polk, Legislative and Regulatory Analyst at (916) 574-8154.

cc: Senator Roth

THIRD READING

Bill No: SB 815
Author: Roth (D), et al.
Introduced: 2/17/23
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-1, 4/24/23
AYES: Roth, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Smallwood-
Cuevas, Wahab, Wilk
NOES: Alvarado-Gil
NO VOTE RECORDED: Nguyen, Niello

SUBJECT: Healing arts: medical school graduates: postgraduate training

SOURCE: Author

DIGEST: This bill makes various changes to the operations of the Medical Board of California (MBC) stemming from the joint sunset review oversight of the board and extends MBC operations until January 1, 2028.

ANALYSIS: Existing law establishes MBC, until January 1, 2024, tasked with the regulation of physicians and surgeons and various allied health professions through the administration of the Medical Practice Act (MBC Act).

This bill makes various changes to the operations of the MBC stemming from the joint sunset review oversight of the board, including:

- 1) Extends MBC operations and MBC authority to hire an executive director until January 1, 2028.
- 2) Adds two public members to MBC, appointed by the Senate Committee on Rules and the Speaker of the Assembly.
- 3) Increases fees for physician and surgeon licensees in order to ensure MBC solvency.

- 4) Requires MBC to establish a Complainant Liaison Unit comprised of board staff responsible for responding to communications from the public about the complaint review and enforcement process, assisting with coordinating communications between the complainant and investigators; responding to questions from a complainant regarding any appeals process available to a disciplined licensee; conducting and supporting public outreach, and evaluating and responding to requests from complainants to review a complaint closure that the complainant believes was made in error.
- 5) Makes various technical and conforming changes to postgraduate licenses issued by MBC, as well as other updates aimed at ensuring that the process allows for flexibility and appropriately reflects training program participation options and completion without limiting license holders to certain timeframes.
- 6) Updates the toll on the statute of limitations to reflect the date of a superior court's issuance of an order to show cause.
- 7) Requires, when requested by an authorized officer of the law or by an authorized MBC representative, the owner, corporate officer, or manager of an entity licensed by the Board of Pharmacy to provide records within 3 days of when the request was made.
- 8) Requires MBC licensees to participate in an interview no later than 30 calendar days after being notified when the licensee is under investigation.
- 9) Specifies that conviction of a felony by a licensee, where the conviction involves, moral turpitude, dishonesty or corruption, fraud, and sexual assault, whether in the course of the licensee's actions as a physician and surgeon or otherwise, constitutes cause for license revocation. Specifies that no expert relationship is required to prove the relationship between these types of felony convictions and the practice of medicine. Clarifies that the conviction of an offense other than those that constitute cause for revocation but are substantially related to the practice of medicine constitute unprofessional conduct.
- 10) Clarifies that failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients for at least seven years after the last date of service to a patient constitutes unprofessional conduct.

- 11) Sets additional limits on the timeframe within which a licensee on probation can petition MBC for a modification of probation and authorizes MBC to establish a fee for license reinstatement or penalty modification.
- 12) Requires the exchange of expert witness testimony to take place no later than 90 calendar days prior to an original disciplinary hearing, rather than only 30 days as current law requires.
- 13) Specifies that the standard of proof required to obtain an order on a statement of issues or accusation for a violation that would result in license suspension or revocation shall be a clear and convincing evidence standard and a preponderance of the evidence standard for any other violation.
- 14) Strikes authority for MBC to include questions on a mandatory questionnaire submitted to MBC at the time of renewal related to mental, physical, emotional, or behavioral disorders instead allows MBC to simply ask about disorders that would impair the physician's ability to practice medicine safely.
- 15) Transfers the registration program for research psychoanalysts from MBC to the Board of Psychology.

Background

In early 2023, the Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) began their comprehensive sunset review oversight of 8 regulatory entities including the Board. The Committees conducted two oversight hearings in March of this year. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

MBC was subject to the Legislature's sunset review oversight throughout 2021. The Committees held two hearings in 2021 to discuss a multitude of issues raised about every aspect of MBC functions. SB 806 (Roth, Chapter 649, Statutes of 2021) continued MBC operations for only two years, through January 1, 2024, to allow the Legislature additional time to evaluate MBC. SB 806 also required the Director of the Department of Consumer Affairs (DCA) to appoint an independent enforcement monitor to monitor the MBC's enforcement efforts, with specific

concentration on the handling and processing of complaints and timely application of sanctions or discipline imposed on licensees and persons in order to protect the public.

Following the passage of SB 806 and prior to DCA appointing the enforcement monitor, MBC submitted a series of proposals to the Legislature on January 5, 2022 to further amend the Act beyond what was contained in SB 806, including requests for statutory changes related to Board administration, licensing processes, enforcement enhancements, and notably MBC's dire fiscal condition. On May 6, 2022, the Senate Committee on Business, Professions, and Economic Development held a hearing, *Medical Board of California: Enforcement Processes, Deficiencies, and Opportunities for Reform - Evaluating the Medical Board of California's 2022 Proposals for Statutory Updates* to discuss the enforcement-related proposals. While MBC's requests impacted many areas of MBC operations, the focus of the hearing was on specific proposals related to MBC enforcement.

DCA contracted with the independent enforcement monitor in July 2022. The initial enforcement monitor report (2023 Preliminary Monitor Report) was submitted to the Legislature on March 7, 2023, with expectations for a final report by July 5, 2023.

The changes in this bill stem directly from MBC's requests for updates to the Act as contained in their Sunset Report 2022 provided to the Legislature in January 2023, from the background paper prepared in advance of sunset review oversight hearings, from discussions at a hearing held in March 2023, and from other public conversations about MBC operations that have taken place in the form of informational and oversight hearings for the past number of years.

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

SUPPORT: (Verified 4/27/23)

None received

OPPOSITION: (Verified 4/27/23)

None received

Prepared by: Sarah Mason / B., P. & E.D. /
4/28/23 15:14:57

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

AMENDED IN SENATE APRIL 27, 2023

SENATE BILL

No. 815

Introduced by Senator Roth
(Principal coauthor: Assembly Member Berman)

February 17, 2023

An act to amend ~~Section 2096~~ of Sections 2001, 2020, 2065, 2096, 2097, 2225.5, 2234, 2236, 2266, 2307, 2334, 2425, and 2435 of, to amend and renumber Sections 2529, 2529.1, 2529.5, and 2529.6 of, to add Sections 2024.5, 2225.7, 2232.5, 2307.5, and 2334.5 to, and to add the heading of Article 3.5 (commencing with Section 2950) to Chapter 6.6 of Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 815, as amended, Roth. ~~Healing arts: medical school graduates: postgraduate training: arts.~~

Existing law, the Medical Practice Act, requires an applicant for a physician's and surgeon's license to successfully complete at least 12 months of board-approved postgraduate training for graduates of medical schools in the United States and Canada or 24 months of board-approved postgraduate training for graduates of foreign medical schools other than Canadian medical schools. Existing law requires the postgraduate training to include at least 4 months of general training to be obtained in a postgraduate training program approved by the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians of Canada.

This bill would clarify that at least 4 months of general training is required to be obtained in a postgraduate training program approved

~~by the Accreditation Council for Graduate Medical Education in the United States, the Royal College of Physicians and Surgeons of Canada in Canada, or the College of Family Physicians of Canada in Canada.~~

(1) Existing law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs for the licensure, regulation, and discipline of physicians and surgeons. Under existing law, the board consists of 15 members, 7 of whom are public members. Existing law requires the Senate Committee on Rules and the Speaker of the Assembly to each appoint one public member.

This bill would, until January 1, 2028, increase the total number of board members from 15 to 17 members. The bill would increase the number of public members who are appointed by the Senate Committee on Rules and the Speaker of the Assembly to 2 public members each.

(2) Existing law authorizes the board to employ and fix the compensation of an executive director, and other specified staff, as provided. Existing law authorizes the Attorney General to act as legal counsel for the board for any judicial and administrative proceedings. Existing law repeals these provisions on January 1, 2022.

This bill would extend that date to January 1, 2028. The bill would also establish a Complainant Liaison Unit comprised of board staff responsible for, among other things, responding to communications from the public about the complaint review and enforcement process.

(3) Existing law prohibits a postgraduate training licensee, intern, resident, postdoctoral fellow, or instructor from engaging in the practice of medicine, or receiving compensation for that practice, unless they hold a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board, except as provided. Existing law authorizes a graduate who has completed the first year of postgraduate training, in an approved residency or fellowship, to engage in the practice of medicine as part of that residency or fellowship, and to receive compensation for that practice. If the resident or fellow fails to receive a license to practice medicine within 27 months from the commencement of the residency or fellowship, except as otherwise specified, or if the board denies their application for licensure, existing law specifies that these privileges and exemptions automatically cease.

This bill would instead provide that if the resident or fellow fails to receive a license to practice medicine by the date their postgraduate training license expires, except as otherwise specified, or if the board denies their application for licensure, these privileges and exemptions automatically cease. Upon a request from the board-approved

postgraduate training program, the bill would authorize the board to grant an additional 60-day extension for a postgraduate training licensee to successfully meet the written examination requirement. The bill would modify requirements related to an applicant for a physician's and surgeon's license, who has either graduated from medical school in the United States or Canada to require the applicant received 12 months of board-approved postgraduate training in another state or in Canada, or has graduated from a foreign medical school approved by the board and has received 24 months credit of board-approved postgraduate training and who is accepted into an approved postgraduate program in California, to obtain their physician's and surgeon's license within 90 days after beginning that postgraduate program or all privileges and exemptions would automatically cease.

(4) Existing law requires an applicant for a physician's and surgeon's license to successfully complete at least 12 months of board-approved postgraduate training for graduates of medical schools in the United States and Canada or 24 months of board-approved postgraduate training for graduates of foreign medical schools other than Canadian medical schools. Existing law authorizes an applicant who has received credit for at least 12 months of board-approved postgraduate training for graduates of medical schools in the United States and Canada or 24 months of board-approved postgraduate training for graduates of foreign medical schools, as specified, and not less than 12 months of which was completed as part of an oral and maxillofacial surgery postgraduate training program as a resident after receiving a medical degree from a combined dental and medical degree program accredited by the Commission on Dental Accreditation (CODA) or approved by the board, to be eligible for licensure.

This bill would delete the provision regarding eligibility for licensure for applicants who participated in an oral and maxillofacial surgery postgraduate training program.

(5) For individuals issued a physician and surgeon license by the board on or after January 1, 2022, existing law requires a physician and surgeon to show satisfactory evidence to the board of postgraduate training, as specified, before a physician's and surgeon's license may be renewed. If a holder of a physician's and surgeon's certificate does not show evidence satisfactory to the board of the receipt of credit, as specified, of board-approved postgraduate training, as specified, existing law authorizes the board to automatically place a physician's and surgeon's certificate in delinquent status.

The bill would require a physician and surgeon to show evidence satisfactory to the board of postgraduate training, as specified, before a physician's and surgeon's license may be renewed, except licensees or applicants who meet specified requirements, including among others, that the licensee or applicant holds an unlimited and unrestricted license as a physician and surgeon in another state and has held that license continuously for a minimum of 4 years prior to the date of application and meets other requirements. The bill would, in addition to the authority to automatically place a physician's and surgeon's certificate in delinquent status, authorize the board to grant an additional 60 days to the initial license expiration date, as specified. For a licensee who has received credit for at least 24 months of approved postgraduate training in an oral and maxillofacial surgery postgraduate training program, as specified, the bill would require, at the time of initial renewal, a licensee to show evidence satisfactory to the board, pursuant to the attestation of specified individuals before their physician's and surgeon's license may be renewed. For a physician whose license is canceled or who surrenders their license prior to meeting the renewal requirements described above, this bill would prohibit a physician from having their license reinstated, except as specified.

Existing law authorizes the Division of Licensing to prepare and mail a questionnaire, as specified, to every licensed physician at the time of license renewal.

This bill would authorize the Division of Licensing to prepare and provide electronically or mail a questionnaire, as specified, to every licensed physician at the time of license renewal.

(6) Existing law requires a licensee who fails or refuses to comply with a request for the certified medical records of a patient, as specified, to pay to the board a civil penalty, as specified. Existing law requires a licensee or health care facility to pay the board a civil penalty, as specified, if a licensee or health care facility refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board. Existing law establishes that any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

This bill would require that the statute of limitations relating to the licensee as described above be tolled upon the service of an order to show cause, as specified, until such time as the subpoenaed records are produced, including any period the licensee is out of compliance

with the court order and during any related appeals, or until the court declines to issue an order mandating release of the records to the board. This bill would require that the statute of limitations relating to the health care facility as described above be tolled during the period the health care facility is out of compliance with the court order and during any related appeals, or until the court declines to issue an order mandating release of records to the board.

The bill would require the owner, corporate officer, or manager of an entity licensed by the Board of Pharmacy to provide the Board of Pharmacy, or its authorized representatives, records requested by an authorized officer of law or authorized representative of the board, within 3 business days of the time the request was made. The bill would permit the entity to request an extension of this timeframe, as specified.

(7) Existing law requires the board to take action against any licensee who is charged with unprofessional conduct, defined as, among other things, including the failure of a certificate holder, who is the subject of an investigation of the board, to attend and participate in an interview by the board, as specified, and the failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients.

This bill would specify the failure to attend and participate in an interview by the board no later than 30 calendar days after being notified by the board constitutes unprofessional conduct. The bill would specify that the failure of a physician and surgeon to maintain adequate and accurate records as described above for at least 7 years after the last date of service to a patient constitutes unprofessional conduct.

The bill would include as unprofessional conduct any action of the licensee intended to cause their patient to rescind consent to the release of the patient's medical records to the board of the Health Quality Investigation Unit of the Department of Consumer Affairs and dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.

This bill would establish that the conviction of certain felonies by a licensee constitutes cause for license revocation. The bill would require the board to notify the licensee of the license revocation and of their right to elect to have a hearing, as specified. Upon revocation of the physician's and surgeon's certificate, the bill would authorize the holder of the certificate to request a hearing within 30 days of the revocation.

The bill would provide for suspension during the pendency of the conviction, as provided.

The bill would provide that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon except those offenses that constitute cause for license revocation, as provided above, constitutes unprofessional conduct.

Existing law specifies the time period before a person whose certificate has been surrendered or revoked or placed on probation may petition the board for reinstatement of a license. Existing law specifies period of 3 years for reinstatement of a license surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after 2 years.

This bill would update certain of those time periods, including specifying a period of 5 years for reinstatement of a license surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after 3 years.

The bill would require the board to automatically reject a petition for early termination of modification, as specified. The bill would authorize the board to establish a fee paid by a person seeking license reinstatement or modification of penalty, as specified. The bill would require the board to adopt regulations pursuant to the Administrative Procedure Act to implement this provision.

(8) Existing law prohibits the use of expert testimony in matters brought by the board unless specified information is exchanged with counsel for the other party, and requires the exchange of the information to be completed 30 calendar days prior to the commencement date of the hearing or as specified.

This bill would require the exchange of the information to be completed 90 days prior to the commencement date of the hearing or as specified.

The bill would establish the standards of proof required for obtaining an order on a statement of issues or accusation for violation that would result in license suspension or revocation and for any other violation.

(9) Under existing law, all moneys paid to and received by the board are required to be paid into the State Treasury and credited to the Contingent Fund of the Medical Board of California. Under existing law, moneys in the contingent fund shall be available, upon appropriation by the Legislature, as provided. Existing law, applicable

to the licensure of physicians and surgeons, requires an applicant for a certificate based upon a national board diplomate certificate, an applicant for a certificate based on reciprocity, and an applicant for a certificate based upon written examination to pay a nonrefundable application and processing fee at the time the application is filed. Existing law requires an applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other required fees, to pay an initial license fee in an amount not to exceed \$863. Existing law requires the board to fix the biennial renewal fee not to exceed \$863.

This bill would instead require the initial license fee to be \$1350, and for licenses that expire on or after January 1, 2022, the biennial renewal fee to be \$1350.

(10) Existing law authorizes graduates of specified institutes who have completed clinical training in psychoanalysis to engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and authorizes students in those institutes to engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating specified words or that they do not state or imply that they are licensed to practice psychology. Existing law requires those students and graduates seeking to engage in psychoanalysis to register with the Medical Board of California, presenting evidence of their student or graduate status. Existing law requires each person to whom registration is granted under those provisions to pay specified fees into the Contingent Fund of the Medical Board of California. Existing law, the Psychology Law, makes a violation of its provisions a crime.

This bill would transfer the administration and enforcement duties of those provisions from the Medical Board of California to the Board of Psychology. The bill would require that any moneys within the Contingent Fund of the Medical Board of California collected pursuant to those provisions be deposited in the Psychology Fund, and would require a registrant to pay into the Psychology Fund those fees fixed by the Board of Psychology. The bill would authorize the Board of Psychology to employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of these provisions. By placing these provisions in the Psychology Law, the bill would expand the definition of a crime, thereby imposing a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 2001 of the Business and Professions
 2 Code is amended to read:

3 2001. (a) There is in the Department of Consumer Affairs a
 4 Medical Board of California that consists of ~~15~~ 17 members, ~~7~~ 9
 5 of whom shall be public members.

6 (b) The Governor shall appoint 13 members to the board, subject
 7 to confirmation by the Senate, 5 of whom shall be public members.
 8 The Senate Committee on Rules and the Speaker of the Assembly
 9 shall each appoint ~~a two~~ public ~~member~~. ~~members~~.

10 (c) This section shall remain in effect only until January 1, ~~2024~~,
 11 2028, and as of that date is repealed. Notwithstanding any other
 12 law, the repeal of this section renders the board subject to review
 13 by the appropriate policy committees of the Legislature.

14 SEC. 2. Section 2020 of the Business and Professions Code is
 15 amended to read:

16 2020. (a) The board, by and with the approval of the director,
 17 may employ an executive director exempt from the provisions of
 18 the Civil Service Act and may also employ investigators, legal
 19 counsel, medical consultants, and other assistance as it may deem
 20 necessary to carry this chapter into effect. The board may fix the
 21 compensation to be paid for services subject to the provisions of
 22 applicable state laws and regulations and may incur other expenses
 23 as it may deem necessary. Investigators employed by the board
 24 shall be provided special training in investigating medical practice
 25 activities.

26 (b) The Attorney General shall act as legal counsel for the board
 27 for any judicial and administrative proceedings and the services
 28 of the Attorney General shall be a charge against it.

1 (c) This section shall remain in effect only until January 1, ~~2024,~~
2 2028, and as of that date is repealed.

3 *SEC. 3. Section 2024.5 is added to the Business and Professions*
4 *Code, to read:*

5 2024.5. (a) *The board shall establish a Complainant Liaison*
6 *Unit comprised of board staff responsible for the following:*

7 (1) *Respond to communications from the public about the*
8 *complaint review and enforcement process.*

9 (2) *After a complaint has been referred to a field investigation,*
10 *assist with coordinating communications between the complainant*
11 *and investigators, as necessary.*

12 (3) *Following a disciplinary decision, respond to questions from*
13 *the complainant regarding any appeals process available to the*
14 *disciplined licensee.*

15 (4) *Conduct and support public outreach activities to improve*
16 *the public's understanding of the board's enforcement process,*
17 *including related laws and policies.*

18 (5) *Evaluate and respond to requests from complainants to*
19 *review a complaint closure that the complainant believes was made*
20 *in error.*

21 *SEC. 4. Section 2065 of the Business and Professions Code is*
22 *amended to read:*

23 2065. (a) Unless otherwise provided by law, no postgraduate
24 training licensee, intern, resident, postdoctoral fellow, or instructor
25 may engage in the practice of medicine, or receive compensation
26 therefor, or offer to engage in the practice of medicine unless they
27 hold a valid, unrevoked, and unsuspended physician's and
28 surgeon's certificate issued by the board. However, a graduate of
29 an approved medical school may engage in the practice of medicine
30 whenever and wherever required as a part of a postgraduate training
31 program under the following conditions:

32 (1) The medical school graduate has taken and passed the
33 board-approved medical licensing examinations required to qualify
34 the applicant to participate in an approved postgraduate training
35 program.

36 (2) If the medical school graduate graduated from a foreign
37 medical school approved by the board pursuant to Section 2084,
38 the Educational Commission for Foreign Medical Graduates
39 (ECFMG) has submitted an official ECFMG Certification Status

1 Report directly to the board confirming the graduate is ECFMG
2 certified.

3 (3) The medical school graduate is enrolled in a postgraduate
4 training program approved by the board.

5 (4) The board-approved postgraduate training program has
6 submitted the required board-approved form to the board
7 documenting the medical school graduate is enrolled in an
8 approved postgraduate training program.

9 (5) The medical school graduate obtains a physician's and
10 surgeon's postgraduate training license in accordance with Section
11 2064.5.

12 (b) A medical school graduate enrolled in an approved first-year
13 postgraduate training program in accordance with this section may
14 engage in the practice of medicine whenever and wherever required
15 as a part of the training program, and may receive compensation
16 for that practice.

17 (c) A graduate who has completed the first year of postgraduate
18 training may, in an approved residency or fellowship, engage in
19 the practice of medicine whenever and wherever required as part
20 of that residency or fellowship, and may receive compensation for
21 that practice. The resident or fellow shall qualify for, take, and
22 pass the next succeeding written examination for licensure. If the
23 resident or fellow fails to receive a license to practice medicine
24 under this chapter ~~within 27 months from the commencement of~~
25 ~~the residency or fellowship, by the date their postgraduate training~~
26 *license expires*, except as otherwise allowed under subdivision (g)
27 or (h), or if the board denies their application for licensure, all
28 privileges and exemptions under this section shall automatically
29 cease.

30 (d) All approved postgraduate training the medical school
31 graduate has successfully completed in the United States or Canada
32 shall count toward the 15-month license exemption for graduates
33 of medical schools in the United States and Canada or 27-month
34 license exemption for graduates of foreign medical schools
35 approved by the board pursuant to Section 2084 other than
36 Canadian medical schools, except as otherwise allowed under
37 subdivision (h).

38 (e) The program director for an approved postgraduate training
39 program in California shall report to the board, on a form approved

1 by the board, and provide any supporting documents as required
2 by the board, the following actions within 30 days of the action:

3 (1) A postgraduate training licensee is notified that they have
4 received partial or no credit for a period of postgraduate training,
5 and their postgraduate training period is extended.

6 (2) A postgraduate training licensee takes a leave of absence or
7 any break from their postgraduate training, and they are notified
8 that their postgraduate training period is extended.

9 (3) A postgraduate training licensee is terminated from the
10 postgraduate training program.

11 (4) A postgraduate training licensee resigns, dies, or otherwise
12 leaves the postgraduate training program.

13 (5) A postgraduate training licensee has completed a one-year
14 contract approved by the postgraduate training program.

15 (f) Upon review of supporting documentation, the board, in its
16 discretion, may grant an extension beyond 15 months to a
17 postgraduate training licensee who graduated from a medical school
18 in the United States or Canada, or beyond 27 months to a
19 postgraduate training licensee who graduated from a foreign
20 medical school approved by the board pursuant to Section 2084
21 other than a Canadian medical school, to receive credit for the 12
22 months of required approved postgraduate training for graduates
23 of medical schools in the United States and Canada and 24 months
24 of required approved postgraduate training for graduates of foreign
25 medical schools other than Canadian medical schools. *Upon a*
26 *request from the board-approved postgraduate training program,*
27 *the board, in its discretion, may grant an additional 60-day*
28 *extension for a postgraduate training licensee to successfully meet*
29 *the written examination requirement.*

30 (g) An applicant for a physician's and surgeon's license who
31 has *either graduated from medical school in the United States or*
32 *Canada and has received 12 months credit for 12 months of*
33 *approved board-approved postgraduate training in another state*
34 *or in ~~Canada~~ Canada, or has graduated from a foreign medical*
35 *school approved by the board pursuant to Section 2084 and has*
36 *received 24 months credit of board-approved postgraduate training*
37 *and who is accepted into an approved postgraduate training*
38 *program in California shall obtain their physician's and surgeon's*
39 *license within 90 days after beginning that postgraduate training*

1 program or all privileges and exemptions under this section shall
2 automatically cease.

3 (h) Upon review of supporting documentation, the board, in its
4 discretion, may grant a physician's and surgeon's license to an
5 applicant who demonstrates substantial compliance with this
6 section.

7 SECTION 4.

8 SEC. 5. Section 2096 of the Business and Professions Code is
9 amended to read:

10 2096. (a) In addition to other requirements of this chapter,
11 before a physician's and surgeon's license may be issued, each
12 applicant, including an applicant applying pursuant to Article 5
13 (commencing with Section 2105), shall show by evidence
14 satisfactory to the board that the applicant has received credit for
15 at least 12 months of board-approved postgraduate training for
16 graduates of medical schools in the United States and Canada or
17 24 months of board-approved postgraduate training for graduates
18 of foreign medical schools approved by the board pursuant to
19 Section 2084 other than Canadian medical schools, pursuant to
20 the attestation of the program director, designated institutional
21 official, or delegated authority for the approved postgraduate
22 training program in California where the applicant participated in.
23 *participated.*

24 (b) The postgraduate training required by this section shall
25 include at least four months of general medicine and shall be
26 obtained in a postgraduate training program approved by the
27 Accreditation Council for Graduate Medical Education (ACGME)
28 in the United States, the Royal College of Physicians and Surgeons
29 of Canada (RCPSC) in Canada, or the College of Family Physicians
30 of Canada (CFPC) in Canada.

31 ~~(c) An applicant who has received credit for at least 12 months~~
32 ~~of board-approved postgraduate training for graduates of medical~~
33 ~~schools in the United States and Canada or 24 months of~~
34 ~~board-approved postgraduate training for graduates of foreign~~
35 ~~medical schools approved by the board pursuant to Section 2084~~
36 ~~other than Canadian medical schools, pursuant to the attestation~~
37 ~~of the program director designated institutional official, or~~
38 ~~delegated authority for the approved postgraduate training program~~
39 ~~in California the applicant participated in, not less than 12 months~~
40 ~~of which was completed as part of an oral and maxillofacial surgery~~

1 ~~postgraduate training program as a resident after receiving a~~
2 ~~medical degree from a combined dental and medical degree~~
3 ~~program accredited by the Commission on Dental Accreditation~~
4 ~~(CODA) or approved by the board, shall be eligible for licensure.~~
5 ~~Oral and maxillofacial surgery residency programs accredited by~~
6 ~~CODA shall be approved as postgraduate training required by this~~
7 ~~section if the applicant attended the program as part of a combined~~
8 ~~dental and medical degree program accredited by CODA. These~~
9 ~~applicants shall not have to comply with subdivision (b).~~

10 *SEC. 6. Section 2097 of the Business and Professions Code is*
11 *amended to read:*

12 2097. (a) In addition to other requirements of this chapter,
13 before a physician's and surgeon's license may be renewed, at the
14 time of initial renewal, a physician and surgeon shall show
15 evidence satisfactory to the board that the ~~applicant~~ licensee has
16 received credit for at least 36 months of board-approved
17 postgraduate training which includes successful progression
18 through 24 months in the same program, pursuant to the attestation
19 of the program director, designated institutional official, or
20 delegated authority for the approved postgraduate training program
21 ~~in California where the applicant participated in.~~ participated,
22 *except licensees or applicants who meet the requirements of Section*
23 *2135, 2135.5, 2151, 2428, or by a licensee or applicant using*
24 *clinical practice in an appointment under Section 2113 as*
25 *qualifying time to meet the postgraduate training requirements in*
26 *Section 2065.*

27 (b) A physician's and surgeon's certificate shall be automatically
28 placed in delinquent status by the board if the holder of a
29 physician's and surgeon's certificate does not show evidence
30 satisfactory to the board that the physician and surgeon has received
31 credit for at least 36 months of board-approved postgraduate
32 training which includes successful progression through 24 months
33 in the same program ~~within 60 days of the date of~~ before the
34 licensee's initial license expiration. *The board may grant an*
35 *additional 60 days to the initial license expiration date authorized*
36 *under Section 2423.*

37 (c) *A licensee who has received credit for at least 24 months of*
38 *approved postgraduate training in an oral and maxillofacial*
39 *surgery postgraduate training program after receiving a medical*
40 *degree from a combined dental and medical degree program*

1 *accredited by the Commission on Dental Accreditation (CODA),*
2 *shall show evidence satisfactory to the board at the time of initial*
3 *renewal, before their physician's and surgeon's license may be*
4 *renewed, pursuant to the attestation of the program director,*
5 *designated institutional official, or delegated authority for the*
6 *approved postgraduate training program where the licensee*
7 *participated.*

8 ~~(e)~~

9 (d) Upon review of supporting documentation, the board, in its
10 discretion, may renew a physician's and surgeon's license to an
11 applicant who has demonstrated substantial compliance with this
12 section.

13 (e) *A physician whose license is canceled or who surrenders*
14 *their license prior to meeting the renewal requirements under*
15 *subdivision (a) may not have their license reinstated under Section*
16 *2428 without meeting current renewal requirements under*
17 *subdivision (a), except licenses originally issued under Section*
18 *2135, 2135.5, 2151, or licensees that used qualifying time under*
19 *Section 2113 to meet the postgraduate training requirements in*
20 *Section 2065.*

21 ~~(f)~~

22 (f) This section shall only apply to individuals issued a license
23 by the board on or after January 1, 2022.

24 *SEC. 7. Section 2225.5 of the Business and Professions Code*
25 *is amended to read:*

26 2225.5. (a) (1) A licensee who fails or refuses to comply with
27 a request for the certified medical records of a patient, that is
28 accompanied by that patient's written authorization for release of
29 records to the board, within 15 days of receiving the request and
30 authorization, shall pay to the board a civil penalty of one thousand
31 dollars (\$1,000) per day for each day that the documents have not
32 been produced after the 15th day, up to ten thousand dollars
33 (\$10,000), unless the licensee is unable to provide the documents
34 within this time period for good cause.

35 (2) A health care facility shall comply with a request for the
36 certified medical records of a patient that is accompanied by that
37 patient's written authorization for release of records to the board
38 together with a notice citing this section and describing the
39 penalties for failure to comply with this section. Failure to provide
40 the authorizing patient's certified medical records to the board

1 within 30 days of receiving the request, authorization, and notice
2 shall subject the health care facility to a civil penalty, payable to
3 the board, of up to one thousand dollars (\$1,000) per day for each
4 day that the documents have not been produced after the 30th day,
5 up to ten thousand dollars (\$10,000), unless the health care facility
6 is unable to provide the documents within this time period for good
7 cause. For health care facilities that have electronic health records,
8 failure to provide the authorizing patient's certified medical records
9 to the board within 15 days of receiving the request, authorization,
10 and notice shall subject the health care facility to a civil penalty,
11 payable to the board, of up to one thousand dollars (\$1,000) per
12 day for each day that the documents have not been produced after
13 the 15th day, up to ten thousand dollars (\$10,000), unless the health
14 care facility is unable to provide the documents within this time
15 period for good cause. This paragraph shall not require health care
16 facilities to assist the board in obtaining the patient's authorization.
17 The board shall pay the reasonable costs of copying the certified
18 medical records.

19 (b) (1) A licensee who fails or refuses to comply with a court
20 order, issued in the enforcement of a subpoena, mandating the
21 release of records to the board shall pay to the board a civil penalty
22 of one thousand dollars (\$1,000) per day for each day that the
23 documents have not been produced after the date by which the
24 court order requires the documents to be produced, up to ten
25 thousand dollars (\$10,000), unless it is determined that the order
26 is unlawful or invalid. Any statute of limitations applicable to the
27 filing of an accusation by the board shall be tolled *upon the service*
28 *of an order to show cause pursuant to Section 11188 of the*
29 *Government Code, until such time as the subpoenaed records are*
30 *produced, including during the any period the licensee is out of*
31 *compliance with the court order and during any related appeals.*
32 *appeals, or until the court declines to issue an order mandating*
33 *release of records to the board.*

34 (2) Any licensee who fails or refuses to comply with a court
35 order, issued in the enforcement of a subpoena, mandating the
36 release of records to the board is guilty of a misdemeanor
37 punishable by a fine payable to the board not to exceed five
38 thousand dollars (\$5,000). The fine shall be added to the licensee's
39 renewal fee if it is not paid by the next succeeding renewal date.
40 Any statute of limitations applicable to the filing of an accusation

1 by the board shall be tolled during the period the licensee is out
2 of compliance with the court order and during any related appeals.

3 (3) A health care facility that fails or refuses to comply with a
4 court order, issued in the enforcement of a subpoena, mandating
5 the release of patient records to the board, that is accompanied by
6 a notice citing this section and describing the penalties for failure
7 to comply with this section, shall pay to the board a civil penalty
8 of up to one thousand dollars (\$1,000) per day for each day that
9 the documents have not been produced, up to ten thousand dollars
10 (\$10,000), after the date by which the court order requires the
11 documents to be produced, unless it is determined that the order
12 is unlawful or invalid. Any statute of limitations applicable to the
13 filing of an accusation by the board against a licensee shall be
14 tolled during the period the health care facility is out of compliance
15 with the court order and during any related ~~appeals~~. *appeals, or*
16 *until the court declines to issue an order mandating release of*
17 *records to the board.*

18 (4) Any health care facility that fails or refuses to comply with
19 a court order, issued in the enforcement of a subpoena, mandating
20 the release of records to the board is guilty of a misdemeanor
21 punishable by a fine payable to the board not to exceed five
22 thousand dollars (\$5,000). Any statute of limitations applicable to
23 the filing of an accusation by the board against a licensee shall be
24 tolled during the period the health care facility is out of compliance
25 with the court order and during any related appeals.

26 (c) Multiple acts by a licensee in violation of subdivision (b)
27 shall be punishable by a fine not to exceed five thousand dollars
28 (\$5,000) or by imprisonment in a county jail not exceeding six
29 months, or by both that fine and imprisonment. Multiple acts by
30 a health care facility in violation of subdivision (b) shall be
31 punishable by a fine not to exceed five thousand dollars (\$5,000)
32 and shall be reported to the State Department of Public Health and
33 shall be considered as grounds for disciplinary action with respect
34 to licensure, including suspension or revocation of the license or
35 certificate.

36 (d) A failure or refusal of a licensee to comply with a court
37 order, issued in the enforcement of a subpoena, mandating the
38 release of records to the board constitutes unprofessional conduct
39 and is grounds for suspension or revocation of ~~his or her~~ *their*
40 license.

1 (e) Imposition of the civil penalties authorized by this section
2 shall be in accordance with the Administrative Procedure Act
3 (Chapter 5 (commencing with Section 11500) of Division 3 of
4 Title 2 of the Government Code).

5 (f) For purposes of this section, “certified medical records”
6 means a copy of the patient’s medical records authenticated by the
7 licensee or health care facility, as appropriate, on a form prescribed
8 by the board.

9 (g) For purposes of this section, a “health care facility” means
10 a clinic or health facility licensed or exempt from licensure
11 pursuant to Division 2 (commencing with Section 1200) of the
12 Health and Safety Code.

13 *SEC. 8. Section 2225.7 is added to the Business and Professions*
14 *Code, to read:*

15 *2225.7. When requested by an authorized officer of the law or*
16 *by an authorized representative of the board, the owner, corporate*
17 *officer, or manager of an entity licensed by the Board of Pharmacy*
18 *shall provide the Board of Pharmacy, or its authorized*
19 *representative, with the requested records within three business*
20 *days of the time the request was made. The entity may request in*
21 *writing an extension of this timeframe for a period not to exceed*
22 *14 calendar days from the date the records were requested. A*
23 *request for an extension of time is subject to the approval of the*
24 *board. An extension shall be deemed approved if the board fails*
25 *to deny the extension request within two business days of the time*
26 *the extension request was made directly to the board.*

27 *SEC. 9. Section 2232.5 is added to the Business and Professions*
28 *Code, to read:*

29 *2232.5. (a) (1) Notwithstanding Section 2236, conviction of*
30 *a felony by a licensee, where the conviction involves moral*
31 *turpitude, dishonesty or corruption, fraud, or sexual assault,*
32 *whether in the course of the licensee’s actions as a physician and*
33 *surgeon or otherwise, constitutes cause for license revocation.*

34 *(2) The board shall notify the licensee of the license revocation*
35 *and of their right to elect to have a hearing as provided in*
36 *subdivision (b).*

37 *(3) No expert witness testimony is required to prove the*
38 *relationship between the felony conviction and the practice of*
39 *medicine.*

1 (b) Upon revocation of the physician's and surgeon's certificate,
2 the holder of the certificate may request a hearing within 30 days
3 of the revocation. The proceeding shall be conducted in accordance
4 with the Administrative Procedure Act (Chapter 5 (commencing
5 with Section 11500) of Part 1 of Division 3 of Title 2 of the
6 Government Code).

7 (c) A plea or verdict of guilty or a conviction after a plea of
8 nolo contendere is deemed to be a conviction within the meaning
9 of this section. The record of conviction shall be conclusive
10 evidence of the fact that the conviction occurred.

11 (d) Following the conviction of a felony as described in
12 subdivision (a), the board shall suspend the physician until the
13 time for appeal has elapsed if no appeal has been taken, or until
14 the judgment of conviction has been affirmed on appeal, or has
15 otherwise become final, and until the further order of the board.
16 The board may decline to impose or may set aside, the suspension
17 when it appears to be in the interest of justice to do so, with due
18 regard being given to maintaining the integrity of, and confidence
19 in, the profession. At such time as the time for appeal has elapsed
20 with no appeal having been taken, or the judgment of conviction
21 has been affirmed on appeal, or the judgment of conviction has
22 otherwise become final, the board shall issue an order of
23 revocation in the matter. If the related conviction of the licensee
24 is overturned on appeal, no revocation order shall be issued as to
25 that conviction and any suspension order issued pursuant to the
26 above shall be rescinded. Nothing in this subdivision shall prohibit
27 the board from pursuing disciplinary action based on any cause
28 other than the overturned conviction.

29 SEC. 10. Section 2234 of the Business and Professions Code
30 is amended to read:

31 2234. The board shall take action against any licensee who is
32 charged with unprofessional conduct. In addition to other
33 provisions of this article, unprofessional conduct includes, but is
34 not limited to, the following:

35 (a) Violating or attempting to violate, directly or indirectly,
36 assisting in or abetting the violation of, or conspiring to violate
37 any provision of this chapter.

38 (b) Gross negligence.

39 (c) Repeated negligent acts. To be repeated, there must be two
40 or more negligent acts or omissions. An initial negligent act or

1 omission followed by a separate and distinct departure from the
2 applicable standard of care shall constitute repeated negligent acts.

3 (1) An initial negligent diagnosis followed by an act or omission
4 medically appropriate for that negligent diagnosis of the patient
5 shall constitute a single negligent act.

6 (2) When the standard of care requires a change in the diagnosis,
7 act, or omission that constitutes the negligent act described in
8 paragraph (1), including, but not limited to, a reevaluation of the
9 diagnosis or a change in treatment, and the licensee's conduct
10 departs from the applicable standard of care, each departure
11 constitutes a separate and distinct breach of the standard of care.

12 (d) Incompetence.

13 (e) The commission of any act involving dishonesty or
14 corruption that is substantially related to the qualifications,
15 functions, or duties of a physician and surgeon.

16 (f) Any action or conduct that would have warranted the denial
17 of a certificate.

18 (g) The failure by a certificate holder, in the absence of good
19 cause, to attend and participate in an interview by the ~~board~~ board
20 *no later than 30 calendar days after being notified by the board.*
21 This subdivision shall only apply to a certificate holder who is the
22 subject of an investigation by the board.

23 (h) *Any action of the licensee, or another person acting on behalf*
24 *of the licensee, intended to cause their patient or their patient's*
25 *authorized representative to rescind consent to release the patient's*
26 *medical records to the board or the Department of Consumer*
27 *Affairs, Health Quality Investigation Unit.*

28 (i) *Dissuading, intimidating, or tampering with a patient,*
29 *witness, or any person in an attempt to prevent them from reporting*
30 *or testifying about a licensee.*

31 *SEC. 11. Section 2236 of the Business and Professions Code*
32 *is amended to read:*

33 2236. (a) The conviction of any offense *other than those that*
34 *constitute cause for license revocation pursuant to Section 2232.5*
35 *substantially related to the qualifications, functions, or duties of a*
36 *physician and surgeon constitutes unprofessional conduct within*
37 *the meaning of this chapter. ~~The record of conviction shall be~~*
38 *conclusive evidence only of the fact that the conviction occurred.*

39 (b) The district attorney, city attorney, or other prosecuting
40 agency shall notify the Division of Medical Quality of the pendency

1 of an action against a licensee charging a felony or misdemeanor
2 immediately upon obtaining information that the defendant is a
3 licensee. The notice shall identify the licensee and describe the
4 crimes charged and the facts alleged. The prosecuting agency shall
5 also notify the clerk of the court in which the action is pending
6 that the defendant is a licensee, and the clerk shall record
7 prominently in the file that the defendant holds a license as a
8 physician and surgeon.

9 (c) The clerk of the court in which a licensee is convicted of a
10 crime shall, within 48 hours after the conviction, transmit a certified
11 copy of the record of conviction to the board. The division may
12 inquire into the circumstances surrounding the commission of a
13 crime in order to fix the degree of discipline or to determine if the
14 conviction is of an offense substantially related to the
15 qualifications, functions, or duties of a physician and surgeon.

16 (d) A plea or verdict of guilty or a conviction after a plea of
17 nolo contendere is deemed to be a conviction within the meaning
18 of this section and Section 2236.1. The record of conviction shall
19 be conclusive evidence of the fact that the conviction occurred.

20 *SEC. 12. Section 2266 of the Business and Professions Code*
21 *is amended to read:*

22 2266. The failure of a physician and surgeon to maintain
23 adequate and accurate records relating to the provision of services
24 to their patients *for at least seven years after the last date of service*
25 *to a patient* constitutes unprofessional conduct.

26 *SEC. 13. Section 2307 of the Business and Professions Code*
27 *is amended to read:*

28 2307. (a) Except as provided in subdivision (i), a person whose
29 certificate has been surrendered while under investigation or while
30 charges are pending or whose certificate has been revoked or
31 suspended or placed on probation, may petition the board for
32 reinstatement or modification of penalty, including modification
33 or termination of probation.

34 (b) The person may file the petition after a period of not less
35 than the following minimum periods have elapsed from the
36 effective date of the surrender of the certificate or the decision
37 ordering that disciplinary action:

38 (1) At least ~~three~~ *five* years for reinstatement of a license
39 surrendered or revoked for unprofessional conduct, except that the

1 board may, for good cause shown, specify in a revocation order
2 that a petition for reinstatement may be filed after ~~two~~ *three* years.

3 (2) At least two years for early termination of probation of ~~three~~
4 ~~years or more~~; *or after more than one-half their probation term*
5 *has elapsed, whichever is greater.*

6 (3) At least one year for modification of a condition, or
7 reinstatement of a license surrendered or revoked for mental or
8 physical illness, or termination of probation of less than three years.

9 (c) The petition shall state any facts as may be required by the
10 board. The petition shall be accompanied by at least two verified
11 recommendations from physicians and surgeons licensed in any
12 state who have personal knowledge of the activities of the petitioner
13 since the disciplinary penalty was imposed.

14 (d) The petition may be heard by a panel of the board. The board
15 may assign the petition to an administrative law judge designated
16 in Section 11371 of the Government Code. After a hearing on the
17 petition, the administrative law judge shall provide a proposed
18 decision to the board or the California Board of Podiatric Medicine,
19 as applicable, which shall be acted upon in accordance with Section
20 2335.

21 (e) The panel of the board or the administrative law judge
22 hearing the petition may consider all activities of the petitioner
23 since the disciplinary action was taken, the offense for which the
24 petitioner was disciplined, the petitioner's activities during the
25 time the certificate was in good standing, and the petitioner's
26 rehabilitative efforts, general reputation for truth, and professional
27 ability. The hearing may be continued from time to time as the
28 administrative law judge designated in Section 11371 of the
29 Government Code finds necessary.

30 (f) The administrative law judge designated in Section 11371
31 of the Government Code reinstating a certificate or modifying a
32 penalty may recommend the imposition of any terms and conditions
33 deemed necessary.

34 (g) No petition shall be considered while the petitioner is under
35 sentence for any criminal offense, including any period during
36 which the petitioner is on court-imposed probation or parole. No
37 petition shall be considered while there is an accusation or petition
38 to revoke probation pending against the person. *The board shall*
39 *automatically reject a petition for early termination or modification*
40 *of probation if the Board of Pharmacy files a petition to revoke*

1 *probation while the petition for early termination or modification*
2 *of the probation is pending.* The board may deny without a hearing
3 or argument any petition filed pursuant to this section within a
4 period of ~~two~~ *three* years from the effective date of the prior
5 decision following a hearing under this section.

6 (h) This section is applicable to and may be carried out with
7 regard to licensees of the California Board of Podiatric Medicine.
8 In lieu of two verified recommendations from physicians and
9 surgeons, the petition shall be accompanied by at least two verified
10 recommendations from doctors of podiatric medicine licensed in
11 any state who have personal knowledge of the activities of the
12 petitioner since the date the disciplinary penalty was imposed.

13 (i) (1) The board shall not reinstate the certificate of a person
14 under any of the following circumstances:

15 (A) The person's certificate has been surrendered because the
16 person committed an act of sexual abuse, misconduct, or relations
17 with a patient pursuant to Section 726 or sexual exploitation as
18 defined in subdivision (a) of Section 729.

19 (B) The person's certificate has been revoked based on a finding
20 by the board that the person committed an act of sexual abuse,
21 misconduct, or relations with a patient pursuant to Section 726 or
22 sexual exploitation as defined in subdivision (a) of Section 729.

23 (C) The person was convicted in a court in or outside of this
24 state of any offense that, if committed or attempted in this state,
25 based on the elements of the convicted offense, would have been
26 punishable as one or more of the offenses described in subdivision
27 (c) of Section 290 of the Penal Code, and the person engaged in
28 the offense with a patient or client, or with a former patient or
29 client if the relationship was terminated primarily for the purpose
30 of committing the offense.

31 (D) The person has been required to register as a sex offender
32 pursuant to the provisions of Section 290 of the Penal Code,
33 regardless of whether the conviction has been appealed, and the
34 person engaged in the offense with a patient or client, or with a
35 former patient or client if the relationship was terminated primarily
36 for the purpose of committing the offense.

37 (2) A plea or a verdict of guilty or a conviction after a plea of
38 nolo contendere is deemed to be a conviction within the meaning
39 of this section. The record of conviction shall be conclusive
40 evidence of the fact that the conviction occurred.

1 (3) This subdivision does not apply to an applicant who is
2 required to register as a sex offender pursuant to Section 290 of
3 the Penal Code solely because of a misdemeanor conviction under
4 Section 314 of the Penal Code.

5 (j) Nothing in this section shall be deemed to alter Sections 822
6 and 823.

7 *SEC. 14. Section 2307.5 is added to the Business and*
8 *Professions Code, to read:*

9 *2307.5. (a) The board may establish a fee to be paid by a*
10 *person seeking a license reinstatement or modification of penalty*
11 *pursuant to Section 2307.*

12 *(b) The fee established shall not exceed the board's reasonable*
13 *costs to process and adjudicate a petition submitted pursuant to*
14 *Section 2307.*

15 *(c) The board shall adopt regulations pursuant to the*
16 *Administrative Procedure Act (Chapter 3.5 (commencing with*
17 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
18 *Code) to implement this section.*

19 *SEC. 15. Section 2334 of the Business and Professions Code*
20 *is amended to read:*

21 *2334. (a) Notwithstanding any other provision of law, with*
22 *respect to the use of expert testimony in matters brought by the*
23 *Medical Board of California, no expert testimony shall be permitted*
24 *by any party unless the following information is exchanged in*
25 *written form with counsel for the other party, as ordered by the*
26 *Office of Administrative Hearings:*

27 (1) A curriculum vitae setting forth the qualifications of the
28 expert.

29 (2) A complete expert witness report, which must include the
30 following:

31 (A) A complete statement of all opinions the expert will express
32 and the bases and reasons for each opinion.

33 (B) The facts or data considered by the expert in forming the
34 opinions.

35 (C) Any exhibits that will be used to summarize or support the
36 opinions.

37 (3) A representation that the expert has agreed to testify at the
38 hearing.

1 (4) A statement of the expert’s hourly and daily fee for providing
2 testimony and for consulting with the party who retained ~~his or~~
3 ~~her~~ *their* services.

4 (b) The exchange of the information described in subdivision
5 (a) shall be completed ~~30~~ *no later than 90* calendar days prior to
6 the originally scheduled commencement date of the hearing, or as
7 determined by an administrative law judge when Section 11529
8 of the Government Code applies. Upon motion to extend the
9 deadline based on a showing of good cause, the administrative law
10 judge may extend the time for the exchange of information for a
11 period not to exceed 100 calendar days cumulatively, but in no
12 case shall the exchange take place less than 30 calendar days before
13 the hearing date, whichever comes first.

14 (c) The Office of Administrative Hearings may adopt regulations
15 governing the required exchange of the information described in
16 this section.

17 *SEC. 16. Section 2334.5 is added to the Business and*
18 *Professions Code, to read:*

19 *2334.5. (a) The standard of proof required to obtain an order*
20 *on a statement of issues or accusation for a violation that would*
21 *result in license suspension or revocation shall be a clear and*
22 *convincing evidence standard.*

23 *(b) The standard of proof required to obtain an order on a*
24 *statement of issues or accusation for any other violation shall be*
25 *a preponderance of the evidence standard.*

26 *SEC. 17. Section 2425 of the Business and Professions Code*
27 *is amended to read:*

28 *2425. (a) The Division of Licensing may prepare and provide*
29 *electronically or mail to every licensed physician at the time of*
30 *license renewal a questionnaire containing any questions as are*
31 *necessary to establish that the physician currently has no ~~mental,~~*
32 *~~physical, emotional, or behavioral~~ disorder that would impair the*
33 *physician’s ability to practice medicine safely.*

34 *(b) Each licensed physician shall complete, sign, and return the*
35 *questionnaire to the Division of Licensing as a condition of*
36 *renewing ~~his or her~~ *their* license.*

37 *SEC. 18. Section 2435 of the Business and Professions Code*
38 *is amended to read:*

39 *2435. The following fees apply to the licensure of physicians*
40 *and surgeons:*

1 (a) Each applicant for a certificate based upon a national board
2 diplomate certificate, each applicant for a certificate based on
3 reciprocity, and each applicant for a certificate based upon written
4 examination, shall pay a nonrefundable application and processing
5 fee, as set forth in subdivision (b), at the time the application is
6 filed.

7 (b) The application and processing fee shall be six hundred
8 twenty-five dollars (\$625).

9 (c) Each applicant who qualifies for a certificate, as a condition
10 precedent to its issuance, in addition to other fees required herein,
11 shall pay an initial license fee, if any, in an amount fixed by the
12 board consistent with this section. The initial license fee shall be
13 ~~eight hundred sixty-three dollars (\$863)~~. *one thousand three*
14 *hundred fifty dollars (\$1350)*. An applicant enrolled in an approved
15 postgraduate training program shall be required to pay only 50
16 percent of the initial license fee.

17 (d) For licenses that expire on or after January 1, 2022, the
18 biennial renewal fee shall be ~~eight hundred sixty-three dollars~~
19 ~~(\$863)~~. *one thousand three hundred fifty dollars (\$1350)*.

20 (e) Notwithstanding Section 163.5, the delinquency fee shall
21 be 10 percent of the biennial renewal fee.

22 (f) The duplicate certificate and endorsement fees shall each be
23 fifty dollars (\$50), and the certification and letter of good standing
24 fees shall each be ten dollars (\$10).

25 ~~(g) It is the intent of the Legislature that, in setting fees pursuant~~
26 ~~to this section, the board shall seek to maintain a reserve in the~~
27 ~~Contingent Fund of the Medical Board of California in an amount~~
28 ~~not less than two nor more than four months' operating~~
29 ~~expenditures.~~

30 ~~(h)~~

31 (g) Not later than January 1, 2012, the Office of State Audits
32 and Evaluations within the Department of Finance shall commence
33 a preliminary review of the board's financial status, including, but
34 not limited to, its projections related to expenses, revenues, and
35 reserves, and the impact of the loan from the Contingent Fund of
36 the Medical Board of California to the General Fund made pursuant
37 to the Budget Act of 2008. The office shall make the results of this
38 review available upon request by June 1, 2012. This review shall
39 be funded from the existing resources of the office during the
40 2011–12 fiscal year.

1 (i) ~~The Legislature shall review the amount of fees in~~
2 ~~subdivisions (c) and (d), and board revenue and expenses, in 2022~~
3 ~~to determine the necessity of increasing fees or modifying board~~
4 ~~processes, or both increasing fees and modifying board processes,~~
5 ~~in order to ensure solvency of the Contingent Fund of the Medical~~
6 ~~Board of California.~~

7 *SEC. 19. Section 2529 of the Business and Professions Code*
8 *is amended and renumbered to read:*

9 ~~2529.~~

10 2950. (a) Graduates of the Southern California Psychoanalytic
11 Institute, the Los Angeles Psychoanalytic Society and Institute,
12 the San Francisco Psychoanalytic Institute, the San Diego
13 Psychoanalytic Center, or institutes deemed equivalent by the
14 ~~Medical Board of California~~ *board* who have completed clinical
15 training in psychoanalysis may engage in psychoanalysis as an
16 adjunct to teaching, training, or research and hold themselves out
17 to the public as psychoanalysts, and students in those institutes
18 may engage in psychoanalysis under supervision, if the students
19 and graduates do not hold themselves out to the public by any title
20 or description of services incorporating the words “psychological,”
21 “psychologist,” “psychology,” “psychometrists,” “psychometrics,”
22 or “psychometry,” or that they do not state or imply that they are
23 licensed to practice psychology.

24 (b) Those students and graduates seeking to engage in
25 psychoanalysis under this ~~chapter article~~ shall register with the
26 ~~Medical Board of California~~, *board*, presenting evidence of their
27 student or graduate status. The board may suspend or revoke the
28 exemption of those persons for unprofessional conduct as defined
29 in Sections 726, ~~2234, 2235, and 2529.1.~~ 2960, 2960.6, 2969, and
30 2996.

31 (c) Each application for registration as a research psychoanalyst
32 or student research psychoanalyst shall be made upon an online
33 electronic form, or other form, provided by the board, and each
34 application form shall contain a legal verification by the applicant
35 certifying under penalty of perjury that the information provided
36 by the applicant is true and correct and that any information in
37 supporting documents provided by the applicant is true and correct.

38 *SEC. 20. Section 2529.1 of the Business and Professions Code*
39 *is amended and renumbered to read:*

1 ~~2529.1.~~

2 2951. (a) The use of any controlled substance or the use of
3 any of the dangerous drugs specified in Section 4022, or of
4 alcoholic beverages, to the extent, or in such a manner as to be
5 dangerous or injurious to the registrant, or to any other person or
6 to the public, or to the extent that this use impairs the ability of
7 the registrant to practice safely or more than one misdemeanor or
8 any felony conviction involving the use, consumption, or
9 self-administration of any of the substances referred to in this
10 section, or any combination thereof, constitutes unprofessional
11 conduct. The record of the conviction is conclusive evidence of
12 this unprofessional conduct.

13 (b) A plea or verdict of guilty or a conviction following a plea
14 of nolo contendere is deemed to be a conviction within the meaning
15 of this section. The board may order discipline of the registrant in
16 accordance with ~~Section 2227~~ *Article 4 (commencing with Section*
17 *2960)* or may order the denial of the registration when the time
18 for appeal has elapsed or the judgment of conviction has been
19 affirmed on appeal or when an order granting probation is made
20 suspending imposition of sentence, irrespective of a subsequent
21 order under the provisions of Section 1203.4 of the Penal Code
22 allowing this person to withdraw ~~his or her~~ *their* plea of guilty and
23 to enter a plea of not guilty, or setting aside the verdict of guilty,
24 or dismissing the accusation, complaint, information, or indictment.

25 *SEC. 21. Section 2529.5 of the Business and Professions Code*
26 *is amended and renumbered to read:*

27 ~~2529.5.~~

28 2952. (a) Each person to whom registration is granted under
29 the provisions of this chapter shall pay into the Contingent Fund
30 of the Medical Board of California a fee to be fixed by the ~~Medical~~
31 ~~Board of California~~ *board* at a sum of one hundred ~~fifty~~ dollars
32 ~~(\$150).~~ *(\$100).*

33 (b) The registration shall expire after two years. The registration
34 may be renewed ~~biennially~~. ~~For registrations that expire on or after~~
35 ~~January 1, 2022, the fee shall be seventy-five dollars (\$75).~~
36 *biennially at a fee fixed by the board at a sum not in excess of fifty*
37 *dollars (\$50).* Students seeking to renew their registration shall
38 present to the board evidence of their continuing student status.

39 (c) The money in the Contingent Fund of the Medical Board of
40 California shall be used for the administration of this chapter. *Any*

1 *moneys within the Contingent Fund of the Medical Board of*
 2 *California collected pursuant to Section 2529.5 as it read before*
 3 *the enactment of the statute that amended and renumbered this*
 4 *section, shall be deposited in the Psychology Fund.*

5 *(d) The board may employ, subject to civil service regulations,*
 6 *whatever additional clerical assistance is necessary for the*
 7 *administration of this article.*

8 *SEC. 22. Section 2529.6 of the Business and Professions Code*
 9 *is amended and renumbered to read:*

10 ~~2529.6.~~

11 2953. (a) Except as provided in subdivisions (b) and (c), the
 12 board shall revoke the registration of any person who has been
 13 required to register as a sex offender pursuant to Section 290 of
 14 the Penal Code for conduct that occurred on or after January 1,
 15 2017.

16 (b) This section shall not apply to a person who is required to
 17 register as a sex offender pursuant to Section 290 of the Penal
 18 Code solely because of a misdemeanor conviction under Section
 19 314 of the Penal Code.

20 (c) This section shall not apply to a person who has been relieved
 21 under Section 290.5 of the Penal Code of ~~his or her~~ *their* duty to
 22 register as a sex offender, or whose duty to register has otherwise
 23 been formally terminated under California law.

24 (d) A proceeding to revoke a registration pursuant to this section
 25 shall be conducted in accordance with Chapter 5 (commencing
 26 with Section 11500) of Part 1 of Division 3 of Title 2 of the
 27 Government Code.

28 *SEC. 23. The heading of Article 3.5 (commencing with Section*
 29 *2950) is added to Chapter 6.6 of Division 2 of the Business and*
 30 *Professions Code, to read:*

31

32

Article 3.5. Research Psychoanalysts

33

34 *SEC. 24. No reimbursement is required by this act pursuant*
 35 *to Section 6 of Article XIII B of the California Constitution because*
 36 *the only costs that may be incurred by a local agency or school*
 37 *district will be incurred because this act creates a new crime or*
 38 *infraction, eliminates a crime or infraction, or changes the penalty*
 39 *for a crime or infraction, within the meaning of Section 17556 of*
 40 *the Government Code, or changes the definition of a crime within*

- 1 *the meaning of Section 6 of Article XIII B of the California*
- 2 *Constitution.*

O

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(b)(1) AB 282 (Aguiar-Curry) Psychologists: Licensure

Background

This bill would revise section 2914 of the Business and Professions Code (BPC) by adding language to allow applicants seeking licensure to be eligible to take the required licensure exams, which include the Examination for Professional Practice in Psychology (EPPP) and the California Psychology Law and Ethics Examination (CPLEE), at any time after all academic coursework required for a qualifying doctoral degree is completed.

In addition, the bill would require the Board of Psychology (Board) revise CCR sections 1388 and 1388(c) to remove the requirements of completing the qualified supervised professional experience hours to be eligible to take the licensure exams.

On March 21, 2023, the bill was amended to add the phrase “academic coursework” and provided that “academic coursework” does not include participation in an internship or writing a dissertation or thesis.

On April 7, 2023, the Board adopted an Oppose unless Amended position.

On April 12, 2023, a position letter was submitted to the Assembly Committee on Appropriations.

On April 20, 2023, the bill was ordered to Consent Calendar.

On April 24, 2023, a floor alert with the Board's position was submitted to the Assembly Members.

On April 27, 2023, the bill was ordered to the Senate.

On May 10, 2023, the bill was referred to the Senate Business, Professions and Economic Development Committee.

On May 12, 2023, an Oppose Unless Amended letter was submitted to the Senate Business, Professions and Economic Development Committee.

Board staff will continue to monitor the proposal.

Action Requested

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

Attachment 1: Board position letter

Attachment 2: Assembly Appropriations bill analysis

May 12, 2023

The Honorable Richard D. Roth
Chair, Senate Committee on Business, Professions and Economic Development
State Capitol, Room 3320
Sacramento, CA 95814

RE: AB 282 (Aguiar-Curry) – Psychologists: licensure – Oppose Unless Amended

Dear Senator Roth:

The Board's mission is to protect consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession.

At its April 7, 2023, meeting, the Board of Psychology (Board) adopted a **Oppose Unless Amended** position on AB 282 (Aguiar-Curry). This bill would amend section 2914 of the Business and Professions Code by adding language to allow applicants seeking licensure to be eligible to take the required licensure exams at any time after all academic coursework required for a qualifying doctoral degree is completed. The required licensure exams include the Examination for Professional Practice in Psychology (EPPP) and the California Psychology Law and Ethics Examination (CPLEE).

In addition, the bill would require the Board to revise California Code of Regulations (CCR) 1388 and CCR 1388(c) to remove the requirement of completing the qualified supervised professional experience hours to be eligible to take the licensure exam.

The Board supports and agrees with the author's intent in granting applicants the flexibility to take the required licensure exams, however, the Board requests the following amendment:

(d) An applicant for licensure shall take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter. An applicant for licensure who has completed all *academic* coursework required for a doctoral degree as required by subdivision (b), as documented by a written certification from the registrar of the applicant's educational institution or program, shall be eligible to take any and all examinations required for licensure, as specified by the Board. *For purposes of this subdivision, "academic coursework" does not include participation in an internship or writing a dissertation or thesis.*

If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (916) 574-8938 or antonette.sorrick@dca.ca.gov. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Lea Tate PhD". The signature is written in a cursive, flowing style.

Lea Tate, PhD
President, Board of Psychology

cc: Senator Janet Nguyen (Vice Chair)
Assemblymember Aguiar-Curry
Members of the Senate Committee on Business, Professions and Economic
Development
Dana Shaker, Consultant, Senate Committee on Business, Professions and
Economic Development

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 282 (Aguiar-Curry) – As Amended March 21, 2023

Policy Committee: Business and Professions Vote: 18 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill allows an applicant for licensure as a psychologist to take the required licensure examinations immediately after completing all academic coursework for the doctoral degree.

FISCAL EFFECT:

The Board of Psychology (Board) projects minor and absorbable costs to implement this bill.

COMMENTS:

- 1) **Purpose.** This bill is sponsored by the California Psychological Association (CPA). According to the author:

Current law requires each applicant for licensure as a psychologist to undergo a lengthy process of several consecutive steps resulting in extensive waiting periods for some applications. This causes delays and interruptions to the consumers trying to access mental health treatment and creates a financial burden for the license applicants. This bill will help reduce applicant wait times at the Board of Psychology by streamlining the examination process. These changes will not affect the quality of the licensing process, but will help to remove...delays in the review process and help associate clinicians providing behavioral healthcare and on the road to completing their clinical hours required for licensure.

- 2) **Board Licensing Process.** To obtain a psychology license from the Board, an applicant who has a qualifying doctoral degree must: apply to take, and subsequently register and complete two examinations sequentially, complete specified prelicensure courses, complete 3,000 hours of supervised professional experience, request initial licensure, and obtain a criminal history background check. Board fees required at four steps of the process add up to more than \$1,400. In the past three fiscal years, the Board has experienced a notable increase in the average time to process applications for licensure. In response, Board staff reviewed all statutory and regulatory sections related to pathways to licensure and compiled a list of proposed improvements. The Board subsequently engaged with stakeholders, hosting review meetings with professional associations, schools, training directors, and applicants, to get feedback on the proposed changes.

The CPA conducted a member survey in 2022 and found significant wait times at each step in the Board's licensing process. Each sequential step in the licensure process typically took 2-4 months to process, for a total wait time often lasting close to one year. Almost 60% of respondents reported that the delays created financial hardship and over 30% reported the delays caused interruptions in patient care. The Steinberg Institute explains this bill will allow applicants for psychology licensure to take the required examinations at any time after completing qualifying coursework, rather than in a set sequence, with the intent of streamlining the licensure process to reduce burdensome wait times for applicants and to improve access to care.

Analysis Prepared by: Allegra Kim / APPR. / (916) 319-2081

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(b)(2) AB 883 (Mathis) Business License: U.S. Department of Defense SkillBridge Program

Background

This bill proposes that boards under the Department of Consumer Affairs expedite the initial licensure process for an applicant who supplies satisfactory evidence to the Board of Psychology (Board), that the applicant is enrolled in the U.S Department of Defense SkillBridge program.

SkillBridge allows Service Members to gain civilian experience through specific industry training, apprenticeships, or internships during the last 180 days of service.

The bill was introduced on February 14, 2023 and was referred to the Business and Professions Committee on February 23, 2023.

On March 28, 2023, the bill passed the Assembly Committee on Business and Professions and was referred to Assembly Committee on Appropriations.

On April 7, 2023, the Board adopted a Support position.

On April 12, 2023, the Board submitted a Support position letter to the Assembly Committee on Appropriations.

On April 19, 2023, the bill was referred to suspense file.

On May 18, 2023, the bill passed the Assembly Committee on Appropriations

On May 22, 2023, the bill was order to the Assembly floor, and was ordered to a third reading.

On May 23, 2023, a Floor Alert Position Letter was submitted to the Assembly Members.

Board staff will continue to monitor the proposal.

Action Requested

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

Attachment 1: Board position letter

Attachment 2: Assembly Appropriations Committee bill analysis

FLOOR ALERT

RE: AB 883 – Business Licenses: United States Department of Defense SkillBridge Program – Support

At its April 7, 2023 meeting, the Board of Psychology (Board) adopted a **Support** position on AB 883 (Mathis). This bill would require Boards under the Department of Consumer Affairs to expedite the initial licensure process for an applicant who supplies satisfactory evidence to the Board, that the applicant is enrolled in the U.S Department of Defense SkillBridge Program on and after July 1, 2024. The Board believes the bill will provide additional support to active-duty military members and their families.

If you have any questions or concerns, please feel free to contact Troy Polk, Legislative and Regulatory Analyst at (916) 574-8154.

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 883 Mathis – As Amended March 23, 2023

SUBJECT: Business licenses: United States Department of Defense SkillBridge program.

SUMMARY: Expands the requirement that licensing boards under the Department of Consumer Affairs (DCA) must expedite the licensing application from military veterans to include applications from active duty members of a regular component of the United States Armed Forces who are enrolled in the United States Department of Defense SkillBridge program.

EXISTING LAW:

- 1) Establishes the DCA within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100)
- 2) Provides for the regulation and licensure of various professions and vocations by boards, bureaus, and other entities within the DCA. (BPC §§ 100-144.5)
- 3) Defines “board,” as used in the BPC, as the board in which the administration of the provision is vested, and unless otherwise expressly provided, includes “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.” (BPC § 22)
- 4) Requires a DCA board to expedite the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged. (BPC § 115.4)
- 5) Authorizes the U.S. Secretary of Defense or Secretary of Homeland Security to carry out one or more programs to provide eligible members of the armed forces under the jurisdiction of the Secretary with job training and employment skills training, including apprenticeship programs, to help prepare such members for employment in the civilian sector. (Title 10 United States Code (U.C.S.) § 1143(e)(1))
- 6) Specifies that a member of the armed forces is an eligible member for a program established by one of the Secretaries if the member meets both of the following:
 - a) Has completed at least 180 days on active duty in the armed forces. (10 U.S.C. § 1143(e)(2)(A))
 - b) Is expected to be discharged or released from active duty in the armed forces within 180 days of the date of commencement of participation in such a program. (10 U.S.C. § 1143(e)(2)(B))

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

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, “The transition from active military duty to a civilian life is a stressful and isolating time for many service members, and as members of the legislature it is our responsibility to do all that we can to make this process as easy as possible. [This bill] will require state agencies to expedite applications of those who are enrolled in the Department of Defense’s SkillBridge program, thus aligning existing state policy to expedite veteran applications and ensuring that every veteran is provided with the support, information and tools necessary to succeed.”

Background. In general, professional licensing programs serve to protect the public from trades or professions that may carry a higher risk of harm. Those programs require an active license to practice, which demonstrates a minimum level of training, competency, and fitness to practice. As a result, those who wish to practice in a licensed profession must undergo an application process. However, the process of applying for a new license can be lengthy, expensive, or even confusing.

That process may be worse for veterans. According to the U.S. Department of Veteran Affairs, preparing for and applying for jobs are common challenges that hinder re-adjustment to civilian life. A veteran who had a career in the military may have never looked or applied for a civilian job, or they may be returning to a civilian job but need time adjusting or catching up on qualifications for the position.

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

SkillBridge. This bill would extend the expedited licensure benefit to applicants who are active duty members of a regular component of the U.S. Armed Forces enrolled in the U.S. Department of Defense (DOD) SkillBridge program. Regular components currently include Army, Navy, Air Force, Marine Corps, and Space Force.

SkillBridge is an employment assistance program that provides work experience opportunities to service members transitioning to the civilian sector. Enrollees must be within 180 days of discharge, have had at least 180 continuous days of active service, and obtain written authorization from their unit commander. If approved, members can be granted up to 180 days of permissive duty to participate full-time in the program.

The SkillBridge opportunities are offered through partner organizations that have been authorized by the DOD through an official memorandum of understanding to work with each of the applicable military branches and respective installation commanders to develop SkillBridge training programs for their personnel. To be approved by the DOD, partnering organizations must submit a detailed training plan that specifies, among other things, specific learning objectives, instructor qualifications, and descriptions of assessments.

The DOD also specifies that “SkillBridge opportunities must provide eligible Service members with a job training and career development experience to acquire employment skills, knowledge, or abilities to assist them with job opportunities in the civilian sector. The opportunities must offer a high probability of post-service employment with the provider or any other employer and offer enrollment at no cost or minimal cost to eligible Service members.”

The four SkillBridge opportunity types are defined as:

- 1) Apprenticeship/Pre-Apprenticeship programs: A combination of on-the-job-training and related classroom instruction under the supervision of a trade official. The programs are jointly sponsored by employer and union groups, individual employers, or employer associations. They must meet one of the following:
 - a) Be registered with the U.S. Department of Labor (DOL) or registered in the state in which it operates.
 - b) Be an “Education and Job Training Program” approved by the U.S. Department of Veterans Affairs (VA).
 - c) Be a certificate program accredited by the American National Standards Institute (ANSI).
 - d) Be accredited by an accrediting agency recognized by the U.S. Department of Education (DOE).

Apprenticeships programs must also meet all of the following:

- a) Be offered by an industry-related organization that is a sponsor of or oversees the sponsorship of a registered apprenticeship program related to the training being offered.
 - b) Documented in a memorandum of understanding that establishes the parameters for cooperative support between the local installation and the local program sponsor.
 - c) Have the potential to provide post-service employment.
- 2) Employment Skills Training (EST) or On the Job Training (OJT): Employee training and tasks learned at a place of work while performing the actual job. OJT occurs in the particular working situation that an employee can expect to work in daily. An OJT or employment skills training program must have at least one of the following:
 - a) Be an “Education and Job Training Program” approved by the U.S. Department of VA.
 - b) Be accredited by an accrediting agency recognized by the U.S. DOE.
 - c) Be a certificate program accredited by the ANSI.
 - d) Be approved by the National Association of State Approving Agencies.
 - e) Be a training program accredited by the Council on Occupational Education.

- 3) Internships: A system of on-the-job-training offered by a provider to eligible Service members to develop jobs skills and employment skills training that assists them to gain employment in the civilian sector. Offers a type of work experience for entry-level job seekers.
- 4) Job shadowing: Normally is performed in one day by observing the day-to-day operations of the employer.

Applicability to Licensure. To qualify for a license, applicants must be able to demonstrate the satisfaction of any applicable education, experience, and examination requirements at the time of application. Applicants must also pass a background check. Incomplete applications are typically put on hold until the applicant can remedy any deficiencies.

Because the SkillBridge program is job experience-focused, it is unclear whether it would help enrollees meet the qualifications for licenses that require a specific type of education or passage of an examination, such as a nursing license, unless those requirements are completed ahead of time. As a result, those enrollees may not benefit from an expedited application.

To the extent an enrollee does qualify for a license, or is close to qualifying through experience gained in the program, this bill would allow them to have their license reviewed sooner.

Reserve Components. Currently, SkillBridge is also available to the National Guard and the Reserves. However, National Guard and Reserve members generally live in-state and hold civilian jobs, so there may be no employment transition that an expedited license process would assist with. Therefore, the author accepted amendments to limit the new benefit under the bill to active duty members of the regular components of the armed forces.

Prior Related Legislation. AB 225 (Gray, et al.) of 2021, which died pending a hearing in the Senate Business, Professions and Economic Development Committee, would have expanded the DCA temporary license program for spouses and registered domestic partners of active-duty military members to include active duty members of the U.S. Armed Forces with active orders for separation within 90 days under other than dishonorable conditions.

AB 186 (Maienschein), Chapter 640, Statutes of 2014, established the DCA temporary license program for spouses and registered domestic partners of active-duty military members.

SB 1226 (Correa), Chapter 657, Statutes of 2014, established the requirement that DCA boards expedite applications from honorable discharged veterans.

ARGUMENTS IN SUPPORT:

The *California Association of Realtors* writes in support:

SkillBridge has countless industry partners in a variety of fields, including real estate, with established military recruitment and transition programs because of the expertise, dedication, and service our veterans bring. Real estate is a field where there is no substitute for on the ground training and this bill also accomplishes the goal of real-life experience for these future licensees.

For those servicemembers who are transitioning into fields requiring licensure, like real estate, expediting their license applications will directly and positively impact their transition and hasten their ability to earn an income and support their families. Unemployment is disproportionately high within the veteran community, but this bill will help eliminate unnecessary delays and roadblocks. They can hit the ground running. At a time when labor shortages and demographic changes challenge California's workforce and economic outlook, the state cannot afford to lose workers to other states, especially our skilled and accomplished service men and women.

ARGUMENTS IN OPPOSITION:

None on file

REGISTERED SUPPORT:

California Association of Realtors

REGISTERED OPPOSITION:

None on file

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

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(b)(3) AB 996 (Low) Department of Consumer Affairs: continuing education: conflict of interest policy

Background

This bill proposes that boards under the Department of Consumer Affairs develop and maintain a conflict-of-interest policy that would discourage the qualification of any continuing education course if the provider of that course has an economic interest in a commercial product or enterprise directly or indirectly promoted in that course.

The bill was introduced on February 15, 2023 and was referred to the Business and Professions Committee on February 23, 2023.

On April 7, 2023, the Board of Psychology (Board) adopted an Oppose position.

On April 14, 2023, the Board submitted an Oppose position letter to the Assembly Committee on Business and Professions.

On April 26, 2023, the bill passed and was referred to the Assembly Committee on Appropriations.

On May 17, 2023, the bill passed the Assembly Committee on Appropriations.

On May 18, 2023, the bill was referred to the Assembly Floor and ordered to a third reading.

On May 23, 2023, a Floor Alert Position Letter was submitted to Assembly Members.

Board staff will continue to monitor the proposal.

Action Requested

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

Attachment 1: Board position letter

Attachment 2: Assembly Floor Analysis

FLOOR ALERT

RE: AB 996 (Low) – Department of Consumer Affairs: continuing education: conflict-of-interest policy – Oppose

At its April 7, 2023, meeting, the Board of Psychology (Board) adopted an **Oppose** position on AB 996 (Low). This bill would require Boards under the Department of Consumer Affairs to develop and maintain a conflict-of-interest policy that would deny the qualification of any continuing education course if the provider has an economic interest in a commercial product or enterprise directly or indirectly promoted in that course.

The Board has several concerns with AB 996. First, the organizations which approve continuing education providers and courses in psychology operate independently of the Board other than their regulatory specification as qualified to approve providers and offerings. As the Board does not approve the course offerings, it could not effectively monitor individual courses or offerings for any such conflict of interest. Thankfully, the primary organizations upon which we rely, including the American Psychological Association and the California Psychological Association, have established their own standards as to, among other things, conflicts of interest of continuing education speakers or providers and the required disclosure to attendees.

Second, unlike other disciplines, the continuing education courses most useful to licensees are often provided by the authors or publishers of the relevant materials. For example, when a new or revised assessment instrument or test is released to the market, the person, or persons most capable of speaking to the validity and reliability of the test, the appropriate method for administration, scoring, and interpretation, or its use with historically underrepresented groups are those who authored or developed the assessment instrument or test. Similarly, when a theorist, scientist, or researcher is one of the primary presenters in a continuing education course, they will often offer for sale a published work which further illuminates or explains the subject under discussion, offerings that the Board's licensees have submitted help them to better understand and implement the subject of the course.

Unlike some other healthcare disciplines, psychology does not find itself unnecessarily influenced by the types of conflicts of interest that arise when major industrial concerns, such as pharmaceutical companies or medical device makers, exert undue influence over the continuing education available to licensees.

Finally, the Board believes the proposed language would be difficult to implement given that it does not approve continuing education offerings. Further, it does not provide adequate guidance as to how the policy could be developed or enforced given the nature of continuing education in psychology. Licensees have expressed their concern to the Board, that if all of the continuing education courses were vetted based on the complete absence of any economic interest on the part of presenters or providers, the remaining course offerings might be insufficient to allow them to effectively satisfy the

requirements for Continuing Professional Development, without taking courses not relevant to their practices.

If you have any questions or concerns, please feel free to contact Troy Polk, Legislative and Regulatory Analyst at (916) 574-8154.

cc: Assembly Member Low

ASSEMBLY THIRD READING
AB 996 (Low)
As Amended March 27, 2023
Majority vote

SUMMARY

Requires each board under the Department of Consumer Affairs (DCA) that approves continuing education (CE) providers or courses to have a conflict-of-interest policy that discourages the qualification of courses that promote a product or enterprise in which the provider has a financial interest, and requires those conflicts to be disclosed before each course.

Major Provisions

- 1) Requires any entity under the DCA that is responsible for approving CE providers or courses shall develop and maintain a conflict-of-interest policy.
- 2) Provides that each conflict-of-interest policy shall, at a minimum, do both of the following:
 - a) Discourage the qualification of any CE course if the provider of that course has an economic interest in a commercial product or enterprise directly or indirectly promoted in that course; and
 - b) Require conflicts to be disclosed at the beginning of each CE course.

COMMENTS

Numerous practice acts governing the licensing, regulation, and oversight of professionals within the jurisdiction of the DCA require licensees to continue their education and training as a condition of continuing their licensure. Statutes and regulations dictate how many hours of CE a licensee must complete over a certain number of years. While CE requirements can often be fulfilled through a wide variety of courses, some professionals must fulfill more complete more specific course content in order to renew a license.

CE providers and courses are approved different ways depending on the practice act. For example, the Professional Fiduciaries Bureau is responsible for approving CE providers for its licensees, and the Bureau also reviews and approves specific CE courses. The Dental Board of California is tasked with approving providers of CE for dental professionals; however, excluding mandatory courses, the Dental Board of California (DBC) does not individually approve specific courses offered by approved registered providers. The California State Board of Pharmacy is not responsible for approving CE providers or courses, and relies entirely on two accreditation agencies.

Over the past several years, questions have been raised during the review of various boards under the DCA through the sunset process relating to the potential for conflicts-of-interest in CE courses. This type of conflict would typically occur when the provider or author of a CE course has a pecuniary interest in its topic. For example, a company that manufactures and sells a specific medical device would arguably have a conflict of interest if they are sponsoring a CE course that teaches health professionals about the availability and merit of that device. While perhaps there is some value to licensees learning about the device, there should be some basic

awareness as to whether the content of the CE course is motivated in part by the company's concern for profitability.

While this bill would not expressly prohibit any particular CE course or content, it would require each entity under the DCA that plays a role in approving CE to develop and maintain a conflict-of-interest policy. A number of private accrediting associations and organizations already maintain a similar policy. Each policy would, at a minimum, be required to discourage the qualification of any CE course if the provider of that course has an economic interest in a commercial product or enterprise directly or indirectly promoted in that course. Any conflicts would also be required to be disclosed at the beginning of each course.

According to the Author

"While continuing education can be a valuable tool to help ensure that California's licensed professionals continue to provide high-quality services to their patients and clients that reflect the current standards of their profession, there may be times where that education has an ulterior financial motive for the course provider. AB 996 will require regulatory boards to take steps to prevent sales pitches from masquerading as education courses by requiring each board to have a conflict-of-interest policy in place and requiring any potential conflicts to be disclosed to licensees."

Arguments in Support

The *Board of Registered Nursing* supports this bill, arguing that a support position is consistent with its mission "to protect the health, safety, and wellbeing of the public through fair and consistent application of the statutes and regulations governing nursing practice and education in California."

Arguments in Opposition

The *California Board of Psychology* opposes this bill, writing that "the organizations which approve continuing education providers and courses in psychology operate independently of the Board" and that "unlike other disciplines, the continuing education courses most useful to licensees are often provided by the authors or publishers of the relevant materials."

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, minor and absorbable costs to the impacted DCA boards and bureaus.

VOTES

ASM BUSINESS AND PROFESSIONS: 16-0-2

YES: Berman, Flora, Alanis, Alvarez, Bonta, Dixon, Gipson, Grayson, Irwin, Jackson, Lee, Lowenthal, McKinnor, Stephanie Nguyen, Joe Patterson, Ting

ABS, ABST OR NV: Chen, McCarty

ASM APPROPRIATIONS: 16-0-0

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Robert Rivas, Sanchez, Weber, Ortega

UPDATED

VERSION: March 27, 2023

CONSULTANT: Robert Sumner / B. & P. / (916) 319-3301

FN: 0000418

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(b)(4) SB 372 (Menjivar) Department of Consumer Affairs: Licensee and registrant records: name and gender changes

Background

This bill would require each licensing board under the Department of Consumer Affairs (DCA) to update a licensee or registrant's legal name and/or gender when the Board of Psychology (Board) receives government-issued documentation. The bill would prohibit the Board from charging a higher fee for reissuing a document with a corrected or updated legal name or gender.

On March 20, 2023, the bill was amended to include that for licensees or registrants (licensee) that are changing name and gender the Board would be required to remove their former name or gender from the online license verification system and treat the former name or gender as confidential. The Board would also be required to establish a process to allow a person to request and obtain the information upon request.

On April 7, 2023, the Board adopted an Oppose position.

On April 14, 2023, the Board submitted an Oppose position letter to the Senate Committee on Judiciary and provided testimony at the April 18th hearing.

On April 20, 2023, the bill amended Business and Professions Code Section 27.5 (a)(2) to include "The board shall establish a process for providing a licensee's or registrant's current name or enforcement action record linked to a former name upon receipt of a request that is related to an enforcement action against the licensee or registrant or a search of a licensee by a previous name. The process

shall ensure that the request is completed within ten business days. This section shall be implemented in compliance with the Public Records Act.” The bill was referred to the Senate Committee on Appropriations.

On April 26, 2023, the Board submitted an Oppose position letter to the Senate Committee on Appropriations.

On May 1, 2023, the bill was placed on Suspense.

On May 18, 2023, the bill passed the Assembly Committee on Appropriations.

On May 22, 2023, the bill was ordered to the Assembly.

On May 31, 2023, the Board met with DCA, the author’s office, sponsors, and affected boards to discuss possible amendments. The DCA proposed technical amendments to address most of the concerns the Board had with the bill.

Board staff will continue to monitor the proposal.

Action Requested

This item is for informational purposes only. If the technical amendments are made, the Legislative and Regulatory Affairs Committee may consider recommending the Board remove its opposition to the bill and watch the bill.

Attachment 1: Board position letter

Attachment 2: Senate Appropriations Committee bill analysis

Attachment 3: Senate Bill 372 amended bill text

April 26, 2023

The Honorable Anthony J. Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 412
Sacramento, CA 95814

RE: SB 372 (Menjivar) – Department of Consumer Affairs: Licensee and registrants records: name and gender changes

Dear Senator Portantino:

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 7, 2023 meeting, the Board of Psychology (Board) adopted an **Oppose** position on SB 372 (Menjivar). This bill would require each licensing board under the Department of Consumer Affairs (DCA) to update a licensee or registrant's legal name and/or gender when the board receives government-issued documentation. The bill would prohibit the Board from charging a higher fee for reissuing a document with a corrected or updated legal name or gender than the fee currently charged.

In addition, the bill would require Board's to remove the former name and/or gender from the online license verification system and treat the former name and/or gender as confidential or private information. The Board would also be required to establish a process to allow a person to submit a request to obtain the now private or confidential information.

The Board currently charges a \$5.00 processing fee to issue a duplicate wall certificate, and a \$5.00 processing fee to issue a duplicate pocket card. The licensee or registrant has the option to mail the payment along with the Application for Duplicate Wall Certification and/or Pocket Card form, or the request can be completed online through their online BreEZe account.

The Board currently has processes and procedures in place to issue name change requests and can utilize those same processes and procedures for requests relating to name changes that result from a change in gender. Since the Board would be using the same processes and procedures, the current processing fee would apply. The Board would incur the same costs related to printing reissued documents upon request.

In addition, BreEZe currently has the functions to update a licensee or registrants legal name, however, if the Board is required to remove the previous name from the records, the Board would incur the costs to delete or redact the previous name from online verification and/or from any enforcement records.

The Board supports and agrees with the author's intent in protecting licensed professionals by ensuring transgender and non-binary licensees who change their name legally should have their new identities reflected and to be protected from potential abuse because of their gender identity. However, the Board has several concerns with SB 372.

These concerns include the impact on consumer protection given that consumers will not have the ability to view current or past disciplinary actions. In addition, all previous names would now be considered private or confidential, which may cause a hardship for consumers in locating a psychologist who provided services in the past. This in-turn may also cause barriers in consumers submitting a written request to a licensee to obtain their patient records.

The amendments on April 20, 2023 still lack clarity regarding how the Board is to process and provide the requested confidential or private. As provided as a Public Records Request, the Board may face legal challenges with releasing the confidential or private information.

The Board is dedicated to protecting consumers, first and foremost, as well as the safety of all of our licensees. A more tailored approach focused on transgender or non-binary licensees who want their public records to accurately reflect their gender identity while preserving the record of past or present disciplinary actions and providing a tailored procedure for consumers to locate and identify past providers of services to obtain treatment records might be a more optimal approach to this important policy concern. The overbreadth of the proposed statute will hinder the Board in protecting consumers without relation to the intended protection of transgender and non-binary licensees.

Thank you for giving the Board's concerns consideration in the evaluation of the proposed legislation.

If you have any questions or concerns, please feel free to contact the Board's Assistant Executive Officer, Jon Burke, at (916) 574-8072 or jonathan.burke@dca.ca.gov. Thank you.

Sincerely,



Lea Tate, PsyD
President, Board of Psychology

cc: Senator Brian W. Jones (Vice Chair)
Senator Menjivar
Members of the Appropriations Committee
Assembly Republican Caucus

THIRD READING

Bill No: SB 372
Author: Menjivar (D), et al.
Amended: 4/20/23
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 8-2, 3/27/23
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Glazer, Smallwood-Cuevas,
Wahab
NOES: Nguyen, Niello
NO VOTE RECORDED: Alvarado-Gil, Ashby, Wilk

SENATE JUDICIARY COMMITTEE: 9-0, 4/18/23
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, McGuire, Min, Wiener
NO VOTE RECORDED: Wilk, Niello

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SUBJECT: Department of Consumer Affairs: licensee and registrant records:
name and gender changes

SOURCE: California Association for Licensed Professional Clinical Counselors
California Association of Marriage and Family Therapists
California Association of Social Rehabilitation Agencies
California Council of Community Behavioral Health Agencies
California Psychological Association
California State Association of Psychiatrists
National Association of Social Workers – California Chapter
Psychiatric Physicians Alliance of California

DIGEST: This bill requires a licensing entity within the Department of Consumer Affairs (DCA) to update licensee records if it receives government-issued

documentation demonstrating that the individual's legal name or gender has changed.

ANALYSIS:

Existing law:

- 1) Establishes various practice acts in the Business and Professions Code (BPC) governed by various licensing entities within DCA which provide for the licensing and regulation of various professions.
- 2) Requires specified licensing entities to provide information regarding the status of all of the entity's licensees on the internet according to the following:
 - a) Information on license suspensions and revocations and other related enforcement action.
 - b) Information may not include personal information, including home telephone number, date of birth, or social security number.
 - c) A licensee's address of record, however, a licensee may provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. An entity may require a licensee, who has provided a post office box number or other alternative mailing address as the licensee's address of record, to provide a physical business address or residence address that is only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet. (BPC § 27)
- 3) Requires specified health practitioner licensing entities to disclose information about various enforcement actions taken against a licensee, including a former licensee, by the entity or another state or jurisdiction, to an inquiring member of the public. Requires these entities to also disclose information about civil judgments and settlements, as well as felony convictions. (BPC § 803.1)
- 4) Requires various health practitioner licensing entities to provide information about licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the entity's online information website.

- 5) Outlines the specifications for a legal processing to for a change of name to conform to an individual's gender identity and exempts this type of proceeding from any requirement for publication. (Code of Civil Procedure § 1277.5)

This bill:

- 1) Requires a licensing entity within DCA to update licensee records, including any records contained in an online license verification system, if it receives government-issued documentation demonstrating that the individual's legal name or gender has changed to include the updated legal name or gender.
- 2) Specifies that if a licensing entity operates an online license verification system, it must remove the individual's former name upon receipt of the government-issued documentation and specifies that the individual's former name and gender are deemed confidential.
- 3) Requires a licensing entity to establish a process, one that considers respect for the individual's privacy and safety, to provide a licensee's or registrant's current name or enforcement action record linked to a former name upon receipt of a request that is related to an enforcement action against the licensee or registrant or a search of a licensee by a previous name.
- 4) Requires a licensing entity to reissue any documents related to licensure with the individual's updated legal name or gender and specifies that a higher fee cannot be charges for this effort than the fee associated with any other document reissuance.
- 5) Clarifies that a licensing entity does not need to modify licensure records if the individual does not request a modification or reissuance of licensing documents.
- 6) Specifies that this bill 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. States that this is necessary in order to protect the privacy rights and safety of individuals, it is necessary that this act limit the public's right of access to that information.

Background

Within the DCA are 36 entities, including 26 boards, seven bureaus, one committee, one program, and one commission (hereafter "boards" unless otherwise noted). Collectively, these boards regulate more than 100 types of businesses and

200 different industries and professions to include over 3.4 million licensees. As regulators, these boards perform two primary functions:

- Licensing—which entails ensuring only those who meet minimum standards are issued a license to practice, and
- Enforcement—which entails investigation of alleged violations of laws and/or regulations and taking disciplinary action, when appropriate.

DCA has been working since 2009 on replacing multiple antiquated standalone IT systems with one fully integrated system. A number of programs currently employ BreZE to provide applicant tracking, licensing, renewals, enforcement, monitoring, cashiering, and data management capabilities. BreZE is web-enabled and allows many licensees to complete and submit applications, renewals, and the necessary fees through the internet. The system also allows the public to file a complaint, search for a licensee, and subscribe to license status changes.

Licensing entities have processes, typically outlined in the entity’s practice act, that outline how an individual can change their name. Typically, once a licensing entity receives a name-change request, the licensing entity updates the online licensing search system to update the individual’s profile with the new name, however documentation related to the individual’s license under the prior name still remains a part of the profile and is searchable on the individual’s online profile. BreZE allows a prior name to be designated private, which in turn eliminates the ability for online lookup of that particular name. The licensee information and documentation for both names, however, remains available to licensing entity staff and part of the internal materials maintained by that program.

Comments

According to the Author, “Deadnaming occurs when someone intentionally or unintentionally refers to a trans or non-binary person by the name they previously used. This practice can both negatively impact the mental health as well as the physical safety of all licensees under DCA who are identified by their deadname online. When transgender or non-binary people transition or come out, they may choose a new name to affirm their identity. Research has shown that referring to someone using their chosen name can reduce depressive symptoms and even suicidal ideation and behavior for transgender people. Transgender people experience high rates of discrimination, especially if they are known or believed to be trans. The National Center for Transgender Equality found in their 2015 US Trans Survey that 46% of people surveyed had been verbally harassed and 9% had

been physically assaulted for their trans identity. Additionally, 30% reported experiencing discrimination in the workplace or with prospective employers. The UCLA Williams Institute found that trans adults have a suicidal ideation rate 12 times higher and a suicide attempt rate 18 times higher than the general population.”

While this bill outlines the requirement for certain action by DCA licensing entities that receive a request related to enforcement against the individual, it is not clear how members of the public would be able to automatically access information about enforcement actions taken against a licensee if any documentation including their prior name is no longer connected to the licensee in the public facing portion of the online licensing system. The Legislature has passed numerous measures aimed at shining a light on the actions of licensees to ensure the public is able to be informed about not only the qualifications and licensure of an individual, but also any discipline that the individual has faced throughout the course of their licensure. A member of the public may not know to search for an individual by name, to ensure they are in fact licensed, but then separately engage the individual’s licensing entity about prior disciplinary action taken against the same individual with an old name. It may be clearer for the individual to simply receive a new license number to ensure that their profile is publicly searchable and available only with their new name, and part of the licensing entity process that is developed for providing disciplinary action on the individual under an old name could include the entity’s steps, if statutorily necessary to clarify, to connect the two licenses at the licensing entity’s level.

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

According to the Senate Appropriations Committee, DCA notes that most of its programs will require regulations to comply with this bill, however this workload for these programs is anticipated to be minor and absorbable within existing resources, and other workload to DCA’s programs include updating procedures, processes, forms, and manuals. There are four programs under DCA that have identified costs that are not absorbable: The Bureau of Household Goods and Services anticipates unknown, potentially significant costs for additional staff; The California State Board of Optometry anticipates costs of approximately \$148,000; The California Board of Naturopathic Medicine anticipates costs of approximately \$74,000 and; The Contractors State License Board anticipates the need for additional staff to develop regulations and support its Licensing and Records Certification Unit. The fiscal impact for these additional staff are estimated to be \$365,000 in the first year, \$299,000 in the second year, and \$126,000 ongoing. The DCA’s Office of Information Services estimates total costs of \$347,000.

SUPPORT: (Verified 5/19/23)

California Association for Licensed Professional Clinical Counselors (co-source)

California Association of Marriage and Family Therapists (co-source)

California Association of Social Rehabilitation Agencies (co-source)

California Council of Community Behavioral Health Agencies (co-source)

California Psychological Association (co-source)

California State Association of Psychiatrists (co-source)

National Association of Social Workers, California Chapter (co-source)

Psychiatric Physicians Alliance of California (co-source)

AFSCME

Asian Americans for Community Involvement

Board of Behavioral Sciences

California Academy of Family Physicians

California Access Coalition

California Consortium of Addiction Programs and Professionals

California Dental Association

County Behavioral Health Directors Association of California

Equality California

Pathpoint

Steinberg Institute

Sycamores

The Kennedy Forum

OPPOSITION: (Verified 5/19/23)

Physician Assistant Board

ARGUMENTS IN SUPPORT: Supporters note that “By limiting what is shared on the website, the safety and privacy of transitioned persons and others who have changed licensed under DCA is protected. Victims of domestic violence that have legally changed their name may wish for their information to be kept confidential. Individuals that have transitioned may be harassed or discriminated against when their transition is shared on the Breeze system. Safeguards for consumers to ensure that a complaint can be filed under either name are included in the bill. If a disciplinary action was taken under the deadname, that information would remain linked to the license number and available for the public to review. Additionally, if a consumer would like to re-engage with a licensee, that would be possible as well.” Supporters highlight that this bill is similar to an existing process at the California State Bar.

ARGUMENTS IN OPPOSITION: The Physician Assistant Board notes that it is concerned about ensuring that consumers are adequately protected by maintaining access to a licensee’s discipline records. “The Board is concerned with the ease of access to the discipline records associated with the licensee if the Board is required to remove a former name from its online license verification system. This would interfere with the Board’s mandate of public protection, and for that reason the Board has taken an “oppose” position on this bill.”

Prepared by: Sarah Mason / B., P. & E.D. /
5/20/23 12:44:42

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

AMENDED IN SENATE APRIL 20, 2023

AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 372

Introduced by Senator Menjivar
(Coauthors: Senators Cortese and Wiener)
(Coauthors: Assembly Members Lee, Pellerin, and Wallis)

February 9, 2023

An act to add Section 27.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 372, as amended, Menjivar. Department of Consumer Affairs: licensee and registrant records: name and gender changes.

Existing law establishes in the Business, Consumer Services, and Housing Agency the Department of Consumer Affairs. Existing law establishes various boards within the department for the licensure, regulation, and discipline of various professions and vocations. Existing law defines "board" for purposes of the Business and Professions Code to include bureau, commission, committee, department, division, examining committee, program, and agency, unless otherwise expressly provided.

This bill would require a board to update a licensee's or registrant's records, including records contained within an online license verification system, to include the licensee's or registrant's updated legal name or gender if the board receives government-issued documentation, as described, from the licensee or registrant demonstrating that the licensee or registrant's legal name or gender has been changed. The bill would require the board to remove the licensee's or registrant's former name or gender from its online license verification system and treat this

information as confidential. The board would be required to establish a process to allow a person to request and obtain ~~this information, a licensee's or registrant's current name or enforcement action record linked to a former name~~, as prescribed. The bill would require the board, if requested by a licensee or registrant, to reissue specified documents conferred upon, or issued to, the licensee or registrant with their updated legal name or gender. The bill would prohibit a board from charging a higher fee for reissuing a document with a corrected or updated legal name or gender than the fee it charges for reissuing a document with other corrected or updated information.

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

This bill would make legislative findings to that effect.

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

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

1 SECTION 1. Section 27.5 is added to the Business and
2 Professions Code, to read:

3 27.5. (a) (1) Notwithstanding any other law, if a board receives
4 government-issued documentation, as described in subdivision
5 (b), from a licensee or registrant demonstrating that the licensee's
6 or registrant's legal name or gender has been changed, the board
7 shall update their records, including any records contained within
8 an online license verification system, to include the updated legal
9 name or gender.

10 (2) (A) If the board operates an online license verification
11 system, it shall remove the licensee's or registrant's former name
12 upon receipt of government-issued documentation, as described
13 in subdivision (b). The licensee's or registrant's former name and
14 gender shall be deemed confidential.

15 (B) The board shall establish a process for providing a licensee's
16 or registrant's ~~former name and gender upon receipt of a request~~
17 ~~that is related to a complaint against the licensee or registrant.~~
18 *current name or enforcement action record linked to a former*
19 *name upon receipt of a request that is related to an enforcement*

1 *action against the licensee or registrant or a search of a licensee*
2 *by a previous name. The process shall ensure that the request is*
3 *completed within 10 business days. This subparagraph shall be*
4 *implemented in compliance with the California Public Records*
5 *Act (Division 10 (commencing with Section 7920.000) of Title 1*
6 *of the Government Code).*

7 (C) In establishing a process to provide a licensee's or
8 registrant's former name and gender, the board shall consider
9 respect for the licensee's or registrant's privacy and safety.

10 (3) If requested by the licensee or registrant, the board shall
11 reissue any documents conferred upon the licensee or registrant
12 with the licensee's or registrant's updated legal name or gender.
13 A board shall not charge a higher fee for reissuing a document
14 with a corrected or updated legal name or gender than the fee it
15 charges for reissuing a document with other corrected or updated
16 information.

17 (b) The documentation of a licensee or registrant sufficient to
18 demonstrate a legal name or gender change includes, but is not
19 limited to, any of the following:

20 (1) State-issued driver's license or identification card.

21 (2) Birth certificate.

22 (3) Passport.

23 (4) Social security card.

24 (5) Court order indicating a name change or a gender change.

25 (c) This section does not require a board to modify records that
26 the licensee or registrant has not requested for modification or
27 reissuance.

28 SEC. 2. The Legislature finds and declares that Section 1 of
29 this act, which adds Section 27.5 to the Business and Professions
30 Code, imposes a limitation on the public's right of access to the
31 meetings of public bodies or the writings of public officials and
32 agencies within the meaning of Section 3 of Article I of the
33 California Constitution. Pursuant to that constitutional provision,
34 the Legislature makes the following findings to demonstrate the
35 interest protected by this limitation and the need for protecting
36 that interest:

- 1 In order to protect the privacy rights and safety of individuals,
- 2 it is necessary that this act limit the public's right of access to that
- 3 information.

O

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(b)(5) Board-Sponsored Legislation –SB 816 (Roth): Professions and Vocations- Fee Schedule: Business and Professions Code Section 2987

Background

The Board of Psychology (Board) is currently facing a budget structural deficit, with expenditures outpacing revenue streams. The Board has not increased its initial application or renewal fees since 1992 and as operating costs have increased, it has resulted in a structural imbalance.

On January 26, 2022, the newly formed Budget Ad Hoc Committee (Budget Committee) met with Board staff and were presented with application and renewal transaction cost options that would eliminate the Board's structural imbalance and rebuild its fund reserves.

On February 25, 2022, the Budget Ad Hoc Committee held a public meeting, moderated by the Department of Consumer Affairs (DCA) SOLID Training and Planning Solutions Unit to present stakeholders of the Board with options that would eliminate the Board's structural imbalance. Public comment was provided by the California Psychological Association.

On April 29, 2022, the Board voted to accept the recommendation of the Budget Ad Hoc Committee allowing staff to pursue a legislative proposal to the Senate and Assembly Business and Professions Committees.

On April 21, 2023, the Board was notified SB 816 would include fee increases for boards not currently going through sunset as long as there was no significant opposition. Minor technical changes were made in coordination with the DCA legal office.

On April 26, 2023, the updated language was submitted to the Legislative Affairs Division within the DCA.

On May 8, 2023, SB 816 was referred to the Senate floor.

On May 24, 2023, SB 816 passed the Senate, and was ordered to the Assembly.

On May 25, 2023, SB 816 was read for the first time in the Assembly.

Board staff will continue to monitor this proposal.

Action Requested

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

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(b)(6) - SB 887 Consumer Affairs (Senate Committee on Business, Professions and Economic Development) - Suicide Risk Assessment and Intervention Coursework and Aging and Long-Term Care Coursework: Business and Professions Code sections 2915.4 and 2915.5

Background

On March 14, 2023, Senate Bill 887 – Consumer Affairs (Omnibus bill) was introduced. This bill included the language that would streamline the application process to allow verification following review of a transcript that clearly indicated in the course title that the specified coursework had been completed. Additionally, this bill would allow the department chair to act as an additional entity who could provide written certification for convenience for applicants, in cases where the course title did not adequately indicate the coursework completed.

On April 20, 2023, the bill was amended and referred to the Senate Committee on Business, Professions, and Economic Development. The proposed amendments did not impact the Board of Psychology’s (Board) language regarding coursework. A support position letter was submitted to the Committee.

On April 24, 2023, the bill passed the Senate Committee on Business, Professions, and Economic Development, and was referred to the Senate Committee on Appropriations.

On May 2, 2023, a support position letter was submitted to the Senate Committee on Appropriations.

On May 5, 2023, a support floor alert letter was submitted to the Senate members.

On May 11, 2023, the bill was ordered to the Assembly.

On May 18, 2023, SB 887 was referred to the Assembly Committee on Business and Professions.

Board staff will continue to monitor this proposal.

Action Requested

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

Attachment 1: Board Position Letter

Attachment 2: Senate Business, Professions and Economic Development bill analysis

Attachment 3: Senate Bill 887 amended bill text

June 1, 2023

The Honorable Marc Berman
Chair, Assembly Committee on Business and Professions
State Capitol, Room 6130
Sacramento, CA 95814

RE: **SB 887 – Consumer Affairs - SUPPORT**

Dear Assembly Member Berman:

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

The Board of Psychology (Board) is in **SUPPORT** of SB 887. This bill would streamline the application process to allow verification following review of a transcript that clearly indicated in the course title that the specified coursework had been completed. Additionally, the Board believes that to allow the department chair to act as an additional entity who could provide written certification would be an added convenience for applicants, in cases where the course title did not adequately indicate the coursework completed.

The Board asks for your support of SB 887 when it is heard in the Assembly Committee on Business and Professions. If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (916) 574-8938 or Antonette.Sorrick@dca.ca.gov. Thank you.

Sincerely,



Lea Tate, PsyD
President, Board of Psychology

cc: Assembly Member Heath Flora (Vice Chair)
Members of the Assembly Committee on Business and Professions.
Robby Sumner, Chief Consultant
Bill Lewis, Assembly Republican Caucus

CONSENT

Bill No: SB 887
Author: Committee on Business, Professions and Economic Development
Amended: 4/20/23
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 4/24/23
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Eggman,
Glazer, Niello, Smallwood-Cuevas, Wahab, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Consumer affairs

SOURCE: Author

DIGEST: This bill makes numerous technical and clarifying provisions related to programs within the Department of Consumer Affairs (DCA), makes a technical change related to the Department of Real Estate (DRE), and updates a cross reference under the Secondhand Dealers Act related to pawnbrokers.

ANALYSIS:

Existing law:

- 1) Provides for the licensing and regulation of various professions and businesses by the 26 boards, eight bureaus, two committees, two programs, and one commission within DCA under various licensing acts within the Business and Professions Code (BPC).
- 2) Establishes the Board of Behavioral Sciences (BBS) to administer the Marriage and Family Therapy Practice Act, the Licensed Educational Psychologist Practice Act, the Licensed Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Practice Act. (BPC §§ 4980 *et seq.*)

- 3) Establishes the Board of Psychology (BOP) to license and regulate psychologists, psychologist assistants, and registered psychologists. (BPC §§ 2900 *et seq.*)
- 4) Establishes the Board of Registered Nursing (BRN) to provide for the licensure and regulation of the practice of nursing. (BPC §§ 2700 *et seq.*)
- 5) Establishes the Veterinary Medical Board (VMB) for licensing and regulating veterinarians, registered veterinary technicians (RVTs), veterinary assistant substance controlled permit (VACSP) holders, and veterinary premises. (BPC §§ 4800 *et seq.*)
- 6) Defines a “secondhand dealer” to mean and include any person, copartnership, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning or auctioning secondhand property but does not include a coin dealer or a participant at gun shows, as specified. (BPC § 21626)
- 7) Requires an applicant for a hydrolysis facility license to prove compliance with all applicable laws, rules, regulations, ordinances, and orders and the Bureau will not issue a hydrolysis facility license until the Bureau is satisfied that the public interest, human health, and environmental quality will be served by the applicant. (BPC § 7639.06(a))
- 8) Establishes the California Architects Board (CAB) within the DCA to license and regulate professional architects. (BPC §§ 5500 *et seq.*)

This bill:

- 1) Clarifies the term of appointment for the representative from the California State University Chancellor as four years.
- 2) Replaces an outdated reference to a certifying body for nurse anesthetists with the National Board of Certification and Recertification for Nurse Anesthetists, or a successor national professional organization approved by the BRN for purposes of licensure.
- 3) Adds the following for the BRN, in establishing its categories of NPs and standards of NPs, to take into account levels of advanced practice as outlined in the nurse practitioner curriculum core competencies specified in the *National Organization of Nurse Practitioner Faculties’ Nurse Practitioner Role Core Competencies 2022*, or a successor approved by the BRN, experience, or both.

- 4) Authorizes an applicant for licensure as a psychologist to provide a transcript indicating completion of coursework, or a written certification from the department chair in addition to the registrar, for purposes of meeting licensure requirements.
- 5) Permits an out of state applicant for licensure, as a veterinarian to submit required out of state licensure information via electronic means instead of directly to the VMB, and revises the membership of the VMB's Wellness Evaluation Committee to include at least one veterinarian, at least two public members, and at least one RVT.
- 6) Deletes the provision requiring a that veterinarian who reviews and investigates alleged violations of the veterinary practice act, be licensed or employed by the state, as specified, and not be out of practice for more than four years.
- 7) Permits a person to rely on licensing and registration information as displayed in the BBS's website that includes the issuance and expiration dates of any license or registration issued by the BBS.
- 8) Deletes the BA's authority to establish an advisory continuing education committee.
- 9) Replaces reference to a "substandard peer review report" with a "peer reviewed report with a rating of "fail" for purposes of firm renewal for CPAs.
- 10) Deletes an outdated reference to passage of an examination for purposes of licensure as a CPA.
- 11) Makes conforming changes to the national examination required for licensure as an architect, as specified.
- 12) Extends the due date of a report due to the Legislature conducted by the BOP on automated drug delivery systems from January 1, 2024, to January 1, 2025.
- 13) Updates the required information to be included about the CFB in all contracts for goods and services offered by a licensee, as specified.
- 14) Permits consumers to submit their Consumer Recover Account application to the DRE by electronic means, as specified.

15) Changes from fiscal to calendar year, the date by which the DCA must compile and submit a report to the Legislature on military and spouse licensure, as specified.

16) Makes numerous other technical, clarifying and conforming changes.

Background

Board of Behavioral Sciences. All four of the BBS's licensee and registrant categories provide some form of mental health services to a variety of clients in different settings. Each of the licensed profession groups under BBS must meet specified licensing requirements and practice in certain settings. This bill clarifies that a person may utilize the BBS's license look-up on the BBS website to verify licensure and serve as a primary source documentation. In addition, this bill clarifies who can supervise LMFT trainees to specify that LEPs can.

Board of Psychology. The BOP is one of several regulatory entities under the umbrella of the DCA. The BOP's mission is to "protect consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession." This bill allows verification of coursework in suicide risk assessment and intervention and aging and long-term care by review of the transcript or written certification by a department chair to help streamline the application process.

Board of Registered Nursing. The BRN's recent sunset bill, AB 2684 (Berman, Chapter 413, Statutes of 2022) codified the Nursing Education and Workforce Advisory Committee into law and set appointment term limits for specific members. However, that bill neglected to provide the term for the representative of the California State University Office of the Chancellor. This bill specifies that the term is four years. The NP core competencies incorporated by reference into regulations have been updated, and this bill updates who establishes those competencies to include the National Organization of Nurse Practitioner Faculties released new core competencies in 2022. Additionally, this bill updates statute to provide the appropriate reference to the national certifying organization for nurse anesthetists as the old certifying body is no longer applicable.

Veterinary Medical Board. Current law, BPC Section 4846, requires an applicant for a veterinarian license to disclose each state, Canadian province, or U.S territory in which the applicant currently holds or has ever held a license to practice veterinary medicine. License verification, must be directly submitted to the VMB. The VMB requested to clarify that the verification can be done electronically, this bill clarifies that permission. The VMB is authorized to establish a wellness

advisory committee. This bill updates the membership on that committee to include only two veterinarians, and at least one RVT.

Board of Accountancy. Current law, BPC Section 5076, references a peer review term of “substandard” that is inconsistent with national standards, this bill will replace the term substandard with “fail” for purposes of accounting firms that have not met certain professional standards to align with national standards. Additionally, this bill deletes outdated references to an advisory committee that is no longer active, a fee that is no longer charged, and education requirements that ended in 2016.

Bureau for Private Postsecondary Education. The BPPE has oversight of private postsecondary educational institutions operating with a physical presence in California. This bill makes a number of technical changes to the California Private Postsecondary Education Act.

Pawnbrokers and Secondhand Dealers. Secondhand dealers includes those whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning or auctioning secondhand property. This bill simply updates a provision of the BPC to include a cross reference with existing law pertaining to holding periods.

Department of Real Estate. The DRE administers the Consumer Recovery Account (CRA), a fund that provides limited compensation to consumers defrauded by real estate licensees unable to pay judgments. Current law requires consumers either submit CRA applications in person or send to the DRE via certified mail. This bill authorizes a consumer to submit the application electronically.

Cemetery and Funeral Bureau. The Bureau regulates more than 13,000 licensees in 13 different licensing categories. This bill updates the required information to reflect all of the licensing facilities regulated by the Bureau.

California Architecture Board. The CAB evaluates a candidate’s architectural education, experience, and examination results to assess their knowledge, skills, and ability to perform the services required of a competent California architect. In order to obtain a license in California as an architect, a person is required to take and pass the national Architect Registration Examination (ARE), which is administered by the National Council of Architecture Registration Boards (NCARB). The NCARB recently updated its scoring provisions and timeframe pertaining to how long the scores count when a person passes a section. The CAB had conformed its regulations to the national examination timeframes; however given the changes implemented by the NCARB, those regulations will be outdated

and affect potential licensees. This bill updates statute to provide that California will follow the national policy for exam score validity.

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

SUPPORT: (Verified 5/9/23)

Board of Accountancy
Board of Psychology
Board of Registered Nursing

OPPOSITION: (Verified 5/9/23)

None received

ARGUMENTS IN SUPPORT: The Board of Psychology writes in support, “This bill would streamline the application process to allow verification following review of a transcript that clearly indicated in the course title that the specified coursework had been completed.”

The Board of Accountancy and the Board of Registered Nursing note this will strengthen and clarify statutory provisions.

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
5/10/23 15:35:07

**** END ****

AMENDED IN SENATE APRIL 20, 2023

SENATE BILL

No. 887

Introduced by Committee on Business, Professions and Economic Development (Senators Roth (Chair), Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Nguyen, Niello, Smallwood-Cuevas, Wahab, and Wilk)

March 14, 2023

An act to amend Sections 115.8, 472.4, 2530.3, 2532, 2532.5, 2535.4, 2537.3, 2538.20, 2538.21, 2538.27, 2538.28, 2538.30, 2538.32, 2538.33, 2538.34, 2538.36, 2538.40, 2538.49, 2538.50, 2538.51, 2538.56, 2539.1, 2539.6, 2710, 2728, 2732, 2732.1, 2733, 2734, 2736, 2746.8, 2759, 2760, 2761, 2762, 2765, 2770.11, 2770.7, 2780, 2785.6, 2800, 2811, 2811.5, 2816, 2826, 2828, 2830.6, 2833, 2836, 2838.1, 2838.2, 2915.4, 2915.5, 4427.8, 4846, 4861, 4875.3, 4989.14, 5017.1, 5017.5, 5022, 5028, 5037, 5051, 5053, 5057, 5058.2, 5058.3, 5058.4, 5060, 5063.3, 5070.7, 5076, 5082.4, 5094, 5096.20, 5096.21, 5103.5, 5104, 5107, 5121, 5134, 5550.3, 10471, and 21638.5 of, *to amend, repeal, and add Section 7685.3 of*, to add Section 4990.11 to, and to repeal Sections 2738, 5029, and 5092.1 of, the Business and Professions Code, and to amend Sections 94874.8, 94874.9, 94878, 94897, 94902, 94905, 94910, 94910.5, 94911, 94913, 94941, 94942, and 94949.73 of the Education Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 887, as amended, Committee on Business, Professions and Economic Development. Consumer affairs.

(1) Existing law requires the Department of Consumer Affairs to compile an annual report for the Legislature containing specified

information relating to the professional licensure of veterans, servicemembers, and their spouses from each calendar year.

This bill would instead require the report to contain specified information relating to the professional licensure of military members, military spouses, and honorably discharged military members from each fiscal year. The bill would make corrections and other conforming changes to those provisions.

(2) Existing law requires the Department of Consumer Affairs to establish procedures to assist owners and lessees of new motor vehicles who have complaints regarding the operation of a qualified third-party dispute resolution process. Existing law further requires the department to monitor and inspect qualified third-party dispute resolution processes to determine whether they continue to meet standards for certification, including, among other things, through onsite inspections of each qualified third-party dispute resolution process no less than twice annually.

This bill would also permit those inspections of qualified third-party dispute resolution processes to be conducted virtually.

~~(1)~~

(3) Existing law, the Nursing Practice Act, establishes the Board of Registered Nursing to license and regulate the practice of nursing. Existing law authorizes special meetings of the board pursuant to a call of the president or board members, as provided, and requires the board to send a notice by mail to board members who are not parties to the call. Existing law authorizes the board to issue an interim permit to practice nursing or a temporary certificate to practice professional nursing, or as a certified public health nurse, certified clinical nurse specialist, or certified nurse-midwife, upon approval of an application to be licensed or certified, as specified. Under existing law, the interim permit or temporary certificate terminates if the applicant fails the examination or if it is issued by mistake or the application for permanent licensure is denied, as applicable, upon notice by mail.

This bill would instead require the board to send the notice of a special meeting electronically instead of by mail. The bill would delete the notice requirement for terminating an interim permit or temporary certificate.

The act requires the board to establish categories of nurse practitioners and standards for each category, and requires the standards to take into account the types of advanced levels of nursing practice and the education needed to practice at each level.

This bill would require those standards to be as specified in a certain publication of the National Organization of Nurse Practitioner Faculties, or successor.

The act creates within the board a Nursing Education and Workforce Advisory Committee to study and recommend nursing education standards and solutions to workforce issues to the board, and requires one representative from the California State University Office of the Chancellor to serve on the committee.

This bill would specify an initial appointment for a term of 4 years for the representative from the California State University Office of the Chancellor.

This bill would also delete a requirement that the board hold at least 2 examinations each year, would update references to the National Board of Certification and Recertification of Nurse Anesthetists, and would make other technical and nonsubstantive changes to the act.

(2)

(4) Existing law, the Psychology Licensing Law, establishes the Board of Psychology to license and regulate the practice of psychology. Existing law requires an applicant for licensure to show completion of specified training on suicide risk assessment and intervention and on aging and long-term care by submitting written verification from the registrar or training director of the educational institution or program from which the applicant graduated, except as specified.

This bill would also authorize an applicant to show completion of that training by submitting a transcript to the board indicating completion of the coursework.

(5) *Existing law, the Pharmacy Law, establishes the California State Board of Pharmacy within the Department of Consumer Affairs to license and regulate the practice of pharmacy. Existing law requires the board, on or before January 1, 2024, to report to the appropriate committees of the Legislature on the regulation of automated drug delivery system (ADDS) units, as part of the board's sunset evaluation process.*

This bill would instead require the board to provide that report on or before January 1, 2025.

(3)

(6) Existing law, the Veterinary Medicine Practice Act, establishes the Veterinary Medical Board to license and regulate the practice of veterinary medicine. Existing law requires an individual, in order to obtain a license to practice veterinary medicine, to disclose each state,

Canadian province, or United States territory in which the applicant holds or has ever held a license to practice veterinary medicine. Existing law requires license verification to be directly submitted to the board from each state, Canadian province, or United States territory. The act authorizes the board to establish one or more wellness evaluation committees consisting of 3 licensed veterinarians and 2 members of the public, and requires the board, in making appointments of the 3 licensed veterinarians, to consider individuals who have recovered from or who have knowledge and expertise in management of impairment.

This bill would also authorize license verification to be confirmed through electronic means. The bill would revise the composition of wellness evaluation committees to require at least one licensed veterinarian, at least 2 public members, and at least one registered veterinary technician. The bill would require the board to give consideration to appointing individuals with specified experience, knowledge, or expertise in impairment to be applicable to all appointments to a wellness evaluation committee.

The act authorizes an executive officer to issue a citation to a veterinarian, registered veterinary technician, or unlicensed person upon completion of an investigation and probable cause to believe that the person has violated the act. The act requires a veterinarian who reviews and investigates an alleged violation pursuant to those provisions to be licensed in or employed by the state and not out of practice for more than 4 years.

This bill would delete the provision requiring a veterinarian to be licensed or employed by the state and not out of practice for more than 4 years.

(4)

(7) Existing law establishes the Board of Behavioral Sciences to license and regulate licensed clinical social workers, licensed educational psychologists, licensed marriage and family therapists, and licensed professional clinical counselors. Existing law requires the board to keep an accurate record of all applicants for licensure and all individuals to whom it has issued a license.

This bill would authorize a person to rely upon the licensing and registration information displayed on the board's internet website for purposes of license and registration verification.

(5)

(8) Existing law, the Educational Psychologist Practice Act, provides for the licensing and regulation of the practice of educational psychology

by the Board of Behavioral Sciences and defines “educationally related mental health services” for purposes of supervising associate marriage and family therapists, associate clinical social workers, or associate professional clinical counselors.

This bill would also make the definition applicable for purposes of supervising marriage and family therapist trainees.

~~(6)~~

(9) Existing law establishes the California Board of Accountancy to license and regulate accountants, and authorizes the board to establish an advisory continuing education committee to perform specified duties, including evaluating programs and advising the board as to whether they qualify under regulations adopted by the board. Existing law requires an accounting firm to have a peer review report of its accounting and auditing practice every 3 years in order to renew its registration or convert to an active status, and requires a firm issued a substandard peer review report to submit a copy of the report to the board. Under existing law, an individual whose principal place of business is not in California and who has a valid and current license, certificate, or permit to practice public accountancy from another state may engage in the practice of public accountancy in California through a practice privilege if specified conditions are met. Existing law establishes an annual fee to be charged an individual for a practice privilege.

This bill would delete the provision authorizing the board to establish an advisory continuing education committee. The bill would require a firm issued a peer report with a rating of “fail” instead of a substandard peer report to submit a copy of the report to the board. The bill would delete the annual fee for a practice privilege.

(10) Existing law, the Architects Practice Act, establishes the California Architects Board in the Department of Consumer Affairs for the licensure and regulation of persons engaged in the practice of architecture. Existing law authorizes the board to adopt guidelines for the delegation of its authority to grade examinations of applicants for licensure to a vendor under contract to the board for provision of an architect’s registration examination, subject to specified procedures and limitations.

This bill would provide that a candidate who received full credit for all divisions of the Architect Registration Examination (ARE) before May 1, 2023, shall be deemed to have passed the ARE.

(11) Existing law, the Cemetery and Funeral Act, establishes the Cemetery and Funeral Bureau within the Department of Consumer

Affairs for the licensure and regulation of cemeteries, crematoria, hydrolysis facilities, cremated remains disposers, funeral establishments, and their personnel. Under existing law, the violation of the act is a misdemeanor.

Existing law requires the first page of a contract for goods or services offered by a licensee to include a prescribed statement providing the name, telephone number, and address of the bureau for more information on funeral, cemetery, and cremation matters.

This bill would revise the prescribed statement to add “hydrolysis” as one of the specified matters for which to contact the bureau for more information. By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

Existing law requires the bureau, commencing on January 1, 2027, to license and regulate reduction facilities, as defined, and to enact requirements applicable to reduction facilities substantially similar to those applicable to crematoria and hydrolysis facilities.

This bill, commencing January 1, 2027, would require the licensee to revise the prescribed statement that is required to appear on the first page of a contract to add “reduction” as one of the specified matters. By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

(12) Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers and salespersons by the Department of Real Estate. Existing law establishes, within the Real Estate Fund, a Consumer Recovery Account, which is funded by fees and fines imposed on licensees. Existing law authorizes an aggrieved person who obtains either a criminal restitution order or an arbitration award, as specified, against a licensee for specified misconduct to submit an application for recovery from the Consumer Recovery Account. Existing law requires the application to be delivered in person or by certified mail to an office of the department, as specified.

This bill would additionally allow the application to be delivered electronically in a manner prescribed by the department.

(7)

(13) Existing law requires every secondhand dealer and coin dealer to report the receipt or purchase of secondhand tangible personal property, except firearms, to the California Pawn and Secondhand Dealer System (CAPSS), a system operated by the Department of Justice. Existing law requires every secondhand dealer and coin dealer

to retain in their possession for 7 days all tangible personal property reported electronically to CAPSS.

This bill would make the holding period specified above inapplicable to personal property pledged to a pawnbroker with respect to the redemption of personal property by the pledgor.

(8)

(14) Existing law, the California Private Postsecondary Education Act of 2009, provides for student protections and regulatory oversight of private postsecondary institutions in the state. The act is enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs. Existing law authorizes an institution that has been granted approval to operate by the bureau to indicate that the institution is licensed or licensed to operate.

This bill would delete that authorization, and would make other technical and nonsubstantive changes to the act.

(9)

(15) Existing law, the Speech-Language Pathologist and Audiologist and Hearing Aid Dispensers Licensure Act, establishes the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board to license and regulate speech-language pathologists, audiologists, and hearing aid dispensers. Under the act, when specified conditions are found to exist, a licensed audiologist is required to, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that their best interests would be served if they consult a licensed physician specializing in diseases of the ear, or, if no licensed physician is available in the community, then to a duly licensed physician.

This bill would require a licensed audiologist in the above-specified circumstance to suggest the individual consult a licensed physician and surgeon specializing in diseases of the ear, or, if none are available in the community, then to any duly licensed physician and surgeon. The bill would make technical and other nonsubstantive changes to that act and to other provisions in this bill, including changes relating to the elimination of gendered pronouns.

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

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

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

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

1 SECTION 1. Section 115.8 of the Business and Professions
 2 Code is amended to read:

3 115.8. The Department of Consumer Affairs shall compile
 4 information on ~~military, veteran,~~ *military* and spouse licensure
 5 into an annual report for the Legislature, which shall be submitted
 6 in conformance with Section 9795 of the Government Code. The
 7 report shall include all of the ~~following:~~ *following for each license*
 8 *type of each board:*

9 (a) The number of applications for a temporary license submitted
 10 by ~~active duty servicemembers, veterans, or~~ military spouses per
 11 *calendar fiscal year*, pursuant to Section 115.6.

12 (b) The number of applications for expedited licenses ~~submitted~~
 13 ~~by veterans and active duty~~ *received from honorably discharged*
 14 *military members and military spouses* pursuant to Sections 115.4
 15 and 115.5.

16 (c) The number of licenses issued and denied per ~~calendar~~ *fiscal*
 17 year pursuant to Sections 115.4, 115.5, and 115.6.

18 (d) The number of licenses issued pursuant to Section 115.6
 19 that were suspended or revoked per ~~calendar~~ *fiscal year*.

20 (e) The number of applications for waived renewal fees received
 21 and granted pursuant to Section 114.3 per ~~calendar~~ *fiscal year*.

22 (f) The average length of time between application and issuance
 23 of licenses pursuant to Sections 115.4, 115.5, and ~~115.6~~ *per board*
 24 ~~and occupation:~~ *115.6.*

25 SEC. 2. Section 472.4 of the Business and Professions Code
 26 is amended to read:

27 472.4. In addition to any other requirements of this chapter,
 28 the department shall do all of the following:

29 (a) Establish procedures to assist owners or lessees of new motor
 30 vehicles who have complaints regarding the operation of a qualified
 31 third-party dispute resolution process.

32 (b) Establish methods for measuring customer satisfaction and
 33 to identify violations of this chapter, which shall include an annual
 34 random postcard or telephone survey by the department of the
 35 customers of each qualified third-party dispute resolution process.

1 (c) Monitor and inspect, on a regular basis, qualified third-party
2 dispute resolution processes to determine whether they continue
3 to meet the standards for certification. Monitoring and inspection
4 shall include, but not be limited to, all of the following:

5 (1) ~~Onsite~~ *Virtual or onsite* inspections of each qualified
6 third-party dispute resolution process not less frequently than twice
7 annually.

8 (2) Investigation of complaints from consumers regarding the
9 operation of qualified third-party dispute resolution processes and
10 analyses of representative samples of complaints against each
11 process.

12 (3) Analyses of the annual surveys required by subdivision (b).

13 (d) Notify the Department of Motor Vehicles of the failure of
14 a manufacturer to honor a decision of a qualified third-party dispute
15 resolution process to enable the Department of Motor Vehicles to
16 take appropriate enforcement action against the manufacturer
17 pursuant to Section 11705.4 of the Vehicle Code.

18 (e) Submit a biennial report to the Legislature evaluating the
19 effectiveness of this chapter, make available to the public
20 summaries of the statistics and other information supplied by each
21 qualified third-party dispute resolution process, and publish
22 educational materials regarding the purposes of this chapter.

23 (f) Adopt regulations as necessary and appropriate to implement
24 this chapter and subdivision (d) of Section 1793.22 of the Civil
25 Code.

26 (g) Protection of the public shall be the highest priority for the
27 department in exercising its certification, regulatory, and
28 disciplinary functions. Whenever the protection of the public is
29 inconsistent with other interests sought to be promoted, the
30 protection of the public shall be paramount.

31 ~~SECTION 1.~~

32 *SEC. 3.* Section 2530.3 of the Business and Professions Code
33 is amended to read:

34 2530.3. (a) A person represents themselves to be a
35 speech-language pathologist when they hold themselves out to the
36 public by any title or description of services incorporating the
37 words “speech pathologist,” “speech pathology,” “speech therapy,”
38 “speech correction,” “speech correctionist,” “speech therapist,”
39 “speech clinic,” “speech clinician,” “language pathologist,”
40 “language pathology,” “logopedics,” “logopedist,”

1 “communicology,” “communicologist,” “aphasiologist,” “voice
2 therapy,” “voice therapist,” “voice pathology,” or “voice
3 pathologist,” “language therapist,” or “phoniatriest,” or any similar
4 titles; or when they purport to treat stuttering, stammering, or other
5 disorders of speech.

6 (b) A person represents themselves to be an audiologist when
7 they hold themselves out to the public by any title or description
8 of services incorporating the terms “audiology,” “audiologist,”
9 “audiological,” “hearing clinic,” “hearing clinician,” “hearing
10 therapist,” or any similar titles.

11 ~~SEC. 2.~~

12 *SEC. 4.* Section 2532 of the Business and Professions Code is
13 amended to read:

14 2532. No person shall engage in the practice of speech-language
15 pathology or audiology or represent themselves as a
16 speech-language pathologist or audiologist unless they are licensed
17 in accordance with this chapter.

18 ~~SEC. 3.~~

19 *SEC. 5.* Section 2532.5 of the Business and Professions Code
20 is amended to read:

21 2532.5. Every person holding a license under this chapter shall
22 display it conspicuously in their primary place of practice.

23 ~~SEC. 4.~~

24 *SEC. 6.* Section 2535.4 of the Business and Professions Code
25 is amended to read:

26 2535.4. A person who fails to renew their license within the
27 five years after its expiration may not renew it, and it may not be
28 restored, reissued, or reinstated thereafter, but that person may
29 apply for and obtain a new license if they meet all of the following
30 requirements:

31 (a) Have not committed any acts or crimes constituting grounds
32 for denial of licensure under Division 1.5 (commencing with
33 Section 475).

34 (b) Take and pass the examination or examinations, if any, that
35 would be required of them if an initial application for licensure
36 was being made, or otherwise establishes to the satisfaction of the
37 board that, with due regard for the public interest, they are qualified
38 to practice as a speech-language pathologist or audiologist, as the
39 case may be.

1 (c) Pays all of the fees that would be required if an initial
2 application for licensure was being made. In addition, the board
3 may charge the applicant a fee to cover the actual costs of any
4 examination that it may administer.

5 ~~SEC. 5.~~

6 *SEC. 7.* Section 2537.3 of the Business and Professions Code
7 is amended to read:

8 2537.3. The income of a speech-language pathology
9 corporation or an audiology corporation attributable to professional
10 services rendered while a shareholder is a disqualified person, as
11 defined in Section 13401 of the Corporations Code, shall not in
12 any manner accrue to the benefit of that shareholder or their share
13 in the speech-language pathology or audiology corporation.

14 ~~SEC. 6.~~

15 *SEC. 8.* Section 2538.20 of the Business and Professions Code
16 is amended to read:

17 2538.20. It is unlawful for an individual to engage in the
18 practice of fitting or selling hearing aids, or to display a sign or in
19 any other way to advertise or hold themselves out as being so
20 engaged without having first obtained a license from the board
21 under the provisions of this article. Nothing in this article shall
22 prohibit a corporation, partnership, trust, association or other like
23 organization maintaining an established business address from
24 engaging in the business of fitting or selling, or offering for sale,
25 hearing aids at retail without a license, provided that any and all
26 fitting or selling of hearing aids is conducted by the individuals
27 who are licensed pursuant to the provisions of this article. A person
28 whose license as a hearing aid dispenser has been suspended or
29 revoked shall not be the proprietor of a business that engages in
30 the practice of fitting or selling hearing aids nor shall that person
31 be a partner, shareholder, member, or fiduciary in a partnership,
32 corporation, association, or trust that maintains or operates that
33 business, during the period of the suspension or revocation. This
34 restriction shall not apply to stock ownership in a corporation that
35 is listed on a stock exchange regulated by the Securities and
36 Exchange Commission if the stock is acquired in a transaction
37 conducted through that stock exchange.

38 ~~SEC. 7.~~

39 *SEC. 9.* Section 2538.21 of the Business and Professions Code
40 is amended to read:

1 2538.21. This article does not apply to a person engaged in the
2 practice of fitting hearing aids if their practice is for a governmental
3 agency, or private clinic, or is part of the academic curriculum of
4 an accredited institution of higher education, or part of a program
5 conducted by a public, charitable institution or other nonprofit
6 organization, and who does not engage directly or indirectly in the
7 sale or offering for sale of hearing aids.

8 ~~SEC. 8:~~

9 *SEC. 10.* Section 2538.27 of the Business and Professions Code
10 is amended to read:

11 2538.27. (a) An applicant who has fulfilled the requirements
12 of Section 2538.24 and has made application therefor, may have
13 a temporary license issued to them upon satisfactory proof to the
14 board that the applicant holds a hearing aid dispenser's license in
15 another state, that the licensee has not been subject to formal
16 disciplinary action by another licensing authority, and that the
17 applicant has been engaged in the fitting and sale of hearing aids
18 for the two years immediately prior to application.

19 (b) A temporary license issued pursuant to this section shall be
20 valid for one year from date of issuance and is not renewable. A
21 temporary license shall automatically terminate upon issuance of
22 a license prior to expiration of the one-year period.

23 (c) The holder of a temporary license issued pursuant to this
24 section who fails either license examination shall be subject to and
25 shall comply with the supervision requirements of Section 2538.28
26 and any regulations adopted pursuant thereto.

27 ~~SEC. 9:~~

28 *SEC. 11.* Section 2538.28 of the Business and Professions Code
29 is amended to read:

30 2538.28. (a) An applicant who has fulfilled the requirements
31 of Section 2538.24, and has made application therefor, and who
32 proves to the satisfaction of the board that they will be supervised
33 and trained by a hearing aid dispenser who is approved by the
34 board may have a trainee license issued to them. The trainee license
35 shall entitle the trainee licensee to fit or sell hearing aids as set
36 forth in regulations of the board. The supervising dispenser shall
37 be responsible for any acts or omissions committed by a trainee
38 licensee under their supervision that may constitute a violation of
39 this chapter.

1 (b) The board shall adopt regulations setting forth criteria for
2 its refusal to approve a hearing aid dispenser to supervise a trainee
3 licensee, including procedures to appeal that decision.

4 (c) A trainee license issued pursuant to this section is effective
5 and valid for six months from date of issue. The board may renew
6 the trainee license for an additional period of six months. Except
7 as provided in subdivision (d), the board shall not issue more than
8 two renewals of a trainee license to any applicant. Notwithstanding
9 subdivision (d), if a trainee licensee who is entitled to renew a
10 trainee license does not renew the trainee license and applies for
11 a new trainee license at a later time, the new trainee license shall
12 only be issued and renewed subject to the limitations set forth in
13 this subdivision.

14 (d) A new trainee license may be issued pursuant to this section
15 if a trainee license issued pursuant to subdivision (c) has lapsed
16 for a minimum of three years from the expiration or cancellation
17 date of the previous trainee license. The board may issue only one
18 new trainee license under this subdivision.

19 ~~SEC. 10.~~

20 *SEC. 12.* Section 2538.30 of the Business and Professions Code
21 is amended to read:

22 2538.30. (a) A temporary or trainee licensee shall not be the
23 sole proprietor of, manage, or independently operate a business
24 that engages in the fitting or sale of hearing aids.

25 (b) A temporary or trainee licensee shall not advertise or
26 otherwise represent that they hold a license as a hearing aid
27 dispenser.

28 ~~SEC. 11.~~

29 *SEC. 13.* Section 2538.32 of the Business and Professions Code
30 is amended to read:

31 2538.32. Every applicant who obtains a passing score
32 determined by the Angoff criterion-referenced method of
33 establishing the point in each examination shall be deemed to have
34 passed that examination. An applicant shall pass the written
35 examination before they may take the practical examination. An
36 applicant shall obtain a passing score on both the written and the
37 practical examination in order to be issued a license.

38 ~~SEC. 12.~~

39 *SEC. 14.* Section 2538.33 of the Business and Professions Code
40 is amended to read:

1 2538.33. (a) Before engaging in the practice of fitting or selling
2 hearing aids, each licensee shall notify the board in writing of the
3 address or addresses where they are to engage, or intend to engage,
4 in the practice of fitting or selling hearing aids, and of any changes
5 in their place of business within 30 days of engaging in that
6 practice.

7 (b) If a street address is not the address at which the licensee
8 receives mail, the licensee shall also notify the board in writing of
9 the mailing address for each location where the licensee is to
10 engage, or intends to engage, in the practice of fitting or selling
11 hearing aids, and of any change in the mailing address of their
12 place or places of business.

13 ~~SEC. 13.~~

14 *SEC. 15.* Section 2538.34 of the Business and Professions Code
15 is amended to read:

16 2538.34. (a) Every licensee who engages in the practice of
17 fitting or selling hearing aids shall have and maintain an established
18 retail business address to engage in that fitting or selling, routinely
19 open for service to customers or clients. The address of the
20 licensee's place of business shall be registered with the board as
21 provided in Section 2538.33.

22 (b) Except as provided in subdivision (c), if a licensee maintains
23 more than one place of business within this state, they shall apply
24 for and procure a duplicate license for each branch office
25 maintained. The application shall state the name of the person and
26 the location of the place or places of business for which the
27 duplicate license is desired.

28 (c) A hearing aid dispenser may, without obtaining a duplicate
29 license for a branch office, engage on a temporary basis in the
30 practice of fitting or selling hearing aids at the primary or branch
31 location of another licensee's business or at a location or facility
32 that they may use on a temporary basis, provided that the hearing
33 aid dispenser notifies the board in advance in writing of the dates
34 and addresses of those businesses, locations, or facilities at which
35 they will engage in the practice of fitting or selling hearing aids.

36 ~~SEC. 14.~~

37 *SEC. 16.* Section 2538.36 of the Business and Professions Code
38 is amended to read:

39 2538.36. (a) Whenever any of the following conditions are
40 found to exist, either from observations by the licensee or based

1 on information furnished by the prospective hearing aid user, a
2 licensee shall, before fitting or selling a hearing aid to any
3 individual, suggest to that individual in writing that it would be in
4 the individual's best interest to consult with a licensed physician
5 and surgeon specializing in diseases of the ear, or, if none are
6 available in the community, then to any duly licensed physician
7 and surgeon:

8 (1) Visible congenital or traumatic deformity of the ear.

9 (2) History of, or active drainage from the ear within the
10 previous 90 days.

11 (3) History of sudden or rapidly progressive hearing loss within
12 the previous 90 days.

13 (4) Acute or chronic dizziness.

14 (5) Unilateral hearing loss of sudden or recent onset within the
15 previous 90 days.

16 (6) Significant air-bone gap when generally acceptable standards
17 have been established.

18 (7) Visible evidence of significant cerumen accumulation or a
19 foreign body in the ear canal.

20 (8) Pain or discomfort in the ear.

21 (b) No referral for medical opinion need be made by any licensee
22 in the instance of replacement only of a hearing aid that has been
23 lost or damaged beyond repair within one year of the date of
24 purchase. A copy of the written recommendation shall be retained
25 by the licensee for the period provided for in Section 2538.38. A
26 person receiving the written recommendation who elects to
27 purchase a hearing aid shall sign a receipt, and the receipt shall be
28 kept with other documents retained by the licensee for the period
29 provided for in Section 2538.38. Nothing in this section required
30 to be performed by a licensee shall mean that the licensee is
31 engaged in the diagnosis of illness or the practice of medicine or
32 any other activity prohibited by the provisions of this code.

33 ~~SEC. 15.~~

34 *SEC. 17.* Section 2538.40 of the Business and Professions Code
35 is amended to read:

36 2538.40. (a) Upon denial of an application for license, the
37 board shall notify the applicant in writing of the following:

38 (1) The reason for the denial.

1 (2) That the applicant has a right to a hearing under Section
2 2533.2 if they make a written request within 60 days after notice
3 of denial.

4 (b) Service of the notice required by this section may be made
5 by certified mail addressed to the applicant at the latest address
6 filed by the applicant in writing with the board in their application
7 or otherwise.

8 ~~SEC. 16.~~

9 *SEC. 18.* Section 2538.49 of the Business and Professions Code
10 is amended to read:

11 2538.49. It is unlawful for a licensed hearing aid dispenser to
12 fit or sell a hearing aid unless they first do all of the following:

13 (a) Comply with all provisions of state laws and regulations
14 relating to the fitting or selling of hearing aids.

15 (b) Conduct a direct observation of the purchaser’s ear canals.

16 (c) Inform the purchaser of the address and office hours at which
17 the licensee shall be available for fitting or postfitting adjustments
18 and servicing of the hearing aid or aids sold.

19 ~~SEC. 17.~~

20 *SEC. 19.* Section 2538.50 of the Business and Professions Code
21 is amended to read:

22 2538.50. It is unlawful to advertise by displaying a sign or
23 otherwise or hold themselves out to be a person engaged in the
24 practice of fitting or selling hearing aids without having at the time
25 of so doing a valid, unrevoked license or temporary license.

26 ~~SEC. 18.~~

27 *SEC. 20.* Section 2538.51 of the Business and Professions Code
28 is amended to read:

29 2538.51. It is unlawful to engage in the practice of fitting or
30 selling hearing aids without the licensee having and maintaining
31 an established business address, routinely open for service to their
32 clients.

33 ~~SEC. 19.~~

34 *SEC. 21.* Section 2538.56 of the Business and Professions Code
35 is amended to read:

36 2538.56. A license that is not renewed within three years after
37 its expiration may not be renewed, restored, reissued, or reinstated
38 thereafter, but the holder of the expired license may apply for and
39 obtain a new license if all of the following apply:

1 (a) They have not committed acts or crimes constituting grounds
2 for denial of licensure under Section 480.

3 (b) They pay all of the fees that would be required if they were
4 applying for a license for the first time.

5 (c) They take and pass the examination that would be required
6 if they were applying for a license for the first time, or otherwise
7 establishes to the satisfaction of the board that they are qualified
8 to engage in the practice of fitting or selling hearing aids. The
9 board may, by regulation, provide for the waiver or refund of all
10 or any part of the application fee in those cases in which a license
11 is issued without an examination under this section.

12 ~~SEC. 20.~~

13 *SEC. 22.* Section 2539.1 of the Business and Professions Code
14 is amended to read:

15 2539.1. (a) (1) On and after January 1, 2010, in addition to
16 satisfying the licensure and examination requirements described
17 in Sections 2532, 2532.2, and 2532.25, no licensed audiologist
18 shall sell hearing aids unless they complete an application for a
19 dispensing audiology license, pay all applicable fees, and pass an
20 examination, approved by the board, relating to selling hearing
21 aids.

22 (2) The board shall issue a dispensing audiology license to a
23 licensed audiologist who meets the requirements of paragraph (1).

24 (b) (1) On and after January 1, 2010, a licensed audiologist
25 with an unexpired license to sell hearing aids pursuant to Article
26 8 (commencing with Section 2538.10) may continue to sell hearing
27 aids pursuant to that license until that license expires pursuant to
28 Section 2538.53, and upon that expiration the licensee shall be
29 deemed to have satisfied the requirements described in subdivision
30 (a) and may continue to sell hearing aids pursuant to their
31 audiology license subject to the provisions of this chapter. Upon
32 the expiration of the audiologist's license to sell hearing aids, the
33 board shall issue them a dispensing audiology license pursuant to
34 paragraph (2) of subdivision (a). This paragraph shall not prevent
35 an audiologist who also has a hearing aid dispenser's license from
36 maintaining dual or separate licenses if they choose to do so.

37 (2) A licensed audiologist whose license to sell hearing aids,
38 issued pursuant to Article 8 (commencing with Section 2538.10),
39 is suspended, surrendered, or revoked shall not be authorized to
40 sell hearing aids pursuant to this subdivision and they shall be

1 subject to the requirements described in subdivision (a) as well as
2 the other provisions of this chapter.

3 (c) A licensed hearing aid dispenser who meets the qualifications
4 for licensure as an audiologist shall be deemed to have satisfied
5 the requirements of paragraph (1) of subdivision (a) for the
6 purposes of obtaining a dispensing audiology license.

7 (d) For purposes of subdivision (a), the board shall provide the
8 hearing aid dispenser's examination provided by the former
9 Hearing Aid Dispensers Bureau until such time as the next
10 examination validation and occupational analysis is completed by
11 the Department of Consumer Affairs pursuant to Section 139 and
12 a determination is made that a different examination is to be
13 administered.

14 ~~SEC. 21.~~

15 *SEC. 23.* Section 2539.6 of the Business and Professions Code
16 is amended to read:

17 2539.6. (a) Whenever any of the following conditions are
18 found to exist either from observations by the licensed audiologist
19 or on the basis of information furnished by the prospective hearing
20 aid user, a licensed audiologist shall, prior to fitting or selling a
21 hearing aid to any individual, suggest to that individual in writing
22 that the individual's best interests would be served if they consult
23 a licensed physician and surgeon specializing in diseases of the
24 ear or, if none are available in the community, a duly licensed
25 physician and surgeon:

26 (1) Visible congenital or traumatic deformity of the ear.

27 (2) History of, or active, drainage from the ear within the
28 previous 90 days.

29 (3) History of sudden or rapidly progressive hearing loss within
30 the previous 90 days.

31 (4) Acute or chronic dizziness.

32 (5) Unilateral hearing loss of sudden or recent onset within the
33 previous 90 days.

34 (6) Significant air-bone gap (when generally acceptable
35 standards have been established).

36 (7) Visible evidence of significant cerumen accumulation or a
37 foreign body in the ear canal.

38 (8) Pain or discomfort in the ear.

39 (b) No referral for medical opinion need be made by any
40 licensed audiologist in the instance of replacement only of a hearing

1 aid that has been lost or damaged beyond repair within one year
2 of the date of purchase. A copy of the written recommendation
3 shall be retained by the licensed audiologist for the period provided
4 for in Section 2539.10. A person receiving the written
5 recommendation who elects to purchase a hearing aid shall sign a
6 receipt for the same, and the receipt shall be kept with the other
7 papers retained by the licensed audiologist for the period provided
8 for in Section 2539.10. Nothing in this section required to be
9 performed by a licensed audiologist shall mean that the licensed
10 audiologist is engaged in the diagnosis of illness or the practice of
11 medicine or any other activity prohibited by the provisions of this
12 code.

13 ~~SEC. 22.~~

14 *SEC. 24.* Section 2710 of the Business and Professions Code
15 is amended to read:

16 2710. (a) Special meetings may be held at such times as the
17 board may elect, or on the call of the president of the board, or of
18 not less than three members thereof.

19 (b) A written notice of the time, place, and object of any special
20 meeting shall be sent electronically by the executive officer to all
21 members of the board who are not parties to the call, at least 15
22 days before the day of the meeting.

23 ~~SEC. 23.~~

24 *SEC. 25.* Section 2728 of the Business and Professions Code
25 is amended to read:

26 2728. If adequate medical and nursing supervision by a
27 professional nurse or nurses is provided, nursing service may be
28 given by attendants, psychiatric technicians, or psychiatric
29 technician interim permittees in institutions under the jurisdiction
30 of the State Department of State Hospitals or the State Department
31 of Developmental Services or subject to visitation by the State
32 Department of Public Health or the Department of Corrections
33 and Rehabilitation. Services given by a psychiatric technician shall
34 be limited to services that they are authorized to perform by their
35 license as a psychiatric technician. Services given by a psychiatric
36 technician interim permittee shall be limited to skills included in
37 their basic course of study and performed under the supervision
38 of a licensed psychiatric technician or registered nurse.

39 The Director of State Hospitals, the Director of Developmental
40 Services, and the State Public Health Officer shall determine what

1 shall constitute adequate medical and nursing supervision in any
2 institution under the jurisdiction of the State Department of State
3 Hospitals or the State Department of Developmental Services or
4 subject to visitation by the State Department of Public Health.

5 Notwithstanding any other provision of law, institutions under
6 the jurisdiction of the State Department of State Hospitals or the
7 State Department of Developmental Services may utilize graduates
8 of accredited psychiatric technician training programs who are not
9 licensed psychiatric technicians or psychiatric technician interim
10 permittees to perform skills included in their basic course of study
11 when supervised by a licensed psychiatric technician or registered
12 nurse, for a period not to exceed nine months.

13 ~~SEC. 24.~~

14 *SEC. 26.* Section 2732 of the Business and Professions Code
15 is amended to read:

16 2732. No person shall engage in the practice of nursing, as
17 defined in Section 2725, without holding a license that is in an
18 active status issued under this chapter except as otherwise provided
19 in this act.

20 Every licensee may be known as a registered nurse and may
21 place the letter “R.N.” after their name.

22 ~~SEC. 25.~~

23 *SEC. 27.* Section 2732.1 of the Business and Professions Code
24 is amended to read:

25 2732.1. (a) An applicant for license by examination shall
26 submit a written application in the form prescribed by the board.

27 Upon approval of the application, the board may issue an interim
28 permit authorizing the applicant to practice nursing pending the
29 results of the first licensing examination following completion of
30 their nursing course or for a maximum period of six months,
31 whichever occurs first.

32 If the applicant passes the examination, the interim permit shall
33 remain in effect until a regular renewable license is issued by the
34 board. If the applicant fails the examination, the interim permit
35 shall terminate.

36 (b) The board upon written application may issue a license
37 without examination to any applicant who is licensed or registered
38 as a nurse in a state, district or territory of the United States or
39 Canada having, in the opinion of the board, requirements for
40 licensing or registration equal to or higher than those in California

1 at the time the application is filed with the Board of Registered
2 Nursing, if they have passed an examination for the license or
3 registration that is, in the board's opinion, comparable to the
4 board's examination, and if they meet all the other requirements
5 set forth in Section 2736.

6 (c) Each application shall be accompanied by the fee prescribed
7 by this chapter for the filing of an application for a regular
8 renewable license.

9 The interim permit shall terminate if it is issued by mistake or
10 if the application for permanent licensure is denied.

11 ~~SEC. 26.~~

12 *SEC. 28.* Section 2733 of the Business and Professions Code
13 is amended to read:

14 2733. (a) (1) (A) Upon approval of an application filed
15 pursuant to subdivision (b) of Section 2732.1, and upon the
16 payment of the fee prescribed by subdivision (k) of Section 2815,
17 the board may issue a temporary license to practice professional
18 nursing, and a temporary certificate to practice as a certified public
19 health nurse for a period of six months from the date of issuance.

20 (B) Upon approval of an application filed pursuant to
21 subdivision (b) of Section 2732.1, and upon the payment of the
22 fee prescribed by subdivision (d) of Section 2838.2, the board may
23 issue a temporary certificate to practice as a certified clinical nurse
24 specialist for a period of six months from the date of issuance.

25 (C) Upon approval of an application filed pursuant to
26 subdivision (b) of Section 2732.1, and upon the payment of the
27 fee prescribed by subdivision (e) of Section 2815.5, the board may
28 issue a temporary certificate to practice as a certified nurse-midwife
29 for a period of six months from the date of issuance.

30 (D) Upon approval of an application filed pursuant to
31 subdivision (b) of Section 2732.1, and upon the payment of the
32 fee prescribed by subdivision (d) of Section 2830.7, the board may
33 issue a temporary certificate to practice as a certified nurse
34 anesthetist for a period of six months from the date of issuance.

35 (E) Upon approval of an application filed pursuant to subdivision
36 (b) of Section 2732.1, and upon the payment of the fee prescribed
37 by subdivision (p) of Section 2815, the board may issue a
38 temporary certificate to practice as a certified nurse practitioner
39 for a period of six months from the date of issuance.

1 (2) A temporary license or temporary certificate shall terminate
2 if it is issued by mistake or if the application for permanent
3 licensure is denied.

4 (b) Upon written application, the board may reissue a temporary
5 license or temporary certificate to any person who has applied for
6 a regular renewable license pursuant to subdivision (b) of Section
7 2732.1 and who, in the judgment of the board has been excusably
8 delayed in completing their application for or the minimum
9 requirements for a regular renewable license, but the board may
10 not reissue a temporary license or temporary certificate more than
11 twice to any one person.

12 (c) The board shall prominently display on the front page of its
13 website the availability of temporary licenses and certificates
14 pursuant to this section.

15 ~~SEC. 27.~~

16 *SEC. 29.* Section 2734 of the Business and Professions Code
17 is amended to read:

18 2734. Upon application in writing to the board and payment
19 of the biennial renewal fee, a licensee may have their license placed
20 in an inactive status for an indefinite period of time. A licensee
21 whose license is in an inactive status may not practice nursing.
22 However, a licensee does not have to comply with the continuing
23 education standards of Section 2811.5.

24 ~~SEC. 28.~~

25 *SEC. 30.* Section 2736 of the Business and Professions Code
26 is amended to read:

27 2736. (a) An applicant for licensure as a registered nurse shall
28 comply with each of the following:

29 (1) Have completed such general preliminary education
30 requirements as shall be determined by the board.

31 (2) Have successfully completed the courses of instruction
32 prescribed by the board for licensure, in a program in this state
33 accredited by the board for training registered nurses, or have
34 successfully completed courses of instruction in a school of nursing
35 outside of this state which, in the opinion of the board at the time
36 the application is filed with the Board of Registered Nursing, are
37 equivalent to the minimum requirements of the board for licensure
38 established for an accredited program in this state.

39 (3) Not be subject to denial of licensure under Section 480.

1 (b) An applicant who has received their training from a school
2 of nursing in a country outside the United States and who has
3 complied with the provisions of subdivision (a), or has completed
4 training equivalent to that required by subdivision (a), shall qualify
5 for licensure by successfully passing the examination prescribed
6 by the board.

7 ~~SEC. 29.~~

8 *SEC. 31.* Section 2738 of the Business and Professions Code
9 is repealed.

10 ~~SEC. 30.~~

11 *SEC. 32.* Section 2746.8 of the Business and Professions Code
12 is amended to read:

13 2746.8. (a) Each certificate issued pursuant to this article shall
14 be renewable biennially, and each person holding a certificate
15 under this article shall apply for a renewal of the certificate and
16 pay the biennial renewal fee required by Section 2815.5 every two
17 years on or before the last day of the month following the month
18 in which their birthday occurs, beginning with the second birthday
19 following the date on which the certificate was issued, whereupon
20 the board shall renew the certificate.

21 (b) Each certificate that is not renewed in accordance with this
22 section shall expire, but may, within a period of eight years, be
23 reinstated upon payment of the biennial renewal fee and penalty
24 fee required by Section 2815.5 and submission of proof of the
25 applicant's qualifications as may be required by the board. During
26 the eight-year period, no examination shall be required as a
27 condition for the reinstatement of an expired certificate that has
28 lapsed solely by reason of nonpayment of the renewal fee. After
29 the expiration of the eight-year period, the board may require, as
30 a condition of reinstatement, that the applicant pass an examination
31 as it deems necessary to determine the applicant's present fitness
32 to resume the practice of nurse-midwifery.

33 ~~SEC. 31.~~

34 *SEC. 33.* Section 2759 of the Business and Professions Code
35 is amended to read:

36 2759. The board shall discipline the holder of any license,
37 whose default has been entered or who has been heard by the board
38 and found guilty, by any of the following methods:

39 (a) Suspending judgment.

40 (b) Placing upon them probation.

1 (c) Suspending their right to practice nursing for a period not
2 exceeding one year.

3 (d) Revoking their license.

4 (e) Taking other action in relation to disciplining them as the
5 board in its discretion may deem proper.

6 ~~SEC. 32.~~

7 *SEC. 34.* Section 2760 of the Business and Professions Code
8 is amended to read:

9 2760. (a) If the holder of a license is suspended, they shall not
10 be entitled to practice nursing during the term of suspension.

11 (b) Upon expiration of the term of suspension, they shall be
12 reinstated by the board and shall be entitled to resume the practice
13 of nursing unless it is established to the satisfaction of the board
14 that they have practiced nursing in this state during the term of
15 suspension. In this event, the board shall revoke their license.

16 ~~SEC. 33.~~

17 *SEC. 35.* Section 2761 of the Business and Professions Code
18 is amended to read:

19 2761. (a) The board may take disciplinary action against a
20 certified or licensed nurse or deny an application for a certificate
21 or license for any of the following:

22 (1) Unprofessional conduct, which includes, but is not limited
23 to, the following:

24 (2) Incompetence or gross negligence in carrying out usual
25 certified or licensed nursing functions.

26 (A) A conviction of practicing medicine without a license in
27 violation of Chapter 5 (commencing with Section 2000), in which
28 event the record of conviction shall be conclusive evidence thereof.

29 (B) The use of advertising relating to nursing that violates
30 Section 17500.

31 (C) Denial of licensure, revocation, suspension, restriction, or
32 any other disciplinary action against a health care professional
33 license or certificate by another state or territory of the United
34 States, by any other government agency, or by another California
35 health care professional licensing board. A certified copy of the
36 decision or judgment shall be conclusive evidence of that action.

37 (3) Procuring their certificate or license by fraud,
38 misrepresentation, or mistake.

39 (4) Procuring, or aiding, or abetting, or attempting, or agreeing,
40 or offering to procure or assist at a criminal abortion.

1 (5) Violating or attempting to violate, directly or indirectly, or
2 assisting in or abetting the violating of, or conspiring to violate
3 any provision or term of this chapter or regulations adopted
4 pursuant to it.

5 (6) Making or giving any false statement or information in
6 connection with the application for issuance of a certificate or
7 license.

8 (7) Conviction of a felony or of any offense substantially related
9 to the qualifications, functions, and duties of a registered nurse,
10 in which event the record of the conviction shall be conclusive
11 evidence thereof.

12 (8) Impersonating any applicant or acting as proxy for an
13 applicant in any examination required under this chapter for the
14 issuance of a certificate or license.

15 (9) Impersonating another certified or licensed practitioner, or
16 permitting or allowing another person to use their certificate or
17 license for the purpose of nursing the sick or afflicted.

18 (10) Aiding or assisting, or agreeing to aid or assist any person
19 or persons, whether a licensed physician or not, in the performance
20 of, or arranging for, a violation of any of the provisions of Article
21 12 (commencing with Section 2220) of Chapter 5.

22 (11) Holding oneself out to the public or to any practitioner of
23 the healing arts as a nurse practitioner or as meeting the standards
24 established by the board for a nurse practitioner unless meeting
25 the standards established by the board pursuant to Article 8
26 (commencing with Section 2834) or holding oneself out to the
27 public as being certified by the board as a nurse anesthetist, nurse
28 midwife, clinical nurse specialist, or public health nurse unless the
29 person is at the time certified by the board.

30 (12) Except for good cause, the knowing failure to protect
31 patients by failing to follow infection control guidelines of the
32 board, thereby risking transmission of blood-borne infectious
33 diseases from licensed or certified nurse to patient, from patient
34 to patient, and from patient to licensed or certified nurse. In
35 administering this subdivision, the board shall consider referencing
36 the standards, regulations, and guidelines of the State Department
37 of Health Services developed pursuant to Section 1250.11 of the
38 Health and Safety Code and the standards, guidelines, and
39 regulations pursuant to the California Occupational Safety and
40 Health Act of 1973 (Part 1 (commencing with Section 6300),

1 Division 5, Labor Code) for preventing the transmission of HIV,
2 hepatitis B, and other blood-borne pathogens in health care settings.
3 As necessary, the board shall consult with the Medical Board of
4 California, the Board of Podiatric Medicine, the Dental Board of
5 California, and the Board of Vocational Nursing and Psychiatric
6 Technicians, to encourage appropriate consistency in the
7 implementation of this subdivision.

8 (b) The board shall seek to ensure that licentiates and others
9 regulated by the board are informed of the responsibility of
10 licentiates to minimize the risk of transmission of blood-borne
11 infectious diseases from health care provider to patient, from
12 patient to patient, and from patient to health care provider, and of
13 the most recent scientifically recognized safeguards for minimizing
14 the risks of transmission.

15 ~~SEC. 34.~~

16 *SEC. 36.* Section 2762 of the Business and Professions Code
17 is amended to read:

18 2762. In addition to other acts constituting unprofessional
19 conduct within the meaning of this chapter, it is unprofessional
20 conduct for a person licensed under this chapter to do any of the
21 following:

22 (a) Obtain or possess in violation of law, or prescribe, or except
23 as directed by a licensed physician and surgeon, dentist, or
24 podiatrist administer to themselves, or furnish or administer to
25 another, any controlled substance as defined in Division 10
26 (commencing with Section 11000) of the Health and Safety Code
27 or any dangerous drug or dangerous device as defined in Section
28 4022.

29 (b) Use any controlled substance as defined in Division 10
30 (commencing with Section 11000) of the Health and Safety Code,
31 or any dangerous drug or dangerous device as defined in Section
32 4022, or alcoholic beverages, to an extent or in a manner dangerous
33 or injurious to themselves, any other person, or the public or to
34 the extent that such use impairs their ability to conduct with safety
35 to the public the practice authorized by their license.

36 (c) Be convicted of a criminal offense involving the prescription,
37 consumption, or self-administration of any of the substances
38 described in subdivisions (a) and (b) of this section, or the
39 possession of, or falsification of a record pertaining to, the

1 substances described in subdivision (a) of this section, in which
2 event the record of the conviction is conclusive evidence thereof.

3 (d) Be committed or confined by a court of competent
4 jurisdiction for intemperate use of or addiction to the use of any
5 of the substances described in subdivisions (a) and (b) of this
6 section, in which event the court order of commitment or
7 confinement is prima facie evidence of such commitment or
8 confinement.

9 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
10 unintelligible entries in any hospital, patient, or other record
11 pertaining to the substances described in subdivision (a) of this
12 section.

13 ~~SEC. 35.~~

14 *SEC. 37.* Section 2765 of the Business and Professions Code
15 is amended to read:

16 2765. A plea or verdict of guilty or a conviction following a
17 plea of nolo contendere made to a charge substantially related to
18 the qualifications, functions and duties of a registered nurse is
19 deemed to be a conviction within the meaning of this article. The
20 board may order the license or certificate suspended or revoked,
21 or may decline to issue a license or certificate, when the time for
22 appeal has elapsed, or the judgment of conviction has been affirmed
23 on appeal or when an order granting probation is made suspending
24 the imposition of sentence, irrespective of a subsequent order under
25 the provisions of Section 1203.4 of the Penal Code allowing the
26 person to withdraw a plea of guilty and to enter a plea of not guilty,
27 or setting aside the verdict of guilty, or dismissing the accusation,
28 information or indictment.

29 ~~SEC. 36.~~

30 *SEC. 38.* Section 2770.11 of the Business and Professions Code
31 is amended to read:

32 2770.11. (a) Each registered nurse who requests participation
33 in an intervention program shall agree to cooperate with the
34 rehabilitation program designed by the committee and approved
35 by the program manager. Any failure to comply with a
36 rehabilitation program may result in termination of the registered
37 nurse's participation in a program. The name and license number
38 of a registered nurse who is terminated for any reason, other than
39 successful completion, shall be reported to the board's enforcement
40 program.

1 (b) If the program manager determines that a registered nurse,
2 who is denied admission into the program or terminated from the
3 program, presents a threat to the public or their own health and
4 safety, the program manager shall report the name and license
5 number, along with a copy of all intervention program records for
6 that registered nurse, to the board's enforcement program. The
7 board may use any of the records it receives under this subdivision
8 in any disciplinary proceeding.

9 ~~SEC. 37.~~

10 *SEC. 39.* Section 2770.7 of the Business and Professions Code
11 is amended to read:

12 2770.7. (a) The board shall establish criteria for the acceptance,
13 denial, or termination of registered nurses in the intervention
14 program. Only those registered nurses who have voluntarily
15 requested to participate in the intervention program shall participate
16 in the program.

17 (b) A registered nurse under current investigation by the board
18 may request entry into the intervention program by contacting the
19 board. Before authorizing a registered nurse to enter into the
20 intervention program, the board may require the registered nurse
21 under current investigation for any violations of this chapter or
22 any other provision of this code to execute a statement of
23 understanding that states that the registered nurse understands that
24 any violations that would otherwise be the basis for discipline may
25 still be investigated and may be the subject of disciplinary action
26 in accordance with this section.

27 (c) (1) Neither acceptance nor participation in the intervention
28 program shall preclude the board from investigating or continuing
29 to investigate, or, except as provided in this subdivision, taking
30 disciplinary action or continuing to take disciplinary action against,
31 any registered nurse for any unprofessional conduct committed
32 before, during, or after participation in the intervention program.

33 (2) The board may investigate at its discretion complaints against
34 registered nurses participating in the intervention program.

35 (3) Disciplinary action with regard to acts committed before or
36 during participation in the intervention program shall not take
37 place unless the registered nurse withdraws or is terminated from
38 the program.

39 (d) All registered nurses shall sign an agreement of
40 understanding that the withdrawal or termination from the

1 intervention program at a time when the program manager or
2 intervention evaluation committee determines the licentiate presents
3 a threat to the public's health and safety shall result in the
4 utilization by the board of intervention program treatment records
5 in disciplinary or criminal proceedings.

6 (e) Any registered nurse terminated from the intervention
7 program for failure to comply with program requirements is subject
8 to disciplinary action by the board for acts committed before,
9 during, and after participation in the intervention program. A
10 registered nurse who has been under investigation by the board
11 and has been terminated from the intervention program by an
12 intervention evaluation committee shall be reported by the
13 intervention evaluation committee to the board.

14 ~~SEC. 38.~~

15 *SEC. 40.* Section 2780 of the Business and Professions Code
16 is amended to read:

17 2780. The income of a nursing corporation attributable to
18 professional services rendered while a shareholder is a disqualified
19 person, as defined in Section 13401 of the Corporations Code,
20 shall not in any manner accrue to the benefit of the shareholder or
21 their shares in the nursing corporation.

22 ~~SEC. 39.~~

23 *SEC. 41.* Section 2785.6 of the Business and Professions Code
24 is amended to read:

25 2785.6. There is created within the jurisdiction of the board a
26 Nursing Education and Workforce Advisory Committee, which
27 shall solicit input from approved nursing programs and members
28 of the nursing and health care professions to study and recommend
29 nursing education standards and solutions to workforce issues to
30 the board.

31 (a) The committee shall be comprised of the following:

32 (1) One nursing program director representative of a statewide
33 association for associate's degrees in nursing programs.

34 (2) One nursing program director representative of a statewide
35 association representing bachelor's degrees in nursing programs.

36 (3) One California Community Colleges Chancellor's Office
37 representative.

38 (4) One California State University Office of the Chancellor
39 representative.

40 (5) One currently practicing registered nurse representative.

- 1 (6) Two currently practicing advanced practice registered nurse
2 representatives.
- 3 (7) Two registered nurse employer representatives in nursing
4 service administration.
- 5 (8) One professional nursing organization representative.
- 6 (9) Three nursing union organization representatives.
- 7 (10) One public representative.
- 8 (11) One Health Workforce Development Division
9 representative.
- 10 (12) One board research vendor.
- 11 (13) Any other members representing an organization in the
12 nursing education or workforce field that the board determines is
13 necessary for the work of the committee and is not listed under
14 this subdivision.
- 15 (b) (1) Except as provided in paragraph (2), all appointments
16 shall be for a term of four years and vacancies shall be filled for
17 the unexpired term. No person shall serve more than two
18 consecutive terms except for the representatives from organizations.
- 19 (2) (A) The initial appointments for the education
20 representatives shall be for the following terms:
- 21 (i) One Nursing Program Director who is a member of a
22 statewide association for associate's degrees in nursing programs
23 shall serve three years.
- 24 (ii) One nursing program director who is a member of a
25 statewide association representing bachelor's degrees in nursing
26 programs shall serve a term of two years.
- 27 (iii) One California Community Colleges Chancellor's Office
28 representative shall serve a term of four years.
- 29 (iv) One representative from the California State University
30 Office of the Chancellor shall serve a term of four years.
- 31 (B) The initial appointments for the workforce representatives
32 shall be for the following terms:
- 33 (i) One practicing registered nurse representative shall serve a
34 term of four years.
- 35 (ii) One of the two practicing advanced practice registered nurse
36 representatives shall serve a term of three years and the other shall
37 serve a term of two years.
- 38 (C) The initial appointments for the employer representatives
39 shall be for the following terms:

1 (i) One of the two registered nurse employer representatives
2 shall serve a term of three years and the other shall serve a term
3 of four years.

4 (ii) One professional nursing organization representative shall
5 serve a term of two years.

6 (D) The public member shall serve a term of four years.

7 (c) The committee shall meet a minimum of two times per year
8 and shall appoint officers annually.

9 (d) (1) The committee shall dedicate a minimum of one meeting
10 each towards nursing education issues and nursing workforce
11 issues.

12 (2) The committee may establish subcommittees to study issues
13 specific to education, workforce, or any other topic relevant to the
14 purpose of the committee.

15 (e) The committee may refer information and recommendations
16 to the board or other committees of the board.

17 (f) (1) The board may implement, interpret, or make specific
18 this section by means of a charter, or other similar document,
19 approved by the board.

20 (2) The board may revise the charter, or other similar document,
21 developed pursuant to this section, as necessary. The development
22 or revision of the charter, or other similar document, shall be
23 exempt from the requirements of the Administrative Procedure
24 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
25 Title 2 of the Government Code).

26 (g) The committee shall study and recommend standards for
27 simulated clinical experiences based on the best practices published
28 by the International Nursing Association for Clinical Simulation
29 and Learning, the National Council of State Boards of Nursing,
30 the Society for Simulation in Healthcare, or equivalent standards.

31 ~~SEC. 40.~~

32 *SEC. 42.* Section 2800 of the Business and Professions Code
33 is amended to read:

34 2800. None of the sections in this article, except Sections 2796
35 and 2797, shall be applicable to any person or persons specifically
36 exempted from the general provisions of this act by Section 2731
37 hereof, or to schools conducted by any well-recognized church or
38 denomination for the purpose of training the adherents of the
39 church or denomination in the care of the sick in accordance with
40 its religious tenets. An adherent of any well-recognized church or

1 denomination who engages in nursing or the care of the sick in
2 connection with the practice of the religious tenets of the
3 well-recognized church or denomination may use the word “nurse”
4 in connection with or following their name, provided they shall
5 not use the title “registered nurse,” the letters “R.N.,” the words
6 “graduate nurse,” “trained nurse,” “nurse anesthetist,” or any other
7 name, word or symbol in connection with or following their name
8 so as to lead another or others to believe that they are a professional
9 nurse licensed under the provisions of this chapter.

10 ~~SEC. 41.~~

11 *SEC. 43.* Section 2811 of the Business and Professions Code
12 is amended to read:

13 2811. (a) Each person holding a regular renewable license
14 under this chapter, whether in an active or inactive status, shall
15 apply for a renewal of their license and pay the biennial renewal
16 fee required by this chapter every two years on or before the last
17 day of the month following the month in which their birthday
18 occurs, beginning with the second birthday following the date on
19 which the license was issued, whereupon the board shall renew
20 the license.

21 (b) A license not renewed in accordance with this section shall
22 expire but may within a period of eight years thereafter be
23 reinstated upon payment of the fee required by this chapter and
24 upon submission of proof of the applicant’s qualifications as may
25 be required by the board. During the eight-year period, no
26 examination shall be required as a condition for the reinstatement
27 of an expired license that has lapsed solely by reason of
28 nonpayment of the renewal fee. After the expiration of the
29 eight-year period, the board may require as a condition of
30 reinstatement that the applicant pass an examination as the board
31 deems necessary to determine their present fitness to resume the
32 practice of professional nursing.

33 (c) A license in an inactive status may be restored to an active
34 status if the licensee meets the continuing education standards of
35 Section 2811.5.

36 *SEC. 44.* *Section 2811.5 of the Business and Professions Code*
37 *is amended to read:*

38 2811.5. (a) Each person renewing their license under Section
39 2811 shall submit proof satisfactory to the board that, during the
40 preceding two-year period, they have been informed of the

1 developments in the registered nurse field or in any special area
2 of practice engaged in by the licensee, occurring since the last
3 renewal thereof, either by pursuing a course or courses of
4 continuing education in the registered nurse field or relevant to
5 the practice of the licensee, and approved by the board, or by other
6 means deemed equivalent by the board.

7 (b) Notwithstanding Section 10231.5 of the Government Code,
8 the board, in compliance with Section 9795 of the Government
9 Code, shall do the following:

10 (1) By January 1, 2019, deliver a report to the appropriate
11 legislative policy committees detailing a comprehensive plan for
12 approving and disapproving continuing education opportunities.

13 (2) By January 1, 2020, report to the appropriate legislative
14 committees on its progress implementing this plan.

15 (c) For purposes of this section, the board shall, by regulation,
16 establish standards for continuing education. The standards shall
17 be established in a manner to ensure that a variety of alternative
18 forms of continuing education are available to licensees, including,
19 but not limited to, online, academic studies, in-service education,
20 institutes, seminars, lectures, conferences, workshops, extension
21 studies, and home study programs. The standards shall take
22 cognizance of specialized areas of practice, and content shall be
23 relevant to the practice of nursing and shall be related to the
24 scientific knowledge or technical skills required for the practice
25 of nursing or be related to direct or indirect patient or client care.
26 The continuing education standards established by the board shall
27 not exceed 30 hours of direct participation in a course or courses
28 approved by the board, or its equivalent in the units of measure
29 adopted by the board.

30 (d) The board shall audit continuing education providers at least
31 once every five years to ensure adherence to regulatory
32 requirements, and shall withhold or rescind approval from any
33 provider that is in violation of the regulatory requirements.

34 (e) The board shall encourage continuing education in spousal
35 or partner abuse detection and treatment. In the event the board
36 establishes a requirement for continuing education coursework in
37 spousal or partner abuse detection or treatment, that requirement
38 shall be met by each licensee within no more than four years from
39 the date the requirement is imposed.

1 (f) In establishing standards for continuing education, the board
2 shall consider including a course in the special care needs of
3 individuals and their families, including, but not limited to, all of
4 the following:

- 5 (1) Pain and symptom management, including palliative care.
- 6 (2) The psychosocial dynamics of death.
- 7 (3) Dying and bereavement.
- 8 (4) Hospice care.

9 (g) This section shall not apply to licensees during the first two
10 years immediately following their initial licensure in California
11 or any other governmental jurisdiction, except that, beginning
12 January 1, 2023, those licensees shall complete one hour of direct
13 participation in an implicit bias course offered by a continuing
14 education provider approved by the board that meets all the same
15 requirements outlined in paragraph (1) of subdivision ~~(e)~~ (f) of
16 Section 2786, including, but not limited to, the identification of
17 the licensees previous or current unconscious biases and
18 misinformation and corrective measures to decrease implicit bias
19 at the interpersonal and institutional levels, including ongoing
20 policies and practices for that purpose.

21 (h) The board may, in accordance with the intent of this section,
22 make exceptions from continuing education requirements for
23 licensees residing in another state or country, or for reasons of
24 health, military service, or other good cause.

25 ~~SEC. 42.~~

26 *SEC. 45.* Section 2816 of the Business and Professions Code
27 is amended to read:

28 2816. The nonrefundable fee to be paid by a registered nurse
29 for an evaluation of their qualifications to use the title “public
30 health nurse” shall not be less than three hundred dollars (\$300)
31 or more than one thousand dollars (\$1,000). The fee to be paid
32 upon the application for renewal of the certificate to practice as a
33 public health nurse shall not be less than one hundred twenty-five
34 dollars (\$125) and not more than five hundred dollars (\$500). The
35 penalty fee for failure to renew a certificate to practice as a public
36 health nurse within the prescribed time shall be 50 percent of the
37 renewal fee in effect on the date of renewal of the certificate, but
38 not less than sixty-two dollars and fifty cents (\$62.50), and not
39 more than two hundred fifty dollars (\$250). All fees payable under
40 this section shall be collected by and paid to the Board of

1 Registered Nursing Fund. It is the intention of the Legislature that
2 the costs of carrying out the purposes of this article shall be covered
3 by the revenue collected pursuant to this section. The board shall
4 refund any registered nurse who paid more than three hundred
5 dollars (\$300) for an evaluation of their qualifications to use the
6 title “public health nurse” between April 5, 2018, and December
7 31, 2018.

8 ~~SEC. 43.~~

9 *SEC. 46.* Section 2826 of the Business and Professions Code
10 is amended to read:

11 2826. As used in this article:

12 (a) “Nurse anesthetist” means a person who is a registered nurse
13 licensed by the board who has met standards for certification from
14 the board. In the certification and recertification process, the board
15 shall consider the standards of the National Board of Certification
16 and Recertification for Nurse Anesthetists, or a successor national
17 professional organization approved by the board, and may develop
18 new standards if there is a public safety need for standards more
19 stringent than the councils’ standards. In determining the adequacy
20 for public safety of the councils’ standards or in developing board
21 standards, the board shall comply with the provisions of Chapter
22 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
23 Title 2 of the Government Code.

24 (b) “Accredited Program” means a program for the education
25 of nurse anesthetists that has received approval from the board. In
26 the approval process, the board shall consider the standards of the
27 Council on Accreditation of Nurse Anesthesia Education Programs
28 and Schools and may develop new standards if the councils’
29 standards are determined to be inadequate for public safety. In
30 determining the adequacy for public safety of the councils’
31 standards or in developing board standards, the board shall comply
32 with the provisions of Chapter 3.5 (commencing with Section
33 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

34 (c) “Appropriate committee” means the committee responsible
35 for anesthesia practice that is responsible to the executive
36 committee of the medical staff.

37 (d) “Trainee” means a registered nurse enrolled in an accredited
38 program of nurse anesthesia.

39 (e) “Graduate” means a nurse anesthetist who is a graduate of
40 an accredited program of nurse anesthesia awaiting initial

1 certification results for not more than one year from the date of
2 graduation.

3 ~~SEC. 44.~~

4 *SEC. 47.* Section 2828 of the Business and Professions Code
5 is amended to read:

6 2828. In an acute care facility, a nurse anesthetist who is not
7 an employee of the facility shall, nonetheless, be subject to the
8 bylaws of the facility and may be required by the facility to provide
9 proof of current professional liability insurance coverage.
10 Notwithstanding any other provision of law, a nurse anesthetist
11 shall be responsible for their own professional conduct and may
12 be held liable for those professional acts.

13 ~~SEC. 45.~~

14 *SEC. 48.* Section 2830.6 of the Business and Professions Code
15 is amended to read:

16 2830.6. Notwithstanding Section 2830, the board shall certify
17 all applicants who can show certification by the National Board
18 of Certification and Recertification for Nurse Anesthetists or a
19 successor national professional organization approved by the board.
20 This certification shall be documented to the board in a manner to
21 be determined by the board. Proof of certification shall be filed
22 with the board within six months from the effective date of this
23 article and the board shall, within one year from the effective date
24 of this article, issue a certificate to applicants who have filed proof
25 of certification within that six-month period.

26 ~~SEC. 46.~~

27 *SEC. 49.* Section 2833 of the Business and Professions Code
28 is amended to read:

29 2833. (a) Each certificate issued pursuant to this article shall
30 be renewable biennially, and each person holding a certificate
31 under this article shall apply for a renewal of their certificate and
32 pay the biennial renewal fee required by Section 2830.7 every two
33 years on or before the last day of the month following the month
34 in which their birthday occurs, beginning with the second birthday
35 following the date on which the certificate was issued, whereupon
36 the board shall renew the certificate.

37 (b) Each certificate not renewed in accordance with this section
38 shall expire but may within a period of eight years thereafter be
39 reinstated upon payment of the biennial renewal fee and penalty
40 fee required by Section 2830.7 and upon submission of proof of

1 the applicant's qualifications as may be required by the board.
2 During the eight-year period, no examination shall be required as
3 a condition for the reinstatement of any expired certificate that has
4 lapsed solely by reason of nonpayment of the renewable fee. After
5 the expiration of the eight-year period the board may require, as
6 a condition of reinstatement, that the applicant pass an examination
7 as it deems necessary to determine their present fitness to resume
8 the practice of nurse anesthesia.

9 ~~SEC. 47.~~

10 *SEC. 50.* Section 2836 of the Business and Professions Code
11 is amended to read:

12 2836. (a) The board shall establish categories of nurse
13 practitioners and standards for nurses to hold themselves out as
14 nurse practitioners in each category. The standards shall take into
15 account the types of advanced levels of nursing practice that are
16 or may be performed and the clinical and didactic education, as
17 outlined in the nurse practitioner curriculum core competencies
18 specified in the National Organization of Nurse Practitioner
19 Faculties' Nurse Practitioner Role Core Competencies (2022), or
20 a successor approved by the board, experience, or both, needed to
21 practice safely at those levels. In setting the standards, the board
22 shall consult with nurse practitioners, physicians and surgeons
23 with expertise in the nurse practitioner field, and health care
24 organizations using nurse practitioners. Established standards shall
25 apply to persons without regard to the date of meeting the
26 standards. If the board sets standards for use of nurse practitioner
27 titles that include completion of an academically affiliated program,
28 it shall provide equivalent standards for registered nurses who
29 have not completed the program.

30 (b) Any regulations promulgated by a state department that
31 affect the scope of practice of a nurse practitioner shall be
32 developed in consultation with the board.

33 ~~SEC. 48.~~

34 *SEC. 51.* Section 2838.1 of the Business and Professions Code
35 is amended to read:

36 2838.1. (a) On and after July 1, 1998, any registered nurse
37 who holds themselves out as a clinical nurse specialist or who
38 desires to hold themselves out as a clinical nurse specialist shall,
39 within the time prescribed by the board and before their next
40 license renewal or the issuance of an initial license, submit their

1 education, experience, and other credentials, and any other
2 information required by the board to determine that the person
3 qualifies to use the title “clinical nurse specialist.”

4 (b) Upon finding that a person is qualified to hold themselves
5 out as a clinical nurse specialist, the board shall appropriately
6 indicate on the license issued or renewed that the person is qualified
7 to use the title “clinical nurse specialist.” The board shall also issue
8 to each qualified person a certificate indicating that the person is
9 qualified to use the title “clinical nurse specialist.”

10 ~~SEC. 49.~~

11 *SEC. 52.* Section 2838.2 of the Business and Professions Code
12 is amended to read:

13 2838.2. (a) A clinical nurse specialist is a registered nurse with
14 advanced education, who participates in expert clinical practice,
15 education, research, consultation, and clinical leadership as the
16 major components of their role.

17 (b) The board may establish categories of clinical nurse
18 specialists and the standards required to be met for nurses to hold
19 themselves out as clinical nurse specialists in each category. The
20 standards shall take into account the types of advanced levels of
21 nursing practice that are or may be performed and the clinical and
22 didactic education, experience, or both needed to practice safety
23 at those levels. In setting the standards, the board shall consult
24 with clinical nurse specialists, physicians and surgeons appointed
25 by the Medical Board of California with expertise with clinical
26 nurse specialists, and health care organizations that use clinical
27 nurse specialists.

28 (c) A registered nurse who meets one of the following
29 requirements may apply to become a clinical nurse specialist:

30 (1) Possession of a master’s degree in a clinical field of nursing.

31 (2) Possession of a master’s degree in a clinical field related to
32 nursing with coursework in the components referred to in
33 subdivision (a).

34 (3) On or before July 1, 1998, meets the following requirements:

35 (A) Current licensure as a registered nurse.

36 (B) Performs the role of a clinical nurse specialist as described
37 in subdivision (a).

38 (C) Meets any other criteria established by the board.

39 (d) (1) A nonrefundable fee of not less than five hundred dollars
40 (\$500), but not to exceed one thousand five hundred dollars

1 (\$1,500) shall be paid by a registered nurse applying to be a clinical
2 nurse specialist for the evaluation of their qualifications to use the
3 title “clinical nurse specialist.”

4 (2) The fee to be paid for a temporary certificate to practice as
5 a clinical nurse specialist shall be not less than thirty dollars (\$30)
6 nor more than fifty dollars (\$50).

7 (3) A biennial renewal fee shall be paid upon submission of an
8 application to renew the clinical nurse specialist certificate and
9 shall be established by the board at no less than one hundred fifty
10 dollars (\$150) and no more than one thousand dollars (\$1,000).

11 (4) The penalty fee for failure to renew a certificate within the
12 prescribed time shall be 50 percent of the renewal fee in effect on
13 the date of the renewal of the license, but not less than seventy-five
14 dollars (\$75) nor more than five hundred dollars (\$500).

15 (5) The fees authorized by this subdivision shall not exceed the
16 amount necessary to cover the costs to the board to administer this
17 section.

18 ~~SEC. 50.~~

19 *SEC. 53.* Section 2915.4 of the Business and Professions Code
20 is amended to read:

21 2915.4. (a) Effective January 1, 2020, an applicant for licensure
22 as a psychologist shall show, as part of the application, that they
23 have completed a minimum of six hours of coursework or applied
24 experience under supervision in suicide risk assessment and
25 intervention. This requirement shall be met in one of the following
26 ways:

27 (1) Obtained as part of the applicant’s qualifying graduate degree
28 program. To satisfy this requirement, the applicant shall submit
29 to the board a transcript indicating completion of this coursework.
30 In the absence of this coursework title in the transcript, the
31 applicant shall submit a written certification from the registrar,
32 department chair, or training director of the educational institution
33 or program from which the applicant graduated stating that the
34 coursework required by this section is included within the
35 institution’s curriculum required for graduation at the time the
36 applicant graduated, or within the coursework that was completed
37 by the applicant.

38 (2) Obtained as part of the applicant’s applied experience.
39 Applied experience can be met in any of the following settings:
40 practicum, internship, or formal postdoctoral placement that meets

1 the requirement of Section 2911, or other qualifying supervised
2 professional experience. To satisfy this requirement, the applicant
3 shall submit to the board a written certification from the director
4 of training for the program or primary supervisor where the
5 qualifying experience has occurred stating that the training required
6 by this section is included within the applied experience.

7 (3) By taking a continuing education course that meets the
8 requirements of subdivision (e) or (f) of Section 2915 and that
9 qualifies as a continuing education learning activity category
10 specified in paragraph (2) or (3) of subdivision (c) of Section 2915.
11 To satisfy this requirement, the applicant shall submit to the board
12 a certification of completion.

13 (b) Effective January 1, 2020, as a one-time requirement, a
14 licensee prior to the time of their first renewal after the operative
15 date of this section, or an applicant for reactivation or reinstatement
16 to an active license status, shall have completed a minimum of six
17 hours of coursework or applied experience under supervision in
18 suicide risk assessment and intervention, as specified in subdivision
19 (a). Proof of compliance with this section shall be certified under
20 penalty of perjury that they are in compliance with this section
21 and shall be retained for submission to the board upon request.

22 ~~SEC. 54.~~

23 *SEC. 54.* Section 2915.5 of the Business and Professions Code
24 is amended to read:

25 2915.5. (a) Any applicant for licensure as a psychologist as a
26 condition of licensure, a minimum of six contact hours of
27 coursework or applied experience in aging and long-term care,
28 which may include, but need not be limited to, the biological,
29 social, and psychological aspects of aging. This coursework shall
30 include instruction on the assessment and reporting of, as well as
31 treatment related to, elder and dependent adult abuse and neglect.

32 (b) In order to satisfy the coursework requirement of this section,
33 the applicant shall submit to the board a transcript indicating
34 completion of this coursework. In the absence of this coursework
35 title in the transcript, the applicant shall submit a written
36 certification from the registrar, department chair, or training
37 director of the educational institution or program from which the
38 applicant graduated stating that the coursework required by this
39 section is included within the institution's required curriculum for

1 graduation at the time the applicant graduated, or within the
2 coursework, that was completed by the applicant.

3 (c) (1) If an applicant does not have coursework pursuant to
4 this section, the applicant may obtain evidence of compliance as
5 part of their applied experience in a practicum, internship, or formal
6 postdoctoral placement that meets the requirement of Section 2911,
7 or other qualifying supervised professional experience.

8 (2) To satisfy the applied experience requirement of this section,
9 the applicant shall submit to the board a written certification from
10 the director of training for the program or primary supervisor where
11 the qualifying experience occurred stating that the training required
12 by this section is included within the applied experience.

13 (d) If an applicant does not meet the curriculum or coursework
14 requirement pursuant to this section, the applicant may obtain
15 evidence of compliance by taking a continuing education course
16 that meets the requirements of subdivision (d) or (e) of Section
17 2915 and that qualifies as a learning activity category specified in
18 paragraph (2) or (3) of subdivision (c) of Section 2915. To satisfy
19 this requirement, the applicant shall submit to the board a
20 certification of completion.

21 (e) A written certification made or submitted pursuant to this
22 section shall be done under penalty of perjury.

23 *SEC. 55. Section 4427.8 of the Business and Professions Code*
24 *is amended to read:*

25 4427.8. (a) This article shall become operative on July 1, 2019.

26 (b) On or before January 1, ~~2024~~, 2025, as part of the board's
27 sunset evaluation process, and notwithstanding Sections 9795 and
28 10231.5 of the Government Code, the board shall report to the
29 appropriate committees of the Legislature on the regulation of
30 ADDS units as provided in this article. At a minimum, this report
31 shall require all of the following:

32 (1) The use and dispersion of ADDS throughout the health care
33 system.

34 (2) The number of ADDS inspections conducted by the board
35 each year and the findings from the inspections.

36 (3) Public safety concerns relating to the use of ADDS as
37 identified by the board.

38 ~~SEC. 52.~~

39 *SEC. 56. Section 4846 of the Business and Professions Code*
40 *is amended to read:*

1 4846. (a) In order to obtain a license to practice veterinary
2 medicine in California, an individual shall meet the following
3 requirements:

4 (1) Graduate from a veterinary college recognized by the board
5 or receive a certificate from the Educational Commission for
6 Foreign Veterinary Graduates (ECFVG) or the Program for the
7 Assessment of Veterinary Education Equivalence (PAVE). Proof
8 of graduation must be directly submitted to the board by the
9 veterinary college or from the American Association of Veterinary
10 State Boards (AAVSB). Proof of certificate must be directly
11 submitted to the board by ECFVG or PAVE.

12 (2) Complete a board-approved license application.

13 (3) Pay the applicable fees specified in Section 4905.

14 (4) As directed by the board pursuant to Section 144, submit a
15 full set of fingerprints for the purpose of conducting a criminal
16 history record check and undergo a state and federal criminal
17 offender record information search conducted through the
18 Department of Justice, pursuant to subdivision (u) of Section 11105
19 of the Penal Code. The Department of Justice shall provide a state
20 or federal response to the board pursuant to paragraph (1) of
21 subdivision (p) of Section 11105 of the Penal Code.

22 (5) Pass an examination consisting of the following:

23 (A) A licensing examination that is administered on a national
24 basis. If the applicant passed the national licensing examination
25 over five years from the date of submitting the California
26 Veterinarian license application, the applicant shall satisfy one of
27 the following:

28 (i) Retake and pass the national licensing examination.

29 (ii) Submit proof of having practiced clinical veterinary medicine
30 for a minimum of two years and completed a minimum of 2,500
31 hours of clinical practice in another state, Canadian province, or
32 United States territory within the three years immediately preceding
33 filing an application for licensure in this state.

34 (iii) Complete the minimum continuing education requirements
35 of Section 4846.5 for the current and preceding year.

36 (B) A veterinary law examination administered by the board
37 concerning the Veterinary Medicine Practice Act statutes and
38 regulations. The examination may be administered by regular mail,
39 email, or by other electronic means. The applicant shall certify
40 that the applicant personally completed the examination. Any false

1 statement is a violation subject to Section 4831. Every applicant
2 who obtains a score of at least 80% on the veterinary law
3 examination shall be deemed to have passed. University of
4 California and Western University of Health Sciences veterinary
5 medical students who have successfully completed a
6 board-approved course on veterinary law and ethics covering the
7 Veterinary Medicine Practice Act shall be exempt from this
8 subparagraph.

9 (b) The applicant shall disclose each state, Canadian province,
10 or United States territory in which the applicant currently holds
11 or has ever held a license to practice veterinary medicine. License
12 verification, including any disciplinary or enforcement history,
13 shall be confirmed through electronic means or direct submission
14 from each state, Canadian province, or United States territory in
15 which the applicant has identified the applicant holds or has ever
16 held a license to practice veterinary medicine.

17 (c) A veterinarian license application shall be subject to denial
18 pursuant to Sections 480, 4875, and 4883.

19 ~~SEC. 53.~~

20 *SEC. 57.* Section 4861 of the Business and Professions Code
21 is amended to read:

22 4861. (a) One or more wellness evaluation committees is
23 hereby authorized to be established by the board. Each wellness
24 evaluation committee shall be composed of five persons appointed
25 by the board. The board, in making its appointments, shall give
26 consideration to recommendations of state and local associations
27 and shall consider, among others, where appropriate, the
28 appointment of individuals who have recovered from impairment
29 or who have knowledge and expertise in the management of
30 impairment.

31 (b) Each wellness evaluation committee shall have the following
32 composition:

33 (1) At least one veterinarian licensed under this chapter.

34 (2) At least two public members.

35 (3) At least one registered veterinary technician registered under
36 this chapter.

37 (c) Each person appointed to a wellness evaluation committee
38 shall have experience or knowledge in the evaluation or
39 management of persons who are impaired due to alcohol or drug
40 abuse.

1 (d) It shall require the majority vote of the board to appoint a
 2 person to a wellness evaluation committee. Each appointment shall
 3 be at the pleasure of the board for a term not to exceed four years.
 4 In its discretion the board may stagger the terms of the initial
 5 members appointed.

6 (e) The board president may suspend any wellness evaluation
 7 committee member pending an investigation into allegations of
 8 existing alcohol or drug addiction. If, after investigation, there is
 9 evidence of an alcohol or drug addiction relapse, the board
 10 president shall have authorized discretion to remove the member
 11 without input from the board.

12 (f) The board may appoint a program director and other
 13 personnel as necessary to carry out this article.

14 ~~SEC. 54.~~

15 *SEC. 58.* Section 4875.3 of the Business and Professions Code
 16 is amended to read:

17 4875.3. If the board determines, as a result of its inspection of
 18 the premises pursuant to Section 4809.5, or any other place where
 19 veterinary medicine, veterinary dentistry, veterinary surgery, or
 20 the various branches thereof is practiced, or that is otherwise in
 21 the possession of a veterinarian for purpose of that practice, that
 22 it is not in compliance with the standards established by the board,
 23 the board shall provide a notice of any deficiencies and provide a
 24 reasonable time for compliance with those standards prior to
 25 commencing any further action pursuant to this article. The board
 26 may issue an interim suspension order pursuant to Section 494 in
 27 those cases where the violations represent an immediate threat to
 28 the public and animal health and safety.

29 ~~SEC. 55.~~

30 *SEC. 59.* Section 4989.14 of the Business and Professions Code
 31 is amended to read:

32 4989.14. (a) The practice of educational psychology is the
 33 performance of any of the following professional functions
 34 pertaining to academic learning processes or the educational system
 35 or both:

- 36 (1) Educational evaluation.
- 37 (2) Diagnosis of psychological disorders related to academic
- 38 learning processes.

- 1 (3) Administration of diagnostic tests related to academic
2 learning processes including tests of academic ability, learning
3 patterns, achievement, motivation, and personality factors.
- 4 (4) Interpretation of diagnostic tests related to academic learning
5 processes including tests of academic ability, learning patterns,
6 achievement, motivation, and personality factors.
- 7 (5) Providing psychological counseling for individuals, groups,
8 and families.
- 9 (6) Consultation with other educators and parents on issues of
10 social development and behavioral and academic difficulties.
- 11 (7) Conducting psychoeducational assessments for the purposes
12 of identifying special needs.
- 13 (8) Developing treatment programs and strategies to address
14 problems of adjustment.
- 15 (9) Coordinating intervention strategies for management of
16 individual crises.
- 17 (b) For purposes of supervising an associate marriage and family
18 therapist or a marriage and family therapist trainee pursuant to
19 Section 4980.03, an associate clinical social worker pursuant to
20 Section 4996.20, or an associate professional clinical counselor
21 pursuant to Section 4999.12, “educationally related mental health
22 services” are mental health services provided to clients who have
23 social, emotional, or behavioral issues that interfere with their
24 educational progress. These services include all of the following:
 - 25 (1) Educationally related counseling services to clients qualified
26 for special education that are necessary to receive a free appropriate
27 public education in the least restrictive environment pursuant to
28 the federal requirements of Section 1412 of Title 20 of the United
29 States Code.
 - 30 (2) Intensive counseling services on a continuum that may reflect
31 an increase in frequency, duration, or staff specialization to address
32 the client’s emotional and behavioral needs.
 - 33 (3) Counseling services provided by qualified practitioners.
 - 34 (4) Parent counseling and training.
 - 35 (5) Psychological services that include consulting with staff
36 members in planning school programs to meet the client’s
37 educational needs and assisting in developing positive behavioral
38 intervention strategies for the client.
 - 39 (6) Social work services such as preparing a social or
40 developmental history on a client with a disability.

1 (7) Group and individualized counseling with the client and
2 family.

3 (8) Mobilizing school and community resources to enable the
4 client to learn as effectively as possible in their educational
5 program, as outlined in Section 300.34 of Title 34 of the Code of
6 Federal Regulations.

7 ~~SEC. 56.~~

8 *SEC. 60.* Section 4990.11 is added to the Business and
9 Professions Code, to read:

10 4990.11. For purposes of license and registration verification,
11 a person may rely upon the licensing and registration information
12 as it is displayed on the board’s internet website that includes the
13 issuance and expiration dates of any license or registration issued
14 by the board.

15 ~~SEC. 57.~~

16 *SEC. 61.* Section 5017.1 of the Business and Professions Code
17 is amended to read:

18 5017.1. The board shall post, within 10 days of board approval,
19 the finalized minutes from meetings of the board that are open and
20 public pursuant to Section 5017 on the board’s internet website.
21 The minutes shall remain on the board’s internet website for at
22 least three years. Providing a link on the internet website to the
23 minutes shall satisfy this requirement.

24 ~~SEC. 58.~~

25 *SEC. 62.* Section 5017.5 of the Business and Professions Code
26 is amended to read:

27 5017.5. (a) The board shall provide a live audio or video
28 broadcast, on its internet website, of each of its board meetings
29 that are open and public.

30 (b) (1) If technical failure prevents the board from providing a
31 live broadcast as specified in subdivision (a), that failure shall not
32 constitute a violation of this section if the board exercised
33 reasonable diligence in providing a live broadcast.

34 (2) Failure to provide a live broadcast of its board meetings due
35 to technical failure shall not prohibit the board from meeting and
36 taking actions.

37 (c) The recording of the live audio or video broadcast shall
38 remain on the internet website for at least three years. Providing
39 a link on the internet website to the recording of the live audio or
40 video broadcast shall satisfy this requirement.

1 ~~SEC. 59.~~

2 *SEC. 63.* Section 5022 of the Business and Professions Code
3 is amended to read:

4 5022. The qualifications committee shall make
5 recommendations and forward its report to the board for action on
6 any matter on which it is authorized to act. An applicant for
7 registration as a certified public accountant who is aggrieved by
8 any action taken by the committee with respect to their
9 qualifications may appeal to the board in accordance with rules or
10 regulations prescribed by the board. The board on the appeal may
11 give an oral or written examination as an aid in determining
12 whether the applicant is qualified under the terms of this chapter.

13 ~~SEC. 60.~~

14 *SEC. 64.* Section 5028 of the Business and Professions Code
15 is amended to read:

16 5028. The board may, in accordance with the intent of this
17 article, make exceptions from continuing education requirements
18 for licensees not engaged in public practice, or for reasons of
19 health, military service, or other good cause. If the licensee returns
20 to the practice of public accounting, they shall meet continuing
21 education requirements as the board may determine.

22 ~~SEC. 61.~~

23 *SEC. 65.* Section 5029 of the Business and Professions Code
24 is repealed.

25 ~~SEC. 62.~~

26 *SEC. 66.* Section 5037 of the Business and Professions Code
27 is amended to read:

28 5037. (a) All statements, records, schedules, working papers
29 and memoranda made by a licensee or a partner, shareholder,
30 officer, director, or employee of a licensee, incident to, or in the
31 course of, rendering services to a client in the practice of public
32 accountancy, except the reports submitted by the licensee to the
33 client and except for records that are part of the client's records,
34 shall be and remain the property of the licensee in the absence of
35 an express agreement between the licensee and the client to the
36 contrary. No such statement, record, schedule, working paper, or
37 memoranda shall be sold, transferred, or bequeathed, without the
38 consent of the client or their personal representative or assignee,
39 to anyone other than one or more surviving partners or stockholders

1 or new partners or stockholders of the licensee, or any combined
2 or merged firm or successor in interest to the licensee.

3 (b) A licensee shall furnish to ~~a~~ *their* client or former client,
4 upon request and reasonable notice:

5 (1) A copy of the licensee's working papers, to the extent that
6 those working papers include records that would ordinarily
7 constitute part of the client's records and are not otherwise
8 available to the client.

9 (2) Any accounting or other records belonging to, or obtained
10 from or on behalf of, the client that the licensee removed from the
11 client's premises or received for the client's account. The licensee
12 may make and retain copies of documents of the client when they
13 form the basis for work done by them.

14 ~~SEC. 63.~~

15 *SEC. 67.* Section 5051 of the Business and Professions Code
16 is amended to read:

17 5051. Except as provided in Sections 5052 and 5053, a person
18 shall be deemed to be engaged in the practice of public accountancy
19 within the meaning and intent of this chapter if they do any of the
20 following:

21 (a) Hold themselves out to the public in any manner as one
22 skilled in the knowledge, science, and practice of accounting, and
23 as qualified and ready to render professional service as a public
24 accountant for compensation.

25 (b) Maintain an office for the transaction of business as a public
26 accountant.

27 (c) Offer to prospective clients to perform for compensation, or
28 does perform on behalf of clients for compensation, professional
29 services that involve or require an audit, examination, verification,
30 investigation, certification, presentation, or review of financial
31 transactions and accounting records.

32 (d) Prepare or certify for clients reports on audits or
33 examinations of books or records of account, balance sheets, and
34 other financial, accounting and related schedules, exhibits,
35 statements, or reports that are to be used for publication, for the
36 purpose of obtaining credit, for filing with a court of law or with
37 any governmental agency, or for any other purpose.

38 (e) In general or as an incident to that work, render professional
39 services to clients for compensation in any or all matters relating

1 to accounting procedure and to the recording, presentation, or
2 certification of financial information or data.

3 (f) Keep books, make trial balances, prepare statements, make
4 audits, or prepare reports, all as a part of bookkeeping operations
5 for clients.

6 (g) Prepare or sign, as the tax preparer, tax returns for clients.

7 (h) Prepare personal financial or investment plans or provide
8 to clients products or services of others in implementation of
9 personal financial or investment plans.

10 (i) Prepare management consulting services to clients.

11 The activities set forth in subdivisions (f) to (i), inclusive, are
12 “public accountancy” only when performed by a certified public
13 accountant or public accountant, as defined in this chapter.

14 A person is not engaged in the practice of public accountancy
15 if the only services they engage in are those defined by subdivisions
16 (f) to (i), inclusive, and they do not hold themselves out, solicit,
17 or advertise for clients using the certified public accountant or
18 public accountant designation. A person is not holding themselves
19 out, soliciting, or advertising for clients within the meaning of this
20 section solely by reason of displaying a CPA or PA certificate in
21 their office or identifying themselves as a CPA or PA on other
22 than signs, advertisements, letterhead, business cards, publications
23 directed to clients or potential clients, or financial or tax documents
24 of a client.

25 ~~SEC. 64.~~

26 *SEC. 68.* Section 5053 of the Business and Professions Code
27 is amended to read:

28 5053. Nothing contained in this chapter precludes a person
29 who is not a certified public accountant or public accountant from
30 serving as an employee of, or an assistant to, a certified public
31 accountant or public accountant or partnership or a corporation
32 composed of certified public accountants or public accountants
33 holding a permit to practice pursuant to this chapter if the employee
34 or assistant works under the control and supervision of a certified
35 public accountant, or a public accountant authorized to practice
36 public accountancy pursuant to this chapter and if the employee
37 or assistant does not issue any statement over their name.

38 This section does not apply to an attorney at law in connection
39 with the practice of law.

1 ~~SEC. 65.~~

2 *SEC. 69.* Section 5057 of the Business and Professions Code
3 is amended to read:

4 5057. Notwithstanding any other provision of law, an individual
5 holding a valid and current license, certificate, or permit to practice
6 public accountancy from another state shall be exempt from the
7 requirement to obtain a permit to practice public accountancy
8 issued by the board under this chapter or to secure a practice
9 privilege pursuant to Article 5.1 (commencing with Section 5096)
10 if all of the following conditions are satisfied:

- 11 (a) The individual’s client is located in another state.
- 12 (b) The individual’s engagement with the client relates to work
13 product to be delivered in another state.
- 14 (c) The individual does not solicit California clients, or have
15 their principal place of business in this state.
- 16 (d) The individual does not assert or imply that they are licensed
17 to practice public accountancy in California.
- 18 (e) The individual’s practice of public accountancy in this state
19 on behalf of the client located in another state is of a limited
20 duration, not extending beyond the period required to service the
21 engagement for the client located in another state.
- 22 (f) The individual’s practice of public accountancy in this state
23 specifically relates to servicing the engagement for the client
24 located in another state.

25 ~~SEC. 66.~~

26 *SEC. 70.* Section 5058.2 of the Business and Professions Code
27 is amended to read:

28 5058.2. The holder of an inactive license issued by the board
29 pursuant to Section 462, when lawfully using the title “certified
30 public accountant,” the CPA designation, or any other reference
31 that would suggest that the person is licensed by the board on
32 materials such as correspondence, internet websites, business cards,
33 nameplates, or name plaques, shall place the term “inactive”
34 immediately after that designation.

35 ~~SEC. 67.~~

36 *SEC. 71.* Section 5058.3 of the Business and Professions Code
37 is amended to read:

38 5058.3. The holder of a retired license issued by the board
39 pursuant to Section 5070.1, when lawfully using the title “certified
40 public accountant,” the CPA designation, or any other reference

1 that would suggest that the person is licensed by the board on
2 materials such as correspondence, internet websites, business cards,
3 nameplates, or name plaques, shall place the term “retired”
4 immediately after that title, designation, or reference.

5 ~~SEC. 68.~~

6 *SEC. 72.* Section 5058.4 of the Business and Professions Code
7 is amended to read:

8 5058.4. The holder of a permit in a military inactive status
9 issued by the board pursuant to Section 5070.2, when lawfully
10 using the title “certified public accountant,” the CPA designation,
11 or any other reference that would suggest that the person is licensed
12 by the board, on materials such as correspondence, internet
13 websites, business cards, nameplates, or name plaques, shall place
14 the term “military inactive” immediately after that title, designation,
15 or reference.

16 ~~SEC. 69.~~

17 *SEC. 73.* Section 5060 of the Business and Professions Code
18 is amended to read:

19 5060. (a) No person or firm may practice public accountancy
20 under any name which is false or misleading.

21 (b) No person or firm may practice public accountancy under
22 any name other than the name under which the person or firm
23 holds a valid permit to practice issued by the board.

24 (c) Notwithstanding subdivision (b), a sole proprietor may
25 practice under a name other than the name set forth on their permit
26 to practice, provided the name is registered by the board, is in good
27 standing, and complies with the requirements of subdivision (a).

28 (d) The board may adopt regulations to implement, interpret,
29 and make specific the provisions of this section including, but not
30 limited to, regulations designating particular forms of names as
31 being false or misleading.

32 ~~SEC. 70.~~

33 *SEC. 74.* Section 5063.3 of the Business and Professions Code
34 is amended to read:

35 5063.3. (a) No confidential information obtained by a licensee,
36 in their professional capacity, concerning a client or a prospective
37 client shall be disclosed by the licensee without the written
38 permission of the client or prospective client, except the following:

39 (1) Disclosures made by a licensee in compliance with a
40 subpoena or a summons enforceable by order of a court.

1 (2) Disclosures made by a licensee regarding a client or
2 prospective client to the extent the licensee reasonably believes it
3 is necessary to maintain or defend themselves in a legal proceeding
4 initiated by the client or prospective client.

5 (3) Disclosures made by a licensee in response to an official
6 inquiry from a federal or state government regulatory agency.

7 (4) Disclosures made by a licensee or a licensee's duly
8 authorized representative to another licensee or person in
9 connection with a proposed sale or merger of the licensee's
10 professional practice, provided the parties enter into a written
11 nondisclosure agreement with regard to all client information
12 shared between the parties.

13 (5) Disclosures made by a licensee to either of the following:

14 (A) Another licensee to the extent necessary for purposes of
15 professional consultation.

16 (B) Organizations that provide professional standards review
17 and ethics or quality control peer review.

18 (6) Disclosures made when specifically required by law.

19 (7) Disclosures specified by the board in regulation.

20 (b) In the event that confidential client information may be
21 disclosed to persons or entities outside the United States of America
22 in connection with the services provided, the licensee shall inform
23 the client in writing and obtain the client's written permission for
24 the disclosure.

25 ~~SEC. 71.~~

26 *SEC. 75.* Section 5070.7 of the Business and Professions Code
27 is amended to read:

28 5070.7. (a) A permit that is not renewed within five years
29 following its expiration may not be renewed, restored, or reinstated
30 thereafter, and the certificate of the holder of the permit shall be
31 canceled immediately upon expiration of the five-year period,
32 except as provided in subdivision (e).

33 (b) A partnership or corporation whose certificate has been
34 canceled by operation of this section may obtain a new certificate
35 and permit only if it again meets the requirements set forth in this
36 chapter relating to registration and pays the registration fee and
37 initial permit fee.

38 (c) A certified public accountant whose certificate is canceled
39 by operation of this section may apply for and obtain a new
40 certificate and permit if the applicant:

1 (1) Is not subject to denial of a certificate and permit under
2 Section 480.

3 (2) Pays all of the fees that would be required of them if they
4 were then applying for the certificate and permit for the first time.

5 (3) Takes and passes the examination that would be required of
6 them if they were then applying for the certificate for the first time.

7 The examination may be waived in any case in which the applicant
8 establishes to the satisfaction of the board that, with due regard
9 for the public interest, they are qualified to engage in practice as
10 a certified public accountant.

11 (d) The board may, by appropriate regulation, provide for the
12 waiver or refund of all or any part of the application fee in those
13 cases in which a certificate is issued without an examination under
14 this section.

15 (e) Revoked permits may not be renewed, but may be reinstated
16 by the board, without regard to the length of time that has elapsed
17 since the permit was revoked, and with conditions and restrictions
18 as the board shall determine.

19 ~~SEC. 72.~~

20 *SEC. 76.* Section 5076 of the Business and Professions Code
21 is amended to read:

22 5076. (a) In order to renew its registration in an active status
23 or convert to an active status, a firm, as defined in Section 5035.1,
24 shall have a peer review report of its accounting and auditing
25 practice accepted by a board-recognized peer review program no
26 less frequently than every three years.

27 (b) For purposes of this article, the following definitions apply:

28 (1) "Peer review" means a study, appraisal, or review conducted
29 in accordance with professional standards of the professional work
30 of a firm, and may include an evaluation of other factors in
31 accordance with the requirements specified by the board in
32 regulations. The peer review report shall be issued by an individual
33 who has a valid and current license, certificate, or permit to practice
34 public accountancy from this state or another state and is
35 unaffiliated with the firm being reviewed.

36 (2) "Accounting and auditing practice" includes any services
37 that were performed in the prior three years using professional
38 standards defined by the board in regulations.

39 (c) The board shall adopt regulations as necessary to implement,
40 interpret, and make specific the peer review requirements in this

1 section, including, but not limited to, regulations specifying the
2 requirements for board recognition of a peer review program,
3 standards for administering a peer review, extensions of time for
4 fulfilling the peer review requirement, exclusions from the peer
5 review program, and document submission.

6 (d) Nothing in this section shall prohibit the board from initiating
7 an investigation and imposing discipline against a firm or licensee,
8 either as the result of a complaint that alleges violations of statutes,
9 rules, or regulations, or from information contained in a peer review
10 report received by the board.

11 (e) A firm issued a peer reviewed report with a rating of “fail,”
12 as defined by the board in regulation, shall submit a copy of that
13 report to the board. The board shall establish in regulation the time
14 period that a firm must submit the report to the board. This period
15 shall not exceed 60 days from the time the report is accepted by a
16 board-recognized peer review program provider to the date the
17 report is submitted to the board.

18 (f) (1) A board-recognized peer review program provider shall
19 file a copy with the board of all peer review reports issued to
20 California-licensed firms with a rating of “fail.” The board shall
21 establish in regulation the time period that a board-recognized peer
22 review program provider shall file the report with the board. This
23 period shall not exceed 60 days from the time the report is accepted
24 by a board-recognized peer review program provider to the date
25 the report is filed with the board. These reports may be filed with
26 the board electronically.

27 (2) Nothing in this subdivision shall require a board-recognized
28 peer review program provider, when administering peer reviews
29 in another state, to violate the laws of that state.

30 (g) The board shall define a peer review report rating of “fail”
31 in regulation.

32 (h) Any requirements imposed by a board-recognized peer
33 review program on a firm in conjunction with the completion of
34 a peer review shall be separate from, and in addition to, any action
35 by the board pursuant to this section.

36 (i) Any peer review report with a rating of “fail” submitted to
37 the board in conjunction with this section shall be collected for
38 investigatory purposes.

39 (j) Nothing in this section affects the discovery or admissibility
40 of evidence in a civil or criminal action.

1 (k) Nothing in this section requires any firm to become a
2 member of any professional organization.

3 (l) A peer reviewer shall not disclose information concerning
4 licensees or their clients obtained during a peer review, unless
5 specifically authorized pursuant to this section, Section 5076.1, or
6 regulations prescribed by the board.

7 ~~(m) (1) By January 1, 2015, the board shall provide the~~
8 ~~Legislature and Governor with a report regarding the peer review~~
9 ~~requirements of this section that includes, without limitation:~~

10 ~~(A) The number of peer review reports completed to date and~~
11 ~~the number of reports that were submitted to the board as required~~
12 ~~in subdivision (e).~~

13 ~~(B) The number of enforcement actions that were initiated as a~~
14 ~~result of an investigation conducted pursuant to subdivision (i).~~

15 ~~(C) The number of firms that were recommended to take~~
16 ~~corrective actions to improve their practice through the mandatory~~
17 ~~peer review process, and the number of firms that took corrective~~
18 ~~actions to improve their practice following recommendations~~
19 ~~resulting from the mandatory peer review process.~~

20 ~~(D) The extent to which mandatory peer review of accounting~~
21 ~~firms enhances consumer protection.~~

22 ~~(E) The cost impact on firms undergoing mandatory peer review~~
23 ~~and the cost impact of mandatory peer review on the firm's clients.~~

24 ~~(F) A recommendation as to whether the mandatory peer review~~
25 ~~program should continue.~~

26 ~~(G) The extent to which mandatory peer review of small firms~~
27 ~~or sole practitioners that prepare nondisclosure compiled financial~~
28 ~~statements on another comprehensive basis of accounting enhances~~
29 ~~consumer protection.~~

30 ~~(H) The impact of peer review required by this section on small~~
31 ~~firms and sole practitioners that prepare nondisclosure compiled~~
32 ~~financial statements on another comprehensive basis of accounting.~~

33 ~~(I) The impact of peer review required by this section on small~~
34 ~~businesses, nonprofit corporations, and other entities that utilize~~
35 ~~small firms or sole practitioners for the purposes of nondisclosure~~
36 ~~compiled financial statements prepared on another comprehensive~~
37 ~~basis of accounting.~~

38 ~~(J) A recommendation as to whether the preparation of~~
39 ~~nondisclosure compiled financial statements on another~~

1 comprehensive basis of accounting should continue to be a part
2 of the mandatory peer review program.

3 ~~(2) A report to the Legislature pursuant to this section shall be~~
4 ~~submitted in compliance with Section 9795 of the Government~~
5 ~~Code.~~

6 ~~SEC. 73.~~

7 *SEC. 77.* Section 5082.4 of the Business and Professions Code
8 is amended to read:

9 5082.4. A Canadian Chartered Accountant in good standing
10 may be deemed by the board to have met the examination
11 requirements of Section 5082, 5092, or 5093 if they have
12 successfully passed the Canadian Chartered Accountant Uniform
13 Certified Public Accountant Qualification Examination of the
14 American Institute of Certified Public Accountants or the
15 International Uniform Certified Public Accountant Qualification
16 Examination referenced in subdivision (b) Section 5082.3.

17 ~~SEC. 74.~~

18 *SEC. 78.* Section 5092.1 of the Business and Professions Code
19 is repealed.

20 ~~SEC. 75.~~

21 *SEC. 79.* Section 5094 of the Business and Professions Code
22 is amended to read:

23 5094. (a) In order for education to be qualifying, it shall meet
24 the standards described in subdivision (b) or (c) of this section.

25 (b) At a minimum, education shall be from a degree-granting
26 university, college, or other institution of learning accredited by
27 a regional or national accrediting agency included in a list of these
28 agencies published by the United States Secretary of Education
29 under the requirements of the Higher Education Act of 1965 as
30 amended (20 U.S.C. Sec. 1001 et seq.).

31 (c) Education from a college, university, or other institution of
32 learning located outside the United States may be qualifying
33 provided it is deemed by the board to be equivalent to education
34 obtained under subdivision (b). The board may require an applicant
35 to submit documentation of their education to a credential
36 evaluation service approved by the board for evaluation and to
37 cause the results of this evaluation to be reported to the board in
38 order to assess educational equivalency.

39 (d) The board shall adopt regulations specifying the criteria and
40 procedures for approval of credential evaluation services. These

1 regulations shall, at a minimum, require that the credential
2 evaluation service (1) furnish evaluations directly to the board, (2)
3 furnish evaluations written in English, (3) be a member of the
4 American Association of Collegiate Registrars and Admissions
5 Officers, NAFSA: Association of International Educators, or the
6 National Association of Credential Evaluation Services, (4) be
7 used by accredited colleges and universities, (5) be reevaluated by
8 the board every five years, (6) maintain a complete set of reference
9 materials as specified by the board, (7) base evaluations only upon
10 authentic, original transcripts and degrees and have a written
11 procedure for identifying fraudulent transcripts, (8) include in the
12 evaluation report, for each degree held by the applicant, the
13 equivalent degree offered in the United States, the date the degree
14 was granted, the institution granting the degree, an English
15 translation of the course titles, and the semester unit equivalence
16 for each of the courses, (9) have an appeal procedure for applicants,
17 and (10) furnish the board with information concerning the
18 credential evaluation service that includes biographical information
19 on evaluators and translators, three letters of references from public
20 or private agencies, statistical information on the number of
21 applications processed annually for the past five years, and any
22 additional information the board may require in order to ascertain
23 that the credential evaluation service meets the standards set forth
24 in this subdivision and in any regulations adopted by the board.

25 ~~SEC. 76.~~

26 *SEC. 80.* Section 5096.20 of the Business and Professions Code
27 is amended to read:

28 5096.20. (a) To ensure that Californians are protected from
29 out-of-state licensees with disqualifying conditions who may
30 unlawfully attempt to practice in this state under a practice
31 privilege, prior to July 1, 2013, the board shall add an out-of-state
32 licensee feature to its license lookup tab of the home page of its
33 internet website that allows consumers to obtain information about
34 an individual whose principal place of business is not in this state
35 and who seeks to exercise a practice privilege in this state, that is
36 at least equal to the information that was available to consumers
37 through its home page prior to January 1, 2013, through the practice
38 privilege form previously filed by out-of-state licensees pursuant
39 to Section 5096, as added by Chapter 921 of the Statutes of 2004,

1 and the regulations adopted thereunder. At minimum, these features
2 shall include all of the following:

3 (1) The ability of the consumer to search by name and state of
4 licensure.

5 (2) The disclosure of information in the possession of the board,
6 which the board is otherwise authorized to publicly disclose, about
7 an individual exercising a practice privilege in this state, including,
8 but not limited to, whether the board has taken action of any form
9 against that individual and, if so, what the action was or is.

10 (3) A disclaimer that the consumer must click through prior to
11 being referred to any other internet website, which in plain
12 language explains that the consumer is being referred to an internet
13 website that is maintained by a regulatory agency or other entity
14 that is not affiliated with the board. This disclaimer shall include
15 a link to relevant sections of this article that set forth disqualifying
16 conditions, including, but not limited to, Section 5096.2.

17 (4) A statement in plain language that notifies consumers that
18 they are permitted to file complaints against such individuals with
19 the board.

20 (5) A link to the internet website or sites that the board
21 determines, in its discretion, provides the consumer the most
22 complete and reliable information available about the individual's
23 status as a licenseholder, permitholder, or certificate holder.

24 (6) If the board of another state does not maintain an internet
25 website that allows a consumer to obtain information about its
26 licensees including, but not limited to, disciplinary history, and
27 that information is not available through a link to an internet
28 website maintained by another entity, a link to contact information
29 for that board, which contains a disclaimer in plain language that
30 explains that the consumer is being referred to a board that does
31 not permit the consumer to obtain information, including, but not
32 limited to, disciplinary history, about individuals through the
33 internet website, and that the out-of-state board is not affiliated
34 with the board.

35 (b) The board shall biennially survey the internet websites and
36 disclosure policies of other boards to ensure that its disclaimers
37 are accurate.

38 ~~SEC. 77.~~

39 *SEC. 81.* Section 5096.21 of the Business and Professions Code
40 is amended to read:

1 5096.21. (a) (1) On and after January 1, 2016, if the board
2 determines, through a majority vote of the board at a regularly
3 scheduled meeting, that allowing individuals from a particular
4 state to practice in this state pursuant to a practice privilege as
5 described in Section 5096, violates the board's duty to protect the
6 public, pursuant to Section 5000.1, the board shall require
7 out-of-state individuals licensed from that state, as a condition to
8 exercising a practice privilege in this state, to file the notification
9 form and pay the applicable fees as required by Section 5096.22.

10 (2) A state for which the board has made a determination
11 pursuant to paragraph (1) to require individuals licensed from that
12 state to file a notification form and pay the applicable fees may
13 subsequently be redetermined by the board, by majority vote of
14 the board at a regularly scheduled meeting, to allow individuals
15 from that state to practice in this state pursuant to a practice
16 privilege as described in Section 5096.

17 (b) The board shall, at minimum, consider the following factors
18 when making a determination or redetermination pursuant to
19 subdivision (a):

20 (1) Whether the state timely and adequately addresses
21 enforcement referrals made by the board to the accountancy
22 regulatory board of that state, or otherwise fails to respond to
23 requests the board deems necessary to meet its obligations under
24 this article.

25 (2) Whether the state makes the disciplinary history of its
26 licensees publicly available through the Internet in a manner that
27 allows the board to adequately link consumers to an internet
28 website to obtain information that was previously made available
29 to consumers about individuals from the state prior to January 1,
30 2013, through the notification form.

31 (3) Whether the state imposes discipline against licensees that
32 is appropriate in light of the nature of the alleged misconduct.

33 (4) Whether the state has in place and is operating pursuant to
34 enforcement practices substantially equivalent to the current best
35 practices guidelines adopted by the National Association of State
36 Boards of Accountancy provided those guidelines have been
37 determined by the board to meet or exceed the board's own
38 enforcement practices.

39 (c) On or before July 1, 2014, the board shall convene a
40 stakeholder group consisting of members of the board, board

1 enforcement staff, and representatives of the accounting profession
2 and consumer representatives to consider whether the provisions
3 of this article are consistent with the board's duty to protect the
4 public consistent with Section 5000.1, and whether the provisions
5 of this article satisfy the objectives of stakeholders of the
6 accounting profession in this state, including consumers. The
7 group, at its first meeting, shall adopt policies and procedures
8 relative to how it will conduct its business, including, but not
9 limited to, policies and procedures addressing periodic reporting
10 of its findings to the board. The group shall provide
11 recommendations to the board on any matter upon which it is
12 authorized to act.

13 ~~SEC. 78.~~

14 *SEC. 82.* Section 5103.5 of the Business and Professions Code
15 is amended to read:

16 5103.5. (a) The board shall post on its internet website, in an
17 easily marked and identifiable location, notice of all formal
18 accusations. The notice of any formal accusation shall contain a
19 link to where a person may request and have sent to them a copy
20 of the formal accusation, and the basis for the accusation and
21 alleged violations filed by the board against a licensee.

22 (b) The link to where a person may request and have sent to
23 them a copy of the formal accusation shall be clearly and
24 conspicuously located on the same internet website page on which
25 the notice is posted and shall authorize a person to request and
26 receive the information described in subdivision (a) by regular
27 mail or electronic mail.

28 (c) The board shall develop a statement that informs any person
29 requesting a copy of a formal accusation and any person receiving
30 a copy of a formal accusation that any allegations contained in the
31 accusation are not a final determination of wrongdoing and are
32 subject to adjudication and final review by the board pursuant to
33 the Administrative Procedure Act (Chapter 3.5 (commencing with
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
35 Code). This statement shall be provided to a person requesting and
36 receiving a copy of a formal accusation in a manner to be
37 determined by the board.

38 ~~SEC. 79.~~

39 *SEC. 83.* Section 5104 of the Business and Professions Code
40 is amended to read:

1 5104. Any certified public accountant or public accountant
2 whose certificate, registration, or permit has been revoked or
3 suspended shall, upon request of the board, relinquish their
4 certificate or permit. However, upon the expiration of the period
5 of suspension, the board shall immediately return any suspended
6 certificate or permit that has been relinquished.

7 ~~SEC. 80.~~

8 *SEC. 84.* Section 5107 of the Business and Professions Code
9 is amended to read:

10 5107. (a) The executive officer of the board may request the
11 administrative law judge, as part of the proposed decision in a
12 disciplinary proceeding, to direct any holder of a permit or
13 certificate found to have committed a violation or violations of
14 this chapter to pay to the board all reasonable costs of investigation
15 and prosecution of the case, including, but not limited to, attorney's
16 fees. The board shall not recover costs incurred at the
17 administrative hearing.

18 (b) A certified copy of the actual costs, or a good faith estimate
19 of costs where actual costs are not available, signed by the
20 executive officer, shall be prima facie evidence of reasonable costs
21 of investigation and prosecution of the case.

22 (c) The administrative law judge shall make a proposed finding
23 of the amount of reasonable costs of investigation and prosecution
24 of the case when requested to do so by the executive officer
25 pursuant to subdivision (a). Costs are payable 120 days after the
26 board's decision is final, unless otherwise provided for by the
27 administrative law judge or if the time for payment is extended by
28 the board.

29 (d) The finding of the administrative law judge with regard to
30 cost shall not be reviewable by the board to increase the cost award.
31 The board may reduce or eliminate the cost award, or remand to
32 the administrative law judge where the proposed decision fails to
33 make a finding on costs requested by the executive officer pursuant
34 to subdivision (a).

35 (e) The administrative law judge may make a further finding
36 that the amount of reasonable costs awarded shall be reduced or
37 eliminated upon a finding that respondent has demonstrated that
38 they cannot pay all or a portion of the costs or that payment of the
39 costs would cause an unreasonable financial hardship that cannot
40 be remedied through a payment plan.

1 (f) When an administrative law judge makes a finding that costs
2 be waived or reduced, they shall set forth the factual basis for their
3 finding in the proposed decision.

4 (g) Where an order for recovery of costs is made and timely
5 payment is not made as directed by the board's decision, the board
6 may enforce the order for payment in any appropriate court. This
7 right of enforcement shall be in addition to any other rights the
8 board may have as to any holder of a permit or certificate directed
9 to pay costs.

10 (h) In a judicial action for the recovery of costs, proof of the
11 board's decision shall be conclusive proof of the validity of the
12 order of payment and the terms of payment.

13 (i) All costs recovered under this section shall be deposited in
14 the Accountancy Fund.

15 (j) (1) Except as provided in paragraph (2), the board shall not
16 renew or reinstate the permit or certificate of a holder who has
17 failed to pay all of the costs ordered under this section.

18 (2) Notwithstanding paragraph (1) or paragraph (2) of
19 subdivision (g) of Section 125.3, the board may, in its discretion,
20 conditionally renew or reinstate for a maximum of three years the
21 permit or certificate of a holder who demonstrates financial
22 hardship and who enters into a formal agreement with the board
23 to reimburse the board within that three-year period for those
24 unpaid costs.

25 (k) Nothing in this section shall preclude the board from seeking
26 recovery of costs in an order or decision made pursuant to an
27 agreement entered into between the board and the holder of a
28 permit or certificate.

29 (l) (1) Costs may not be recovered under this section as a result
30 of a citation issued pursuant to Section 125.9 and its implementing
31 language if the licensee complies with the citation.

32 (2) The Legislature hereby finds and declares that this
33 subdivision is declaratory of existing law.

34 ~~SEC. 84.~~

35 *SEC. 85.* Section 5121 of the Business and Professions Code
36 is amended to read:

37 5121. The display or uttering by a person of a card, sign,
38 advertisement or other printed, engraved or written instrument or
39 device, bearing a person's name in conjunction with the words
40 "certified public accountant" or any abbreviation thereof or the

1 words “public accountant” or any abbreviation thereof shall be
2 prima facie evidence in any prosecution, proceeding or hearing
3 brought under this article that the person whose name is so
4 displayed caused or procured the display or uttering of such card,
5 sign, advertisement or other printed, engraved or written instrument
6 or device. Any such display or uttering shall be prima facie
7 evidence that the person whose name is so displayed holds
8 themselves out as a certified public accountant, or a public
9 accountant holding a permit to practice public accountancy in this
10 State under the provisions of this chapter. In any prosecution or
11 hearing under this chapter, evidence of the commission of a single
12 act prohibited by this chapter shall be sufficient to justify a
13 conviction without evidence of a general course of conduct.

14 ~~SEC. 82.~~

15 *SEC. 86.* Section 5134 of the Business and Professions Code
16 is amended to read:

17 5134. The amount of fees prescribed by this chapter is as
18 follows:

19 (a) The fee to be charged to each applicant for the certified
20 public accountant examination shall be fixed by the board at an
21 amount not to exceed six hundred dollars (\$600). The board may
22 charge a reexamination fee not to exceed seventy-five dollars (\$75)
23 for each part that is subject to reexamination.

24 (b) The fee to be charged to out-of-state candidates for the
25 certified public accountant examination shall be fixed by the board
26 at an amount not to exceed six hundred dollars (\$600) per
27 candidate.

28 (c) The application fee to be charged to each applicant for
29 issuance of a certified public accountant certificate shall be fixed
30 by the board at an amount not to exceed two hundred fifty dollars
31 (\$250).

32 (d) The application fee to be charged to each applicant for
33 issuance of a certified public accountant certificate by waiver of
34 examination shall be fixed by the board at an amount not to exceed
35 two hundred fifty dollars (\$250).

36 (e) The fee to be charged to each applicant for registration as a
37 partnership or professional corporation shall be fixed by the board
38 at an amount not to exceed two hundred fifty dollars (\$250).

39 (f) The biennial fee for the renewal of each of the permits to
40 engage in the practice of public accountancy specified in Section

1 5070 shall not be less than two hundred fifty dollars (\$250) and
2 shall not exceed two hundred eighty dollars (\$280).

3 (g) The application fee to be charged to each applicant for a
4 retired status license, as described in Section 5070.1, shall be fixed
5 by the board at an amount not to exceed two hundred fifty dollars
6 (\$250).

7 (h) The application fee to be charged to each applicant for
8 restoration of a license in a retired status to an active status pursuant
9 to subdivision (f) of Section 5070.1 shall be fixed by the board at
10 an amount not to exceed one thousand dollars (\$1,000).

11 (i) The delinquency fee shall be 50 percent of the accrued
12 renewal fee.

13 (j) The initial permit fee is an amount equal to the renewal fee
14 in effect on the last regular renewal date before the date on which
15 the permit is issued, except that, if the permit is issued one year
16 or less before it will expire, then the initial permit fee is an amount
17 equal to 50 percent of the renewal fee in effect on the last regular
18 renewal date before the date on which the permit is issued. The
19 board may, by regulation, provide for the waiver or refund of the
20 initial permit fee where the permit is issued less than 45 days before
21 the date on which it will expire.

22 (k) The fee to be charged for the certification of documents
23 evidencing passage of the certified public accountant examination,
24 the certification of documents evidencing the grades received on
25 the certified public accountant examination, or the certification of
26 documents evidencing licensure shall be twenty-five dollars (\$25).

27 (l) The board shall fix the fees in accordance with the limits of
28 this section and any increase in a fee fixed by the board shall be
29 pursuant to regulation duly adopted by the board in accordance
30 with the limits of this section.

31 (m) It is the intent of the Legislature that, to ease entry into the
32 public accounting profession in California, any administrative cost
33 to the board related to the certified public accountant examination
34 or issuance of the certified public accountant certificate that
35 exceeds the maximum fees authorized by this section shall be
36 covered by the fees charged for the biennial renewal of the permit
37 to practice.

38 *SEC. 87. Section 5550.3 of the Business and Professions Code*
39 *is amended to read:*

1 5550.3. (a) Notwithstanding Section 111, the board may adopt
2 guidelines for the delegation of its authority to grade the
3 examinations of applicants for licensure to any vendor under
4 contract to the board for provision of an architect’s registration
5 examination. The guidelines shall be within the board’s legal
6 authority to establish the standards for registration in this state,
7 and shall include, but not be limited to:

8 (1) Goals for the appropriate content, development, grading,
9 and administration of an examination, against which the vendor’s
10 rules and procedures can be judged.

11 (2) Procedures through which the board can reasonably assure
12 itself that the vendor adequately meets the goals established by
13 the board.

14 (b) The board shall not delegate its authority to grade the
15 examinations of candidates for registration in this state to any
16 vendor or any party not in compliance with Section 111 or with
17 the guidelines established in subdivision (a).

18 (c) *A candidate who received full credit for all divisions of the*
19 *Architect Registration Examination (ARE) prior to May 1, 2023,*
20 *shall be deemed to have passed the ARE.*

21 *SEC. 88. Section 7685.3 of the Business and Professions Code*
22 *is amended to read:*

23 7685.3. (a) The current address, telephone number, and name
24 of the Department of Consumer Affairs, Cemetery and Funeral
25 Bureau shall appear on the first page of any contract for goods and
26 services offered by a licensee. At a minimum, the information shall
27 be in 8-point boldface type and make this statement:

28
29 “FOR MORE INFORMATION ON FUNERAL, CEMETERY,
30 ~~AND—CREMATION—MATTERS,~~ *CREMATION, AND*
31 *HYDROLYSIS MATTERS,* CONTACT: DEPARTMENT OF
32 CONSUMER AFFAIRS, CEMETERY AND FUNERAL
33 BUREAU (ADDRESS), (TELEPHONE NUMBER).”

34
35 (b) *This section shall remain in effect only until January 1, 2027,*
36 *and as of that date is repealed.*

37 *SEC. 89. Section 7685.3 is added to the Business and*
38 *Professions Code, to read:*

39 7685.3. (a) *The current address, telephone number, and name*
40 *of the Department of Consumer Affairs, Cemetery and Funeral*

1 *Bureau shall appear on the first page of any contract for goods*
2 *and services offered by a licensee. At a minimum, the information*
3 *shall be in 8-point boldface type and make this statement:*

4
5 *“FOR MORE INFORMATION ON FUNERAL, CEMETERY,*
6 *CREMATION, HYDROLYSIS, AND REDUCTION MATTERS,*
7 *CONTACT: DEPARTMENT OF CONSUMER AFFAIRS,*
8 *CEMETERY AND FUNERAL BUREAU (ADDRESS),*
9 *(TELEPHONE NUMBER).”*

10
11 *(b) This section shall become operative on January 1, 2027.*

12 *SEC. 90. Section 10471 of the Business and Professions Code*
13 *is amended to read:*

14 10471. (a) When an aggrieved person obtains (1) a final
15 judgment in a court of competent jurisdiction, including, but not
16 limited to, a criminal restitution order issued pursuant to
17 subdivision (f) of Section 1202.4 of the Penal Code or Section
18 3663 of Title 18 of the United States Code, or (2) an arbitration
19 award that includes findings of fact and conclusions of law
20 rendered in accordance with the rules established by the American
21 Arbitration Association or another recognized arbitration body,
22 and in accordance with Sections 1281 to 1294.2, inclusive, of the
23 Code of Civil Procedure when applicable, and when the arbitration
24 award has been confirmed and reduced to judgment pursuant to
25 Section 1287.4 of the Code of Civil Procedure, against a defendant
26 based upon the defendant’s fraud, misrepresentation, or deceit,
27 made with intent to defraud, or conversion of trust funds, arising
28 directly out of any transaction in which the defendant, while
29 licensed under this part, performed acts for which a real estate
30 license or a prepaid rental listing service license was required, the
31 aggrieved person may, upon the judgment becoming final, file an
32 application with the Department of Real Estate for payment from
33 the Consumer Recovery Account, within the limitations specified
34 in Section 10474, of the amount unpaid on the judgment that
35 represents an actual and direct loss to the claimant in the
36 transaction. As used in this chapter, “court of competent
37 jurisdiction” includes the federal courts, but does not include the
38 courts of another state.

39 (b) The application shall be delivered ~~in-person or~~ *person*, by
40 certified ~~mail~~ *mail*, or *electronically in a manner prescribed by*

1 *the department*, to an office of the department not later than one
2 year after the judgment has become final.

3 (c) The application shall be made on a form prescribed by the
4 department, verified by the claimant, and shall include the
5 following:

6 (1) The name and address of the claimant.

7 (2) If the claimant is represented by an attorney, the name,
8 business address, and telephone number of the attorney.

9 (3) The identification of the judgment, the amount of the claim
10 and an explanation of its computation.

11 (4) A detailed narrative statement of the facts in explanation of
12 the allegations of the complaint upon which the underlying
13 judgment is based.

14 (5) (A) Except as provided in subparagraph (B), a statement
15 by the claimant, signed under penalty of perjury, that the complaint
16 upon which the underlying judgment is based was prosecuted
17 conscientiously and in good faith. As used in this section,
18 “conscientiously and in good faith” means that no party potentially
19 liable to the claimant in the underlying transaction was intentionally
20 and without good cause omitted from the complaint, that no party
21 named in the complaint who otherwise reasonably appeared capable
22 of responding in damages was dismissed from the complaint
23 intentionally and without good cause, and that the claimant
24 employed no other procedural means contrary to the diligent
25 prosecution of the complaint in order to seek to qualify for the
26 Consumer Recovery Account.

27 (B) For the purpose of an application based on a criminal
28 restitution order, all of the following statements by the claimant:

29 (i) The claimant has not intentionally and without good cause
30 failed to pursue any person potentially liable to the claimant in the
31 underlying transaction other than a defendant who is the subject
32 of a criminal restitution order.

33 (ii) The claimant has not intentionally and without good cause
34 failed to pursue in a civil action for damages all persons potentially
35 liable to the claimant in the underlying transaction who otherwise
36 reasonably appeared capable of responding in damages other than
37 a defendant who is the subject of a criminal restitution order.

38 (iii) The claimant employed no other procedural means contrary
39 to the diligent prosecution of the complaint in order to seek to
40 qualify for the Consumer Recovery Account.

1 (6) The name and address of the judgment debtor or, if not
2 known, the names and addresses of persons who may know the
3 judgment debtor's present whereabouts.

4 (7) The following representations and information from the
5 claimant:

6 (A) That the claimant is not a spouse of the judgment debtor
7 nor a personal representative of the spouse.

8 (B) That the claimant has complied with all of the requirements
9 of this chapter.

10 (C) That the judgment underlying the claim meets the
11 requirements of subdivision (a).

12 (D) A description of searches and inquiries conducted by or on
13 behalf of the claimant with respect to the judgment debtor's assets
14 liable to be sold or applied to satisfaction of the judgment, an
15 itemized valuation of the assets discovered, and the results of
16 actions by the claimant to have the assets applied to satisfaction
17 of the judgment.

18 (E) That the claimant has diligently pursued collection efforts
19 against all judgment debtors and all other persons liable to the
20 claimant in the transaction that is the basis for the underlying
21 judgment.

22 (F) That the underlying judgment and debt have not been
23 discharged in bankruptcy, or, in the case of a bankruptcy
24 proceeding that is open at or after the time of the filing of the
25 application, that the judgment and debt have been declared to be
26 nondischargeable.

27 (G) That the application was ~~mailed or delivered to the~~
28 ~~department~~ *submitted to the department, as prescribed in*
29 *subdivision (b)*, no later than one year after the underlying
30 judgment became final.

31 (d) If the claimant is basing the application upon a judgment
32 against a salesperson, and the claimant has not obtained a judgment
33 against that salesperson's employing broker, if any, or has not
34 diligently pursued the assets of that broker, the application shall
35 be denied for failure to diligently pursue the assets of all other
36 persons liable to the claimant in the transaction unless the claimant
37 can demonstrate, by clear and convincing evidence, either that the
38 salesperson was not employed by a broker at the time of the
39 transaction, or that the salesperson's employing broker would not
40 have been liable to the claimant because the salesperson was acting

1 outside the scope of their employment by the broker in the
2 transaction.

3 (e) The application form shall include detailed instructions with
4 respect to documentary evidence, pleadings, court rulings, the
5 products of discovery in the underlying litigation, and a notice to
6 the applicant of their obligation to protect the underlying judgment
7 from discharge in bankruptcy, to be appended to the application.

8 (f) An application for payment from the Consumer Recovery
9 Account that is based on a criminal restitution order shall comply
10 with all of the requirements of this chapter. For the purpose of an
11 application based on a criminal restitution order, the following
12 terms have the following meanings:

13 (1) “Judgment” means the criminal restitution order.

14 (2) “Complaint” means the facts of the underlying transaction
15 upon which the criminal restitution order is based.

16 (3) “Judgment debtor” means any defendant who is the subject
17 of the criminal restitution order.

18 ~~SEC. 83.~~

19 *SEC. 91.* Section 21638.5 of the Business and Professions Code
20 is amended to read:

21 21638.5. Sections 21636, 21636.1, 21637, and 21638, insofar
22 as they apply to holding periods for personal property, are not
23 applicable to personal property pledged to a pawnbroker with
24 respect to the redemption of personal property by the pledgor.

25 ~~SEC. 84.~~

26 *SEC. 92.* Section 94874.8 of the Education Code is amended
27 to read:

28 94874.8. (a) An institution exempt from all or part of this
29 chapter pursuant to subdivision (i) of Section 94874 or Section
30 94874.1 may apply to the bureau for an approval to operate
31 pursuant to this section, but only subject to all of the following
32 provisions:

33 (1) The bureau may approve the operation of an institution that
34 is exempt from all or part of this chapter as specified above in
35 accordance with the authority granted pursuant to Article 6
36 (commencing with Section 94885). Upon issuing an approval to
37 operate to an institution pursuant to this section, the bureau is
38 authorized to regulate that institution through the full set of powers
39 granted, and duties imposed, by this chapter, as those powers and

1 duties would apply to an institution that is not exempt from this
2 chapter.

3 (2) Notwithstanding any other law, upon issuance of an approval
4 to operate pursuant to this section, the institution is no longer
5 eligible for exemption, from the provisions of this chapter pursuant
6 to subdivision (i) of Section 94874 or Section 94874.1, unless
7 authorized by subsequent legislation.

8 (3) Upon issuance of an approval to operate pursuant to this
9 section, an institution is subject to all provisions of this chapter,
10 and any regulations adopted pursuant to this chapter, that apply to
11 an institution subject to this chapter, except as expressly provided
12 in paragraph (4).

13 (4) (A) With respect to the placement and salary or wage data
14 required to be collected, calculated, and reported by Article 16
15 (commencing with Section 94928), an institution issued an
16 approval to operate pursuant to this section is not required to report
17 on its first School Performance Fact Sheet any data from the period
18 prior to the date of the issuance of the approval to operate that the
19 institution was not required to collect and does not have available
20 to it. An institution shall, however, report available data collected
21 and calculated in accordance with this chapter and applicable
22 regulations, regardless of the purpose for which the data was
23 collected. If the required data is unavailable, the institution shall
24 also disclose the unavailability of the data on all documents
25 required by this chapter and regulations adopted pursuant to this
26 chapter. Upon receiving an approval to operate pursuant to this
27 section, an institution shall commence to collect and calculate all
28 information necessary to comply with Article 16 (commencing
29 with Section 94928).

30 (B) An institution receiving an approval to operate pursuant to
31 this section shall provide to prospective students the School
32 Performance Fact Sheet, file that fact sheet with the bureau, and
33 post it on the institution's internet website no later than the first
34 August 1 after the institution is approved to operate and no later
35 than August 1 of each year thereafter. These School Performance
36 Fact Sheets shall report data for the previous two calendar years
37 based upon the number of students who began the program or the
38 number of graduates for each reported calendar year. If two
39 calendar years have not passed since the issuance of the approval
40 to operate by the August 1 deadline for the School Performance

1 Fact Sheet, unless data for two years is available, the institution
2 shall report the required data for the period subsequent to the date
3 of the issuance of the notice of approval.

4 (b) An institution exempt from all or part of this chapter pursuant
5 to subdivision (i) of Section 94874 or Section 94874.1 that was
6 approved to operate by the bureau before the effective date of this
7 section shall be deemed to have been approved pursuant to this
8 section.

9 ~~SEC. 85.~~

10 *SEC. 93.* Section 94874.9 of the Education Code is amended
11 to read:

12 94874.9. (a) An independent institution of higher education,
13 as defined in Section 66010, that is exempt from this chapter
14 pursuant to subdivision (i) of Section 94874 shall comply with all
15 applicable state and federal laws, including laws relating to fraud,
16 abuse, and false advertising.

17 (b) An institution described in subdivision (a) may execute a
18 contract with the bureau for the bureau to review and, as
19 appropriate, act on complaints concerning the institution, in
20 accordance with Section 600.9 of Title 34 of the Code of Federal
21 Regulations.

22 (c) The execution of a contract by the bureau with an institution
23 pursuant to subdivision (b) shall constitute establishment by the
24 state of that institution to offer programs beyond secondary
25 education, including programs leading to a degree or certificate,
26 in accordance with Section 600.9 of Title 34 of the Code of Federal
27 Regulations.

28 (d) The bureau shall use a standard form contract for purposes
29 of this section.

30 (e) A contract executed pursuant to this section shall, at a
31 minimum, do all of the following:

32 (1) Require an institution to do all of the following:

33 (A) Cooperate with the bureau to resolve complaints received
34 pursuant to this section.

35 (B) Provide the following disclosure notice in all written and
36 internet-based documentation in which the institution's complaint
37 process is described, including the student catalog, student
38 handbook, and the institution's internet website:

39

1 “An individual may contact the Bureau for Private Postsecondary
2 Education for review of a complaint. The bureau may be contacted
3 at (address), Sacramento, CA (ZIP Code), (internet website
4 address), (telephone and fax numbers).”
5

6 (C) Designate a person at the institution to act as a liaison to
7 the bureau.

8 (D) Pay one thousand seventy-six dollars (\$1,076) each year
9 for costs incurred by the bureau to perform activities pursuant to
10 the contract, unless another amount is determined by the bureau.

11 (2) (A) Authorize the bureau, for any complaint it receives,
12 including any complaints related to the institution’s policies or
13 procedures, or both, as determined by the bureau, to refer the
14 complaint to the institution, an accrediting agency, or another
15 appropriate entity for resolution.

16 (B) The bureau shall notify the complainant and the institution
17 of a referral.

18 (C) This paragraph shall not be construed to relieve the bureau
19 of its responsibility to ensure that a complaint it has referred for
20 purposes of resolution is resolved by the receiving entity.

21 (f) The bureau may terminate a contract executed pursuant to
22 this section if an institution is no longer an independent institution
23 of higher education as defined in Section 66010 or fails to comply
24 with the provisions of the contract.

25 (g) All moneys collected by the bureau that relate to a contract
26 executed pursuant to this section, including payments collected in
27 accordance with subparagraph (D) of paragraph (1) of subdivision
28 (e), shall be deposited in the Private Postsecondary Education
29 Administration Fund.

30 (h) The bureau shall maintain, on its internet website, both of
31 the following:

32 (1) The provisions of the standard form contract used for
33 purposes of this section.

34 (2) A list of institutions with which the bureau has executed a
35 contract pursuant to this section.

36 (i) On or before February 1, 2017, and each year thereafter, the
37 bureau shall report to the Director of Finance and, in conformity
38 with Section 9795 of the Government Code, to the Legislature
39 regarding implementation of this section. The report shall include
40 all of the following information:

1 (1) A list of institutions with which the bureau has executed a
2 contract pursuant to this section.

3 (2) The total number of complaints received by the bureau
4 relating to institutions listed in paragraph (1).

5 (3) The general nature of those complaints.

6 (4) The total number of those complaints referred to another
7 entity, disaggregated by the entity to which each complaint was
8 referred.

9 (5) The total number of complaints resolved, disaggregated by
10 the entity that resolved each complaint.

11 (6) The total number of complaints pending, disaggregated by
12 the entity to which each complaint was referred.

13 (j) Notwithstanding any other law, the Department of General
14 Services, at the request of the bureau, may exempt contracts
15 executed pursuant to this section from any laws, rules, resolutions,
16 or procedures that are otherwise applicable to public contracts that
17 the Department of General Services administers.

18 ~~SEC. 86.~~

19 *SEC. 94.* Section 94878 of the Education Code is amended to
20 read:

21 94878. (a) The bureau shall establish an internet website that
22 includes at least all of the following information:

23 (1) An explanation of the bureau's scope of authority.

24 (2) (A) A directory of approved institutions, and a link, if
25 feasible, to the internet website of each institution.

26 (B) For each institution, the directory shall be developed in a
27 manner that allows the user to search by institution and shall
28 include all of the following information:

29 (i) The status of the institution's approval to operate.

30 (ii) The information provided by the institutions, including, but
31 not limited to, the annual report, as required by Section 94934,
32 including the school catalog and the School Performance Fact
33 Sheet. The School Performance Fact Sheet shall be maintained on
34 the directory for at least five years after the date of its submission
35 to the bureau.

36 (iii) If a law school satisfies the requirements of this chapter
37 regarding a School Performance Fact Sheet by complying with
38 the requirements of Section 94910.5, the bureau shall include the
39 information provided by the institution pursuant to Section 94910.5

1 on its internet website and shall maintain the information in the
2 same manner as required by clause (ii).

3 (iv) The disciplinary history of the institution, which shall
4 include, but shall not be limited to, all of the following:

5 (I) Pending formal accusations filed by the bureau.

6 (II) Suspensions, revocations, citations, fines, infractions,
7 probations, pending litigation filed by the bureau, and final
8 judgments resulting from litigation filed by the bureau.

9 (III) Pending or final civil or criminal cases filed by the Attorney
10 General, a city attorney, or a district attorney in this state, or filed
11 in any state by an attorney general or a federal regulatory or
12 prosecutorial agency of which the bureau has received notice.

13 (IV) Final administrative actions by the United States
14 Department of Education, including orders requiring restitution to
15 students.

16 (V) All disciplinary actions ordered by an accreditation agency,
17 including any order to show cause, of which the bureau has
18 received notice pursuant to Section 94934 or other information
19 otherwise publicly available of which the bureau has received
20 notice.

21 (b) The bureau shall maintain the internet website described in
22 subdivision (a). The bureau shall ensure that the information
23 specified in subdivision (a) is kept current. The bureau shall update
24 the internet website at least annually, to coincide with the
25 submission of annual reports by the institutions pursuant to Section
26 94934.

27 (c) (1) The bureau shall post on its internet website a list of all
28 institutions that were denied approval to operate, after the denial
29 is final, and describe in clear and conspicuous language the reason
30 the institution was denied approval. The bureau shall include with
31 this list the statement provided in paragraph (2) on its internet
32 website:

33 (2) “The following institutions were denied approval to operate
34 by the Bureau for Private Postsecondary Education for failing to
35 satisfy the standards relating to educational quality, or consumer
36 protection, or both. These unlicensed institutions are not operating
37 in compliance with the law, and students are strongly discouraged
38 from attending these institutions.”

1 ~~SEC. 87.~~

2 *SEC. 95.* Section 94897 of the Education Code is amended to
3 read:

4 94897. An institution shall not do any of the following:

5 (a) Use, or allow the use of, any reproduction or facsimile of
6 the Great Seal of the State of California on a diploma.

7 (b) Promise or guarantee employment, or otherwise overstate
8 the availability of jobs upon graduation.

9 (c) Advertise concerning job availability, degree of skill, or
10 length of time required to learn a trade or skill unless the
11 information is accurate and not misleading.

12 (d) Advertise, or indicate in promotional material, without
13 including the fact that the educational programs are delivered by
14 means of distance education if the educational programs are so
15 delivered.

16 (e) Advertise, or indicate in promotional material, that the
17 institution is accredited, unless the institution has been accredited
18 by an accrediting agency.

19 (f) Solicit students for enrollment by causing an advertisement
20 to be published in “help wanted” columns in a magazine,
21 newspaper, or publication, or use “blind” advertising that fails to
22 identify the institution.

23 (g) Offer to compensate a student to act as an agent of the
24 institution with regard to the solicitation, referral, or recruitment
25 of any person for enrollment in the institution, except that an
26 institution may award a token gift to a student for referring an
27 individual, provided that the gift is not in the form of money, no
28 more than one gift is provided annually to a student, and the gift’s
29 cost is not more than one hundred dollars (\$100).

30 (h) Pay any consideration to a person to induce that person to
31 sign an enrollment agreement for an educational program.

32 (i) Use a name in any manner improperly implying any of the
33 following:

34 (1) The institution is affiliated with any government agency,
35 public or private corporation, agency, or association if it is not, in
36 fact, thus affiliated.

37 (2) The institution is a public institution.

38 (3) The institution grants degrees, if the institution does not
39 grant degrees.

- 1 (j) In any manner make an untrue or misleading change in, or
2 untrue or misleading statement related to, a test score, grade or
3 record of grades, attendance record, record indicating student
4 completion, placement, employment, salaries, or financial
5 information, including any of the following:
- 6 (1) A financial report filed with the bureau.
 - 7 (2) Information or records relating to the student's eligibility
8 for student financial aid at the institution.
 - 9 (3) Any other record or document required by this chapter or
10 by the bureau.
- 11 (k) Willfully falsify, destroy, or conceal any document of record
12 while that document of record is required to be maintained by this
13 chapter.
- 14 (l) Use the terms "approval," "approved," "approval to operate,"
15 or "approved to operate" without stating clearly and conspicuously
16 that approval to operate means compliance with state standards as
17 set forth in this chapter. An institution may not state or imply either
18 of the following:
- 19 (1) The institution or its educational programs are endorsed or
20 recommended by the state or by the bureau.
 - 21 (2) The approval to operate indicates that the institution exceeds
22 minimum state standards as set forth in this chapter.
- 23 (m) Direct any individual to perform an act that violates this
24 chapter, to refrain from reporting unlawful conduct to the bureau
25 or another government agency, or to engage in any unfair act to
26 persuade a student not to complain to the bureau or another
27 government agency.
- 28 (n) Compensate an employee involved in recruitment,
29 enrollment, admissions, student attendance, or sales of educational
30 materials to students on the basis of a commission, commission
31 draw, bonus, quota, or other similar method related to the
32 recruitment, enrollment, admissions, student attendance, or sales
33 of educational materials to students, except as provided in
34 paragraph (1) or (2):
- 35 (1) If the educational program is scheduled to be completed in
36 90 days or less, the institution shall pay compensation related to
37 a particular student only if that student completes the educational
38 program.
 - 39 (2) For institutions participating in the federal student financial
40 aid programs, this subdivision shall not prevent the payment of

1 compensation to those involved in recruitment, admissions, or the
2 award of financial aid if those payments are in conformity with
3 federal regulations governing an institution’s participation in the
4 federal student financial aid programs.

5 (o) Require a prospective student to provide personal contact
6 information in order to obtain, from the institution’s internet
7 website, educational program information that is required to be
8 contained in the school catalog or any information required
9 pursuant to the consumer information requirements of Title IV of
10 the federal Higher Education Act of 1965, and any amendments
11 thereto.

12 (p) Offer an associate, baccalaureate, master’s, or doctoral
13 degree without disclosing to prospective students before enrollment
14 whether the institution or the degree program is unaccredited and
15 any known limitation of the degree, including, but not limited to,
16 all of the following:

17 (1) Whether a graduate of the degree program will be eligible
18 to sit for the applicable licensure exam in California and other
19 states.

20 (2) A statement that reads: “A degree program that is
21 unaccredited or a degree from an unaccredited institution is not
22 recognized for some employment positions, including, but not
23 limited to, positions with the State of California.”

24 (3) That a student enrolled in an unaccredited institution is not
25 eligible for federal financial aid programs.

26 (q) In any manner commit fraud against, or make a material
27 untrue or misleading statement to, a student or prospective student
28 under the institution’s authority or the pretense or appearance of
29 the institution’s authority.

30 (r) Charge or collect any payment for institutional charges that
31 are not authorized by an executed enrollment agreement.

32 (s) Violate Section 1788.93 of the Civil Code.

33 (t) Require a prospective, current, or former student or employee
34 to sign a nondisclosure agreement pertaining to their relationship
35 to, or experience with, the institution, except that an institution
36 may use a nondisclosure agreement to protect the institution’s
37 intellectual property and trade secrets. Any nondisclosure
38 agreement in violation of this section is void and not enforceable
39 at law or in equity.

1 (u) Fail to maintain policies related to compliance with this
2 chapter or adhere to the institution's stated policies.

3 ~~SEC. 88.~~

4 *SEC. 96.* Section 94902 of the Education Code is amended to
5 read:

6 94902. (a) A student shall enroll solely by means of executing
7 an enrollment agreement. The enrollment agreement shall be signed
8 by the student and by an authorized employee of the institution.

9 (b) An enrollment agreement is not enforceable unless all of
10 the following requirements are met:

11 (1) The student has received the institution's catalog and School
12 Performance Fact Sheet prior to signing the enrollment agreement.

13 (2) At the time of the execution of the enrollment agreement,
14 the institution held a valid approval to operate.

15 (3) Prior to the execution of the enrollment agreement, the
16 student and the institution have signed and dated the information
17 required to be disclosed in the School Performance Fact Sheet
18 pursuant to subdivisions (a) to (d), inclusive, of Section 94910.
19 Each of these items in the School Performance Fact Sheet shall
20 include a line for the student to initial and shall be initialed and
21 dated by the student.

22 (c) A student shall receive a copy of the signed enrollment
23 agreement, in writing or electronically, regardless of whether total
24 charges are paid by the student.

25 ~~SEC. 89.~~

26 *SEC. 97.* Section 94905 of the Education Code is amended to
27 read:

28 94905. (a) During the enrollment process, an institution
29 offering educational programs designed to lead to positions in a
30 profession, occupation, trade, or career field requiring licensure
31 in this state shall exercise reasonable care to determine if the
32 student will not be eligible to obtain licensure in the profession,
33 occupation, trade, or career field at the time of the student's
34 graduation and shall provide all students enrolled in those programs
35 with a written copy of the requirements for licensure established
36 by the state, including any applicable course requirements
37 established by the state.

38 (1) If the minimum course requirements of the institution exceed
39 the minimum requirements for state licensure, the institution shall

1 disclose this information, including a list of those courses that are
2 not required for state licensure.

3 (2) The institution shall not execute an enrollment agreement
4 with a student that is known to be ineligible for licensure, unless
5 the student's stated objective is other than licensure.

6 (b) During the enrollment process, an institution may discuss
7 internships and student jobs available to the student during the
8 student's attendance at the institution. If the institution discusses
9 internships and student jobs, the institution shall disclose the
10 number of requests for internship and student job placement
11 assistance received by the institution during the immediately
12 preceding calendar year and the number of actual placements
13 during that year.

14 (c) During the enrollment process, an institution offering
15 educational programs designed to lead to positions in a profession,
16 occupation, trade, or career field where voluntary licensure by a
17 government agency is available, shall provide its students seeking
18 to enroll in those programs with a written copy of the requirements
19 for that voluntary licensure.

20 ~~SEC. 90.~~

21 *SEC. 98.* Section 94910 of the Education Code is amended to
22 read:

23 94910. Except as provided in subdivision (d) of Section 94909
24 and Section 94910.5, prior to enrollment, an institution shall
25 provide a prospective student with a School Performance Fact
26 Sheet containing, at a minimum, the following information, as it
27 relates to the educational program:

28 (a) Completion rates, as calculated pursuant to Article 16
29 (commencing with Section 94928).

30 (b) Placement rates for each educational program, as calculated
31 pursuant to Article 16 (commencing with Section 94928), if the
32 educational program is designed to lead to, or the institution makes
33 any express or implied claim related to preparing students for, a
34 recognized career, occupation, vocation, job, or job title.

35 (c) License examination passage rates for programs leading to
36 employment for which passage of a state licensing examination is
37 required, as calculated pursuant to Article 16 (commencing with
38 Section 94928).

39 (d) Salary or wage information, as calculated pursuant to Article
40 16 (commencing with Section 94928).

1 (e) If a program is too new to provide data for any of the
2 categories listed in this subdivision, the institution shall state on
3 its fact sheet: “This program is new. Therefore, the number of
4 students who graduate, the number of students who are placed, or
5 the starting salary you can earn after finishing the educational
6 program are unknown at this time. Information regarding general
7 salary and placement statistics may be available from government
8 sources or from the institution, but is not equivalent to actual
9 performance data.”

10 (f) All of the following:

11 (1) A description of the manner in which the figures described
12 in subdivisions (a) to (d), inclusive, are calculated or a statement
13 informing the reader of where they may obtain a description of
14 the manner in which the figures described in subdivisions (a) to
15 (d), inclusive, are calculated.

16 (2) A statement informing the reader of where they may obtain
17 from the institution a list of the employment positions determined
18 to be within the field for which a student received education and
19 training for the calculation of job placement rates as required by
20 subdivision (b).

21 (3) A statement informing the reader of where they may obtain
22 from the institution a list of the objective sources of information
23 used to substantiate the salary disclosure as required by subdivision
24 (d).

25 (g) The following statements:

26 (1) “This fact sheet is filed with the Bureau for Private
27 Postsecondary Education. Regardless of any information you may
28 have relating to completion rates, placement rates, starting salaries,
29 or license exam passage rates, this fact sheet contains the
30 information as calculated pursuant to state law.”

31 (2) “Any questions a student may have regarding this fact sheet
32 that have not been satisfactorily answered by the institution may
33 be directed to the Bureau for Private Postsecondary Education at
34 (address), Sacramento, CA (ZIP Code), (internet website),
35 (telephone and fax numbers).”

36 (h) If the institution participates in federal financial aid
37 programs, the most recent three-year cohort default rate reported
38 by the United States Department of Education for the institution
39 and the percentage of enrolled students receiving federal student
40 loans.

1 (i) Data and information disclosed pursuant to subdivisions (a)
2 to (d), inclusive, is not required to include students who satisfy
3 the qualifications specified in subdivision (d) of Section 94909,
4 but an institution shall disclose whether the data, information, or
5 both provided in its fact sheet excludes students pursuant to this
6 subdivision. An institution shall not actively use data specific to
7 the fact sheet in its recruitment materials or other recruitment
8 efforts of students who are not California residents and do not
9 reside in California at the time of their enrollment.

10 ~~SEC. 99.~~

11 *SEC. 99.* Section 94910.5 of the Education Code is amended
12 to read:

13 94910.5. (a) Notwithstanding any other law, a law school that
14 meets the criteria of subdivision (b) shall be deemed to satisfy the
15 requirements of this chapter regarding a School Performance Fact
16 Sheet by doing all of the following:

17 (1) Complying with Standard 509 of the American Bar
18 Association's Standards and Rules of Procedure for Approval of
19 Law Schools, as that standard may be amended.

20 (2) Providing completion rates of students and placement rates,
21 bar passage rates, and salary and wage information of graduates
22 to prospective students prior to enrollment through the law school
23 application process administered by the Law School Admission
24 Council.

25 (3) (A) Providing to prospective students any additional
26 information required to be reported on a School Performance Fact
27 Sheet that is not reported pursuant to paragraphs (1) and (2),
28 including, but not limited to, the most recent three-year cohort
29 default rate reported by the United States Department of Education
30 for the law school and the percentage of enrolled students receiving
31 federal student loans.

32 (B) If the law school's three-year cohort default rate reported
33 by the United States Department of Education is aggregated with
34 the three-year cohort default rate of an institution to which the law
35 school belongs, then the law school shall provide to prospective
36 students the law school's three-year cohort default rate
37 disaggregated from the institution's three-year cohort default rate.

38 (C) The law school shall, at a minimum, provide the information
39 described in this paragraph to prospective students by clearly

1 posting the information in a conspicuous location on the law
2 school's internet website.

3 (4) Annually providing the information required to be disclosed
4 pursuant to this subdivision to the bureau.

5 (b) Subdivision (a) shall apply to a law school that meets all of
6 the following criteria:

7 (1) The law school is accredited by the Council of the Section
8 of Legal Education and Admissions to the Bar of the American
9 Bar Association.

10 (2) The law school is owned by an institution authorized to
11 operate by the bureau.

12 (3) The law school reports graduate salary information and other
13 information to the National Association for Law Placement.

14 (4) The law school is approved to operate by the bureau pursuant
15 to Section 94874.8.

16 ~~SEC. 92.~~

17 *SEC. 100.* Section 94911 of the Education Code is amended
18 to read:

19 94911. An enrollment agreement shall include, at a minimum,
20 all of the following:

21 (a) The name of the institution and the name of the educational
22 program, including the total number of credit hours, clock hours,
23 or other increment required to complete the educational program.

24 (b) A schedule of total charges, including a list of any charges
25 that are nonrefundable and the student's obligations to the Student
26 Tuition Recovery Fund, clearly identified as nonrefundable
27 charges.

28 (c) In underlined capital letters on the same page of the
29 enrollment agreement in which the student's signature is required,
30 "THE TOTAL CHARGES FOR THE CURRENT PERIOD OF
31 ATTENDANCE," "THE ESTIMATED TOTAL CHARGES FOR
32 THE ENTIRE EDUCATIONAL PROGRAM," and "THE TOTAL
33 CHARGES THE STUDENT IS OBLIGATED TO PAY UPON
34 ENROLLMENT," followed by the relevant amounts of charges
35 in bold, underlined type.

36 (d) A clear and conspicuous statement that the enrollment
37 agreement is legally binding when signed by the student and
38 accepted by the institution.

39 (e) (1) A disclosure with a clear and conspicuous caption,
40 "STUDENT'S RIGHT TO CANCEL," under which it is explained

1 that the student has the right to cancel the enrollment agreement
2 and obtain a refund of charges paid through attendance at the first
3 class session, or the seventh day after enrollment, whichever is
4 later.

5 (2) The disclosure shall contain the institution’s refund policy
6 and a statement that, if the student has received federal student
7 financial aid funds, the student is entitled to a refund of moneys
8 not paid from federal student financial aid program funds.

9 (3) The text shall also include a description of the procedures
10 that a student is required to follow to cancel the enrollment
11 agreement or withdraw from the institution and obtain a refund.

12 (f) A statement specifying that, if the student obtains a loan to
13 pay for an educational program, the student will have the
14 responsibility to repay the full amount of the loan plus interest,
15 less the amount of any refund.

16 (g) A statement specifying that, if the student is eligible for a
17 loan guaranteed by the federal or state government and the student
18 defaults on the loan, both of the following may occur:

19 (1) The federal or state government or a loan guarantee agency
20 may take action against the student, including applying any income
21 tax refund to which the person is entitled to reduce the balance
22 owed on the loan.

23 (2) The student may not be eligible for any other federal student
24 financial aid at another institution or other government assistance
25 until the loan is repaid.

26 (h) The transferability disclosure that is required to be included
27 in the school catalog, as specified in paragraph (15) of subdivision
28 (a) of Section 94909.

29 (i) (1) The following statement: “Prior to signing this enrollment
30 agreement, you must be given a catalog or brochure and a School
31 Performance Fact Sheet, which you are encouraged to review prior
32 to signing this agreement. These documents contain important
33 policies and performance data for this institution. This institution
34 is required to have you sign and date the information included in
35 the School Performance Fact Sheet relating to completion rates,
36 placement rates, license examination passage rates, salaries or
37 wages, and the most recent three-year cohort default rate, if
38 applicable, prior to signing this agreement.”

39 (2) Immediately following the statement required by paragraph
40 (1), a line for the student to initial, including the following

1 statement: “I certify that I have received the catalog, School
 2 Performance Fact Sheet, and information regarding completion
 3 rates, placement rates, license examination passage rates, salary
 4 or wage information, and the most recent three-year cohort default
 5 rate, if applicable, included in the School Performance Fact sheet,
 6 and have signed, initialed, and dated the information provided in
 7 the School Performance Fact Sheet.”

8 (j) The following statements:
 9

10 (1) “Any questions a student may have regarding this
 11 enrollment agreement that have not been satisfactorily
 12 answered by the institution may be directed to the Bureau for
 13 Private Postsecondary Education at (address), Sacramento,
 14 CA (ZIP Code), (internet website address), (telephone and fax
 15 numbers).”
 16

17 (2) “A student or any member of the public may file a complaint
 18 about this institution with the Bureau for Private Postsecondary
 19 Education by calling (toll-free telephone number) or by completing
 20 a complaint form, which can be obtained on the bureau’s internet
 21 website (internet website address).”
 22

23 (k) The following statement above the space for the student’s
 24 signature:
 25

26 “I understand that this is a legally binding contract. My
 27 signature below certifies that I have read, understood, and
 28 agreed to my rights and responsibilities, and that the
 29 institution’s cancellation and refund policies have been clearly
 30 explained to me.”
 31

32 ~~SEC. 93.~~

33 *SEC. 101.* Section 94913 of the Education Code is amended
 34 to read:

35 94913. (a) An institution that maintains an internet website
 36 shall provide on that internet website all of the following:

- 37 (1) The school catalog.
- 38 (2) A School Performance Fact Sheet for each educational
 39 program offered by the institution.
- 40 (3) Student brochures offered by the institution.

1 (4) A link to the bureau’s internet website.

2 (5) The institution’s most recent annual report submitted to the
3 bureau.

4 (b) An institution shall include information concerning where
5 students may access the bureau’s internet website anywhere the
6 institution identifies itself as being approved by the bureau.

7 ~~SEC. 94.~~

8 *SEC. 102.* Section 94941 of the Education Code is amended
9 to read:

10 94941. (a) An individual who has cause to believe that an
11 institution has violated this chapter, or regulations adopted pursuant
12 to this chapter, may file a complaint with the bureau against the
13 institution. The complaint shall set forth the alleged violation, and
14 shall contain any other information as may be required by the
15 bureau.

16 (b) To ensure that the bureau’s resources are maximized for the
17 protection of the public, the bureau, in consultation with the
18 advisory committee, shall establish priorities for its inspections
19 and other investigative and enforcement resources to ensure that
20 institutions representing the greatest threat of harm to the greatest
21 number of students are identified and disciplined by the bureau or
22 referred to the Attorney General.

23 (c) In developing its priorities for inspection, investigation, and
24 enforcement regarding institutions, the bureau shall consider as
25 posing heightened risks the characteristics of the following
26 institutions:

27 (1) An institution that receives significant public resources,
28 including an institution that receives more than 70 percent of its
29 revenues from federal financial aid, state financial aid, financial
30 aid for veterans, and other public student aid funds.

31 (2) An institution with a large number of students defaulting on
32 their federal loans, including an institution with a three-year cohort
33 default rate above 15.5 percent.

34 (3) An institution with reported placement rates, completion
35 rates, or licensure rates in an educational program that are far
36 higher or lower than comparable educational institutions or
37 programs.

38 (4) An institution that experiences a dramatic increase in
39 enrollment, recently expanded educational programs or campuses,
40 or recently consolidated campuses.

1 (5) An institution that offers only nonremedial educational
2 program courses in English, but enrolls students with limited or
3 no English language proficiency.

4 (6) An institution that has experienced a recent change of
5 ownership or control, or a change in the business organization of
6 the institution.

7 (7) An institution with audited financial statements that do not
8 satisfy the bureau's requirements for financial stability.

9 (8) An institution that has recently been the subject of an
10 investigation, judgment, or regulatory action by, or a settlement
11 with, a governmental agency.

12 (9) An institution that experiences institutional or programmatic
13 accreditation restriction by an accreditor, government restriction
14 of, or injunction against, its approval to operate, or placement on
15 cash-reimbursement or heightened monitoring status by the United
16 States Department of Education.

17 (d) The bureau shall indicate in an annual report, to be made
18 publicly available on its internet website, the number of temporary
19 restraining orders, interim suspension orders, and disciplinary
20 actions taken by the bureau, disaggregated by each priority category
21 established pursuant to subdivision (b).

22 (e) The bureau shall, in consultation with the advisory
23 committee, adopt regulations to establish categories of complaints
24 or cases that are to be handled on a priority basis. The priority
25 complaints or cases shall include, but not be limited to, those
26 alleging unlawful, unfair or fraudulent business acts or practices,
27 including unfair, deceptive, untrue, or misleading statements,
28 including all statements made or required to be made pursuant to
29 the requirements of this chapter, related to any of the following:

30 (1) Degrees, educational programs, or internships offered, the
31 appropriateness of available equipment for a program, or the
32 qualifications or experience of instructors.

33 (2) Job placement, graduation, time to complete an educational
34 program, or educational program or graduation requirements.

35 (3) Loan eligibility, terms, whether the loan is federal or private,
36 or default or forbearance rates.

37 (4) Passage rates on licensing or certification examinations or
38 whether an institution's degrees or educational programs provide
39 students with the necessary qualifications to take these exams and
40 qualify for professional licenses or certifications.

1 (5) Cost of an educational program, including fees and other
2 nontuition charges.

3 (6) Affiliation with or endorsement by any government agency,
4 or by any organization or agency related to the Armed Forces,
5 including, but not limited to, groups representing veterans.

6 (7) Terms of withdrawal and refunds from an institution.

7 (8) Payment of bonuses, commissions, or other incentives
8 offered by an institution to its employees or contractors.

9 ~~SEC. 95.~~

10 *SEC. 103.* Section 94942 of the Education Code is amended
11 to read:

12 94942. (a) The bureau shall establish a toll-free telephone
13 number staffed by a bureau employee by which a student or a
14 member of the public may file a complaint under this chapter.

15 (b) The bureau shall make a complaint form available on its
16 internet website. The bureau shall permit students and members
17 of the public to file a complaint under this chapter through the
18 bureau's internet website.

19 ~~SEC. 96.~~

20 *SEC. 104.* Section 94949.73 of the Education Code is amended
21 to read:

22 94949.73. (a) The office shall provide individualized assistance
23 to students to relieve or mitigate the economic and educational
24 opportunity loss incurred by those students who attended a
25 Corinthian Colleges, Inc., institution or other eligible institution.

26 (b) Specific services provided by the office shall include all of
27 the following:

28 (1) Outreach and education to students regarding the assistance
29 available from the office.

30 (2) Screening requests for assistance received by the office and
31 providing individualized assistance to help students determine
32 their relief eligibility, identify and obtain necessary documents,
33 complete and submit applications, and provide additional services
34 as necessary.

35 (c) For purposes of this section, "other eligible institution"
36 means an institution identified by the office whose unlawful
37 activities or closure has resulted in its students being eligible for
38 repayment from the Student Tuition Recovery Fund, debt relief
39 from the United States Department of Education, or other student
40 financial aid relief.

1 (d) (1) The office shall quarterly report by posting on the
2 bureau's internet website, through September 1, 2018, on all of
3 the following:

4 (A) A summary of the outreach and education activities
5 conducted by the office pursuant to the requirements of paragraph
6 (1) of subdivision (b) and the number of students served from
7 Corinthian Colleges, Inc., institutions and every other eligible
8 institution.

9 (B) A detailed summary of services provided to those students,
10 as follows:

11 (i) The number of students assisted with submitting Student
12 Tuition Recovery Fund claims to the bureau by the office, and of
13 the claims submitted, the number that are pending, on appeal, or
14 have been approved or denied. For the claims that have been
15 approved, the office shall report the amount of student loans
16 canceled, the total of student loans paid off, the total amount of
17 cash reimbursed to students, and the total amount of educational
18 credit granted.

19 (ii) The number of students assisted with submitting federal
20 loan forgiveness claims, and of the claims submitted, the number
21 of those claims that are pending, on appeal, or have been approved
22 or denied. For the claims that have been approved, the office shall
23 report the estimated total in student loans canceled and the total
24 amount of funds refunded to students.

25 (iii) The number of students assisted with private student loan
26 relief, other than through Student Tuition Recovery Fund claims,
27 and a summary of assistance provided and relief outcomes
28 obtained.

29 (iv) The number of students whom the office helped to obtain
30 income-dependent repayment plans on their federal loans, and of
31 those students, the number of students helped out of default on the
32 federal loans through consolidation or rehabilitation.

33 (2) The office shall provide, pursuant to Section 9795 of the
34 Government Code, the Legislature, the department, and the bureau
35 a final report summarizing the information submitted pursuant to
36 paragraph (1) by January 1, 2019.

37 *SEC. 105. No reimbursement is required by this act pursuant*
38 *to Section 6 of Article XIII B of the California Constitution because*
39 *the only costs that may be incurred by a local agency or school*
40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

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MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(1) - AB 248 (Mathis) Individuals with intellectual or developmental disabilities: The Dignity for All Act

Background

AB 248 (Mathis) was introduced on January 18, 2023.

This bill addresses terms that refer to people with intellectual and developmental disabilities using outdated terms like "mentally retarded," "mentally retarded children," "retardation," and "handicap." It replaces these old terms with new ones such as, "individuals with intellectual or developmental disabilities" which are more in line with current language used to refer to people with intellectual and developmental disabilities, which is more accepting and respectful.

On April 7, 2023, Board Member Casuga recommended the Board watch AB 248.

On May 17, 2023, AB 248 was amended to remove outdated terms missing in the introduction of the bill.

Board of Psychology staff is continuing to monitor the bill, for additional amendments.

Action Requested

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

Attachment 1: AB 248 (Mathis) Bill Text

AMENDED IN SENATE MAY 17, 2023
AMENDED IN ASSEMBLY MARCH 7, 2023
AMENDED IN ASSEMBLY FEBRUARY 23, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 248

**Introduced by Assembly Members Mathis, Bryan, Grayson, Weber,
and Wicks**
**(Coauthors: Assembly Members Arambula, Mike Fong, McCarty,
and Stephanie Nguyen)**
(Coauthors: Senators Becker, Limón, Niello, Ochoa Bogh, and Wiener)

January 18, 2023

An act to amend Sections 14670.1 and 20405 of the Government Code, to amend Section 1267.11 of the Health and Safety Code, and to amend ~~Section 14110.6~~ *Sections 14110.6, 19008.5, 19502, 19503, 19504, and 19725* of, and to repeal Section 4509 of, the Welfare and Institutions Code, relating to individuals with ~~intellectual or developmental~~ disabilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 248, as amended, Mathis. Individuals with ~~intellectual or developmental~~ disabilities: The Dignity for All Act.

Existing law includes the terms “mentally retarded persons,” “mentally retarded children,” and “retardation.” “*retardation*,” and “*handicap*.”

This bill, The Dignity for All Act, would make nonsubstantive changes to those provisions to eliminate this obsolete terminology. The bill would repeal obsolete provisions of law.

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

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

1 SECTION 1. This act shall be known, and may be cited, as
2 The Dignity for All Act.

3 SEC. 2. Section 14670.1 of the Government Code is amended
4 to read:

5 14670.1. Notwithstanding Section 14670, the Director of
6 General Services, with the consent of the State Department of State
7 Hospitals, may let to a nonprofit corporation, for the purpose of
8 conducting an educational and work program for individuals with
9 intellectual or developmental disabilities, and for a period not to
10 exceed 50 years, real property not exceeding 10 acres located
11 within the grounds of the Napa State Hospital.

12 The lease authorized by this section shall be nonassignable and
13 shall be subject to periodic review every five years. This review
14 shall be made by the Director of General Services, who shall do
15 both of the following:

16 (a) Assure the state that the original purposes of the lease are
17 being carried out.

18 (b) Determine what, if any, adjustment should be made in the
19 terms of the lease.

20 The lease shall also provide for an initial capital outlay by the
21 lessee of thirty thousand dollars (\$30,000) prior to January 1, 1976.
22 Such capital outlay may be, or may have been, contributed before
23 or after the effective date of the act adding this section.

24 SEC. 3. Section 20405 of the Government Code is amended
25 to read:

26 20405. (a) "State safety member" shall also include officers
27 and employees of the Department of Corrections and Rehabilitation
28 in the following classifications:

29	30	Classification
31	Code	Classification
32	0683	Assistant Dairy Operator
33	2156	Assistant Food Manager (Correctional Facility)
34	4302	Assistant General Manager, Operations
35	2080	Assistant Seamer (Correctional Facility)
36	5447	Assistant Warden, Psychiatric Services,
37		Correctional Facility
38	6868	Automobile Mechanic (Correctional Facility)

1	Classification	
2	Code	Classification
3	6394	Automotive Equipment Operator I (Correctional Facility)
4		
5	6392	Automotive Equipment Operator II (Correctional Facility)
6		
7	6893	Automotive Pool Manager I (Correctional Facility)
8	2224	Baker I (Correctional Facility)
9	2221	Baker II (Correctional Facility)
10	2086	Barber (Correctional Facility)
11	2084	Barbershop Manager (Correctional Facility)
12	6216	Building Maintenance Worker (Correctional Facility)
13		
14	2245	Butcher–Meat Cutter II (Correctional Facility)
15	6483	Carpenter I (Correctional Facility)
16	6474	Carpenter II (Correctional Facility)
17	6471	Carpenter III (Correctional Facility)
18	2015	Chief Assistant General Manager, Prison Industries
19	4110	Chief, Day Labor Programs (Correctional Facility)
20	9344	Chief Dentist, Correctional Facility
21	2578	Chief Deputy, Clinical Services, Correctional Facility
22		
23	6699	Chief Engineer I (Correctional Facility)
24	7547	Chief Medical Officer, Correctional Facility
25	6754	Chief of Plant Operation I (Correctional Facility)
26	6751	Chief of Plant Operation II (Correctional Facility)
27	6748	Chief of Plant Operation III (Correctional Facility)
28		
29	9267	Chief Physician and Surgeon, Correctional Facility
30	7612	Chief Psychiatrist, Correctional Facility
31	9859	Chief Psychologist, Correctional Facility
32	7146	Chief, Quality Assurance, Prison Industries
33	9279	Clinical Dietician, Correctional Facility
34	9293	Clinical Laboratory Technologist, Correctional Facility
35		
36	4132	Construction Supervisor (Correctional Facility)
37	4107	Construction Supervisor I (Correctional Facility)
38	4108	Construction Supervisor II (Correctional Facility)
39	4109	Construction Supervisor III (Correctional Facility)
40	2187	Cook I (Correctional Facility)

1	Classification	
2	Code	Classification
3	2186	Cook II (Correctional Facility)
4	7208	Correctional Business Manager I, Department of
5		Corrections
6	4744	Correctional Business Manager II, Department of
7		Corrections
8	4910	Correctional Health Services Administrator I,
9		Correctional Facility
10	4912	Correctional Health Services Administrator II,
11		Correctional Facility
12	6304	Correctional Plant Manager I, Department of
13		Corrections
14	6305	Correctional Plant Manager II, Department of
15		Corrections
16	6303	Correctional Plant Supervisor, Department of
17		Corrections
18	9296	Dental Assistant, Correctional Facility
19	9298	Dental Hygienist, Correctional Facility
20	9299	Dental Laboratory Technician, Correctional
21		Facility
22	9268	Dentist, Correctional Facility
23	7200	Dry Cleaning Plant Supervisor
24	6544	Electrician I (Correctional Facility)
25	6538	Electrician II (Correctional Facility)
26	6534	Electrician III (Correctional Facility)
27	6916	Electronics Technician (Correctional Facility)
28	6865	Equipment Maintenance Supervisor (Correctional
29		Facility)
30	2153	Food Administrator I (Correctional Facility)
31	2147	Food Administrator II (Correctional Facility)
32	2150	Food Manager (Correctional Facility)
33	2196	Food Service Worker I (Correctional Facility)
34	2195	Food Service Worker II (Correctional Facility)
35	6955	Fusion Welder (Correctional Facility)
36	6628	Glazier (Correctional Facility)
37	0743	Groundskeeper (Correctional Facility)
38	6826	Heavy Equipment Mechanic (Correctional
39		Facility)
40	6379	Heavy Truck Driver (Correctional Facility)

1	Classification	
2	Code	Classification
3	9307	Hospital Aid, Correctional Facility
4	7218	Industrial Supervisor, Prison Industries (Bindery)
5	0648	Industrial Supervisor, Prison Industries (Crop
6		Farm)
7	0682	Industrial Supervisor, Prison Industries (Dairy)
8	7204	Industrial Supervisor, Prison Industries (Dental
9		Laboratory)
10	7198	Industrial Supervisor, Prison Industries (Fabric
11		Products)
12	7211	Industrial Supervisor, Prison Industries (Knit
13		Goods Finishing)
14	7210	Industrial Supervisor, Prison Industries
15		(Knitting Mill)
16	2109	Industrial Supervisor, Prison Industries (Laundry)
17	7215	Industrial Supervisor, Prison Industries
18		(Maintenance and Repair)
19	7197	Industrial Supervisor, Prison Industries (Mattress
20		and Bedding)
21	7191	Industrial Supervisor, Prison Industries (Metal
22		Fabrication)
23	7216	Industrial Supervisor, Prison Industries (Printing)
24	7207	Industrial Supervisor, Prison Industries (Shoe
25		Manufacturing)
26	7206	Industrial Supervisor, Prison Industries (Shoes
27		and Boots, Lasting to Packing)
28	7321	Industrial Supervisor, Prison Industries
29		(Silkscreen)
30	7192	Industrial Supervisor, Prison Industries (Tool
31		and Die)
32	7179	Industrial Supervisor, Prison Industries
33		(Upholstery)
34	7178	Industrial Supervisor, Prison Industries (Wood
35		Products)
36	2006	Janitor (Correctional Facility)
37	2005	Janitor Supervisor I (Correctional Facility)
38	2004	Janitor Supervisor II (Correctional Facility)
39	2000	Janitor Supervisor III (Correctional Facility)
40	9265	Laboratory Assistant, Correctional Facility

1	Classification	
2	Code	Classification
3	2727	Language, Speech and Hearing Specialist
4	2114	Laundry Supervisor I (Correctional Facility)
5	2111	Laundry Supervisor II (Correctional Facility)
6	2117	Laundry Worker (Correctional Facility)
7	6867	Lead Automobile Mechanic (Correctional Facility)
8	0720	Lead Groundskeeper (Correctional Facility)
9	0718	Lead Groundskeeper I (Correctional Facility)
10	2952	Librarian (Correctional Facility)
11	6643	Locksmith I (Correctional Facility)
12	6801	Machinist (Correctional Facility)
13	6941	Maintenance Mechanic (Correctional Facility)
14	6617	Mason (Correctional Facility)
15	1508	Materials and Stores Supervisor I (Correctional
16		Facility)
17	1505	Materials and Stores Supervisor II (Correctional
18		Facility)
19	8217	Medical Technical Assistant, Correctional
20		Facility
21	9273	Nurse Anesthetist, Correctional
22		Facility
23	9353	Nurse Instructor, Correctional Facility
24	9278	Nurse Practitioner, Correctional Facility
25	9280	Occupational Therapist, Correctional Facility
26	7971	Optometrist, Correctional Facility
27	6528	Painter I (Correctional Facility)
28	6524	Painter II (Correctional Facility)
29	6521	Painter III (Correctional Facility)
30	7199	Pest Control Technician (Correctional
31		Facility)
32	9281	Physical Therapist I, Correctional Facility
33	9342	Physical Therapist II, Correctional Facility
34	9269	Physician and Surgeon, Correctional Facility
35	6550	Plumber I (Correctional Facility)
36	6594	Plumber II (Correctional Facility)
37	6545	Plumber III (Correctional Facility)
38	7972	Podiatrist (Correctional Facility)
39	1575	Prison Canteen Manager I
40	1576	Prison Canteen Manager II

1	Classification	
2	Code	Classification
3	7158	Prison Industries Administrator
4	7157	Prison Industries Manager (General)
5	7164	Prison Industries Manager (Metal Products)
6	7165	Prison Industries Manager (Textile Products)
7	7163	Prison Industries Manager (Wood Products)
8	0679	Prison Industries Superintendent I (Agriculture)
9	0617	Prison Industries Superintendent II (Agriculture)
10	7217	Prison Industries Superintendent II (Bindery)
11	7109	Prison Industries Superintendent I (Coffee
12		Roasting and Grinding)
13	7203	Prison Industries Superintendent I (Dental
14		Laboratory)
15	7202	Prison Industries Superintendent II (Dental
16		Laboratory)
17	7170	Prison Industries Superintendent II (Detergent)
18	7350	Prison Industries Superintendent I (Egg
19		Production)
20	7194	Prison Industries Superintendent I (Fabric
21		Products)
22	7195	Prison Industries Superintendent II (Fabric
23		Products)
24	7351	Prison Industries Superintendent I (Fiberglass
25		Products)
26	7352	Prison Industries Superintendent I (Furniture
27		Refurbishing)
28	7209	Prison Industries Superintendent II (Knitting Mill)
29	2108	Prison Industries Superintendent II (Laundry)
30	7154	Prison Industries Superintendent II (Maintenance
31		and Repair)
32	7196	Prison Industries Superintendent II (Mattress and
33		Bedding)
34	7189	Prison Industries Superintendent I (Metal
35		Products)
36	7190	Prison Industries Superintendent II (Metal
37		Products)
38	7214	Prison Industries Superintendent II (Printing)
39	7205	Prison Industries Superintendent II (Shoe
40		Manufacturing)

1	Classification	
2	Code	Classification
3	7320	Prison Industries Superintendent I (Silkscreen)
4	7319	Prison Industries Superintendent II (Silkscreen)
5	7175	Prison Industries Superintendent I (Wood
6		Products)
7	7172	Prison Industries Superintendent II (Wood
8		Products)
9	4760	Procurement and Services Officer I (Correctional
10		Facility)
11	4761	Procurement and Services Officer II (Correctional
12		Facility)
13	7162	Product Engineering Technician, Prison Industries
14	7156	Production Manager I, Prison Industries
15	1793	Property Controller I (Correctional Facility)
16	1794	Property Controller II (Correctional Facility)
17	9282	Psychiatric Social Worker, Correctional Facility
18	9283	Psychologist—Clinical, Correctional
19		Facility
20	9284	Psychology Associate, Correctional Facility
21	9354	Psychology Internship Director, Correctional
22		Facility
23	9285	Psychometrist, Correctional Facility
24	9274	Public Health Nurse I, Correctional Facility
25	9345	Public Health Nurse II, Correctional Facility
26	7145	Quality Assurance Manager, Prison Industries
27	3080	Quality Control Technician, Prison Industries
28		(Cleaning Products)
29	9315	Radiologic Technologist, Correctional Facility
30	9286	Recreation Therapist, Correctional Facility
31	6715	Refrigeration Engineer (Correctional Facility)
32	9275	Registered Nurse, Correctional Facility
33	2734	Resource Specialist, Special Education
34	9316	Respiratory Care Practitioner, Correctional
35		Facility
36	9854	School Psychologist
37	2077	Seamer (Correctional Facility)
38	9348	Senior Clinical Laboratory Technologist,
39		Correctional Facility
40	9266	Senior Laboratory Assistant, Correctional Facility

1	Classification	
2	Code	Classification
3	2945	Senior Librarian (Correctional Facility)
4	8215	Senior Medical Technical Assistant
5	9346	Senior Occupational Therapist, Correctional
6		Facility
7	9270	Senior Psychiatrist, Correctional Facility
8		(Specialist)
9	9271	Senior Psychiatrist, Correctional Facility
10		(Supervisor)
11	9289	Senior Psychologist, Correctional Facility
12	9287	Senior Psychologist, Correctional Facility
13		(Specialist)
14	9288	Senior Psychologist, Correctional Facility
15		(Supervisor)
16	9350	Senior Radiologic Technologist, Correctional
17		Facility (Specialist)
18	9351	Senior Radiologic Technologist, Correctional
19		Facility (Supervisor)
20	7562	Sheet Metal Worker (Correctional Facility)
21	6211	Skilled Laborer (Correctional Facility)
22	9911	Social Worker, Youth Authority
23	9272	Staff Psychiatrist, Correctional Facility
24	9290	Staff Psychologist-Clinical, Correctional Facility
25	6713	Stationary Engineer (Correctional Facility)
26	6718	Stationary Engineer Apprentice (Four-Year
27		Program) (Correctional Facility)
28	6557	Steamfitter Supervisor (Correctional Facility)
29	3082	Substitute Academic Teacher (Correctional
30		Facility)
31	9349	Supervising Clinical Laboratory Technologist,
32		Correctional Facility
33	2183	Supervising Cook I (Correctional Facility)
34	2182	Supervising Cook II (Correctional Facility)
35	0716	Supervising Groundskeeper II (Correctional
36		Facility)
37	2044	Supervising Housekeeper I (Correctional Facility)
38	2940	Supervising Librarian (Correctional Facility)
39	9276	Supervising Psychiatric Nurse, Correctional
40		Facility

1	Classification	
2	Code	Classification
3	9291	Supervising Psychiatric Social Worker I, Correctional Facility
4		
5	9292	Supervising Psychiatric Social Worker II, Correctional Facility
6		
7	9317	Supervising Registered Nurse I, Correctional Facility
8		
9	9318	Supervising Registered Nurse II, Correctional Facility
10		
11	9319	Supervising Registered Nurse III, Correctional Facility
12		
13	9910	Supervising Social Worker I, Youth Authority
14	9908	Supervising Social Worker II, Youth Authority
15	2305	Supervisor of Academic Instruction (Correctional Facility)
16		
17	6763	Supervisor of Building Trades (Correctional Facility)
18		
19	2384	Supervisor of Commercial Diver Training
20	2303	Supervisor of Correctional Education Programs
21	2370	Supervisor of Vocational Instruction
22	9277	Surgical Nurse I, Correctional Facility
23	9329	Surgical Nurse II, Correctional Facility
24	3073	Teacher (Adaptive Physical Education) (Correctional Facility)
25		
26	2286	Teacher (Cerebral Palsied Children) (Correctional Facility)
27		
28	2287	Teacher (Elementary-Multiple Subjects) (Correctional Facility)
29		
30	2288	Teacher (Emotionally/Learning Handicapped) (Correctional Facility)
31		
32	3075	Teacher (English Language Development) (Correctional Facility)
33		
34	2297	Teacher (Ethnic Studies) (Correctional Facility)
35	2289	Teacher (Family Life Education) (Correctional Facility)
36		
37	2373	Teacher (Hearing Impaired) (Correctional Facility)
38		
39	2284	Teacher (High School-Arts and Crafts) (Correctional Facility)
40		

1	Classification	
2	Code	Classification
3	2285	Teacher (High School-Business Education)
4		(Correctional Facility)
5	3074	Teacher (High School-English/Language Arts)
6		(Correctional Facility)
7	3076	Teacher (High School-Foreign Language)
8		(Correctional Facility)
9	2290	Teacher (High School-General Education)
10		(Correctional Facility)
11	2291	Teacher (High School-Home Economics)
12		(Correctional Facility)
13	3077	Teacher (High School-Mathematics) (Correctional
14		Facility)
15	2294	Teacher (High School-Music) (Correctional
16		Facility)
17	2295	Teacher (High School-Physical Education)
18		(Correctional Facility)
19	3078	Teacher (High School-Science) (Correctional
20		Facility)
21	3079	Teacher (High School-Social Science)
22		(Correctional Facility)
23	2298	Teacher (Librarian) (Correctional Facility)
24	2292	Teacher (Children with Intellectual or Developmental
25		Disabilities)
26		(Correctional Facility)
27	2371	Teacher (Speech Development and Correction)
28		(Correctional Facility)
29	6400	Teaching Assistant (Correctional Facility)
30	7201	Tobacco Factory Superintendent
31	7560	Tractor Operator-Laborer (Correctional Facility)
32	6382	Truck Driver (Correctional Facility)
33	6772	Utility Shops Supervisor (Correctional Facility)
34	2387	Vocational Instructor (Airframe Mechanics)
35		(Correctional Facility)
36	2853	Vocational Instructor (Animal Husbandry)
37		(Correctional Facility)
38	2396	Vocational Instructor (Auto Body and Fender
39		Repair) (Correctional Facility)

1	Classification	
2	Code	Classification
3	2398	Vocational Instructor (Auto Mechanics)
4		(Correctional Facility)
5	2399	Vocational Instructor (Baking) (Correctional
6		Facility)
7	2400	Vocational Instructor (Bookbinding) (Correctional
8		Facility)
9	2854	Vocational Instructor (Building Maintenance)
10		(Correctional Facility)
11	2417	Vocational Instructor (Carpentry)
12		(Correctional Facility)
13	2419	Vocational Instructor (Commercial Diver
14		Training) (Correctional Facility)
15	2855	Vocational Instructor (Computer and Related
16		Technologies) (Correctional Facility)
17	2420	Vocational Instructor (Cosmetology) (Correctional
18		Facility)
19	2422	Vocational Instructor (Culinary Arts)
20		(Correctional Facility)
21	2869	Vocational Instructor (Dental Technology)
22		(Correctional Facility)
23	2856	Vocational Instructor (Diesel Mechanics)
24		(Correctional Facility)
25	2423	Vocational Instructor (Dog Grooming and
26		Handling) (Correctional Facility)
27	2425	Vocational Instructor (Drycleaning Works)
28		(Correctional Facility)
29	2857	Vocational Instructor (Drywall Installer/Taper)
30		(Correctional Facility)
31	2426	Vocational Instructor (Electrical Work)
32		(Correctional Facility)
33	2428	Vocational Instructor (Electronics) (Correctional
34		Facility)
35	2688	Vocational Instructor (Eyewear Manufacturing)
36		(Correctional Facility)
37	2429	Vocational Instructor (Fire Science) (Correctional
38		Facility)
39	2858	Vocational Instructor (Floor Cover Layer)
40		(Correctional Facility)

1	Classification	
2	Code	Classification
3	2431	Vocational Instructor (Furniture Refinishing and
4		Repair) (Correctional Facility)
5	2432	Vocational Instructor (Garment Making)
6		(Correctional Facility)
7	2433	Vocational Instructor (Heavy Equipment Repair)
8		(Correctional Facility)
9	2597	Vocational Instructor (Household Appliance
10		Repair) (Correctional Facility)
11	2598	Vocational Instructor (Industrial Arts)
12		(Correctional Facility)
13	2599	Vocational Instructor (Instrument Repair)
14		(Correctional Facility)
15	2600	Vocational Instructor (Janitorial Service)
16		(Correctional Facility)
17	2601	Vocational Instructor (Landscape Gardening)
18		(Correctional Facility)
19	2611	Vocational Instructor (Laundry Work)
20		(Correctional Facility)
21	2614	Vocational Instructor (Machine Shop
22		Practice) (Correctional Facility)
23	2615	Vocational Instructor (Masonry) (Correctional
24		Facility)
25	2619	Vocational Instructor (Meat Cutting)
26		(Correctional Facility)
27	2627	Vocational Instructor (Mechanical Drawing)
28		(Correctional Facility)
29	2628	Vocational Instructor (Merchandising)
30		(Correctional Facility)
31	2630	Vocational Instructor (Mill and Cabinet Work)
32		(Correctional Facility)
33	2674	Vocational Instructor (Office Machine Repair)
34		(Correctional Facility)
35	2849	Vocational Instructor (Office Services and Related
36		Technologies) (Correctional Facility)
37	2640	Vocational Instructor (Offset Printing)
38		(Correctional Facility)
39	2644	Vocational Instructor (Painting) (Correctional
40		Facility)

1	Classification	
2	Code	Classification
3	2645	Vocational Instructor (Plastering) (Correctional Facility)
4		
5	2661	Vocational Instructor (Plumbing) (Correctional Facility)
6		
7	2665	Vocational Instructor (Powerplant Mechanics) (Correctional Facility)
8		
9	2666	Vocational Instructor (Printing) (Correctional Facility)
10		
11	2667	Vocational Instructor (Radiologic Technology) (Correctional Facility)
12		
13	2668	Vocational Instructor (Refrigeration and Air-conditioning Repair) (Correctional Facility)
14		
15	2850	Vocational Instructor (Roofer) (Correctional Facility)
16		
17	2669	Vocational Instructor (Sewing Machine Repair) (Correctional Facility)
18		
19	2670	Vocational Instructor (Sheet Metal Work) (Correctional Facility)
20		
21	2671	Vocational Instructor (Shoemaking) (Correctional Facility)
22		
23	2672	Vocational Instructor (Silk Screening Process) (Correctional Facility)
24		
25	2851	Vocational Instructor (Small Engine Repair) (Correctional Facility)
26		
27	2673	Vocational Instructor (Storekeeping and Warehousing) (Correctional Facility)
28		
29	5415	Vocational Instructor (Telemarketing/Customer Service) (Correctional Facility)
30		
31	2675	Vocational Instructor (Upholstering) (Correctional Facility)
32		
33	2676	Vocational Instructor (Vocational Nursing) (Correctional Facility)
34		
35	2677	Vocational Instructor (Welding) (Correctional Facility)
36		
37	1504	Warehouse Manager I (Correctional Facility)
38	1502	Warehouse Manager II (Correctional Facility)
39	6221	Warehouse Worker (Correctional Facility)

1	Classification	
2	Code	Classification
3	6724	Water and Sewage Plant Supervisor
4		(Correctional Facility)
5	2311	Youth Authority Teacher
6		

7 (b) In addition, “state safety member” shall also include officers
8 and employees of the Department of Corrections and Rehabilitation
9 in any classification of Vocational Instructor, Industrial Supervisor,
10 Industrial Superintendent, Assistant Industrial Superintendent, or
11 Production Manager II (Prison Industries) that is established on
12 or after January 1, 1984, if the Department of Human Resources
13 and the State Personnel Board approve the inclusion of the
14 classification.

15 (c) “State safety member” shall also include officers and
16 employees in parenthetical specialty classes when the core class
17 has already been expressly included in the state safety membership
18 category if the Department of Human Resources and the State
19 Personnel Board approve the inclusion of the classifications. The
20 inclusion shall not be effective until notice of the inclusion has
21 been received by the board.

22 (d) Any of these officers or employees in employment on the
23 operative date of an amendment to this section and who becomes
24 a state safety member as a result of that amendment, may elect by
25 a writing filed with the board prior to 90 days after notification by
26 the board, to be restored to their previous status as a state industrial
27 member. Upon the filing of the election the member shall cease
28 to be a state safety member, and their rights and obligations shall
29 be restored prospectively and retroactively to the operative date
30 of that amendment.

31 SEC. 4. Section 1267.11 of the Health and Safety Code is
32 amended to read:

33 1267.11. Each intermediate care facility/developmentally
34 disabled-habilitative shall designate direct care staff persons to
35 supervise the direct care services to clients for at least 56 hours
36 per week. The hours of these supervisory staff persons shall be
37 applied against the total number of direct care hours required in
38 regulations developed by the department pursuant to Section
39 1267.7. These supervisory staff persons shall, at a minimum, meet
40 one of the following criteria:

1 (a) Possession of a valid vocational nurse or psychiatric
2 technician license issued by the Board of Vocational Nurse and
3 Psychiatric Technician Examiners.

4 (b) Completion of at least 30 college or university units in
5 education, social services, behavioral sciences, health sciences, or
6 related fields, and six months experience providing direct services
7 to developmentally disabled persons.

8 (c) Eighteen months experience providing direct services to
9 developmentally disabled persons while under the supervision of
10 a person who meets the requirements of a professional as defined
11 in regulations promulgated pursuant to Section 1267.7.

12 SEC. 5. Section 4509 of the Welfare and Institutions Code is
13 repealed.

14 SEC. 6. Section 14110.6 of the Welfare and Institutions Code
15 is amended to read:

16 14110.6. (a) The director shall adopt regulations, establishing
17 payment rates for nursing facilities, intermediate care
18 facilities/developmentally disabled, and intermediate care
19 facilities/developmentally disabled-habilitative as defined in
20 Section 1250 of the Health and Safety Code, which are sufficient
21 to provide an increase of one dollar and ninety-six cents (\$1.96)
22 per patient day for patients receiving skilled nursing services, one
23 dollar and fifty-eight cents (\$1.58) per patient day, for patients
24 receiving intermediate care services, two dollars and twenty-nine
25 cents (\$2.29) per patient day for intermediate care
26 facilities/developmentally disabled patients, to be used for wage
27 increases and benefits to all employees, except a licensed nursing
28 home administrator or an administrator-in-training and two dollars
29 and thirty-five cents (\$2.35) per patient day for intermediate care
30 facilities/developmentally disabled-habilitative patients in facilities
31 with 4 to 6 beds, and one dollar and ninety-eight cents (\$1.98) per
32 patient day for intermediate care facilities/developmentally
33 disabled-habilitative patients in facilities with 7 to 15 beds, to be
34 used for wage increases and benefits to all direct care staff.
35 However, if either (1) the entry level wages of the lowest paid
36 nonadministrative employee of a nursing facility, intermediate
37 care facility/developmentally disabled, or intermediate care
38 facility/developmentally disabled-habilitative, exceeds six dollars
39 (\$6) per hour as of August 1, 1984; or (2) upon the election of a
40 county board of supervisors, for any nursing facility, intermediate

1 care facility/developmentally disabled, or intermediate care
2 facility/developmentally disabled-habilitative, which is operated
3 by a county, the funds received pursuant to regulations adopted
4 pursuant to this section shall be used solely for labor costs directly
5 related to providing patient care services in order to meet patients'
6 needs including the uses of funds provided for under subdivision
7 (d) of Section 14110.7. Any increase in wages and benefits required
8 by this section shall be in addition to any future mandatory
9 increases required by federal or state law. The rate shall provide
10 funding for the portion of additional costs necessary to implement
11 the wage and benefit increase required by this section attributable
12 to Medi-Cal patients. The portion of those additional costs shall
13 be the same as the ratio of Medi-Cal patients to the total number
14 of patients in the facility. These regulations shall be adopted,
15 effective March 15, 1985, for skilled nursing facilities, intermediate
16 care facilities, and intermediate care facilities/developmentally
17 disabled, and by October 1, 1985, for intermediate care
18 facilities/developmentally disabled-habilitative. Commencing
19 October 1, 1990, these requirements shall become operative for
20 nursing facilities.

21 (b) Each nursing facility or intermediate care
22 facility/developmentally disabled, or, for the period prior to
23 October 1, 1990, each skilled nursing facility or intermediate care
24 facility, shall certify all of the following:

25 (1) All employees, except a licensed nursing home administrator
26 or an administrator-in-training of a licensed nursing home, shall
27 receive at least the prevailing federal or state minimum wage rate
28 plus the average hourly wage increase established pursuant to
29 Chapter 19 of the Statutes of 1978, and this section.

30 (2) All employees of the facility, except a licensed administrator
31 or administrator-in-training, shall be paid not less than the sum of
32 the employee's actual rate of pay as of the effective date of the
33 Medi-Cal rate increase provided for under Section 14110.7 plus
34 the amount of the adjustment specified pursuant to this section, or
35 not less than the applicable agreed to rate plus the amount of the
36 adjustment, whichever is greater.

37 (3) Any wage increase required pursuant to Section 1268.5 of
38 the Health and Safety Code, is in addition to any minimum wages
39 provided in this section.

1 (4) For purposes of determining the amount of Medi-Cal funds
 2 to be distributed for employee wages and benefits, the total
 3 Medi-Cal patient days recorded by the facility in the month of
 4 December 1983 shall be multiplied by the amount per patient day
 5 specified in subdivision (a) plus the amount provided by Chapter
 6 19 of the Statutes of 1978. The new wage levels shall be
 7 determined by dividing the Medi-Cal funds received by the
 8 nonovertime hours worked by covered employees in December
 9 1983, plus any adjustments due to additional employees as
 10 specified in Section 14110.7 and adjustments to reflect employee
 11 benefit allowances.

12 (c) Each intermediate care facility/developmentally
 13 disabled-habilitative shall certify all of the following:

14 (1) All direct care staff, as defined in the department's
 15 regulations developed pursuant to Section 1267.7 of the Health
 16 and Safety Code, shall receive at least the prevailing federal or
 17 state minimum wage plus the average hourly wage increase
 18 pursuant to this section.

19 (2) For purposes of determining the amount of Medi-Cal funds
 20 to be distributed for intermediate care facilities/developmentally
 21 disabled-habilitative for employee wages and benefits, the total
 22 Medi-Cal patient days in the month of December 1984, shall be
 23 multiplied by the amount per patient day specified in subdivision
 24 (a). The new wage level shall be determined by dividing the
 25 Medi-Cal funds received by the nonovertime hours by covered
 26 direct care employees in December 1984, and adjustments to reflect
 27 employee benefit allowances.

28 (d) The director shall order the inspection of relevant payroll
 29 and personnel records of facilities which are reimbursed for
 30 Medi-Cal patients under the rate of reimbursement established
 31 pursuant to subdivision (a) to ensure that the wage and benefit
 32 increases provided for have been implemented.

33 (e) The department shall, commencing August 1, 1999, increase
 34 the Medi-Cal reimbursement for level A and level B nursing
 35 facilities solely to provide funds for salaries, wages, and benefits
 36 increases for direct care staff. For the purposes of this subdivision,
 37 "direct care staff" means registered nurses, licensed vocational
 38 nurses, and nurse assistants, who provide direct patient care. The
 39 amount of funds to be provided to each level A and level B facility
 40 pursuant to this subdivision shall be calculated on a per-patient-day

1 basis, and shall be added to the per diem rate paid to each facility.
2 The amount of funds provided under this subdivision to each
3 nursing facility peer group shall be published in a Medi-Cal
4 provider bulletin. Level A and level B facilities shall compensate
5 their registered nurses, licensed vocational nurses, and nurse
6 assistants that portion of the rate increase provided under this
7 subdivision in the form of salaries, wages, and benefits increases
8 for their direct care staff. The total amount to be passed through
9 by each facility shall be the per diem amount received by the
10 facility pursuant to this subdivision times the facility's number of
11 Medi-Cal patient days.

12 (f) Subject to an appropriation for this purpose in the Budget
13 Act of 2000, in addition to the increase specified in subdivision
14 (e), the department shall, commencing August 1, 2000, increase
15 the Medi-Cal reimbursement rate for nursing facilities, intermediate
16 care facilities/developmentally disabled, intermediate care
17 facilities/developmentally disabled-habilitative, and intermediate
18 care facilities/developmentally disabled-nursing solely to provide
19 funds for salaries, wages, and benefits increases for direct care
20 staff and other staff, subject to all of the following:

21 (1) For purposes of this subdivision, "direct care staff in nursing
22 facilities" means the following:

23 (A) Registered nurses and licensed vocational nurses, when
24 employed in the performance of direct care to patients.

25 (B) Employees in the nurse assistant classification employed
26 in the performance of direct care to patients at a freestanding or
27 distinct-part nursing facility, including job titles such as nursing
28 aide, aide, practical nurse, orderly, nurse assistant, and certified
29 nurse assistant.

30 (C) Employees performing respiratory therapy services for
31 Medi-Cal pediatric subacute patients, including job titles such as
32 respiratory care practitioner, respiratory technician, respiratory
33 therapist inhalation technician, and inhalation therapist.

34 (2) For purposes of this subdivision, "direct care staff in
35 intermediate care facilities/developmentally disabled, intermediate
36 care facilities/developmentally disabled-habilitative, and
37 intermediate care facilities/developmentally disabled-nursing"
38 means all of the following:

39 (A) A qualified intellectual disability professional employed in
40 the performance of direct care to patients.

1 (B) Lead personnel employed in the performance of direct care
2 to patients. Lead personnel described in this subparagraph shall
3 not be considered to be supervisory.

4 (C) Employees in the nurse assistant classification employed
5 in the performance of direct care to patients at a freestanding or
6 distinct-part nursing facility, including job titles such as nurse
7 assistants and aides.

8 (D) Other nonsupervisory staff providing direct patient care.

9 (E) Registered nurses and licensed vocational nurses, if
10 employed in the performance of direct care to patients.

11 (3) For purposes of paragraphs (1) and (2), “direct care staff”
12 shall not include registered nurses or other personnel performing
13 supervisory functions or housekeeping or maintenance staff in any
14 facility.

15 (4) For purposes of this subdivision, “other staff” means all of
16 the following personnel:

17 (A) Linen and laundry staff.

18 (B) Plant operations and maintenance staff.

19 (C) Housekeeping staff.

20 (D) Dietary staff.

21 (5) (A) The amount of funds to be provided to each facility
22 pursuant to this subdivision shall be added to the per diem rate
23 paid to each facility on a per-patient-day basis.

24 (B) The per diem amount of funds provided to each facility type
25 and peer group pursuant to this subdivision shall be published in
26 a Medi-Cal provider bulletin. Nursing facilities that are part of an
27 acute care hospital and subacute facilities shall be notified of their
28 per diem amount provided pursuant to this subdivision in a separate
29 letter to each facility.

30 (6) (A) Facilities receiving funds pursuant to this subdivision
31 shall compensate staff that portion of the rate increase provided
32 pursuant to this subdivision in the form of salaries, wages, and
33 benefits increases. The total amount to be passed through pursuant
34 to this subdivision by each facility shall be the per diem amount
35 received by the facility pursuant to this subdivision multiplied by
36 the facility’s number of Medi-Cal patient days.

37 (B) Each direct care and other staff employee classification shall
38 receive a portion of the rate increase provided pursuant to this
39 subdivision in the form of an increase in salary, wage, and benefits.

1 The facility may allocate the amounts that each classification may
2 receive, but the amount shall not be nominal or zero.

3 (C) Funds passed through pursuant to this subdivision for
4 purposes of salary, wages, or benefits increases may not be used
5 for any salary, wage, or benefit increase that were committed to
6 by a facility prior to August 1, 2000, nor may these funds be used
7 for any salaries, wages, or benefits that the facility would have
8 paid in the absence of this subdivision.

9 (D) Funds passed through pursuant to this subdivision for
10 purposes of salary, wages, or benefits increases may not be
11 distributed to direct care and other staff in the form of bonuses.
12 These funds may, however, be used to provide retroactive pay
13 increases if those wage increases also increase the employee's
14 base salary rate.

15 (7) The base from which direct care and other staff salaries,
16 wages, and benefits shall be increased shall be the aggregate per
17 hour salaries, wages, and benefits for the period of August 1, 1999,
18 to July 31, 2000, inclusive.

19 (8) The department may inspect relevant payroll and personnel
20 records of facilities receiving funds pursuant to this subdivision
21 in order to ensure that the salary, wage, and benefit increases
22 provided for pursuant to this subdivision have been implemented.

23 (9) Each facility receiving funds from the department, or from
24 a county organized health system described in paragraph (10)
25 pursuant to this subdivision shall certify on the form provided by
26 the department that these funds were expended for increased direct
27 care and other staff salary, wages, and benefits increases in
28 accordance with this subdivision. The facility shall return the form
29 to the department by October 1, 2001. The facility shall submit a
30 copy of the completed form to all collective bargaining agents with
31 whom the facility has collective bargaining agreements for direct
32 care and other staff at the facility.

33 (10) County organized health systems contracting with the
34 department pursuant to Article 2.8 (commencing with Section
35 14087.5) and Article 7 (commencing with Section 14490) of
36 Chapter 8 shall certify to the department, in a manner to be
37 specified by the department, that the August 1, 2000, wage
38 pass-through funds, received pursuant to this section in the form
39 of capitated rate payments, were passed through to the facilities
40 described in this subdivision.

1 (g) Any facility which is paid under the rate provided for in
 2 subdivision (a), (e), or (f) which the director finds has not made
 3 the wage and benefit increases provided for shall be liable for the
 4 amount of funds paid to the facility based upon the wage and
 5 benefit requirements provided for by this section but not distributed
 6 to employees for wages and benefits, plus a penalty equal to 10
 7 percent of the funds not so distributed. The facility shall be subject
 8 to Section 14107.

9 *SEC. 7. Section 19008.5 of the Welfare and Institutions Code*
 10 *is amended to read:*

11 19008.5. (a) The department is authorized to solicit and accept
 12 gifts, contributions, and grants from any source, public or private,
 13 to establish, implement, and maintain an awards program.

14 (b) (1) There is hereby established the Public Awards Fund,
 15 which is continuously appropriated, without regard to fiscal years,
 16 for the purpose of this section.

17 (2) The director may receive contributions pursuant to this
 18 section and deposit them in the Public Awards Fund for use
 19 pursuant to subdivision (c).

20 (3) Sections 11005 and 16302 of the Government Code shall
 21 not apply to funds under this section.

22 (c) In order to achieve the public policy of the State of
 23 California, as specified in Section 19000, the director may present
 24 awards to those employers, architects, clients, ex-clients, ~~disabled~~
 25 Californians *with disabilities* nominated or selected for the Hall
 26 of Fame, and other persons whose superior cooperation and
 27 contributions to the employment of ~~the handicapped persons with~~
 28 *disabilities* deserve special recognition.

29 *SEC. 8. Section 19502 of the Welfare and Institutions Code is*
 30 *amended to read:*

31 19502. Orientation centers shall provide for short periods of
 32 intensive personal and prevocational orientation for blind persons,
 33 and for specific vocational training. The program of orientation
 34 centers shall include such training as techniques of daily living,
 35 techniques of travel, physical conditioning, sensory training,
 36 instruction in braille, instruction in skills for ~~the handicapped,~~
 37 *persons with disabilities*, typing, and business principles and
 38 methods, and shall provide for social and vocational diagnostic
 39 testing and individual counseling.

1 *SEC. 9. Section 19503 of the Welfare and Institutions Code is*
2 *amended to read:*

3 19503. The Director of Rehabilitation shall appoint an
4 administrator for each orientation center for the blind who shall
5 administer and supervise the program at the center in accordance
6 with this article and under the supervision of the Director of
7 Rehabilitation. The administrator of each orientation center for
8 the blind shall be either a sighted or visually ~~handicapped~~ *impaired*
9 person and shall have all of the following minimum qualifications:

10 (a) Four years of full time, paid experience working in a program
11 for the education or rehabilitation of adults who are legally blind,
12 with emphasis on nonvisual living techniques, including, but not
13 limited to, daily living, mobility, and communication skills. At
14 least two years' experience shall have been in a supervisory or
15 administrative capacity.

16 (b) Proficiency in Braille as a second language.

17 (c) Education equivalent to graduation from college with a
18 bachelor's degree. Additional qualifying experience may be
19 substituted on a year-for-year basis.

20 *SEC. 10. Section 19504 of the Welfare and Institutions Code*
21 *is amended to read:*

22 19504. The staff of an orientation center shall be composed of
23 persons trained to assist blind persons in achieving social and
24 economic independence, and whose qualifications include
25 successful experience in teaching blind persons. The staff shall
26 include as large a proportion as is practicable of visually
27 ~~handicapped~~ *impaired* persons who have achieved outstanding
28 success in adjustment to their ~~handicap~~ *disability*.

29 *SEC. 11. Section 19725 of the Welfare and Institutions Code*
30 *is amended to read:*

31 19725. (a) For the purpose of providing self-employment
32 opportunities for ~~those severely handicapped~~ *clients with severe*
33 *disabilities* of the Department of Rehabilitation who are determined
34 by the department to be eligible for such a program, the authorized
35 officials of any county, city, city and county, or other political
36 subdivision of the state may enter into appropriate written
37 agreements with the Department of Rehabilitation providing for
38 the installation and operation of business facilities on property
39 owned or occupied by the various political subdivisions. The
40 Business Development Services Section of the Department of

1 Rehabilitation shall supervise the operation of such facilities. The
2 department shall promulgate rules and regulations relating to the
3 establishment and operation of the business facilities.

4 (b) For the purpose of this section, business facilities shall not
5 include vending stands or food service facilities authorized by the
6 Business Enterprise for the Blind Program established by Article
7 5 (commencing with Section 19625) of Chapter 6 of Part 2 of
8 Division 10 of the Welfare and Institutions Code, and nothing in
9 this section shall be construed to affect in any way the Business
10 Enterprises for the Blind Program.

O

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(2) - AB 665 (Carrillo) Minor: consent to mental health services

Background

AB 665 (Carrillo) was introduced on February 13, 2023.

This bill would allow a minor who is 12 years of age or older to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if the minor is mature enough to participate intelligently in the outpatient services or residential shelter services, and without having to present a danger of serious physical or mental harm to themselves or to others, or if the minor is the alleged victim of incest or child abuse.

The bill would align the existing laws by removing the additional requirement that, in order to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, the minor must present a danger of serious physical or mental harm to themselves or to others or be the alleged victim of incest or child abuse.

On March 28, 2023, the bill passed the Assembly Committee on Judiciary.

On April 10, 2023, the bill passed the Assembly Floor, and was ordered to the Senate.

On May 3, 2023, the bill was referred to the Committee on Judiciary.

Board of Psychology staff is continuing to monitor the bill for additional amendments.

Action Requested

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

Attachment 1: AB 665 (Carrillo) Bill Text

ASSEMBLY BILL

No. 665

Introduced by Assembly Member Wendy Carrillo
(Principal coauthor: Senator Wiener)

February 13, 2023

An act to amend Section 6924 of the Family Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 665, as introduced, Wendy Carrillo. Minors: consent to mental health services.

Existing law, for some purposes, authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if the minor is mature enough to participate intelligently in the outpatient services or residential shelter services, as specified, and either the minor would present a danger of serious physical or mental harm to themselves or to others or if the minor is the alleged victim of incest or child abuse. For other purposes, existing law authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling services if the minor is mature enough to participate intelligently in the outpatient services or counseling services.

This bill would align the existing laws by removing the additional requirement that, in order to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, the minor must present a danger of serious physical or mental harm to themselves or to others, or be the alleged victim of incest or child abuse.

Existing law, for some purposes, requires that the mental health treatment or counseling include involvement of the minor's parent or guardian unless the professional person treating or counseling the minor

determines that the involvement would be inappropriate. For other purposes, existing law requires the involvement of the parent or guardian unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate.

This bill would also align the existing laws by requiring the professional person treating or counseling the minor to consult with the minor before determining whether involvement of the minor’s parent or guardian would be inappropriate.

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

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

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

3 (a) California is failing on children’s mental health and
 4 preventive care. According to the most recent Commonwealth
 5 Fund Scorecard on State Health System Performance, our state
 6 ranks 48th in the nation for providing children with needed mental
 7 health care.

8 (b) Roughly one-half of California’s children are covered by
 9 Medi-Cal, the vast majority of whom are Black and children of
 10 color.

11 (c) Less than 19 percent of low-income teenagers on Medi-Cal
 12 received screenings for depression and a followup plan in 2020.
 13 This is despite the reality that nearly one in three adolescents in
 14 California reported symptoms that meet the criteria for serious
 15 psychological distress.

16 (d) Less than 9 percent of Indigenous youth on Medi-Cal
 17 received a screening and plan, the lowest of any racial or ethnic
 18 group.

19 (e) Despite an overall decrease in the suicide rate in California,
 20 in 2020, youth, particularly Black and Latinx youth, and girls all
 21 showed disproportionate increases in suicide. A shocking 78
 22 percent of LGBTQ+ youth who were surveyed shared they had
 23 considered suicide, with the vast majority of those who had
 24 considered suicide sharing they had done so in the last year, and
 25 nearly one-third had made an attempt in the past year.

1 (f) Seeking care for mental health issues is complicated by
2 pervasive social stigma and centuries of systemic oppression by
3 government programs that create legitimate fears for families to
4 engage in services.

5 (g) Youth, especially youth of color, express significant
6 trepidation about needing to disclose to parents their mental health
7 concerns and their need to access services. Without access to a
8 trained professional, youth report they turn to mostly free resources
9 of mixed quality that they access without parental intervention or
10 adult assistance, such as social media accounts and online videos.

11 (h) For LGBTQ+ youth, the rejection from parents, harassment
12 in school, and the overall LGBTQ negativity present in society
13 can lead to depression, anxiety, drug and alcohol use, and other
14 negative outcomes. Over one-half of surveyed LGBTQ+ youth
15 reported that not being able to get permission from their parents
16 or guardians was sometimes or always a barrier to accessing mental
17 health services.

18 (i) Providers, particularly school-based providers, find that
19 obtaining parental consent for a youth who needs support is
20 complicated by the parent or caretakers' beliefs and stigma about
21 mental health care.

22 (j) Most states allow youth under 18 years of age to consent to
23 receiving mental health care on their own.

24 (k) In California, existing law in both Section 124260 of the
25 Health and Safety Code and the Section 6924 of the Family Code
26 establishes that a minor who is 12 years of age or older may
27 consent to mental health treatment or counseling on an outpatient
28 basis, or to residential shelter services, if the minor is mature
29 enough to participate intelligently in the outpatient services or
30 residential shelter services; however, such services cannot be billed
31 to Medi-Cal.

32 (l) Existing law in the Family Code authorizes providers to bill
33 Medi-Cal if the above requirements are met and either the minor
34 would present a danger of serious physical or mental harm to
35 themselves or to others, or the minor is the alleged victim of incest
36 or child abuse.

37 (m) Two laws with different standards are challenging for
38 providers to implement and challenging for youth and families to
39 understand, creating a chilling effect on their willingness to seek
40 out care.

1 (n) This fundamentally inequitable policy is ultimately at odds
2 with the state’s commitment to racial, ethnic, and health equity as
3 demonstrated through ongoing efforts of the Children and Youth
4 Behavioral Health Initiative and CalAIM, which are state efforts
5 to advance the goal of greater early intervention to address the
6 mental health needs of youth.

7 (o) Requiring young people from low-income families to delay
8 sensitive treatment until they are in serious distress places youth
9 at unnecessary risk of not seeking care, increasing the likelihood
10 of suicide, self-harm, or substance overdose, and contributing to
11 the alarming disparities in mental health outcomes for youth from
12 marginalized communities.

13 SEC. 2. Section 6924 of the Family Code is amended to read:
14 6924. (a) As used in this section:

15 (1) “Mental health treatment or counseling services” means the
16 provision of mental health treatment or counseling on an outpatient
17 basis by any of the following:

18 (A) A governmental agency.

19 (B) A person or agency having a contract with a governmental
20 agency to provide the services.

21 (C) An agency that receives funding from community united
22 funds.

23 (D) A runaway house or crisis resolution center.

24 (E) A professional person, as defined in paragraph (2).

25 (2) “Professional person” means any of the following:

26 (A) A person designated as a mental health professional in
27 Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of
28 Chapter 1 of Title 9 of the California Code of Regulations.

29 (B) A marriage and family therapist as defined in Chapter 13
30 (commencing with Section 4980) of Division 2 of the Business
31 and Professions Code.

32 (C) A licensed educational psychologist as defined in Article 5
33 (commencing with Section 4986) of Chapter 13 of Division 2 of
34 the Business and Professions Code.

35 (D) A credentialed school psychologist as described in Section
36 49424 of the Education Code.

37 (E) A clinical psychologist as defined in Section 1316.5 of the
38 Health and Safety Code.

39 (F) The chief administrator of an agency referred to in paragraph
40 (1) or (3).

1 (G) A person registered as an associate marriage and family
2 therapist, as defined in Chapter 13 (commencing with Section
3 4980) of Division 2 of the Business and Professions Code, while
4 working under the supervision of a licensed professional specified
5 in subdivision (g) of Section 4980.03 of the Business and
6 Professions Code.

7 (H) A licensed professional clinical counselor, as defined in
8 Chapter 16 (commencing with Section 4999.10) of Division 2 of
9 the Business and Professions Code.

10 (I) A person registered as an associate professional clinical
11 counselor, as defined in Chapter 16 (commencing with Section
12 4999.10) of Division 2 of the Business and Professions Code, while
13 working under the supervision of a licensed professional specified
14 in subdivision (h) of Section 4999.12 of the Business and
15 Professions Code.

16 (3) “Residential shelter services” means any of the following:

17 (A) The provision of residential and other support services to
18 minors on a temporary or emergency basis in a facility that services
19 only minors by a governmental agency, a person or agency having
20 a contract with a governmental agency to provide these services,
21 an agency that receives funding from community funds, or a
22 licensed community care facility or crisis resolution center.

23 (B) The provision of other support services on a temporary or
24 emergency basis by any professional person as defined in paragraph
25 (2).

26 (b) A minor who is 12 years of age or older may consent to
27 mental health treatment or counseling on an outpatient basis, or
28 to residential shelter services, if ~~both of the following requirements~~
29 ~~are satisfied:~~

30 ~~(1) The *the* minor, in the opinion of the attending professional~~
31 ~~person, is mature enough to participate intelligently in the~~
32 ~~outpatient services or residential shelter services.~~

33 ~~(2) The minor (A) would present a danger of serious physical~~
34 ~~or mental harm to self or to others without the mental health~~
35 ~~treatment or counseling or residential shelter services, or (B) is~~
36 ~~the alleged victim of incest or child abuse.~~

37 (c) A professional person offering residential shelter services,
38 whether as an individual or as a representative of an entity specified
39 in paragraph (3) of subdivision (a), shall make their best efforts to
40 notify the parent or guardian of the provision of services.

1 (d) The mental health treatment or counseling of a minor
 2 authorized by this section shall include involvement of the minor’s
 3 parent or guardian unless, ~~in the opinion of the professional person~~
 4 ~~who is treating or counseling the minor, the professional person~~
 5 *who is treating or counseling the minor, after consulting with the*
 6 *minor, determines that* the involvement would be inappropriate.
 7 The professional person who is treating or counseling the minor
 8 shall state in the client record whether and when the person
 9 attempted to contact the minor’s parent or guardian, and whether
 10 the attempt to contact was successful or unsuccessful, or the reason
 11 why, in the professional person’s opinion, it would be inappropriate
 12 to contact the minor’s parent or guardian.

13 (e) The minor’s parents or guardian are not liable for payment
 14 for mental health treatment or counseling services provided
 15 pursuant to this section unless the parent or guardian participates
 16 in the mental health treatment or counseling, and then only for
 17 services rendered with the participation of the parent or guardian.
 18 The minor’s parents or guardian are not liable for payment for any
 19 residential shelter services provided pursuant to this section unless
 20 the parent or guardian consented to the provision of those services.

21 (f) This section does not authorize a minor to receive convulsive
 22 therapy or psychosurgery as defined in subdivisions (f) and (g) of
 23 Section 5325 of the Welfare and Institutions Code, or psychotropic
 24 drugs without the consent of the minor’s parent or guardian.

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 26
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REVISIONS:
Heading—Line 2.

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(3) - AB 1163 (Rivas) State Forms: gender identity

Background

AB 1163 (Rivas) was introduced on February 16, 2023.

This bill would amend the Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act to require the following additional state entities to collect voluntary self-identification information pertaining to sexual orientation and gender identity.

The state agencies include:

- The Business, Consumer Services, and Housing Agency
- The California Health and Human Services Agency
- The Department of Housing and Community Development
- The California Commission on Disability Access.

This bill requires, by July 1, 2025, the specified state agencies to revise their public use forms that collect demographic data be inclusive of individuals who identify as transgender, gender non-conforming, or intersex.

On April 19, 2023, the bill passed the Assembly Committee on Accountability and Administrative Review.

On May 18, 2023, the bill passed the Assembly Committee on Appropriations.

Board of Psychology staff is continuing to monitor the bill for additional amendments.

Action Requested

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

Attachment 1: AB 1163 (Rivas) Bill Text

AMENDED IN ASSEMBLY MAY 18, 2023

AMENDED IN ASSEMBLY MARCH 20, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1163

Introduced by Assembly Member Luz Rivas

February 16, 2023

An act to ~~add Section 14776 to amend Section 8310.8 of the Government Code, relating to state government administration: data collection.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1163, as amended, Luz Rivas. ~~State forms: gender identity: Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act.~~

Existing law, The Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act, requires prescribed state entities, including the State Department of Health Care Services and the Civil Rights Department, in the course of collecting demographic data directly or by contract as to the ancestry or ethnic origin of Californians, to collect voluntary self-identification information pertaining to sexual orientation and gender identity, except as specified. Existing law prohibits these state entities from reporting demographic data that would permit identification of individuals or would result in statistical unreliability and limits the use of the collected data by those entities, as specified. Existing law requires these state entities to report to the Legislature specified information related to the data and make the data available to the public, except for personally identifiable information, which existing law deems confidential and prohibits disclosure of that information.

This bill would impose the provisions of the above-described act on the Business, Consumer Services, and Housing Agency, the California Health and Human Services Agency, the Department of Housing and Community Development, and the California Commission on Disability Access, and would require these state entities to comply with the bill’s provisions as early as possible following the effective date of this bill, but no later than July 1, 2025.

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

This bill would make legislative findings to that effect.

~~Existing law requires the Director of General Services to establish and staff within the Department of General Services the forms management center for the orderly design, implementation, and maintenance of a statewide forms management program. Existing law requires each state agency to appoint a forms management representative and provide necessary assistance to implement the program within the agency.~~

~~This bill would require specified state agencies and departments to revise their public-use forms, by January 1, 2025, to be more inclusive of individuals who identify as transgender, gender nonconforming, or intersex. This bill would require the agencies to revise their forms to allow individuals to provide their accurate gender identification. This bill would also require the impacted agencies and departments to collect data pertaining to the specific needs of the transgender, gender nonconforming, or intersex community, including, but not limited to, information relating to medical care, mental health disparities, and population size.~~

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

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

- 1 SECTION 1. Section 8310.8 of the Government Code is
- 2 amended to read:
- 3 8310.8. (a) (1) This section shall only apply to the following
- 4 state entities:
- 5 (A) The State Department of Health Care Services.

- 1 (B) The State Department of Public Health.
- 2 (C) The State Department of Social Services.
- 3 (D) The California Department of Aging.
- 4 (E) The State Department of Education and the Superintendent
- 5 of Public Instruction, except this section shall not apply to the
- 6 California Longitudinal Pupil Achievement Data System
- 7 (CALPADS).
- 8 (F) The Commission on Teacher Credentialing.
- 9 (G) The Civil Rights Department.
- 10 (H) The Labor and Workforce Development Agency.
- 11 (I) The Department of Industrial Relations.
- 12 (J) The Employment Training Panel.
- 13 (K) The Employment Development Department, except this
- 14 section shall not apply to the unemployment insurance program
- 15 within the department.
- 16 (L) *The Business, Consumer Services, and Housing Agency.*
- 17 (M) *The California Health and Human Services Agency.*
- 18 (N) *The Department of Housing and Community Development.*
- 19 (O) *The California Commission on Disability Access.*
- 20 (2) This section shall be known and may be cited as the Lesbian,
- 21 Gay, Bisexual, and Transgender Disparities Reduction Act.
- 22 (b) (1) Except as specified in paragraph (2), in addition to the
- 23 duties imposed by Section 8310.5 and to the extent permissible
- 24 by federal law, the state entities identified in subdivision (a), in
- 25 the course of collecting demographic data directly or by contract
- 26 as to the ancestry or ethnic origin of Californians, shall collect
- 27 voluntary self-identification information pertaining to sexual
- 28 orientation and gender identity.
- 29 (2) The state entities identified in subdivision (a) may, but are
- 30 not required to, collect demographic data pursuant to this section
- 31 under either of the following circumstances:
- 32 (A) Pursuant to federal programs or surveys, whereby the
- 33 guidelines for demographic data collection categories are defined
- 34 by the federal program or survey.
- 35 (B) Demographic data is collected by other entities including:
- 36 (i) State offices, departments, and agencies not included in
- 37 subdivision (a).
- 38 (ii) Surveys administered by third-party entities and the state
- 39 department is not the sole funder.

1 (iii) Third-party entities, including, but not limited to, private
2 employers, that provide aggregated data to a state department.

3 (c) (1) The state entities identified in subdivision (a) shall report
4 to the Legislature the data collected pursuant to this section and
5 the method used to collect that data, and make the data available
6 to the public in accordance with state and federal law, except for
7 personal identifying information, which shall be deemed
8 confidential and shall not be disclosed.

9 (2) The state entities identified in subdivision (a) shall not report
10 demographic data that would permit identification of individuals
11 or would result in statistical unreliability. Demographic reports on
12 data collected pursuant to this section, to prevent identification of
13 individuals, may aggregate categories at a state, county, city, census
14 tract, or ZIP Code level to facilitate comparisons and identify
15 disparities.

16 (3) The state entities identified in subdivision (a) may use
17 information voluntarily provided about sexual orientation and
18 gender identity only for demographic analysis, coordination of
19 care, quality improvement of its services, conducting approved
20 research, fulfilling reporting requirements, and guiding policy or
21 funding decisions. All information about sexual orientation and
22 gender identity collected pursuant to this section shall be used only
23 for purposes specified in this section.

24 (d) The state entities identified in subparagraphs (A) to (D),
25 inclusive, of paragraph (1) of subdivision (a) shall comply with
26 the requirements of this section as early as possible following the
27 effective date of this section, but no later than July 1, 2018.

28 (e) The state entities identified in subparagraphs (E) to (K),
29 inclusive, of paragraph (1) of subdivision (a) shall comply with
30 the requirements of this section as early as possible following the
31 effective date of this section, but no later than July 1, 2019.

32 (f) *The state entities identified in subparagraphs (L) to (O),
33 inclusive, of paragraph (1) of subdivision (a) shall comply with
34 the requirements of this section as early as possible following the
35 effective date of this section, but no later than July 1, 2025.*

36 *SEC. 2. The Legislature finds and declares that Section 1 of
37 this act, which amends Section 8310.8 of the Government Code,
38 imposes a limitation on the public's right of access to the meetings
39 of public bodies or the writings of public officials and agencies
40 within the meaning of Section 3 of Article I of the California*

1 *Constitution. Pursuant to that constitutional provision, the*
2 *Legislature makes the following findings to demonstrate the interest*
3 *protected by this limitation and the need for protecting that*
4 *interest:*

5 *Due to the sensitive general nature of data relating to sexual*
6 *orientation and gender identity and the need to protect the safety*
7 *of those who would provide voluntary self-identification*
8 *information pertaining to their sexual orientation and gender*
9 *identity, it is necessary to prohibit the public disclosure of personal*
10 *identifying information that would allow the identification of an*
11 *individual who provided voluntary self-identification information*
12 *pertaining to sexual orientation and gender identity.*

13 ~~SECTION 1. Section 14776 is added to the Government Code,~~
14 ~~to read:~~

15 ~~14776. (a) Notwithstanding Section 11000, for purposes of~~
16 ~~this section, “agency” means the following:~~

- 17 ~~(1) Business, Consumer Services, and Housing Agency.~~
- 18 ~~(2) Department of Aging.~~
- 19 ~~(3) California Health and Human Services Agency.~~
- 20 ~~(4) State Department of Health Care Services.~~
- 21 ~~(5) Labor and Workforce Development Agency.~~
- 22 ~~(6) Department of Housing and Community Development.~~
- 23 ~~(7) State Department of Social Services.~~
- 24 ~~(8) Civil Rights Department.~~
- 25 ~~(9) California Commission on Disability Access.~~

26 ~~(b) No later than January 1, 2025, each agency shall update its~~
27 ~~public-use forms that collect demographic data to be inclusive of~~
28 ~~individuals who identify as transgender, gender nonconforming,~~
29 ~~or intersex and allow an individual to identify on the form as male,~~
30 ~~female, transgender, gender noneonforming, intersex, or nonbinary.~~

31 ~~(c) Each agency shall collect data pertaining to the specific~~
32 ~~needs of the transgender, gender noneonforming, or intersex~~
33 ~~community, including, but not limited to, information relating to~~
34 ~~medical care, mental health disparities, and population size.~~

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(4) - AB 1707 (Pacheco) Health professions and facilities: adverse actions based on another state's law

Background

AB 1707 (Pacheco) was introduced on February 17, 2023.

This bill would protect health care professionals, clinics, and health facilities from being denied a license or subjected to discipline from Healing Arts boards under the Department of Consumer Affairs, on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state based solely on the application of a law that interferes with a person's right to receive "sensitive services" that would be lawful in California.

"Sensitive Services" is defined as all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence.

The bill specifies that, the bill does not apply to any judgment, criminal conviction, or disciplinary action imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under provisions of California law.

Existing law prohibits the Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Board from denying an application for licensure or suspending, revoking, or otherwise imposing discipline upon a licensee because the person was disciplined in another state in which they are licensed solely for performing an abortion in that

state or because the person was convicted in another state for an offense related solely to performing an abortion in that state.

On April 11, 2023, the bill passed the Assembly Committee on Business and Professions.

On April 18, 2023, the bill passed the Assembly Committee on Judiciary.

On May 10, 2023, the bill passed the Assembly Committee on Appropriations.

On May 22, 2023, the bill was ordered to the Senate.

Board of Psychology staff is continuing to monitor the bill for additional amendments.

Action Requested

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

Attachment 1: AB 1707 (Pacheco) Bill Text

AMENDED IN ASSEMBLY APRIL 12, 2023

AMENDED IN ASSEMBLY MARCH 16, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1707

Introduced by Assembly Member Pacheco

February 17, 2023

An act to add Sections 805.9 and 850.1 to the Business and Professions Code, and to add Sections 1220.1 and 1265.11 to the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1707, as amended, Pacheco. Health professionals and facilities: adverse actions based on another state's law.

Existing law establishes various boards within the Department of Consumer Affairs to license and regulate various health professionals. Existing law prohibits the Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Board from denying an application for licensure or suspending, revoking, or otherwise imposing discipline upon a licensee because the person was disciplined in another state in which they are licensed solely for performing an abortion in that state or because the person was convicted in another state for an offense related solely to performing an abortion in that state.

Existing law provides for the licensure of clinics and health facilities by the Licensing and Certification Division of the State Department of Public Health. Existing law makes a violation of these provisions punishable as a misdemeanor, except as specified.

This bill would prohibit a healing arts board under the Department of Consumer Affairs from denying an application for a license or imposing discipline upon a licensee ~~solely~~ on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that is based on the application of another state’s law that interferes with a person’s right to receive ~~care~~ *sensitive services, as defined*, that would be lawful in this state. The bill would similarly prohibit a health facility from denying staff privileges to, removing from medical staff, or restricting the staff privileges of a licensed health professional ~~solely~~ on the basis of such a civil judgment, criminal conviction, or disciplinary action imposed by another state. The bill also would also prohibit the denial, suspension, revocation, or limitation of a clinic or health facility license ~~solely~~ on the basis of those types of civil judgments, criminal convictions, or disciplinary actions imposed by another state. The bill would exempt from the above-specified provisions a civil judgment, criminal conviction, or disciplinary action imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of this state. By imposing new prohibitions under the provisions related to clinics and health facilities, the violation of which is a crime, this bill would impose a state-mandated local program.

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

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

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

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

- 1 SECTION 1. Section 805.9 is added to the Business and
- 2 Professions Code, to read:
- 3 805.9. (a) A health facility licensed pursuant to Chapter 2
- 4 (commencing with Section 1250) of Division 2 of the Health and
- 5 Safety Code shall not deny staff privileges to, remove from medical
- 6 staff, or restrict the staff privileges ~~of,~~ *of* a person licensed by a
- 7 healing arts board in this state ~~solely~~ on the basis of a civil
- 8 judgment, criminal conviction, or disciplinary action imposed by
- 9 another state if that judgment, conviction, or disciplinary action

1 is based solely on the application of another state’s law that
2 interferes with a person’s right to receive ~~care~~ *sensitive services*
3 that would be lawful if provided in this state.

4 (b) This section does not apply to a civil judgment, criminal
5 conviction, or disciplinary action imposed in another state for
6 which a similar claim, charge, or action would exist against the
7 licensee under the laws of this state.

8 (c) For purposes of this ~~section~~, *healing section*:

9 (1) *“Healing arts board”* means any board, division, or
10 examining committee in the Department of Consumer Affairs that
11 licenses or certifies health professionals.

12 (2) *“Sensitive services”* has the same meaning as in Section
13 56.05 of the Civil Code.

14 SEC. 2. Section 850.1 is added to the Business and Professions
15 Code, to read:

16 850.1. (a) A healing arts board shall not deny an application
17 for licensure or suspend, revoke, or otherwise impose discipline
18 upon a licensee ~~solely~~ on the basis of a civil judgment, criminal
19 conviction, or disciplinary action in another state if that judgment,
20 conviction, or disciplinary action is based solely on the application
21 of another state’s law that interferes with a person’s right to receive
22 care that would be lawful if provided in this state.

23 (b) This section does not apply to a civil judgment, criminal
24 conviction, or disciplinary action imposed in another state for
25 which a similar claim, charge, or action would exist against the
26 applicant or licensee under the laws of this state.

27 (c) For purposes of this ~~section~~, *healing section*:

28 (1) *“Healing arts board”* means any board, division, or
29 examining committee in the Department of Consumer Affairs that
30 licenses or certifies health professionals.

31 (2) *“Sensitive services”* has the same meaning as in Section
32 56.05 of the Civil Code.

33 SEC. 3. Section 1220.1 is added to the Health and Safety Code,
34 to read:

35 1220.1. (a) An application for licensure made pursuant to this
36 chapter shall not be denied, nor shall any license issued pursuant
37 to this chapter be suspended, revoked, or otherwise limited, ~~solely~~
38 on the basis of a civil judgment, criminal conviction, or disciplinary
39 action imposed by another state if that judgment, conviction, or
40 disciplinary action is based solely on the application of another

1 state’s law that interferes with a person’s right to receive ~~care~~
2 *sensitive services* that would be lawful if provided in this state.

3 (b) This section does not apply to a civil judgment, criminal
4 conviction, or disciplinary action imposed by another state for
5 which a similar claim, charge, or action would exist against the
6 applicant or licensee under the laws of this state.

7 (c) *For purposes of this section, “sensitive services” has the*
8 *same meaning as in Section 56.05 of the Civil Code.*

9 SEC. 4. Section 1265.11 is added to the Health and Safety
10 Code, to read:

11 1265.11. (a) An application for licensure made pursuant to
12 this chapter shall not be denied, nor shall any license issued
13 pursuant to this chapter be suspended, revoked, or otherwise
14 limited, ~~solely~~ on the basis of a civil judgment, criminal conviction,
15 or disciplinary action imposed by another state if that judgment,
16 conviction, or disciplinary action is based solely on the application
17 of another state’s law that interferes with a person’s right to receive
18 ~~care~~ *sensitive services* that would be lawful if provided in this
19 state.

20 (b) This section does not apply to a civil judgment, criminal
21 conviction, or disciplinary action imposed by another state for
22 which a similar claim, charge, or action would exist against the
23 applicant or licensee under the laws of this state.

24 (c) *For purposes of this section, “sensitive services” has the*
25 *same meaning as in Section 56.05 of the Civil Code.*

26 SEC. 5. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(5) – SB 58 (Wiener) Controlled substances: decriminalization of certain hallucinogenic substances

Background

SB 58 (Wiener) was introduced on December 16, 2022.

This bill would legalize the possession, preparation, obtaining, transfer, or transportation of certain controlled substances, such as psilocybin, dimethyltryptamine (DMT), ibogaine, and mescaline, for use by people 21 years of age or older. It would also prohibit possession of these substances on school grounds and transfer or possession by people under 21 years of age.

Additionally, it would allow for drug paraphernalia related to these substances to be exempt from the existing law banning drug paraphernalia, as well as exempt items used for testing and analyzing controlled substances.

Further, this bill would eliminate some existing laws prohibiting the cultivation, transfer, or transportation of spores or mycelium capable of producing these controlled substances.

On March 21, 2023, the bill passed the Senate Committee on Public Safety.

On May 24, 2023, the bill passed the Senate Committee on Appropriations and was ordered to the Assembly.

Board of Psychology staff is continuing to monitor the bill for additional amendments.

Action Requested

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

Attachment 1: SB 58 (Wiener) Bill Text

AMENDED IN SENATE MARCH 1, 2023

SENATE BILL

No. 58

Introduced by Senator Wiener

(Principal coauthor: Assembly Member Kalra)

**(Coauthors: Senators ~~Newman~~ *Becker, Bradford, Newman, Skinner,*
and *Smallwood-Cuevas*)**

(Coauthors: Assembly Members ~~Haney, Lee, Low, and Wicks~~) *Bryan,*
Haney, Jackson, Lee, Low, Lowenthal, Wicks, and Wilson)

December 16, 2022

An act to amend Sections 11054, 11350, 11364, 11364.7, 11365, 11377, 11379, 11382, and 11550 of, to add Sections 11350.1 and 11377.1 to, to repeal Section 11999 of, and to repeal Article 7 (commencing with Section 11390) of Chapter 6 of Division 10 of, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 58, as amended, Wiener. Controlled substances: decriminalization of certain hallucinogenic substances.

(1) Existing law categorizes certain drugs and other substances as controlled substances and prohibits various actions related to those substances, including their manufacture, transportation, sale, possession, and ingestion.

This bill would make lawful the possession, preparation, obtaining, transfer, as specified, or transportation of, specified quantities of psilocybin, psilocyn, dimethyltryptamine (DMT), ibogaine, and mescaline, for personal use or facilitated or supported use, as defined, by and with persons 21 years of age or older. The bill would provide penalties for possession of these substance on school grounds, or possession by, or transferring to, persons under 21 years of age.

(2) Existing law prohibits the cultivation, transfer, or transportation, as specified, of any spores or mycelium capable of producing mushrooms or other material which contain psilocybin or psilocyn.

This bill would repeal those provisions.

(3) Existing law prohibits the possession of drug paraphernalia, as defined.

This bill would exempt from this prohibition, paraphernalia related, as specified, to these specific substances. The bill would also exempt from the prohibition items used for the testing and analysis of controlled substances.

(4) Existing law states the intent of the Legislature that the messages and information provided by various state drug and alcohol programs promote no unlawful use of any drugs or alcohol.

This bill would repeal those provisions.

(5) By eliminating and changing the elements of existing crimes and creating new offenses, and by requiring new duties of local prosecutors, this bill would impose a state-mandated local program.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(6) This bill would state that its provisions are severable.

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

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

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

3 (a) For over fifty years, the War on Drugs has caused
4 overwhelming financial and societal costs. The current United
5 States drug control scheme does not reflect a modern understanding
6 of the incentives, economics, or impacts of substance use, nor does
7 it accurately reflect the risks or potential therapeutic benefits of
8 many presently illicit substances.

1 (b) Drug prohibition has failed to deter drug use, and *it* has
2 increased its danger. Criminalization of drug use has created an
3 underground market in which difficult-to-verify dosages and the
4 presence of adulterants increase the risks of illicit drugs.

5 (c) Lack of honest, evidence-based drug education has paved
6 the way for decades of stigma and misinformation, which have
7 contributed to increasing the dangers of drug use.

8 (d) Encouraging access to harm reduction tools like fentanyl
9 test strips, drug-checking kits, gas chromatography mass
10 spectrometry machines, and milligram scales increases public
11 health and safety by allowing users to make more accurate
12 decisions about their personal use.

13 (e) Clinical research demonstrates the potential use of some
14 psychedelic compounds, in conjunction with therapy, for the
15 treatment of mental health, such as end-of-life anxiety, depression,
16 post-traumatic stress, and substance use disorders. Observational
17 evidence and traditional uses of psychedelic plants and fungi
18 demonstrate how ceremony and community are utilized to enhance
19 the outcomes and increase the safety of spiritual practice, emotional
20 healing, and responsible personal growth.

21 (f) Proposition 122 in Colorado, which passed in November
22 2022, with a 53 percent vote of the state population, will
23 decriminalize the noncommercial, personal possession of
24 psychedelic plants and fungi and establish a regulated therapy
25 system to provide people with therapeutic access to psychedelic
26 plants and fungi.

27 (g) Measure 109 in Oregon, which passed in November 2020,
28 with a 56 percent vote of the state population, will establish a
29 regulated psilocybin therapy system in Oregon to provide people
30 therapeutic access to psilocybin.

31 (h) Measure 110 in Oregon, which passed in November 2020,
32 with a 58 percent vote of the state population, decriminalized the
33 personal possession of all drugs, and almost 20 countries around
34 the world including Portugal, the Czech Republic, and Spain, have
35 expressly or effectively decriminalized the personal use of illicit
36 substances.

37 (i) The City Councils of The City of Oakland, and the City of
38 Santa Cruz, and the Board of Supervisors of the City and County
39 of San Francisco have all passed resolutions deprioritizing the
40 enforcement of the possession, use, and propagation of psychedelic

1 plants and fungi, effectively decriminalizing in those cities. Since
2 June 2019, the City of Ann Arbor, Michigan, and the Cities of
3 Somerville and Cambridge, Massachusetts have all decriminalized
4 the possession, use, and propagation of psychedelic plants and
5 fungi at the local level. In 2020, Washington, D.C., passed Initiative
6 81 to decriminalize and deprioritize the possession and use of
7 psychedelic plants and fungi with 76 percent voter approval.

8 (j) This act will decriminalize the noncommercial, personal use
9 of specified controlled substances, including for the purposes of
10 group counseling and community-based healing, or other related
11 services, including risk reduction, and lay the groundwork for
12 California to develop a regulated therapeutic access program for
13 psychedelic plants and fungi.

14 (k) These changes in law will not affect any restrictions on the
15 driving or operation of a vehicle while impaired, or an employer's
16 ability to restrict the use of controlled substances by its employees,
17 or affect the legal standard for negligence.

18 (l) Peyote is specifically excluded from the list of substances
19 to be decriminalized, and any cultivation, harvest, extraction,
20 tincture or other product manufactured or derived therefrom,
21 because of the nearly endangered status of the peyote plant and
22 the special significance peyote holds in Native American
23 spirituality. Section 11363 of the Health and Safety Code, which
24 makes it a crime in California to cultivate, harvest, dry, or process
25 any plant of the genus *Lophophora*, also known as Peyote, is not
26 amended or repealed.

27 (m) The State of California fully respects and supports the
28 continued Native American possession and use of peyote under
29 federal law, Section 1996a of Title 42 of the United States Code,
30 understanding that Native Americans in the United States were
31 persecuted and prosecuted for their ceremonial practices and use
32 of peyote for more than a century and had to fight numerous legal
33 and political battles to achieve the current protected status, and
34 the enactment of this legislation does not intend to undermine
35 explicitly or implicitly that status.

36 SEC. 2. Section 11054 of the Health and Safety Code is
37 amended to read:

38 11054. (a) The controlled substances listed in this section are
39 included in Schedule I.

1 (b) Opiates. Unless specifically excepted or unless listed in
2 another schedule, any of the following opiates, including their
3 isomers, esters, ethers, salts, and salts of isomers, esters, and ethers
4 whenever the existence of those isomers, esters, ethers, and salts
5 is possible within the specific chemical designation:

- 6 (1) Acetylmethadol.
- 7 (2) Allylprodine.
- 8 (3) Alphacetylmethadol (except levoalphacetylmethadol, also
9 known as levo-alpha-acetylmethadol, levomethadyl acetate, or
10 LAAM).
- 11 (4) Alphameprodine.
- 12 (5) Alphamethadol.
- 13 (6) Benzethidine.
- 14 (7) Betacetylmethadol.
- 15 (8) Betameprodine.
- 16 (9) Betamethadol.
- 17 (10) Betaprodine.
- 18 (11) Clonitazene.
- 19 (12) Dextromoramide.
- 20 (13) Diampromide.
- 21 (14) Diethylthiambutene.
- 22 (15) Difenoxin.
- 23 (16) Dimenoxadol.
- 24 (17) Dimepheptanol.
- 25 (18) Dimethylthiambutene.
- 26 (19) Dioxaphetyl butyrate.
- 27 (20) Dipipanone.
- 28 (21) Ethylmethylthiambutene.
- 29 (22) Etonitazene.
- 30 (23) Etoxeridine.
- 31 (24) Furethidine.
- 32 (25) Hydroxypethidine.
- 33 (26) Ketobemidone.
- 34 (27) Levomoramide.
- 35 (28) Levophenacylmorphan.
- 36 (29) Morpheridine.
- 37 (30) Noracymethadol.
- 38 (31) Norlevorphanol.
- 39 (32) Normethadone.
- 40 (33) Norpipanone.

- 1 (34) Phenadoxone.
- 2 (35) Phenampromide.
- 3 (36) Phenomorphan.
- 4 (37) Phenoperidine.
- 5 (38) Piriramide.
- 6 (39) Proheptazine.
- 7 (40) Properidine.
- 8 (41) Propiram.
- 9 (42) Racemoramide.
- 10 (43) Tilidine.
- 11 (44) Trimeperidine.
- 12 (45) Any substance which contains any quantity of
- 13 acetylfentanyl (N-[1-phenethyl-4-piperidinyl] acetanilide) or a
- 14 derivative thereof.
- 15 (46) Any substance which contains any quantity of the thiophene
- 16 analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl]
- 17 acetanilide) or a derivative thereof.
- 18 (47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
- 19 (48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).
- 20 (c) Opium derivatives. Unless specifically excepted or unless
- 21 listed in another schedule, any of the following opium derivatives,
- 22 its salts, isomers, and salts of isomers whenever the existence of
- 23 those salts, isomers, and salts of isomers is possible within the
- 24 specific chemical designation:
 - 25 (1) Acetorphine.
 - 26 (2) Acetyldihydrocodeine.
 - 27 (3) Benzylmorphine.
 - 28 (4) Codeine methylbromide.
 - 29 (5) Codeine-N-Oxide.
 - 30 (6) Cyprenorphine.
 - 31 (7) Desomorphine.
 - 32 (8) Dihydromorphine.
 - 33 (9) Drotebanol.
 - 34 (10) Etorphine (except hydrochloride salt).
 - 35 (11) Heroin.
 - 36 (12) Hydromorphanol.
 - 37 (13) Methyldesorphine.
 - 38 (14) Methyldihydromorphine.
 - 39 (15) Morphine methylbromide.
 - 40 (16) Morphine methylsulfonate.

- 1 (17) Morphine-N-Oxide.
- 2 (18) Myrophine.
- 3 (19) Nicocodeine.
- 4 (20) Nicomorphine.
- 5 (21) Normorphine.
- 6 (22) Pholcodine.
- 7 (23) Thebacon.
- 8 (d) Hallucinogenic substances. Unless specifically excepted or
- 9 unless listed in another schedule, any material, compound, mixture,
- 10 or preparation, which contains any quantity of the following
- 11 hallucinogenic substances, or which contains any of its salts,
- 12 isomers, and salts of isomers whenever the existence of those salts,
- 13 isomers, and salts of isomers is possible within the specific
- 14 chemical designation (for purposes of this subdivision only, the
- 15 term “isomer” includes the optical, position, and geometric
- 16 isomers):
- 17 (1) 4-bromo-2,5-dimethoxy-amphetamine—Some trade or other
- 18 names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine;
- 19 4-bromo-2,5-DMA.
- 20 (2) 2,5-dimethoxyamphetamine—Some trade or other names:
- 21 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.
- 22 (3) 4-methoxyamphetamine—Some trade or other names:
- 23 4 - m e t h o x y - a l p h a - m e t h y l p h e n e t h y l a m i n e ,
- 24 paramethoxyamphetamine, PMA.
- 25 (4) 5-methoxy-3,4-methylenedioxy-amphetamine.
- 26 (5) 4-methyl-2,5-dimethoxy-amphetamine—Some trade or other
- 27 names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine;
- 28 “DOM”; and “STP.”
- 29 (6) 3,4-methylenedioxy amphetamine.
- 30 (7) 3,4,5-trimethoxy amphetamine.
- 31 (8) Bufotenine—Some trade or other names:
- 32 3-(beta-dimethylaminoethyl)-5-hydroxyindole;
- 33 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserolonin,
- 34 5-hydroxy-N,N-dimethyltryptamine; mappine.
- 35 (9) Diethyltryptamine—Some trade or other names:
- 36 N,N-Diethyltryptamine; DET.
- 37 (10) Dimethyltryptamine—Some trade or other names: DMT.
- 38 (11) Ibogaine—Some trade or other names: 7-Ethyl-6,6beta,
- 39 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido
- 40 [1',2':1,2] azepino [5,4-b] indole; Tabernantheiboga.

1 (12) Lysergic acid diethylamide.

2 (13) Cannabis.

3 (14) Mescaline, derived from plants presently classified
4 botanically in the Echinopsis or Trichocereus genus of cacti,
5 including, without limitation, the Bolivian Torch Cactus, San Pedro
6 Cactus, or Peruvian Torch Cactus, but not including mescaline
7 derived from any plant described in paragraph (15).

8 (15) Peyote—Meaning all parts of the plant presently classified
9 botanically as *Lophophora williamsii* Lemaire, whether growing
10 or not, the seeds thereof, any extract from any part of the plant,
11 and every compound, manufacture, salts, derivative, mixture, or
12 preparation of the plant, its seeds or extracts (interprets 21 U.S.C.
13 Sec. 812(c), Schedule 1(c)(12)).

14 (16) N-ethyl-3-piperidyl benzilate.

15 (17) N-methyl-3-piperidyl benzilate.

16 (18) Psilocybin.

17 (19) Psilocyn.

18 (20) Tetrahydrocannabinols. Synthetic equivalents of the
19 substances contained in the plant, or in the resinous extractives of
20 Cannabis, sp. and/or synthetic substances, derivatives, and their
21 isomers with similar chemical structure and pharmacological
22 activity such as the following: delta 1 cis or trans
23 tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans
24 tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or
25 trans tetrahydrocannabinol, and its optical isomers.

26 Because nomenclature of these substances is not internationally
27 standardized, compounds of these structures, regardless of
28 numerical designation of atomic positions covered.

29 (21) Ethylamine analog of phencyclidine—Some trade or other
30 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)
31 ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine,
32 PCE.

33 (22) Pyrrolidine analog of phencyclidine—Some trade or other
34 names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.

35 (23) Thiophene analog of phencyclidine—Some trade or other
36 names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog
37 of phencyclidine, TPCP, TCP.

38 (e) Depressants. Unless specifically excepted or unless listed
39 in another schedule, any material, compound, mixture, or
40 preparation which contains any quantity of the following substances

1 having a depressant effect on the central nervous system, including
2 its salts, isomers, and salts of isomers whenever the existence of
3 those salts, isomers, and salts of isomers is possible within the
4 specific chemical designation:

5 (1) Mecloqualone.

6 (2) Methaqualone.

7 (3) Gamma hydroxybutyric acid (also known by other names
8 such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate;
9 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate),
10 including its immediate precursors, isomers, esters, ethers, salts,
11 and salts of isomers, esters, and ethers, including, but not limited
12 to, gammabutyrolactone, for which an application has not been
13 approved under Section 505 of the Federal Food, Drug, and
14 Cosmetic Act (21 U.S.C. Sec. 355).

15 (f) Unless specifically excepted or unless listed in another
16 schedule, any material, compound, mixture, or preparation which
17 contains any quantity of the following substances having a
18 stimulant effect on the central nervous system, including its
19 isomers:

20 (1) Cocaine base.

21 (2) Fenethylline, including its salts.

22 (3) N-Ethylamphetamine, including its salts.

23 SEC. 3. Section 11350 of the Health and Safety Code is
24 amended to read:

25 11350. (a) Except as otherwise provided in this division, every
26 person who possesses (1) any controlled substance specified in
27 subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of
28 Section 11054, specified in paragraph (15) or (20) of subdivision
29 (d) of Section 11054, or specified in subdivision (b) or (c) of
30 Section 11055, or specified in subdivision (h) of Section 11056,
31 or (2) any controlled substance classified in Schedule III, IV, or
32 V which is a narcotic drug, unless upon the written prescription
33 of a physician, dentist, podiatrist, or veterinarian licensed to
34 practice in this state, shall be punished by imprisonment in a county
35 jail for not more than one year, except that such person shall instead
36 be punished pursuant to subdivision (h) of Section 1170 of the
37 Penal Code if that person has one or more prior convictions for an
38 offense specified in clause (iv) of subparagraph (C) of paragraph
39 (2) of subdivision (e) of Section 667 of the Penal Code or for an

1 offense requiring registration pursuant to subdivision (c) of Section
2 290 of the Penal Code.

3 (b) Except as otherwise provided in this division, whenever a
4 person who possesses any of the controlled substances specified
5 in subdivision (a), the judge may, in addition to any punishment
6 provided for pursuant to subdivision (a), assess against that person
7 a fine not to exceed seventy dollars (\$70) with proceeds of this
8 fine to be used in accordance with Section 1463.23 of the Penal
9 Code. The court shall, however, take into consideration the
10 defendant’s ability to pay, and no defendant shall be denied
11 probation because of their inability to pay the fine permitted under
12 this subdivision.

13 (c) Except in unusual cases in which it would not serve the
14 interest of justice to do so, whenever a court grants probation
15 pursuant to a felony conviction under this section, in addition to
16 any other conditions of probation which may be imposed, the
17 following conditions of probation shall be ordered:

18 (1) For a first offense under this section, a fine of at least one
19 thousand dollars (\$1,000) or community service.

20 (2) For a second or subsequent offense under this section, a fine
21 of at least two thousand dollars (\$2,000) or community service.

22 (3) If a defendant does not have the ability to pay the minimum
23 fines specified in paragraphs (1) and (2), community service shall
24 be ordered in lieu of the fine.

25 (d) It is not unlawful for a person other than the prescription
26 holder to possess a controlled substance described in subdivision
27 (a) if both of the following apply:

28 (1) The possession of the controlled substance is at the direction
29 or with the express authorization of the prescription holder.

30 (2) The sole intent of the possessor is to deliver the prescription
31 to the prescription holder for its prescribed use or to discard the
32 substance in a lawful manner.

33 (e) This section does not permit the use of a controlled substance
34 by a person other than the prescription holder or permit the
35 distribution or sale of a controlled substance that is otherwise
36 inconsistent with the prescription.

37 SEC. 4. Section 11350.1 is added to the Health and Safety
38 Code, to read:

39 11350.1. (a) Except as otherwise provided in subdivisions (b),
40 (c), (d), and (e) of this section and notwithstanding any other law,

1 all of the following shall be lawful for a natural person 21 years
2 of age or older and shall not be a violation of state or local law:

3 (1) The possession, preparation, obtaining, or transportation, of
4 no more than the allowable amount of mescaline, as described in
5 paragraph (14) of subdivision (d) of Section 11054, for personal
6 use or for facilitated or supported use.

7 (2) The ingesting of mescaline.

8 (3) The possession, planting, cultivating, harvesting, or
9 preparation of plants capable of producing mescaline, except for
10 the plant presently classified botanically as *Lophophora williamsii*
11 Lemaire, on property owned or controlled by a person, for the
12 purposes described in this subdivision by that person, and
13 possession of any product produced by those plants.

14 (4) The assisting of another person, 21 years of age or older,
15 with any act described in paragraphs (1) to (3), inclusive, of this
16 subdivision.

17 (b) Possession of mescaline by a person 21 years of age or over
18 on the grounds of any public or private elementary, vocational,
19 junior high, or high school, during hours that the school is open
20 for classes or school-related programs, or at any time when minors
21 are using the facility is punishable as a misdemeanor.

22 (c) (1) A person who knowingly gives away or administers
23 mescaline to a person who is under 18 years of age in violation of
24 law shall be punished by imprisonment in a county jail for a period
25 of not more than six months or by a fine of not more than five
26 hundred dollars (\$500), or by both that fine and imprisonment, or
27 by imprisonment pursuant to subdivision (h) of Section 1170 of
28 the Penal Code.

29 (2) Notwithstanding paragraph (1), a person 18 years of age or
30 over who knowingly gives away or administers mescaline to a
31 minor under 14 years of age in violation of law shall be punished
32 by imprisonment in the state prison for a period of three, five, or
33 seven years.

34 (3) A person who knowingly gives away or administers
35 mescaline to a person who is at least 18 years of age, but under 21
36 years of age is guilty of an infraction.

37 (d) Except as otherwise provided, possession of mescaline by
38 a person under 18 years of age is punishable as an infraction and
39 shall require:

1 (1) Upon a finding that a first offense has been committed, four
2 hours of drug education or counseling and up to 10 hours of
3 community service over a period not to exceed 60 days,
4 commencing when the drug education or counseling services are
5 made available to them.

6 (2) Upon a finding that a second offense or subsequent offense
7 has been committed, six hours of drug education or counseling
8 and up to 20 hours of community service over a period not to
9 exceed 90 days, commencing when the drug education or
10 counseling services are made available to them.

11 (e) Except as otherwise provided, possession of mescaline by
12 a person at least 18 years of age but less than 21 years of age is
13 punishable as an infraction.

14 (f) Mescaline or related products involved in any way with
15 conduct deemed lawful by this section are not contraband nor
16 subject to seizure, and no conduct deemed lawful by this section
17 shall constitute the basis for detention, search, or arrest, or the
18 basis for the seizure or forfeiture of assets.

19 (g) As used in this section, the following terms are defined as
20 follows:

21 (1) “Allowable amount” means four grams per person or, in the
22 context of facilitated or supported use involving multiple persons,
23 the aggregate of allowable amounts per participant. “Allowable
24 amount” does not include the weight of any material of which the
25 substance is a part or to which the substance is added, dissolved,
26 held in solution, or suspended, or any ingredient or material
27 combined with the substance specified in this subdivision to
28 prepare a topical or oral administration, food, drink, or other
29 product, including, but not limited to, a brew or tea.

30 (2) “Facilitated or supported use” means the supervised or
31 assisted personal use of mescaline by an individual or group of
32 persons 21 years of age or older, or the assisting or supervising of
33 such persons in such use, within the context of counseling, spiritual
34 guidance, community-based healing, or related services.

35 (3) “Financial gain” means the receipt of money or other
36 valuable consideration in exchange for the item being transferred.
37 “Financial gain” does not include reasonable fees for counseling,
38 spiritual guidance, or related services that are provided in
39 conjunction with facilitated or supported use of mescaline under

1 the guidance and supervision, and on the premises, of the person
2 providing those services.

3 (4) “Personal use” means for the personal ingestion or other
4 personal and noncommercial use by the person in possession.

5 (5) “Preparation” means processing or otherwise preparing for
6 use.

7 (h) The transfer of a substance described in paragraph (1) of
8 subdivision (a), without financial gain, between persons 21 years
9 of age and older, and in the context of facilitated or supported use,
10 shall not be a violation of Section 11352 or any other state or local
11 law.

12 SEC. 5. Section 11364 of the Health and Safety Code is
13 amended to read:

14 11364. (a) It is unlawful to possess an opium pipe or any
15 device, contrivance, instrument, or paraphernalia used for
16 unlawfully injecting or smoking (1) a controlled substance specified
17 in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of
18 Section 11054, specified in paragraph (15) or (20) of subdivision
19 (d) of Section 11054, specified in subdivision (b) or (c) of Section
20 11055, or specified in paragraph (2) of subdivision (d) of Section
21 11055, or (2) a controlled substance that is a narcotic drug
22 classified in Schedule III, IV, or V.

23 (b) This section shall not apply to hypodermic needles or
24 syringes that have been containerized for safe disposal in a
25 container that meets state and federal standards for disposal of
26 sharps waste.

27 (c) Until January 1, 2026, as a public health measure intended
28 to prevent the transmission of HIV, viral hepatitis, and other
29 bloodborne diseases among persons who use syringes and
30 hypodermic needles, and to prevent subsequent infection of sexual
31 partners, newborn children, or other persons, this section shall not
32 apply to the possession solely for personal use of hypodermic
33 needles or syringes.

34 SEC. 6. Section 11364.7 of the Health and Safety Code is
35 amended to read:

36 11364.7. (a) (1) Except as authorized by law, any person who
37 delivers, furnishes, or transfers, possesses with intent to deliver,
38 furnish, or transfer, or manufactures with the intent to deliver,
39 furnish, or transfer, drug paraphernalia, knowing, or under
40 circumstances where one reasonably should know, that it will be

1 used to plant, propagate, cultivate, grow, harvest, compound,
2 convert, produce, process, prepare, pack, repack, store, contain,
3 conceal, inject, ingest, inhale, or otherwise introduce into the
4 human body a controlled substance, except as provided in
5 subdivision (b), in violation of this division, is guilty of a
6 misdemeanor.

7 (2) A public entity, its agents, or employees shall not be subject
8 to criminal prosecution for distribution of hypodermic needles or
9 syringes or any materials deemed by a local or state health
10 department to be necessary to prevent the spread of communicable
11 diseases, or to prevent drug overdose, injury, or disability to
12 participants in clean needle and syringe exchange projects
13 authorized by the public entity pursuant to Chapter 18
14 (commencing with Section 121349) of Part 4 of Division 105.

15 (3) This subdivision does not apply to any paraphernalia that is
16 intended to be used to plant, propagate, cultivate, grow, harvest,
17 compound, convert, produce, process, prepare, pack, repack, store,
18 contain, conceal, inject, ingest, inhale, or otherwise introduce into
19 the human body, any of the following substances:

20 (A) Dimethyltryptamine (DMT).

21 (B) Ibogaine.

22 (C) Mescaline.

23 (D) Psilocybin.

24 (E) Psilocyn.

25 (b) Except as authorized by law, any person who manufactures
26 with intent to deliver, furnish, or transfer drug paraphernalia
27 knowing, or under circumstances where one reasonably should
28 know, that it will be used to plant, propagate, cultivate, grow,
29 harvest, manufacture, compound, convert, produce, process,
30 prepare, test, analyze, pack, repack, store, contain, conceal, inject,
31 ingest, inhale, or otherwise introduce into the human body cocaine,
32 cocaine base, heroin, phencyclidine, or methamphetamine in
33 violation of this division shall be punished by imprisonment in a
34 county jail for not more than one year, or in the state prison.

35 (c) Except as authorized by law, any person, 18 years of age or
36 over, who violates subdivision (a) by delivering, furnishing, or
37 transferring drug paraphernalia to a person under 18 years of age
38 who is at least three years younger, or who, upon the grounds of
39 a public or private elementary, vocational, junior high, or high
40 school, possesses a hypodermic needle, as defined in paragraph

1 (7) of subdivision (a) of Section 11014.5, with the intent to deliver,
2 furnish, or transfer the hypodermic needle, knowing, or under
3 circumstances where one reasonably should know, that it will be
4 used by a person under 18 years of age to inject into the human
5 body a controlled substance, is guilty of a misdemeanor and shall
6 be punished by imprisonment in a county jail for not more than
7 one year, by a fine of not more than one thousand dollars (\$1,000),
8 or by both that imprisonment and fine.

9 (d) The violation, or the causing or the permitting of a violation,
10 of subdivision (a), (b), or (c) by a holder of a business or liquor
11 license issued by a city, county, or city and county, or by the State
12 of California, and in the course of the licensee's business shall be
13 grounds for the revocation of that license.

14 (e) All drug paraphernalia defined in Section 11014.5 is subject
15 to forfeiture and may be seized by any peace officer pursuant to
16 Section 11471 unless its distribution has been authorized pursuant
17 to subdivision (a).

18 (f) If any provision of this section or the application thereof to
19 any person or circumstance is held invalid, it is the intent of the
20 Legislature that the invalidity shall not affect other provisions or
21 applications of this section which can be given effect without the
22 invalid provision or application and to this end the provisions of
23 this section are severable.

24 SEC. 7. Section 11365 of the Health and Safety Code is
25 amended to read:

26 11365. (a) It is unlawful to visit or to be in any room or place
27 where any controlled substances which are specified in subdivision
28 (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
29 specified in paragraph (15) or (20) of subdivision (d) of Section
30 11054, or specified in subdivision (b) or (c) or paragraph (2) of
31 subdivision (d) of Section 11055, or which are narcotic drugs
32 classified in Schedule III, IV, or V, are being unlawfully smoked
33 or used with knowledge that such activity is occurring.

34 (b) This section shall apply only where the defendant aids,
35 assists, or abets the perpetration of the unlawful smoking or use
36 of a controlled substance specified in subdivision (a). This
37 subdivision is declaratory of existing law as expressed in *People*
38 *v. Cressey* (1970) 2 Cal. 3d 836.

39 SEC. 8. Section 11377 of the Health and Safety Code is
40 amended to read:

1 11377. (a) Except as authorized by law and as otherwise
2 provided in subdivision (b) or Section 11375, or in Article 7
3 (commencing with Section 4211) of Chapter 9 of Division 2 of
4 the Business and Professions Code, every person who possesses
5 any controlled substance which is (1) classified in Schedule III,
6 IV, or V, and which is not a narcotic drug, (2) specified in
7 subdivision (d) of Section 11054, except paragraphs (10), (11),
8 (13), (14), (15), (18), (19), and (20) of subdivision (d), (3) specified
9 in paragraph (11) of subdivision (c) of Section 11056, (4) specified
10 in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5)
11 specified in subdivision (d), (e), or (f) of Section 11055, unless
12 upon the prescription of a physician, dentist, podiatrist, or
13 veterinarian, licensed to practice in this state, shall be punished by
14 imprisonment in a county jail for a period of not more than one
15 year, except that such person may instead be punished pursuant
16 to subdivision (h) of Section 1170 of the Penal Code if that person
17 has one or more prior convictions for an offense specified in clause
18 (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of
19 Section 667 of the Penal Code or for an offense requiring
20 registration pursuant to subdivision (c) of Section 290 of the Penal
21 Code.

22 (b) The judge may assess a fine not to exceed seventy dollars
23 (\$70) against any person who violates subdivision (a), with the
24 proceeds of this fine to be used in accordance with Section 1463.23
25 of the Penal Code. The court shall, however, take into consideration
26 the defendant's ability to pay, and no defendant shall be denied
27 probation because of their inability to pay the fine permitted under
28 this subdivision.

29 (c) It is not unlawful for a person other than the prescription
30 holder to possess a controlled substance described in subdivision
31 (a) if both of the following apply:

32 (1) The possession of the controlled substance is at the direction
33 or with the express authorization of the prescription holder.

34 (2) The sole intent of the possessor is to deliver the prescription
35 to the prescription holder for its prescribed use or to discard the
36 substance in a lawful manner.

37 (d) This section does not permit the use of a controlled substance
38 by a person other than the prescription holder or permit the
39 distribution or sale of a controlled substance that is otherwise
40 inconsistent with the prescription.

1 SEC. 9. Section 11377.1 is added to the Health and Safety
2 Code, to read:

3 11377.1. (a) Except as otherwise provided in subdivisions (b),
4 (c), (d), and (e) of this section, and notwithstanding any other law,
5 all of the following shall be lawful for a natural person 21 years
6 of age or older and shall not be a violation of state or local law:

7 (1) The possession, preparation, obtaining, or transportation, of
8 no more than the allowable amount of any of the following
9 substances for personal use or facilitated or supported use:

10 (A) The controlled substance specified in paragraph (10) of
11 subdivision (d) of Section 11054.

12 (B) The controlled substance specified in paragraph (11) of
13 subdivision (d) of Section 11054.

14 (C) The controlled substance specified in paragraph (18) of
15 subdivision (d) of Section 11054.

16 (D) The controlled substance specified in paragraph (19) of
17 subdivision (d) of Section 11054.

18 (2) The ingesting of a substance described in paragraph (1).

19 (3) The possession, planting, cultivating, harvesting, or
20 preparation of plants capable of producing a substance described
21 in paragraph (1), on property owned or controlled by a person, for
22 the uses described in this subdivision by that person, and possession
23 of any product produced by those plants including spores or
24 mycelium capable of producing mushrooms or other material which
25 contain a controlled substance specified in paragraph (18) or (19)
26 of subdivision (d) of Section 11054, for that purpose.

27 (4) The assisting of another person, 21 years of age or older,
28 with any act described in paragraphs (1) to (3), inclusive, of this
29 subdivision.

30 (b) Possession of a controlled substance specified in paragraph
31 (1) of subdivision (a) by a person 21 years of age or over, on the
32 grounds of any public or private elementary, vocational, junior
33 high, or high school, during hours that the school is open for classes
34 or school-related programs, or at any time when minors are using
35 the facility is punishable as a misdemeanor.

36 (c) (1) A person who knowingly gives away or administers a
37 controlled substance specified in paragraph (1) of subdivision (a)
38 to a person who is under 18 years of age in violation of law shall
39 be punished by imprisonment in a county jail for a period of not
40 more than six months or by a fine of not more than five hundred

1 dollars (\$500), or by both that fine and imprisonment, or by
2 imprisonment pursuant to subdivision (h) of Section 1170 of the
3 Penal Code.

4 (2) Notwithstanding paragraph (1), a person 18 years of age or
5 over who knowingly gives away or administers a substance
6 described in paragraph (1) to a minor under 14 years of age in
7 violation of law shall be punished by imprisonment in the state
8 prison for a period of three, five, or seven years.

9 (3) A person who knowingly gives away or administers a
10 substance described in paragraph (1) to a person who is at least 18
11 years of age, but under 21 years of age is guilty of an infraction.

12 (d) Except as otherwise provided, possession of a controlled
13 substance specified in paragraph (1) of subdivision (a) by a person
14 under 18 years of age is punishable as an infraction and shall
15 require:

16 (1) Upon a finding that a first offense has been committed, four
17 hours of drug education or counseling and up to 10 hours of
18 community service over a period not to exceed 60 days,
19 commencing when the drug education or counseling services are
20 made available to them.

21 (2) Upon a finding that a second offense or subsequent offense
22 has been committed, six hours of drug education or counseling
23 and up to 20 hours of community service over a period not to
24 exceed 90 days, commencing when the drug education or
25 counseling services are made available to them.

26 (e) Except as otherwise provided, possession of a controlled
27 substance specified in paragraph (1) of subdivision (a) by a person
28 at least 18 years of age but less than 21 years of age is punishable
29 as an infraction.

30 (f) A controlled substance described in this section or any related
31 product involved in any way with conduct deemed lawful by this
32 section are not contraband nor subject to seizure, and no conduct
33 deemed lawful by this section shall constitute the basis for
34 detention, search, or arrest, or the basis for the seizure or forfeiture
35 of assets.

36 (g) As used in this section, the following terms are defined as
37 follows:

38 (1) "Allowable amount" means the following quantities of a
39 substance per person or, in the context of facilitated or supported
40 use involving multiple persons, the aggregate of allowable amounts

1 per participant. “Allowable amount” does not include the weight
2 of any material of which the substance is a part or to which the
3 substance is added, dissolved, held in solution, or suspended, or
4 any ingredient or material combined with the substance specified
5 in this subdivision to prepare a topical or oral administration, food,
6 drink, or other product, including, but not limited to, a brew or tea:

7 (A) Two grams of dimethyltryptamine, otherwise known as
8 DMT.

9 (B) Fifteen grams of ibogaine.

10 (C) Two grams of psilocybin or four ounces of a plant or fungi
11 containing psilocybin.

12 (D) Two grams of psilocyn or four ounces of a plant or fungi
13 containing psilocyn.

14 (2) “Facilitated or supported use” means the supervised or
15 assisted personal use of a substance described in this section by
16 an individual or group of persons 21 years of age or older, or the
17 assisting or supervising of such persons in such use, within the
18 context of counseling, spiritual guidance, community-based
19 healing, or related services.

20 (3) “Financial gain” means the receipt of money or other
21 valuable consideration in exchange for the item being transferred.
22 “Financial gain” does not include reasonable fees for counseling,
23 spiritual guidance, or related services that are provided in
24 conjunction with facilitated or supported use of a controlled
25 substance described in this section under the guidance and
26 supervision, and on the premises, of the person providing those
27 services.

28 (4) “Personal use” means for the personal ingestion or other
29 personal and noncommercial use by the person in possession.

30 (5) “Preparation” means processing or otherwise preparing for
31 use.

32 (h) The transfer of a substance described in paragraph (1) of
33 subdivision (a), without financial gain, between persons 21 years
34 of age and older, and in the context of facilitated or supported use,
35 shall not be a violation of Section 11352 or any other state or local
36 law.

37 SEC. 10. Section 11379 of the Health and Safety Code is
38 amended to read:

39 11379. (a) Except as otherwise provided in subdivision (b),
40 in Section 11377.1, and in Article 7 (commencing with Section

1 4211) of Chapter 9 of Division 2 of the Business and Professions
2 Code, every person who transports, imports into this state, sells,
3 furnishes, administers, or gives away, or offers to transport, import
4 into this state, sell, furnish, administer, or give away, or attempts
5 to import into this state or transport any controlled substance which
6 is (1) classified in Schedule III, IV, or V and which is not a narcotic
7 drug, except subdivision (g) of Section 11056, (2) specified in
8 subdivision (d) of Section 11054, except paragraphs (13), (14),
9 (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in
10 paragraph (11) of subdivision (c) of Section 11056, (4) specified
11 in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5)
12 specified in subdivision (d) or (e), except paragraph (3) of
13 subdivision (e), or specified in subparagraph (A) of paragraph (1)
14 of subdivision (f), of Section 11055, unless upon the prescription
15 of a physician, dentist, podiatrist, or veterinarian, licensed to
16 practice in this state, shall be punished by imprisonment pursuant
17 to subdivision (h) of Section 1170 of the Penal Code for a period
18 of two, three, or four years.

19 (b) Notwithstanding the penalty provisions of subdivision (a),
20 any person who transports any controlled substances specified in
21 subdivision (a) within this state from one county to another
22 noncontiguous county shall be punished by imprisonment pursuant
23 to subdivision (h) of Section 1170 of the Penal Code for three, six,
24 or nine years.

25 (c) For purposes of this section, “transports” means to transport
26 for sale.

27 (d) Nothing in this section is intended to preclude or limit
28 prosecution under an aiding and abetting theory, accessory theory,
29 or a conspiracy theory.

30 SEC. 11. Section 11382 of the Health and Safety Code is
31 amended to read:

32 11382. Except as otherwise provided in Section 11377.1, every
33 person who agrees, consents, or in any manner offers to unlawfully
34 sell, furnish, transport, administer, or give any controlled substance
35 which is (a) classified in Schedule III, IV, or V and which is not
36 a narcotic drug, or (b) specified in subdivision (d) of Section 11054,
37 except paragraphs (13), (14), (15), and (20) of subdivision (d),
38 specified in paragraph (11) of subdivision (c) of Section 11056,
39 or specified in subdivision (d), (e), or (f) of Section 11055, to any
40 person, or offers, arranges, or negotiates to have that controlled

1 substance unlawfully sold, delivered, transported, furnished,
2 administered, or given to any person and then sells, delivers,
3 furnishes, transports, administers, or gives, or offers, or arranges,
4 or negotiates to have sold, delivered, transported, furnished,
5 administered, or given to any person any other liquid, substance,
6 or material in lieu of that controlled substance shall be punished
7 by imprisonment in the county jail for not more than one year, or
8 pursuant to subdivision (h) of Section 1170 of the Penal Code.

9 SEC. 12. Article 7 (commencing with Section 11390) of
10 Chapter 6 of Division 10 of the Health and Safety Code is repealed.

11 SEC. 13. Section 11550 of the Health and Safety Code is
12 amended to read:

13 11550. (a) A person shall not use, or be under the influence
14 of any controlled substance that is (1) specified in subdivision (b),
15 (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
16 specified in paragraph (15), (21), (22), or (23) of subdivision (d)
17 of Section 11054, specified in subdivision (b) or (c) of Section
18 11055, or specified in paragraph (1) or (2) of subdivision (d) or in
19 paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic
20 drug classified in Schedule III, IV, or V, except when administered
21 by or under the direction of a person licensed by the state to
22 dispense, prescribe, or administer controlled substances. It shall
23 be the burden of the defense to show that it comes within the
24 exception. A person convicted of violating this subdivision is guilty
25 of a misdemeanor and shall be sentenced to serve a term of not
26 more than one year in a county jail. The court may also place a
27 person convicted under this subdivision on probation for a period
28 not to exceed five years.

29 (b) (1) A person who is convicted of violating subdivision (a)
30 when the offense occurred within seven years of that person being
31 convicted of two or more separate violations of that subdivision,
32 and refuses to complete a licensed drug rehabilitation program
33 offered by the court pursuant to subdivision (c), shall be punished
34 by imprisonment in a county jail for not less than 180 days nor
35 more than one year. In no event does the court have the power to
36 absolve a person convicted of a violation of subdivision (a) who
37 is punishable under this subdivision from the obligation of spending
38 at least 180 days in confinement in a county jail unless there are
39 no licensed drug rehabilitation programs reasonably available.

1 (2) For the purpose of this section, a drug rehabilitation program
2 is not reasonably available unless the person is not required to pay
3 more than the court determines that they are reasonably able to
4 pay in order to participate in the program.

5 (c) (1) The court may, when it would be in the interest of justice,
6 permit a person convicted of a violation of subdivision (a)
7 punishable under subdivision (a) or (b) to complete a licensed drug
8 rehabilitation program in lieu of part or all of the imprisonment in
9 a county jail. As a condition of sentencing, the court may require
10 the offender to pay all or a portion of the drug rehabilitation
11 program.

12 (2) In order to alleviate jail overcrowding and to provide
13 recidivist offenders with a reasonable opportunity to seek
14 rehabilitation pursuant to this subdivision, counties are encouraged
15 to include provisions to augment licensed drug rehabilitation
16 programs in their substance abuse proposals and applications
17 submitted to the state for federal and state drug abuse funds.

18 (d) In addition to any fine assessed under this section, the judge
19 may assess a fine not to exceed seventy dollars (\$70) against a
20 person who violates this section, with the proceeds of this fine to
21 be used in accordance with Section 1463.23 of the Penal Code.
22 The court shall, however, take into consideration the defendant's
23 ability to pay, and a defendant shall not be denied probation
24 because of their inability to pay the fine permitted under this
25 subdivision.

26 (e) (1) Notwithstanding subdivisions (a) and (b) or any other
27 law, a person who is unlawfully under the influence of cocaine,
28 cocaine base, heroin, methamphetamine, or phencyclidine while
29 in the immediate personal possession of a loaded, operable firearm
30 is guilty of a public offense punishable by imprisonment in a
31 county jail for not exceeding one year or in state prison.

32 (2) As used in this subdivision "immediate personal possession"
33 includes, but is not limited to, the interior passenger compartment
34 of a motor vehicle.

35 (f) Every person who violates subdivision (e) is punishable upon
36 the second and each subsequent conviction by imprisonment in
37 the state prison for two, three, or four years.

38 (g) This section does not prevent deferred entry of judgment or
39 a defendant's participation in a preguilty plea drug court program
40 under Chapter 2.5 (commencing with Section 1000) of Title 6 of

1 Part 2 of the Penal Code unless the person is charged with violating
2 subdivision (b) or (c) of Section 243 of the Penal Code. A person
3 charged with violating this section by being under the influence
4 of any controlled substance which is specified in paragraph (21),
5 (22), or (23) of subdivision (d) of Section 11054 or in paragraph
6 (3) of subdivision (e) of Section 11055 and with violating either
7 subdivision (b) or (c) of Section 243 of the Penal Code or with a
8 violation of subdivision (e) shall be ineligible for deferred entry
9 of judgment or a preguilty plea drug court program.

10 SEC. 14. Section 11999 of the Health and Safety Code is
11 repealed.

12 SEC. 15. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution for certain
14 costs that may be incurred by a local agency or school district
15 because, in that regard, this act creates a new crime or infraction,
16 eliminates a crime or infraction, or changes the penalty for a crime
17 or infraction, within the meaning of Section 17556 of the
18 Government Code, or changes the definition of a crime within the
19 meaning of Section 6 of Article XIII B of the California
20 Constitution.

21 However, if the Commission on State Mandates determines that
22 this act contains other costs mandated by the state, reimbursement
23 to local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.

26 SEC. 16. The provisions of this act are severable. If any
27 provision of this act or its application is held invalid, that invalidity
28 shall not affect other provisions or applications that can be given
29 effect without the invalid provision or application.

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(6) – SB 331 (Rubio) Child custody: child abuse and safety

Background

SB 331 (Rubio) was introduced on February 7, 2023.

This bill would establish the Piqui's Law, the Safe Child Act, which would prohibit a court from ordering family reunification treatments in a custody or visitation dispute, which includes any counseling, treatment, program, or service, including reunification or reconnection therapy, workshops, classes, and camps, intended to reunite, reestablish, or repair a relationship between a child and the parent seeking custody or visitation that is predicated on cutting the child off from, or restricting the contact with the primary custodial parent, provided that the primary custodial parent is not physically or sexually abusive or neglectful of the child to a degree that places the child at substantial risk of serious harm. Neglect does not include circumstances due solely to the parent's financial difficulty, and limits when a court may order counseling with a parent with whom the child has a damaged relationship. The court may not order counseling unless there is generally accepted and scientifically valid proof of the safety, effectiveness, and therapeutic value of the counseling.

Additionally, it would require judges involved in child custody proceedings to report to the Judicial Council, and the Judicial Council to report to the Legislature, on their trainings in the area of domestic violence; and modifies the training programs that Judicial Council must establish for individuals who perform duties in family law members.

Further, provides that a person is qualified to testify as an expert in a child custody proceeding in which a parent has been alleged to have committed domestic violence or child abuse, including child sexual abuse, if the person has special knowledge, skills, experience, training, or education sufficient to qualify them as an expert on the subject to which their testimony relates.

Concerns regarding SB 331 include the stakeholder concerns regarding reunification camps.

Additionally, there is a concern regarding what type of therapy can be court-ordered.

On April 26, 2023, the bill passed the Senate Committee on Judiciary.

On May 18, 2023, the bill passed the Senate Committee on Appropriations.

On May 24, 2023, the bill was ordered to the Assembly.

Board of Psychology staff is continuing to monitor the bill for additional amendments.

Action Requested

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

Attachment 1: SB 331 (Rubio) Bill Text

AMENDED IN SENATE APRIL 27, 2023
AMENDED IN SENATE MARCH 22, 2023

SENATE BILL

No. 331

Introduced by Senator Rubio

February 7, 2023

An act to amend ~~Sections 3020 and 3026~~ *Section 3190* of, and to add Sections 3033 and 3040.5 to, the Family Code, and to repeal and add Section 68555 of the Government Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as amended, Rubio. Child custody: child abuse and safety.

Existing law governs the determination of child custody and visitation in contested proceedings. Existing law requires the court, for purposes of deciding custody, to determine the best interests of the child based on certain factors, including the nature and amount of contact with both parents and, consistent with specified findings, requires the court's primary concern to be the health, safety, and welfare of the child. Existing law prohibits the ordering of family reunification services as part of a child custody or visitation rights proceeding.

This bill, Piqui's Law, the Safe Child Act, would ~~prohibit court-ordered family reunification services as part of a child custody or visitation rights proceeding, including reunification or reconnection therapy, treatments, programs, workshops, classes, or camps that are predicated on cutting off a child from a parent with whom the child is bonded or to whom the child is attached.~~ The bill would provide that a person is qualified to testify as an expert in a child custody proceeding in which a parent has been alleged to have committed domestic violence or child abuse, as specified, if the person shows by any otherwise admissible evidence that the person has sufficient special knowledge,

skill, experience, training, or education relating to the subject of the person's testimony. This bill would require a judge assigned to family law matters involving child custody proceedings and individual courts to submit the number of hours of continuing instruction in domestic violence completed to the Judicial Council. The bill would require the Judicial Council to submit a report to the Legislature and the relevant policy committees on the trainings for judges across all counties, as specified.

Existing law authorizes the court, upon making certain findings, to require the parent or parents, or any other party involved in a custody or visitation dispute, and the minor child to participate in outpatient counseling, as specified.

This bill would prohibit the court from ordering family reunification treatment, as defined. The bill would require court-ordered counseling, as specified, to primarily address the behavior or contribution to the resistance of the child by the parent seeking custody or visitation before ordering the primary custodial parent to take steps to improve the child's relationship with the parent seeking custody or visitation. This bill would require the court to state all of its reasons for ordering counseling, and the evidence it relied on, in a written order on the record. The bill would require the court to make findings that remediation is in the best interest of the child and that the parent seeking custody or visitation has shown they are willing to meaningfully participate in the counseling.

Existing law requires the Judicial Council to establish judicial training programs for individuals who perform duties in domestic violence matters. Existing law requires the training programs to include a domestic violence session in any orientation session for newly appointed or elected judges and an annual training session in domestic violence. Existing law requires the training programs to include instruction in all aspects of domestic violence, including, but not limited to, the detriment to children of residing with a person who perpetrates domestic violence.

This bill would repeal those provisions and instead require the Judicial Council to establish ~~mandatory~~ judicial training programs for individuals, including judges and judges pro tem, who perform duties in family law matters, including, among other topics, child sexual abuse and coercive control, as specified.

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

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

1 SECTION 1. This act shall be known, and may be cited, as
2 Piqui's Law, the Safe Child Act.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) Approximately 1 in 15 children in the United States is
6 exposed to domestic violence each year.

7 (2) Most child abuse in America is perpetrated in the family
8 and by a parent, and intimate partner violence and child abuse
9 overlap in the same families at rates between 30 and 60 percent.
10 A child's risk of abuse increases after a perpetrator of intimate
11 partner violence separates from a domestic partner, even when the
12 perpetrator has not previously directly abused the child. Children
13 in the United States who have witnessed intimate partner violence
14 are approximately four times more likely to experience direct child
15 maltreatment than children who have not witnessed intimate partner
16 violence.

17 (3) More than 75 percent of child sexual abuse in America is
18 perpetrated by a family member or a person known to the child.
19 Data from the United States Department of Justice shows that
20 family members are 49 percent, or almost one-half, of the
21 perpetrators of crimes against child sex assault victims younger
22 than six years of age.

23 (4) Federal scientific research suggests that a child's exposure
24 to an abuser is among the strongest indicators of risk of incest
25 victimization. One national study found that female children with
26 fathers who are abusers of their mothers were six and one-half
27 times more likely to experience father-daughter incest than female
28 children who do not have abusive fathers.

29 (5) Child abuse is a major public health issue in the United
30 States. Total lifetime financial costs associated with just one year
31 of confirmed cases of child maltreatment, including child physical
32 abuse, sexual abuse, psychological abuse, and neglect, result in
33 \$124 billion in annual costs to the economy of the United States,
34 or approximately 1 percent of the gross domestic product of the
35 United States.

36 (b) It is the intent of the Legislature to do all of the following:

37 (1) Increase the priority given to child safety in any state court
38 divorce, separation, visitation, paternity, child support, civil

1 protection order, or family custody court proceeding affecting the
2 custody and care of children, excluding child protective, abuse, or
3 neglect proceedings and juvenile justice proceedings.

4 (2) Ensure that professional personnel involved in cases
5 containing domestic violence or child abuse allegations receive
6 trauma-informed and culturally appropriate training on the
7 dynamics, signs, and impact of domestic violence and child abuse,
8 including child sexual abuse.

9 (3) Ensure trainings are designed to improve the ability of
10 judges, judges pro tem, referees, commissioners, mediators, child
11 custody recommending counselors, minors counsel, evaluators,
12 and others who are deemed appropriate and who perform duties
13 in family law matters to recognize and respond to child abuse,
14 domestic violence, and trauma in family victims.

15 (4) Ensure trainings are designed to improve the ability of
16 judges, judges pro tem, referees, commissioners, mediators, child
17 custody recommending counselors, minors counsel, evaluators,
18 and others who are deemed appropriate and who perform duties
19 in family law matters to prioritize children and to make appropriate
20 custody decisions in the best interest of child safety and well-being
21 that are culturally responsive and appropriate for diverse
22 communities.

23 (5) Make California eligible for additional grant funding through
24 the United States Department of Justice's STOP Violence Against
25 Women Formula Grant Program, as appropriated for states that
26 meet the requirements of the federal Violence Against Women
27 Act Reauthorization Act of 2022 (Division W of Public Law
28 117-103).

29 ~~SEC. 3.— Section 3020 of the Family Code is amended to read:~~

30 ~~3020. (a) The Legislature finds and declares that it is the public~~
31 ~~policy of this state to ensure that the health, safety, and welfare of~~
32 ~~children shall be the court's primary concern in determining the~~
33 ~~best interests of children when making any orders regarding the~~
34 ~~physical or legal custody or visitation of children. The Legislature~~
35 ~~further finds and declares that children have the right to be safe~~
36 ~~and free from abuse, and that the perpetration of child abuse or~~
37 ~~domestic violence in a household where a child resides is~~
38 ~~detrimental to the health, safety, and welfare of the child.~~

39 ~~(b) The Legislature finds and declares that it is the public policy~~
40 ~~of this state to ensure that children have frequent and continuing~~

1 contact with both parents after the parents have separated or
2 dissolved their marriage, or ended their relationship, and to
3 encourage parents to share the rights and responsibilities of child
4 rearing in order to effect this policy, except when the contact would
5 not be in the best interests of the child, as provided in subdivisions
6 (a) and (e) of this section and Section 3011.

7 (e) ~~When the policies set forth in subdivisions (a) and (b) of~~
8 ~~this section are in conflict, a court's order regarding physical or~~
9 ~~legal custody or visitation shall be made in a manner that prioritizes~~
10 ~~the health, safety, and welfare of the child and the safety of all~~
11 ~~family members.~~

12 (d) ~~The Legislature finds and declares that it is the public policy~~
13 ~~of this state to ensure that the sex, gender identity, gender~~
14 ~~expression, or sexual orientation of a parent, legal guardian, or~~
15 ~~relative is not considered in determining the best interests of the~~
16 ~~child.~~

17 ~~SEC. 4. Section 3026 of the Family Code is amended to read:~~

18 ~~3026. (a) Family reunification services, including, but not~~
19 ~~limited to, reunification or reconnection therapy, treatments,~~
20 ~~programs, workshops, classes, or camps that are predicated on~~
21 ~~cutting off a child from a parent with whom the child is bonded~~
22 ~~or to whom the child is attached, shall not be ordered as a part of~~
23 ~~a child custody or visitation rights proceeding.~~

24 (b) ~~Notwithstanding any other law, a custody or visitation order~~
25 ~~issued under this section or Section 3190 or 3191 shall not contain~~
26 ~~either of the following:~~

27 (1) ~~An order for a child to attend or participate in a program~~
28 ~~described in subdivision (a).~~

29 (2) ~~An order for a parent to not have visitation with or custody~~
30 ~~of the child for a program described in subdivision (a).~~

31 (c) ~~This section does not affect the applicability of Section 16507~~
32 ~~of the Welfare and Institutions Code.~~

33 (d) ~~This section does not provide for either of the following:~~

34 (1) ~~A presumption for joint custody.~~

35 (2) ~~A presumption that every child needs to be raised by both~~
36 ~~parents.~~

37 ~~SEC. 5.~~

38 ~~SEC. 3. Section 3033 is added to the Family Code, to read:~~

39 ~~3033. (a) (1) A person is qualified to testify as an expert in a~~
40 ~~child custody proceeding in which a parent has been alleged to~~

1 have committed domestic violence or child abuse, including child
 2 sexual abuse, if the person has special knowledge, skill, experience,
 3 training, or education sufficient to qualify them as an expert on
 4 the subject to which their testimony relates.

5 (2) Against the objection of a party, the special knowledge,
 6 skill, experience, training, or education shall be shown before the
 7 witness may testify as an expert.

8 (b) A witness’ special knowledge, skill, experience, training,
 9 or education may be shown by otherwise admissible evidence,
 10 including their own testimony.

11 ~~SEC. 6.~~

12 *SEC. 4.* Section 3040.5 is added to the Family Code, to read:

13 3040.5. (a) A judge assigned to family law matters involving
 14 child custody proceedings shall report to the Judicial Council the
 15 number of hours in a program of continuing instruction in domestic
 16 violence, including, but not limited to, coercive control and child
 17 sexual abuse.

18 (b) Each individual court shall submit the hours of completed
 19 training to the Judicial Council.

20 (c) (1) The Judicial Council shall report to the Legislature and
 21 the relevant policy committees, on or before January 1, 2025, and
 22 each January thereafter, on the trainings for judges across all
 23 counties.

24 (2) The report submitted to the Legislature pursuant to paragraph
 25 (1) shall be submitted in accordance with Section 9795 of the
 26 Government Code.

27 *SEC. 5. Section 3190 of the Family Code is amended to read:*

28 3190. (a) (1) The court may require ~~parents or any other~~
 29 *parents, or another* party involved in a custody or visitation
 30 dispute, and the minor ~~child,~~ *child* to participate in outpatient
 31 counseling with a licensed mental health professional, or through
 32 other community programs and services that provide appropriate
 33 counseling, including, but not limited to, mental health or substance
 34 abuse services, for not more than one year, provided that the
 35 program selected has counseling available for the designated period
 36 of time, if the court finds both of the following:

37 (1)

38 (A) The dispute between the parents, between the parent or
 39 parents and the child, between the parent or parents and another
 40 party seeking custody or visitation rights with the child, or between

1 a party seeking custody or visitation rights and the child, poses a
2 substantial danger to the best interest of the child.

3 ~~(2)~~

4 (B) The counseling is in the best interest of the child.

5 (2) (A) *A court shall not order family reunification treatment.*

6 (B) (i) *Family reunification treatment is any counseling,*
7 *treatment, program, or service, including reunification or*
8 *reconnection therapy, workshops, classes, and camps, intended*
9 *to reunite, reestablish, or repair a relationship between a child*
10 *and the parent seeking custody or visitation that is predicated on*
11 *cutting the child off from, or restricting the contact with, the*
12 *primary custodial parent, provided that the primary custodial*
13 *parent is not physically or sexually abusive or neglectful of the*
14 *child to a degree that places the child at substantial risk of serious*
15 *harm.*

16 (ii) *Neglect does not include circumstances due solely to the*
17 *parent's indigence or other financial difficulty.*

18 (3) (A) *If a court orders counseling to remediate the resistance*
19 *of a child to connect with the parent seeking custody or visitation,*
20 *or to improve a deficient relationship with the parent seeking*
21 *custody or visitation, the counseling shall primarily address the*
22 *behavior of that parent or that parent's contribution to the*
23 *resistance of the child before ordering the primary custodial parent*
24 *to take steps to potentially improve the child's relationship with*
25 *the parent seeking custody or visitation.*

26 (B) *A court shall not order counseling under this paragraph*
27 *unless there is generally accepted and scientifically valid proof of*
28 *the safety, effectiveness, and therapeutic value of the counseling.*

29 (b) In determining whether a dispute, as described in paragraph
30 (1) of subdivision (a), poses a substantial danger to the best interest
31 of the child, the court shall consider, in addition to any other factors
32 the court determines relevant, ~~any~~ a history of domestic violence,
33 as defined in Section 6211, within the past five years between the
34 parents, between the parent or parents and the child, between the
35 parent or parents and another party seeking custody or visitation
36 rights with the child, or between a party seeking custody or
37 visitation rights and the child.

38 (c) Subject to Section 3192, if the court finds that the financial
39 burden created by the order for counseling does not otherwise
40 jeopardize a party's other financial obligations, the court shall fix

1 the cost and shall order the entire cost of the services to be borne
2 by the parties in the proportions the court deems reasonable.

3 ~~(d) The court, in its finding, shall set forth reasons why it has~~
4 ~~found both~~ *court shall state all of its reasons for ordering*
5 *counseling, and the evidence relied on, in a written order or on*
6 *the record, including all of the following:*

7 (1) The dispute poses a substantial danger to the best interest
8 of the ~~child~~ *child*, and the counseling is in the best interest of the
9 child.

10 (2) The financial burden created by the court order for
11 counseling does not otherwise jeopardize a party's other financial
12 obligations.

13 *(3) If the court is ordering counseling to remediate the resistance*
14 *of the child to connect with the parent seeking custody or visitation,*
15 *or to improve a deficient relationship with the parent seeking*
16 *custody or visitation, the basis for determining that remediation*
17 *is in the best interest of the child and that the parent seeking*
18 *custody or visitation has shown that they are willing to*
19 *meaningfully participate in the counseling.*

20 (e) The court shall not order the parties to return to court upon
21 the completion of counseling. ~~Any~~ A party may file a new order
22 to show cause or motion after counseling has been completed, and
23 the court may again order counseling consistent with this chapter.

24 ~~SEC. 7.~~

25 *SEC. 6.* Section 68555 of the Government Code is repealed.

26 ~~SEC. 8.~~

27 *SEC. 7.* Section 68555 is added to the Government Code, to
28 read:

29 68555. (a) The Judicial Council shall establish ~~mandatory~~
30 judicial training programs for individuals who perform duties in
31 family law matters, including, but not limited to, judges, judges
32 pro tem, referees, commissioners, mediators, and others who are
33 deemed appropriate by the Judicial Council.

34 (b) (1) The training program described in this section shall be
35 an ongoing training and education program designed to improve
36 the ability of courts to recognize and respond to child physical
37 abuse, child sexual abuse, domestic violence, and trauma in family
38 victims, particularly children, and to make appropriate custody
39 decisions that prioritize child safety and well-being and are
40 culturally sensitive and appropriate for diverse communities.

- 1 (2) The training program shall include instruction in the
2 following topics:
- 3 (A) Child sexual abuse.
 - 4 (B) Physical abuse.
 - 5 (C) Emotional abuse.
 - 6 (D) Coercive control.
 - 7 (E) Implicit and explicit bias, including biases relating to parents
8 with disabilities.
 - 9 (F) Trauma.
 - 10 (G) Long- and short-term impacts of domestic violence and
11 child abuse on children.
 - 12 (H) Victim and perpetrator behavioral patterns and relationship
13 dynamics within the cycle of violence.
- 14 ~~(e) (1) The training program described in this section shall~~
15 ~~include both of the following:~~
- 16 ~~(A) An orientation session that is a minimum of 25 hours in~~
17 ~~duration.~~
 - 18 ~~(B) A minimum of 20 hours of ongoing training to be completed~~
19 ~~every three years thereafter to align with current training timelines~~
20 ~~described in subdivision (d) of Rule 10.462 of the California Rules~~
21 ~~of Court.~~
- 22 ~~(2) These hourly requirements may be satisfied by completing~~
23 ~~other approved training curriculum on a topic listed in paragraph~~
24 ~~(2) of subdivision (b).~~

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(7) SB 373 (Menjivar) Board of Behavioral Sciences, Board of Psychology, and Medical Board of California: Licensee's and registrants' addresses

Background:

This bill prohibits the Board of Psychology (Board) from disclosing the full address of record (AOR) on the internet of licensees and registered psychological associates. The bill only allow the Board to disclose the city, state, and ZIP code of the address of record.

On March 23, 2023, the bill was amended to include County in the disclosed information, city, state, county, and Zip code. The amendments also added language that states it would not apply to secondary documents linked to the Boards internet website which may contain an address of record.

On April 7, 2023, the motion for the Board to adopt a Support position did not pass.

On April 12, the bill passed the Senate Committee on Business, Professions, Economic, and Development.

On April 19, 2023, the bill passed the Senate Committee on Judiciary.

On April 20, 2023, Section 2 2937(b) was amended to include "*The board shall establish a process for providing a licensee's or registrant's complete address upon receipt of a request that is related to a court proceeding against or request for records from the licensee or registrant. The process shall ensure that the request is completed within 10 business days. This subdivision shall be*

implemented in compliance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). “

On May 8, 2023, the bill passed the Senate Committee on Appropriations, and was ordered to the Assembly.

On May 19, 2023, the bill was presented to Board Members for a possible position, however, and the Board did not take a position so staff will continue to watch SB 373.

Board staff is continuing to monitor the bill for additional amendments.

Action Requested

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

Attachment 1: Senate Bill 373 (Menjivar) amended bill text

AMENDED IN SENATE APRIL 20, 2023
AMENDED IN SENATE APRIL 13, 2023
AMENDED IN SENATE MARCH 23, 2023

SENATE BILL

No. 373

Introduced by Senator Menjivar

February 9, 2023

An act to amend Section 27 of, and to add Sections 2937 and 4990.11 to, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 373, as amended, Menjivar. Board of Behavioral Sciences, Board of Psychology, and Medical Board of California: licensees' and registrants' addresses.

Existing law creates the Department of Consumer Affairs, which is composed of various boards that license and regulate specified professions deemed to engage in activities that have potential impact upon the public health, safety, and welfare. Existing law requires the Board of Behavioral Sciences and Board of Psychology, among other boards, to post information regarding the status of every license issued by those boards on the board's internet website. Existing law exempts personal information of licensees from this disclosure requirement, including home telephone number, date of birth, and social security number.

This bill would, with certain exceptions, prohibit the Board of Behavioral Sciences and the Board of Psychology from disclosing on the internet the full address of record of certain licensees and registrants, and would require those boards to disclose the city, state, county, and

ZIP Code of the address of record of those licensees and registrants. *The bill would require those boards to establish a process, as specified, for providing a licensee’s or registrant’s complete address upon receipt of a request that is related to a court proceeding against or request for records from the licensee or registrant.*

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

This bill would make legislative findings to that effect.

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

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

1 SECTION 1. Section 27 of the Business and Professions Code
2 is amended to read:
3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
4 shall provide on the internet information regarding the status of
5 every license issued by that entity in accordance with the California
6 Public Records Act (Division 10 (commencing with Section
7 7920.000) of Title 1 of the Government Code) and the Information
8 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
9 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public
10 information to be provided on the internet shall include information
11 on suspensions and revocations of licenses issued by the entity
12 and other related enforcement action, including accusations filed
13 pursuant to the Administrative Procedure Act (Chapter 3.5
14 (commencing with Section 11340) of Part 1 of Division 3 of Title
15 2 of the Government Code) taken by the entity relative to persons,
16 businesses, or facilities subject to licensure or regulation by the
17 entity. The information may not include personal information,
18 including home telephone number, date of birth, or social security
19 number. Each entity shall disclose a licensee’s address of record.
20 However, each entity shall allow a licensee to provide a post office
21 box number or other alternate address, instead of the licensee’s
22 home address, as the address of record. This section shall not
23 preclude an entity from also requiring a licensee, who has provided
24 a post office box number or other alternative mailing address as

1 the licensee's address of record, to provide a physical business
2 address or residence address only for the entity's internal
3 administrative use and not for disclosure as the licensee's address
4 of record or disclosure on the internet.

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

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

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

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

18 (3) The Bureau of Household Goods and Services shall disclose
19 information on its licensees, registrants, and permit holders.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (f) Notwithstanding subdivisions (a) and (c), the Board of
28 Behavioral Sciences shall not disclose on the internet the full
29 address of record of their licensees and registrants. However, the
30 board shall disclose the city, state, county, and ZIP Code of the
31 address of record for its licensees and registrants. This subdivision
32 shall not apply to secondary documents linked to the board's
33 internet website which may contain an address of record.

34 (g) Notwithstanding subdivisions (a) and (c), the Board of
35 Psychology shall not disclose on the internet the full address of
36 record of their licensees and registered psychological associates.
37 However, the board shall disclose the city, state, county, and ZIP
38 Code of the address of record for its licensees and registered
39 psychological associates. This subdivision shall not apply to

1 secondary documents linked to the board’s internet website which
2 may contain an address of record.

3 (h) “Internet” for the purposes of this section has the meaning
4 set forth in paragraph (6) of subdivision (f) of Section 17538.

5 SEC. 2. Section 2937 is added to the Business and Professions
6 Code, to read:

7 2937. (a) Notwithstanding Section 27, the board shall not
8 disclose on the internet the full address of record of its licensees
9 and registrants. However, the board shall disclose the city, state,
10 county, and ZIP Code of the address of record for its licensees and
11 registrants. This section shall not apply to secondary documents
12 linked to the board’s internet website which may contain an address
13 of record.

14 (b) *The board shall establish a process for providing a licensee’s*
15 *or registrant’s complete address upon receipt of a request that is*
16 *related to a court proceeding against or request for records from*
17 *the licensee or registrant. The process shall ensure that the request*
18 *is completed within 10 business days. This subdivision shall be*
19 *implemented in compliance with the California Public Records*
20 *Act (Division 10 (commencing with Section 7920.000) of Title 1*
21 *of the Government Code).*

22 SEC. 3. Section 4990.11 is added to the Business and
23 Professions Code, to read:

24 4990.11. (a) Notwithstanding Section 27, the board shall not
25 disclose on the internet the full address of record of its licensees
26 and registrants. However, the board shall disclose the city, state,
27 county, and ZIP Code of the address of record for its licensees and
28 registrants. This section shall not apply to secondary documents
29 linked to the board’s internet website which may contain an address
30 of record.

31 (b) *The board shall establish a process for providing a licensee’s*
32 *or registrant’s complete address upon receipt of a request that is*
33 *related to a court proceeding against or request for records from*
34 *the licensee or registrant. The process shall ensure that the request*
35 *is completed within 10 business days. This subdivision shall be*
36 *implemented in compliance with the California Public Records*
37 *Act (Division 10 (commencing with Section 7920.000) of Title 1*
38 *of the Government Code).*

39 SEC. 4. The Legislature finds and declares that Section 1 of
40 this act, which amends Section 27 of the Business and Professions

1 Code, imposes a limitation on the public’s right of access to the
2 meetings of public bodies or the writings of public officials and
3 agencies within the meaning of Section 3 of Article I of the
4 California Constitution. Pursuant to that constitutional provision,
5 the Legislature makes the following findings to demonstrate the
6 interest protected by this limitation and the need for protecting
7 that interest:
8 This act balances the public’s right to access records of the
9 entities within the Department of Consumer Affairs with the need
10 to protect the privacy of licensees.

O

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(8) SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing

Background:

This bill would amend existing law that will remain operative after July 1, 2023, which would allow state bodies to hold public meetings through teleconferencing, with specified notice and accessibility requirements. The public would have to be given the teleconference number, website, or other online platform to access the meeting, and at least one member of the state body must be present at the specified location. It also specifies that members of the public can address the state body without having to submit public comments prior to the meeting. Additionally, the bill provides access for people with disabilities and requires state bodies to disclose if any other individuals 18 years of age or older are present at the remote location of the meeting.

On April 11, 2023, the bill passed the Senate Committee on Governmental Organization.

On April 26, 2023, the bill passed the Senate Committee on Appropriations.

On May 1, 2023, the bill passed the Senate Committee on Appropriations, and was ordered to the Assembly.

Board of Psychology staff is continuing to monitor the bill, for additional amendments.

Action Requested

Staff Recommendation: to Support SB 544 if amended to remove attached provisions.

Attachment 1: Senate Bill 544 (Laird) bill analysis

Attachment 2: Senate Bill 544 (Laird) Amended bill text

2023 Bill Analysis

Author: Senator Laird	Bill Number: SB 544	Related Bills: SB 189
Sponsor:	Version: Amended	AB 1733 AB 2449
Subject: Bagley-Keene Open Meeting Act: Teleconferencing		

SUMMARY

This bill would amend existing law that will remain operative after July 1, 2023, which would allow state bodies to hold public meetings through teleconferencing, with specified notice and accessibility requirements. The public would have to be given the teleconference number, website, or other online platform to access the meeting, and at least one member of the state body must be present at the specified location. It also specifies that members of the public can address the state body without having to submit public comments prior to the meeting. Additionally, the bill provides access for people with disabilities and requires state bodies to disclose if any other individuals 18 years of age or older are present at the remote location of the meeting.

RECOMMENDATION

Staff recommends a position of **Support if Amended**.

The recommended amendments include striking the following sections:

(J) 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.

Currently, the agenda requirements grant the Board flexibility in continuing the meeting if technical difficulties become present. Section (J) would limit the flexibility in continuing the meeting, and in turn make the virtual meeting impractical.

(e) 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.

By requiring the proposed language in Section (e), it conflicts with the intent in Section (a) that states:

(a) 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.

Specifically, if Board Members are calling from home or their office, they would need to announce spouses, partners, co-workers, or even clients to the meeting – an unnecessary addition to the requirements.

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

REASON FOR THE BILL

According to the author's office, "in response to the COVID-19 pandemic and the state boards and commissions could continue to serve Californians remotely and safely. Although meant to be temporary, we saw significant benefits of remote meetings such as increased participation and reduced operating costs to the state."

Further, the author's office notes that, "Senate Bill 544 codifies the Governor's Executive Order allowing state boards and commissions the opportunity to continue holding virtual meetings without being required to list the private addresses of each remote member or providing public access to private locations. The additional flexibility and safeguards may also help attract and retain appointees, who provide invaluable perspective. This bill will promote equity and public participation by removing barriers to Californians that experience challenges attending physical meetings, such as people with disabilities, caretakers, seniors, low-income individuals, and those living in rural or different areas of the state. SB 544 will empower the California voices all across the state."

ANALYSIS

Existing law under the Bagley-Keene Open Meeting Act, requires that all meetings of a state body be open and public and allow all persons to be permitted to attend any meeting of a state body. Authorizes a state body to choose to conduct a meeting or proceeding by teleconference and requires that state agency to 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. Requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and each teleconference location to be accessible to the public and requires the agenda to provide an opportunity for members of the public to address the state body directly at each teleconference location and requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

SB 544 would require state bodies to offer remote audio access, remote observation, and in-person attendance for teleconferenced meeting by listing teleconference numbers, internet website or online platform, and physical addresses indicating how the public can access the meeting remotely on the agenda. SB 544 does not affect the existing notice and agenda requirements and would require the state body to post an agenda on its internet website and on the day of the meeting, at any physical meeting location designated in the notice of the meeting.

Additionally, SB 544 requires that at least one member of the state body be physically present at the locations specified in the in notice of the meeting and requires state bodies conducting teleconferenced meetings to establish and advertise a procedure for handling accessibility request from individuals with disabilities, in compliance with the Americans with Disabilities Act of 1990.

Furthermore, SB 544 specifies that members of the public are entitled to exercise their right to directly address the state body during the teleconference meeting without being required to submit public comments prior to the meeting or in writing. Requires a state body, upon discovering that remote participation has failed during a meeting and cannot be restored, to end or adjourn the meeting

LEGISLATIVE HISTORY

SB 189 (Committee on Budget and Fiscal Review, Ch. 48, Stats. 2022) among other things, provided a temporary statutory extension for state bodies in California to hold public meetings through teleconferencing, such as phone or video calls, instead of in-person gatherings, as specified.

AB 1733 (Quirk, 2022) would have updated Bagley-Keene to accommodate teleconferenced meetings as a standard practice, as provided. This bill was never set for a hearing in the Assembly Governmental Organization Committee.

AB 2449 (Rubio, Ch. 285, Stats. 2022) allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions.

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 registered psychological associates.

The Board is responsible for reviewing applications, verifying education and experience, determining exam eligibility, as well as issuing licensure, registrations, and renewals.

FISCAL IMPACT

The Board currently holds at least four board meetings a year, with at least one in-person meeting. Virtual meetings offer the opportunity to save costs in regard to in-state travel and meeting costs.

The virtual meetings are conducted through teleconferencing and Webex, which offer free access, and if needed the ability to call in to the meeting at no cost or additional cost. The Board currently works with IT and Strategic Organizational Leadership and Individual Development (SOLID) team to ensure that the public can access, view, and participate in the virtual and in-person meetings.

Board Members and Board Staff are present in all meetings, and the meeting materials and agendas are currently published on the Boards website prior to each meeting.

ECONOMIC IMPACT

Not Applicable

LEGAL IMPACT

Not Applicable

APPOINTMENTS

Not Applicable

SUPPORT/OPPOSITION

Support:

California Commission on Aging (source)
AARP
Board of Registered Nursing
California Acupuncture Board
California Association of Area Agencies on Aging
California Senior Legislature
California State Board of Barbering and Cosmetology
California State Board of Pharmacy
Health Officers Association of California
Little Hoover Commission
State Bar of California

Opposition:

ACLU California Action
California Broadcasters Association
California News Publishers Association
Californians Aware
First Amendment Coalition
Howard Jarvis Taxpayers Association

ARGUMENTS

Not Applicable

Proponents:

Opponents:

AMENDMENTS

Not Applicable

AMENDED IN SENATE APRIL 27, 2023
AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 544

Introduced by Senator Laird

February 15, 2023

An act to amend Section 11123 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Laird. Bagley-Keene Open Meeting Act: teleconferencing.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act authorizes meetings through teleconference subject to specified requirements, including, among others, that the state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, that each teleconference location be accessible to the public, that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location, and that at least one member of the state body be physically present at the location specified in the notice of the meeting.

Existing law, until July 1, 2023, authorizes, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and suspends certain requirements of the act, including the above-described teleconference requirements.

This bill would amend existing law that will remain operative after July 1, 2023, to remove indefinitely the teleconference requirements

that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The bill would require a state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. The bill would require any notice required by the act to specify the applicable teleconference telephone number, internet website or other online platform, and physical address indicating how the public can access the meeting remotely and in person. The bill would revise existing law to no longer require that members of the public have the opportunity to address the state body directly at each teleconference location, but would continue to require that the agenda provide an opportunity for members of the public to address the state body directly. The bill would require a member or staff to be physically present at the location specified in the notice of the meeting.

This bill would provide that it does not affect prescribed existing notice and agenda requirements and would require the state body to post an 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 bill would prohibit the notice and agenda from disclosing information regarding any remote location from which a member is participating and define “remote location” for this purpose. The bill would provide that 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.

This bill would require a state body, upon discovering that a means of remote participation required by the bill has failed during a meeting and cannot be restored, to end or adjourn the meeting in accordance with prescribed adjournment and notice provisions, including information about reconvening.

This bill would require a state body that holds a meeting through teleconferencing pursuant to the bill and allows members of the public to observe and address the meeting telephonically or otherwise electronically to implement and advertise, as prescribed, a procedure

for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990.

This bill would require a member of a state body who attends a meeting by teleconference from a remote location to 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.

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

This bill would make legislative findings to that effect.

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

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

- 1 SECTION 1. Section 11123 of the Government Code is
2 amended to read:
3 11123. (a) All meetings of a state body shall be open and
4 public and all persons shall be permitted to attend any meeting of
5 a state body except as otherwise provided in this article.
6 (b) (1) This article does not prohibit a state body from holding
7 an open or closed meeting by teleconference for the benefit of the
8 public and state body. The meeting or proceeding held by
9 teleconference shall otherwise comply with all applicable
10 requirements or laws relating to a specific type of meeting or
11 proceeding, including the following:
12 (A) The teleconferencing meeting shall comply with all
13 requirements of this article applicable to other meetings.
14 (B) The portion of the teleconferenced meeting that is required
15 to be open to the public shall be audible to the public at the location
16 specified in the notice of the meeting.
17 (C) If the state body elects to conduct a meeting or proceeding
18 by teleconference, it shall conduct teleconference meetings in a
19 manner that protects the rights of any party or member of the public
20 appearing before the state body. The state body shall provide a
21 means by which the public may remotely hear audio of the meeting,

1 remotely observe the meeting, or attend the meeting by providing
2 on the posted agenda a teleconference telephone number, an
3 internet website or other online platform, and a physical address
4 for at least one site, including, if available, access equivalent to
5 the access for a member of the state body participating remotely.
6 The applicable teleconference telephone number, internet website
7 or other online platform, and physical address indicating how the
8 public can access the meeting remotely and in person shall be
9 specified in any notice required by this article.

10 (D) The agenda shall provide an opportunity for members of
11 the public to address the state body directly pursuant to Section
12 11125.7.

13 (E) All votes taken during a teleconferenced meeting shall be
14 by rollcall.

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

18 (G) At least one member or staff of the state body shall be
19 physically present at the location specified in the notice of the
20 meeting.

21 *(H) This section does not affect the requirement prescribed by*
22 *this article that the state body post an agenda of a meeting in*
23 *accordance with the applicable notice requirements of this article,*
24 *including Section 11125, requiring the state body to post an agenda*
25 *of a meeting at least 10 days in advance of the meeting, Section*
26 *11125.4, applicable to special meetings, and Sections 11125.5 and*
27 *11125.6, applicable to emergency meetings. The state body shall*
28 *post the agenda on its internet website and, on the day of the*
29 *meeting, at any physical meeting location designated in the notice*
30 *of the meeting. The notice and agenda shall not disclose*
31 *information regarding any remote location from which a member*
32 *is participating.*

33 *(I) Members of the public shall be entitled to exercise their right*
34 *to directly address the state body during the teleconferenced*
35 *meeting without being required to submit public comments prior*
36 *to the meeting or in writing.*

37 *(J) Upon discovering that a means of remote participation*
38 *required by this section has failed during a meeting and cannot*
39 *be restored, the state body shall end or adjourn the meeting in*
40 *accordance with Section 11128.5. In addition to any other*

1 *requirements that may apply, the state body shall provide notice*
2 *of the meeting's end or adjournment on the state body's internet*
3 *website and by email to any person who has requested notice of*
4 *meetings of the state body by email under this article. If the meeting*
5 *will be adjourned and reconvened on the same day, further notice*
6 *shall be provided by an automated message on a telephone line*
7 *posted on the state body's agenda, internet website, or by a similar*
8 *means, that will communicate when the state body intends to*
9 *reconvene the meeting and how a member of the public may hear*
10 *audio of the meeting or observe the meeting.*

11 (2) For the purposes of this subdivision, “teleconference” both
12 of the following definitions shall apply:

13 (A) “Teleconference” means a meeting of a state body, the
14 members of which are at different locations, connected by
15 electronic means, through either audio or both audio and video.
16 This section does not prohibit a state body from providing members
17 of the public with additional locations in which the public may
18 observe or address the state body by electronic means, through
19 either audio or both audio and video.

20 (B) “Remote location” means a location from which a member
21 of a state body participates in a meeting other than any physical
22 meeting location designated in the notice of the meeting. Remote
23 locations need not be accessible to the public.

24 (c) If a state body holds a meeting through teleconferencing
25 pursuant to this section and allows members of the public to
26 observe and address the meeting telephonically or otherwise
27 electronically, the state body shall also do both of the following:

28 (1) Implement a procedure for receiving and swiftly resolving
29 requests for reasonable modification or accommodation from
30 individuals with disabilities, consistent with the federal Americans
31 with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and
32 resolving any doubt whatsoever in favor of accessibility.

33 (2) Advertise that procedure each time notice is given of the
34 means by which members of the public may observe the meeting
35 and offer public comment.

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

39 (e) *If a member of a state body attends a meeting by*
40 *teleconference from a remote location, the member shall disclose*

1 *whether any other individuals 18 years of age or older are present*
2 *in the room at the remote location with the member, and the*
3 *general nature of the member's relationship with any such*
4 *individuals.*

5 (e)

6 (f) For purposes of this section, “participate remotely” means
7 participation in a meeting at a location other than the physical
8 location designated in the agenda of the meeting.

9 SEC. 2. The Legislature finds and declares that Section 1 of
10 this act, which amends Section 11123 of the Government Code,
11 imposes a limitation on the public's right of access to the meetings
12 of public bodies or the writings of public officials and agencies
13 within the meaning of Section 3 of Article I of the California
14 Constitution. Pursuant to that constitutional provision, the
15 Legislature makes the following findings to demonstrate the interest
16 protected by this limitation and the need for protecting that interest:

17 (a) By removing the requirement for agendas to be placed at
18 the location of each public official participating in a public meeting
19 remotely, including from the member's private home or hotel
20 room, this act protects the personal, private information of public
21 officials and their families while preserving the public's right to
22 access information concerning the conduct of the people's business.

23 (b) During the COVID-19 public health emergency, audio and
24 video teleconference were widely used to conduct public meetings
25 in lieu of physical location meetings, and those public meetings
26 have been productive, increased public participation by all
27 members of the public regardless of their location and ability to
28 travel to physical meeting locations, increased the pool of people
29 who are able to serve on these bodies, protected the health and
30 safety of civil servants and the public, and have reduced travel
31 costs incurred by members of state bodies and reduced work hours
32 spent traveling to and from meetings.

33 (c) Conducting audio and video teleconference meetings
34 enhances public participation and the public's right of access to
35 meetings of the public bodies by improving access for individuals
36 that often face barriers to physical attendance.

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MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 5(c)(9) – SB 802 (Roth) Licensing boards: disqualification from licensure: criminal conviction

Background

SB 802 (Roth) was introduced on February 17, 2023.

This bill would require that applicants for licensure by a program within the Department of Consumer Affairs (DCA) are made aware within 30 days if their license is denied based on a prior criminal conviction.

On March 27, 2023, the bill passed the Senate Committee on Business, Professions and Economic Development.

On April 13, 2023, the bill passed the Senate Committee on Appropriations, and was ordered to the Assembly.

Board of Psychology staff is continuing to monitor the bill for additional amendments.

Action Requested

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

Attachment 1: SB 802 (Roth) Bill Text

Introduced by Senator Roth

February 17, 2023

An act to amend Section 480 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 802, as introduced, Roth. Licensing boards: disqualification from licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, as specified. Existing law requires a board to notify the applicant in writing, as specified, if a board decides to deny an application for licensure based solely or in part on the applicant's conviction history.

If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, this bill would require a board to notify the applicant in writing within 30 days after a decision is made, as specified.

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

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

- 1 SECTION 1. Section 480 of the Business and Professions Code
- 2 is amended to read:

1 480. (a) Notwithstanding any other provision of this code, a
2 board may deny a license regulated by this code on the grounds
3 that the applicant has been convicted of a crime or has been subject
4 to formal discipline only if either of the following conditions are
5 met:

6 (1) The applicant has been convicted of a crime within the
7 preceding seven years from the date of application that is
8 substantially related to the qualifications, functions, or duties of
9 the business or profession for which the application is made,
10 regardless of whether the applicant was incarcerated for that crime,
11 or the applicant has been convicted of a crime that is substantially
12 related to the qualifications, functions, or duties of the business or
13 profession for which the application is made and for which the
14 applicant is presently incarcerated or for which the applicant was
15 released from incarceration within the preceding seven years from
16 the date of application. However, the preceding seven-year
17 limitation shall not apply in either of the following situations:

18 (A) The applicant was convicted of a serious felony, as defined
19 in Section 1192.7 of the Penal Code or a crime for which
20 registration is required pursuant to paragraph (2) or (3) of
21 subdivision (d) of Section 290 of the Penal Code.

22 (B) The applicant was convicted of a financial crime currently
23 classified as a felony that is directly and adversely related to the
24 fiduciary qualifications, functions, or duties of the business or
25 profession for which the application is made, pursuant to
26 regulations adopted by the board, and for which the applicant is
27 seeking licensure under any of the following:

28 (i) Chapter 6 (commencing with Section 6500) of Division 3.

29 (ii) Chapter 9 (commencing with Section 7000) of Division 3.

30 (iii) Chapter 11.3 (commencing with Section 7512) of Division
31 3.

32 (iv) Licensure as a funeral director or cemetery manager under
33 Chapter 12 (commencing with Section 7600) of Division 3.

34 (v) Division 4 (commencing with Section 10000).

35 (2) The applicant has been subjected to formal discipline by a
36 licensing board in or outside California within the preceding seven
37 years from the date of application based on professional misconduct
38 that would have been cause for discipline before the board for
39 which the present application is made and that is substantially
40 related to the qualifications, functions, or duties of the business or

1 profession for which the present application is made. However,
2 prior disciplinary action by a licensing board within the preceding
3 seven years shall not be the basis for denial of a license if the basis
4 for that disciplinary action was a conviction that has been dismissed
5 pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425
6 of the Penal Code or a comparable dismissal or expungement.
7 Formal discipline that occurred earlier than seven years preceding
8 the date of application may be grounds for denial of a license only
9 if the formal discipline was for conduct that, if committed in this
10 state by a physician and surgeon licensed pursuant to Chapter 5
11 (commencing with Section 2000) of Division 2, would have
12 constituted an act of sexual abuse, misconduct, or relations with
13 a patient pursuant to Section 726 or sexual exploitation as defined
14 in subdivision (a) of Section 729.

15 (b) Notwithstanding any other provision of this code, a person
16 shall not be denied a license on the basis that the person has been
17 convicted of a crime, or on the basis of acts underlying a conviction
18 for a crime, if that person has obtained a certificate of rehabilitation
19 under Chapter 3.5 (commencing with Section 4852.01) of Title 6
20 of Part 3 of the Penal Code, has been granted clemency or a pardon
21 by a state or federal executive, or has made a showing of
22 rehabilitation pursuant to Section 482.

23 (c) Notwithstanding any other provision of this code, a person
24 shall not be denied a license on the basis of any conviction, or on
25 the basis of the acts underlying the conviction, that has been
26 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42,
27 or 1203.425 of the Penal Code, or a comparable dismissal or
28 expungement. An applicant who has a conviction that has been
29 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42
30 of the Penal Code shall provide proof of the dismissal if it is not
31 reflected on the report furnished by the Department of Justice.

32 (d) Notwithstanding any other provision of this code, a board
33 shall not deny a license on the basis of an arrest that resulted in a
34 disposition other than a conviction, including an arrest that resulted
35 in an infraction, citation, or a juvenile adjudication.

36 (e) A board may deny a license regulated by this code on the
37 ground that the applicant knowingly made a false statement of fact
38 that is required to be revealed in the application for the license. A
39 board shall not deny a license based solely on an applicant's failure

1 to disclose a fact that would not have been cause for denial of the
2 license had it been disclosed.

3 (f) A board shall follow the following procedures in requesting
4 or acting on an applicant's criminal history information:

5 (1) A board issuing a license pursuant to Chapter 3 (commencing
6 with Section 5500), Chapter 3.5 (commencing with Section 5615),
7 Chapter 10 (commencing with Section 7301), Chapter 20
8 (commencing with Section 9800), or Chapter 20.3 (commencing
9 with Section 9880), of Division 3, or Chapter 3 (commencing with
10 Section 19000) or Chapter 3.1 (commencing with Section 19225)
11 of Division 8 may require applicants for licensure under those
12 chapters to disclose criminal conviction history on an application
13 for licensure.

14 (2) Except as provided in paragraph (1), a board shall not require
15 an applicant for licensure to disclose any information or
16 documentation regarding the applicant's criminal history. However,
17 a board may request mitigating information from an applicant
18 regarding the applicant's criminal history for purposes of
19 determining substantial relation or demonstrating evidence of
20 rehabilitation, provided that the applicant is informed that
21 disclosure is voluntary and that the applicant's decision not to
22 disclose any information shall not be a factor in a board's decision
23 to grant or deny an application for licensure.

24 (3) If a board decides to deny an application for licensure based
25 solely or in part on the applicant's conviction history, the board
26 shall notify the applicant in ~~writing~~ *writing, within 30 days after*
27 *a decision is made*, of all of the following:

28 (A) The denial or disqualification of licensure.

29 (B) Any existing procedure the board has for the applicant to
30 challenge the decision or to request reconsideration.

31 (C) That the applicant has the right to appeal the board's
32 decision.

33 (D) The processes for the applicant to request a copy of the
34 applicant's complete conviction history and question the accuracy
35 or completeness of the record pursuant to Sections 11122 to 11127
36 of the Penal Code.

37 (g) (1) For a minimum of three years, each board under this
38 code shall retain application forms and other documents submitted
39 by an applicant, any notice provided to an applicant, all other

1 communications received from and provided to an applicant, and
2 criminal history reports of an applicant.

3 (2) Each board under this code shall retain the number of
4 applications received for each license and the number of
5 applications requiring inquiries regarding criminal history. In
6 addition, each licensing authority shall retain all of the following
7 information:

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

10 (B) The number of applicants with a criminal record who
11 provided evidence of mitigation or rehabilitation.

12 (C) The number of applicants with a criminal record who
13 appealed any denial or disqualification of licensure.

14 (D) The final disposition and demographic information,
15 consisting of voluntarily provided information on race or gender,
16 of any applicant described in subparagraph (A), (B), or (C).

17 (3) (A) Each board under this code shall annually make
18 available to the public through the board's internet website and
19 through a report submitted to the appropriate policy committees
20 of the Legislature deidentified information collected pursuant to
21 this subdivision. Each board shall ensure confidentiality of the
22 individual applicants.

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

25 (h) "Conviction" as used in this section shall have the same
26 meaning as defined in Section 7.5.

27 (i) This section does not in any way modify or otherwise affect
28 the existing authority of the following entities in regard to
29 licensure:

30 (1) The State Athletic Commission.

31 (2) The Bureau for Private Postsecondary Education.

32 (3) The California Horse Racing Board.

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 7(a),(c),(d),(e),(f) – Regulatory Update

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

1. Update on 16 CCR sections 1391.13 and 1391.14 – Inactive Psychological Associates 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
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Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

On May 19, 2023, the proposed regulatory language was accepted by the Board Members, and the regulatory package will continue in the rule making process.

2. Update on 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
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Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

3. Update on 16 CCR sections 1380.6, 1393, 1396, 1396.1, 1396.2, 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
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Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

4. Update on 16 CCR sections 1397.35 – 1397.40 - Corporations

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

5. Update on 16 CCR sections 1381, 1387.10, 1388, 1388.6, 1389, and 1389.1 – EPPP-2

Preparing Regulatory Package	Initial Departmental Review	Notice with OAL and Hearing	Notice of Modified Text and Hearing	Preparation of Final Documentation	Final Departmental Review	Submission to OAL for Review	OAL Approval and Board Implementation
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Drafting Phase. This phase includes preparation of the regulatory package and collaborative reviews by Board staff and legal counsel.

On May 19, 2023, the Board approved the statutory and regulatory changes to implement the EPPP part 2 Skills Exam, effective January 1, 2026

Action Requested:

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

MEMORANDUM

DATE	June 16, 2023
TO	Legislative and Regulatory Affairs Committee Members
FROM	Troy Polk, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 7(b) 16 section CCR 1395.2 – Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing Licensees

Background

Updates the Board's disciplinary guidelines including conforming changes pursuant to AB 2138, conviction and substantial relationship criteria, and the Department's Uniform Standards for Substance Abusing Licensees.

On April 21, 2023 the review of the proposed language was completed by Board Staff and legal counsel.

The proposed new language will be presented to Board Members at the August 18th Board Meeting.

Action Requested

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

Attachment 1: Disciplinary Guidelines proposed language

1 DEPARTMENT OF CONSUMER AFFAIRS
2 BOARD OF PSYCHOLOGY
3

4 PROPOSED REGULATORY LANGUAGE REGARDING
5 DISCIPLINARY GUIDELINES

6 **Legend:** Added text is indicated with an underline.
7 Deleted text is indicated by ~~strikeout~~.
8

9 **Amend section 1395.2 of Article 7 of Division 13.1 of Title 16 of the California**
10 **Code of Regulations to read as follows:**

11 **§ 1395.2. Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing**
12 **Licensees.**

13 (a) In reaching a decision on a disciplinary action under the administrative adjudication
14 provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the
15 Board of Psychology shall consider and apply the “Disciplinary Guidelines, Model Disciplinary
16 Orders, and Uniform Standards Related to Substance Abusing Licensees (4/15) [Amended (Insert
17 Date Board approves language here)],” which is hereby incorporated by reference.

18 (b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee
19 shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If
20 the licensee does not rebut that presumption, in addition to any and all other relevant terms and
21 conditions contained in the Disciplinary Guidelines, the terms and conditions that incorporate the
22 Uniform Standards Related to Substance Abusing Licensees shall apply as written and be used in
23 the order placing the license on probation.

24 (c) Deviation from the Disciplinary Guidelines, including the standard terms of probation, is
25 appropriate where the Board of Psychology in its sole discretion determines that the facts of the
26 particular case warrant such a deviation; for example: the presence of mitigating or aggravating
27 factors; the age of the case; or evidentiary issues.

28
29 NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 315,
30 315.2, 315.4, 2936, 2960, 2960.05, 2960.1, 2960.5, 2960.6, 2961, 2962, 2963, 2964, 2964.3,
31 2964.5, 2964.6, 2965, 2966 and 2969, Business and Professions Code; and Section 11425.50(e),
32 Government Code.

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STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGY



DISCIPLINARY GUIDELINES, MODEL
DISCIPLINARY ORDERS, AND
UNIFORM STANDARDS RELATED TO
SUBSTANCE-ABUSING LICENSEES

ADOPTED 11/92 - EFFECTIVE 1/1/93 –
AMENDED 7/1/96, AMENDED 4/1/99, AMENDED 9/1/02,
AMENDED 2/07, AMENDED 4/15, AMENDED (insert same date listed in 1395.2 here and
delete parentheses)

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108 **DISCIPLINARY GUIDELINES, MODEL DISCIPLINARY ORDERS, AND UNIFORM**
109 **STANDARDS RELATED TO SUBSTANCE-ABUSING LICENSEES**

110
111
112 **Article 7. Standards Related to Denial, Discipline, and Reinstatement of Licenses**
113

114
115 **§ 1395.2. Disciplinary Guidelines and Uniform Standards Related to Substance-Abusing**
116 **Licensees.**

117 (a) In reaching a decision on a disciplinary action under the administrative adjudication
118 provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the
119 Board of Psychology shall consider and apply the “Disciplinary Guidelines, Model Disciplinary
120 Orders, and Uniform Standards Related to Substance-Abusing Licensees ~~(4/15)~~[Amended (insert
121 same date as listed in 1395.2 [here](#))],” which is hereby incorporated by reference.

122 (b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee
123 shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If
124 the licensee does not rebut that presumption, in addition to any and all other relevant terms and
125 conditions contained in the Disciplinary Guidelines, the terms and conditions that incorporate the
126 Uniform Standards Related to Substance Abusing Licensees shall apply as written and be used in
127 the order placing the license on probation.

128 (c) Deviation from the Disciplinary Guidelines, including the standard terms of probation, is
129 appropriate where the Board of Psychology in its sole discretion determines that the facts of the
130 particular case warrant such a deviation; for example: the presence of mitigating or aggravating
131 factors; the age of the case; or evidentiary issues.

132
133 NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 315,
134 315.2, 315.4, 2936, 2960, 2960.05, 2960.1, 2960.5, 2960.6, 2961, 2962, 2963, 2964, 2964.3,
135 2964.5, 2964.6, 2965, 2966 and 2969, Business and Professions Code; and Section 11425.50(e),
136 Government Code.

139 **I. INTRODUCTION**

140
141 The Board of Psychology of the California Department of Consumer Affairs (hereinafter “the
142 Board”) is a ~~consumer protection regulatory agency with the priority of~~ responsible for
143 protecting consumers of psychological services from unsafe, incompetent, or negligent
144 practitioners, in exercising its licensing, regulatory, and disciplinary functions. By statute,
145 protection of the public is the Board’s highest priority in exercising its licensing, regulatory, and
146 disciplinary functions. In keeping with its statutory mandate, ~~to this particularly vulnerable~~
147 ~~population,~~ the Board has adopted the following recommended guidelines for disciplinary orders
148 and conditions of probation for violations of the Psychology Licensing Law (Business and
149 Professions Code (Code) section 2900 et seq.) and the Psychology Regulations (Title 16 of the
150 California Code of Regulations (16 CCR) section 1380 et seq.). This document, designed for use
151 by administrative law judges, attorneys, psychologists, ~~registered psychologists,~~ registered
152 psychological assistants associates, registered psychological testing technicians, others involved
153 in the disciplinary process, and ultimately the Board, may be revised from time to time.

154
155 For purposes of this document, in addition to licensure as a psychologist, the term “license”
156 includes a registered psychological assistant associate registration and registered psychologist
157 psychological testing technician registration. The term “designee” refers to the Executive
158 Officer, Assistant Executive Officer, Enforcement Program Manager, and Probation Monitor, of
159 the Board of Psychology. The terms and conditions of probation are divided into two general
160 categories:

- 161
- 162 (1) Standard Terms and Conditions are those conditions of probation ~~which that will~~
163 generally appear in all cases involving probation as a standard term and condition; and
 - 164 (2) Optional Terms and Conditions are those conditions that address the specific
165 circumstances of the case and require discretion to be exercised depending on the nature
166 and circumstances of a particular case.
- 167

168 The Board of Psychology’s Uniform Standards Related to Substance-Abusing Licensees, which
169 are derived from the Department of Consumer Affairs’ Substance Abuse Coordination
170 Committee’s “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees
171 (4/11March 2019)” pursuant to section 315 of the Code, describe those terms or conditions that
172 shall be applied to a substance-abusing licensee, and are incorporated into the terms and
173 conditions of probation. These standards and the rationale therefore appear in the optional terms
174 and conditions of probation and are fully set forth in section VI of these guidelines.

175
176 The Board recognizes that an individual case may necessitate a departure from these guidelines
177 for disciplinary orders. However, in such a case, the mitigating or aggravating circumstances
178 must be detailed in the “Finding of Fact,” which is in every Proposed Decision, so that the
179 circumstances can be better understood and evaluated by the Board before final action is taken.

180
181 If at the time of hearing, the Administrative Law Judge finds that ~~the~~ respondent, for any reason,
182 is not capable of safe practice, the Board expects outright revocation or denial of the license.
183 This is statutorily particularly required true in any case of patient client sexual contact abuse with

184 the client. In less egregious cases, a stayed revocation with probation pursuant to the attached
185 Penalty Disciplinary Guidelines would be appropriate.

186 **II. DISCIPLINARY GUIDELINES**

187
188 **A. GENERAL CONSIDERATIONS**

189
190 ~~Factors to be considered~~– In determining whether revocation, suspension, or probation is to be
191 imposed in a given case, ~~factors such as the following should be considered~~the Board must
192 consider the following:

193
194 **Substantial Relationship Criteria** set forth in 16 CCR section 1394:

- 195
196 1. ~~Nature and severity of the act(s), offense(s), or crime(s) under consideration.~~
197 2. ~~Actual or potential harm to any consumer, client, or the public.~~
198 3. ~~Prior record of discipline or citations.~~
199 4. ~~Number and/or variety of current violations.~~
200 5. ~~Mitigation and aggravation evidence.~~
201 6. ~~Rehabilitation evidence.~~
202 7. ~~In the case of a criminal conviction, compliance with terms of sentence and/or court~~
203 ~~ordered probation.~~
204 8. ~~Overall criminal record.~~
205 9. ~~Time passed since the act(s) or offense(s) occurred.~~
206 10. ~~Whether or not the respondent cooperated with the Board's investigation, other law~~
207 ~~enforcement or regulatory agencies, and/or the injured parties.~~
208 11. ~~Recognition by respondent of his or her wrongdoing and demonstration of corrective~~
209 ~~action to prevent recurrence.~~

210
211 (a) For the purposes of denial, suspension, or revocation of a license or registration pursuant to
212 section 141, or Division 1.5 (commencing with section 475) of the Code, or sections 2960 or
213 2960.6 of the Code, a crime, professional misconduct, or act shall be considered to be
214 substantially related to the qualifications, functions or duties of a person holding a license or
215 registration under the Psychology Licensing Law (Chapter 6.6 of Division 2 of the Code), if to a
216 substantial degree it evidences present or potential unfitness of a person holding a license or
217 registration to perform the functions authorized by the license or registration, or in a manner
218 consistent with the public health, safety, or welfare.

219
220 (b) In making the substantial relationship determination required under subdivision (a) for a
221 crime, the board shall consider the following criteria:

- 222 (1) The nature and gravity of the offense;
223 (2) The number of years elapsed since the date of the offense; and
224 (3) The nature and duties of the profession in which the applicant seeks licensure or in which the
225 licensee is licensed.

226
227 (c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts
228 shall include, but are not limited to, the following:

- 229 (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
230 violation of or conspiring to violate any provision or term of the Psychology Licensing Law.
- 231 (2) Conviction or act involving fiscal dishonesty.
- 232 (3) Conviction or act involving child abuse.
- 233 (4) A conviction requiring a person to register as a sex offender pursuant to section 290 of the
234 Penal Code.
- 235 (5) Conviction or act involving lewd conduct or sexual impropriety.
- 236 (6) Conviction or act involving assault, battery, or other violence.
- 237 (7) Conviction or act involving the use of drugs or alcohol to an extent or in a manner dangerous
238 to the individual or the public.
- 239 (8) Conviction or act involving harassment, trespass, or stalking.

241 **Rehabilitation Criteria for Suspensions or Revocations** as set forth in 16 CCR section 1395.1:
242

243 When considering the suspension or revocation of a license or registration of a person holding a
244 license or registration,

245
246 has made a showing of rehabilitation if the person completed the criminal sentence without a
247 violation of parole or probation. In making this determination, the Board shall use the following
248 criteria in (1) through (5), as available: (1) Nature and gravity of the crime(s).

249 (2) The reason for granting and the length(s) of the applicable parole or probation period(s).

250 (3) The extent to which the applicable parole or probation period was shortened or lengthened,
251 and the reason(s) the period was modified.

252 (4) The terms or conditions of parole or probation and the extent to which they bear on the
253 licensee's or registrant's rehabilitation.

254 (5) The extent to which the terms or conditions of parole or probation were modified, and the
255 reason(s) for modification.

256
257 (b) If the licensee or registrant has not completed the criminal sentence at issue without a
258 violation of parole or probation, the suspension or revocation is based on a disciplinary action as
259 described in section 141 of the Code, the suspension or revocation was based one or more of the
260 grounds specified in sections 2960 or 2960.6 of the Code, or the Board determines that the
261 licensee or registrant did not make a showing of rehabilitation based on the criteria in
262 subdivision (a), the Board shall apply the following criteria in evaluating the licensee's or
263 registrant's rehabilitation:

264 (1) Total criminal record and/or record of discipline or other enforcement action, including the
265 nature and gravity of the acts underlying the discipline or enforcement action.

266 (2) The time that has elapsed since commission of the act(s) or crime(s).

267 (3) Whether the licensee or registrant has complied with any terms of parole, probation,
268 restitution or any other sanctions lawfully imposed against such person.

269 (4) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal
270 Code.

271 (5) The criteria in subdivision (a)(1)-(5), as applicable.

272 (6) Evidence, if any, of rehabilitation submitted by the licensee or registrant demonstrating that
273 he or she has a mature, measured appreciation of the gravity of the misconduct, and remorse for
274 the harm caused, and showing a demonstrated course of conduct by the licensee or registrant that

275 convinces and assures the Board that the public will be safe if the person is permitted to remain
276 licensed or registered to practice psychology.

277
278 Pursuant to section 2960.1 of the Code (~~set out below in the Penalty Guidelines~~), any ~~p~~Proposed
279 ~~d~~Decision or ~~d~~Decision that contains any ~~f~~Finding of ~~f~~Fact that ~~the licensee~~respondent ~~or~~
280 ~~registrant~~ engaged in any act of sexual contact, when that act is with a ~~patient~~client, or with a
281 former ~~patient~~client within two (2) years following termination of therapy, shall contain an order
282 of revocation. The revocation shall not be stayed by the Administrative Law Judge.

283
284 Pursuant to section 2964.3 of the Code, any person required to register as a sex offender pursuant
285 to ~~S~~section 290 of the Penal Code is not eligible for licensure or registration by the Board.

286
287 Except where an order is required by statute, deviation from the Disciplinary Guidelines,
288 including the standard terms of probation, is appropriate where the Board determines that the
289 facts of the particular case warrant such a deviation. The Board may impose more restrictive
290 terms and conditions if necessary to protect the public.

291
292 **B. ~~PENALTY~~GUIDELINES FOR DISCIPLINARY ACTIONS**

293
294 The ~~general~~ statutory bases for discipline are listed below, along with the names and numbers for
295 the applicable optional terms and conditions by statute number in the Business & Professions
296 Code. An accusation, statement of issues, or other charging document may also allege violations
297 of other related statutes or regulations. ~~The bases are followed by the Board determined penalty,~~
298 ~~including the names and numbers for the optional terms and conditions.~~ The standard terms of
299 probation as stated shall be included in all decisions and orders. Except where there is a finding
300 that respondent is a substance-abusing licensee, the Board recognizes that the ~~penalties proposed~~
301 disciplinary action, terms and conditions of probation listed are merely guidelines and that
302 individual cases will necessitate variations that take into account unique circumstances.

303
304 ~~If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the~~
305 ~~Board requires that~~ The Administrative Law Judge hearing the case must include an explanation
306 of the any deviations or omissions from the Disciplinary Guidelines in the Proposed Decision so
307 that the circumstances can be better understood by the Board during its review and consideration
308 of the Proposed Decision for final action.

309
310 **Business and Professions Code § 2960**

311
312 **2960 GENERAL UNPROFESSIONAL CONDUCT**

313
314 **MAXIMUM:** Revocation; denial of license ~~or registration.~~

315
316 **MINIMUM:** ~~Revocation stayed, depending upon the circumstances, up to 5-year~~
317 ~~probation, psychological evaluation and/or therapy if appropriate (2) and~~
318 ~~(6), California Psychology Law and Ethics Examination (CPLEE) (7), and~~
319 ~~standard terms and conditions (14-31)~~

320

321 MINIMUM: Revocation stayed, five (5) years probation, standard terms and conditions
322 (14-32), and depending on the circumstances, , and California Psychology
323 Law and Ethics Examination (CPLÉE)(6).

324
325 **865.2 Sexual Orientation Change Efforts (Conversion Therapy)**

326
327
328 MAXIMUM: Revocation; denial of license

329
330 MINIMUM: Revocation stayed, five (5) years probation, standard terms and conditions
331 (14-32), and depending on the circumstances, practice monitor (3),
332 practice restriction (4), psychotherapy (5),
333 and examination(s) (6)

334
335
336 **2960(a) CONVICTION OF A CRIME SUBSTANTIALLY RELATED TO THE**
337 **PRACTICE OF PSYCHOLOGY**

338
339 MAXIMUM: Revocation; denial of license ~~or registration.~~

340
341 ~~MINIMUM: Revocation stayed, 5-year probation, billing monitor (if financial crime)~~
342 ~~(4), therapy (6), CPLÉE (7), restitution (if appropriate) (8), and standard~~
343 ~~terms and conditions (14-31).~~

344
345 MINIMUM: Revocation stayed, five (5) years probation, standard terms and conditions
346 (14-32), and depending on the circumstances, billing monitor (if financial
347 crime)(3), restitution (7), psychotherapy (5), and California Psychology
348 Law and Ethics Examination (CPLÉE) (6).

349
350
351 **2960(b) USE OF CONTROLLED SUBSTANCE OR ALCOHOL IN A**
352 **DANGEROUS MANNER**

353
354 MAXIMUM: Revocation; denial of license ~~or registration.~~

355
356 ~~MINIMUM: Revocation stayed, 5-year probation, physical examination (if appropriate)~~
357 ~~(3), practice monitor (4), psychological evaluation and ongoing therapy (if~~
358 ~~appropriate) (2) and (6), clinical diagnostic evaluation (9), participation in~~
359 ~~an alcohol/drug abuse treatment program (10) and ongoing support group~~
360 ~~(11), abstain from all non-prescribed, controlled drugs and alcohol,~~
361 ~~/biological fluid and specimen testing [required for substance-abusing~~
362 ~~licensees] (12), and standard terms and conditions (14-31).~~

363
364 MINIMUM: Revocation stayed, five (5) years probation, standard terms and conditions
365 (14-32), and depending on the circumstances, physical examination (2),
366 worksite monitor (3), psychotherapy (if recommended by psychological

evaluator) (5), clinical diagnostic evaluation (8), participation in an alcohol/drug abuse treatment program (9), ongoing support group (10), abstain from drugs and alcohol, and submit to tests and samples (11).

367
368
369
370
371
372 **2960(c) FRAUDULENTLY OR NEGLECTFULLY MISREPRESENTING THE**
373 **TYPE OR STATUS OF LICENSE OR REGISTRATION ACTUALLY**
374 **HELD**

375
376 MAXIMUM: Revocation; denial of license ~~or registration~~.

377
378 ~~MINIMUM: Revocation stayed, 5 years probation, and standard terms and conditions~~
379 ~~(14-31).~~

380
381 MINIMUM: Revocation stayed, five (5) years probation, standard terms and conditions
382 (14-32), and depending on the circumstances, California Psychology Law
383 and Ethics Examination (CPLÉE) (6).

384
385
386
387 **2960(d) IMPERSONATING ANOTHER PERSON HOLDING A PSYCHOLOGY**
388 **LICENSE OR ALLOWING ANOTHER PERSON TO USE HIS OR HER**
389 **THEIR LICENSE OR REGISTRATION**

390
391 MAXIMUM: Revocation; denial of license ~~or registration~~.

392
393 **MINIMUM:** Revocation stayed, five (5) years probation, standard terms and conditions
394 (14-32), and depending on the circumstances, psychological evaluation
395 (2); CPLÉE (7-6); and standard terms and conditions (14-31).

396
397 **2960(e) PROCURING APPLYING FOR A LICENSE OR PASSING AN**
398 **EXAMINATION BY FRAUD OR DECEPTION**

399
400 ~~Penalty-DISCIPLINE:~~ Revocation is the only suitable ~~penalty-discipline~~ inasmuch as the
401 license would not have been issued but for the fraud or deception. If the
402 fraud is substantiated prior to issuance of the license ~~or registration~~, then
403 denial of the application is the only suitable ~~penalty-discipline~~.

404
405 **2960(f) ACCEPTING REMUNERATION OR PAYING FOR REFERRALS TO**
406 **OTHER PROFESSIONALS PAYING, OR OFFERING TO PAY, OR**
407 **ACCEPTING PAYMENT, MONETARY OR OTHERWISE, FOR**
408 **REFERRAL OF CLIENTS**

409
410 MAXIMUM: Revocation; denial of license ~~or registration~~.

412 **MINIMUM:** Revocation stayed, five (5) years probation, standard terms and conditions
413 (14-32), depending on the circumstances, billing monitor (43), CPLEE
414 (76); and standard terms and conditions (14-31).

415
416 **2960(g) VIOLATING SECTION 17500 OF THE BUSINESS AND PROFESSIONS**
417 **CODE REGARDING ADVERTISING**

418
419 **Penalty-DISCIPLINE:** Revocation stayed, five (5) years probation, and standard terms
420 and conditions (14-32) standard terms and conditions (14-31).

421
422 **2960(h) WILLFUL VIOLATION OF CONFIDENTIALITY**

423
424 MAXIMUM: Revocation; denial of license ~~or registration.~~

425
426 **MINIMUM:** Revocation stayed, five (5) years probation, and standard terms and
427 conditions (14-32); and, depending on the circumstances, practice monitor
428 (43), and CPLEE (76); and standard terms and conditions (14-31).

429
430 **2960(i) VIOLATION OF RULES OF PROFESSIONAL CONDUCT**

431
432 MAXIMUM: Revocation; denial of license ~~or registration.~~

433
434 **MINIMUM:** Revocation stayed, five (5) years probation, standard terms and conditions
435 (14-32), and depending upon the circumstances, ~~psychological evaluation~~
436 and/or therapy if appropriate (2) and (6), CPLEE (76); and standard terms
437 and conditions (14-31).

438
439 **2960(j) ~~GROSS NEGLIGENCE IN THE PRACTICE OF PSYCHOLOGY~~**

440
441 MAXIMUM: Revocation; denial of license ~~or registration.~~

442
443 **MINIMUM:** Revocation stayed, (5) years probation, standard terms and conditions (14-
444 32), and depending on the circumstances, ~~psychological evaluation prior~~
445 to resumption of practice (condition precedent) (2), practice
446 monitor/billing monitor (43), ~~patient population restriction of practice (if~~
447 appropriate ~~recommended~~) (54), therapy/psychotherapy (65),
448 examination(s) CPLEE (76), and standard terms and conditions (14-31).

449
450 **2960(k) VIOLATING ANY PROVISION OF THE PSYCHOLOGY LICENSING**
451 **LAW OR RELATED REGULATIONS THIS CHAPTER OR**
452 **REGULATIONS DULY ADOPTED THEREUNDER**

453
454 Refer to underlying statute or regulation.

455
456 **2960(l) AIDING OR ABETTING UNLICENSED PRACTICE**

457

458 MAXIMUM: Revocation; denial of license ~~or registration~~.

459

460 **MINIMUM:** Revocation stayed, five (5) years probation, standard terms and conditions
461 (14-32), and depending on the circumstances, CPLEE (76), and standard
462 terms and conditions (14-31).

463

464 **2960(m)/2960.6 DISCIPLINARY ACTION BY ANOTHER AGENCY, STATE, OR**
465 **COUNTRY AGAINST A LICENSE OR REGISTRATION**

466

467 DISCIPLINE: In evaluating the appropriate ~~penalty-discipline~~, identify the
468 comparable California statute(s) or regulation(s), and corresponding ~~penalty(s)~~
469 discipline.

470

471 **2960(n) DISHONEST, CORRUPT, OR FRAUDULENT ACT**

472

473 MAXIMUM: Revocation; denial of license ~~or registration~~.

474

475 **MINIMUM:** Revocation stayed, five (5) years probation, standard terms and conditions
476 (14-32), and depending on the circumstances, psychological evaluation
477 and ongoing therapy/psychotherapy if appropriate (2)(5), billing monitor
478 (43), CPLEE (7-6), full restitution (87), and standard terms and conditions
479 (14-31).

480

481 **2960(o); 726; 729 ~~ANY ACT OF SEXUAL ABUSE, OR SEXUAL RELATIONS WITH~~**
482 **A PATIENT/CLIENT OR FORMER PATIENT/CLIENT WITHIN**
483 **TWO YEARS FOLLOWING TERMINATION OF THERAPY,**
484 **SEXUAL EXPLOITATION, OR SEXUAL MISCONDUCT THAT IS**
485 **SUBSTANTIALLY RELATED TO THE QUALIFICATIONS,**
486 **FUNCTIONS OR DUTIES OF A PSYCHOLOGIST OR**
487 **PSYCHOLOGICAL ASSISTANT OR REGISTERED**
488 **PSYCHOLOGIST.**

489

490 ~~Penalty~~DISCIPLINE: ~~When a finding of sexual misconduct occurs, r~~Revocation or
491 surrender of license/~~registration~~ and/or denial of license ~~or registration~~ **MUST** must be the
492 ~~penalty~~ discipline ordered by the Administrative Law Judge.

493

494 **~~NO MINIMUM PENALTY.~~**

495

496 ~~NOTE: Business and Professions Code Section 2960.1 of the Code states: “Notwithstanding~~
497 ~~Section 2960, any proposed decision or decision issued under this chapter in accordance with the~~
498 ~~procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of~~
499 ~~the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act~~
500 ~~of sexual contact, as defined in Section 2960, shall contain an order of revocation. The revocation shall~~
501 ~~not be stayed by the administrative law judge.” “Notwithstanding Section 2960, any proposed~~
502 ~~decision or decision issued under this chapter in accordance with the procedures set forth in~~
503 ~~Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the~~
504 ~~Government Code, that contains any finding of fact that the licensee or registrant engaged in any~~

505 acts of sexual contact, as defined in Section 728, when that act is with a patient, or with a former
506 patient within two years following termination of therapy, shall contain an order of revocation.
507 The revocation shall not be stayed by the Administrative Law Judge.”

508
509 **2960(p) FUNCTIONING OUTSIDE FIELD(S) OF COMPETENCE**

510
511 **MAXIMUM:** Revocation; denial of license ~~or registration.~~

512
513 **MINIMUM:** Revocation stayed, five (5) years probation, standard terms and conditions
514 (14-32), and depending on the circumstances, practice monitor (43),
515 patient population restriction (5) restriction of practice (4), and CPLEE
516 examination(s) (76), and standard terms and conditions (14-31).

517
518 **2960(q) WILLFUL FAILURE TO VERIFY AN APPLICANT’S SUPERVISED**
519 **EXPERIENCE**

520
521 ~~Penalty~~ **DISCIPLINE:** Revocation stayed, five (5)-years probation, and standard terms
522 and conditions (14-32) and standard terms and conditions (14-31).

523
524 **2960(r) REPEATED NEGLIGENT ACTS**

525
526 **MAXIMUM:** Revocation; denial of license ~~or registration.~~

527
528 **MINIMUM:** Revocation stayed, five (5)-years probation, standard terms and conditions
529 (14-32), and depending on the circumstances, , psychological evaluation
530 prior to resumption of practice (condition precedent) (2), practice monitor
531 (4-3), CPLEE examination(s) (76), and standard terms and conditions (14-
532 31).

533
534 **III. TERMS AND CONDITIONS OF PROBATION**

535
536 Terms and conditions of probation are divided into two categories. The first category consists of
537 **optional terms and conditions** that may be appropriate as demonstrated in the ~~Penalty~~
538 Disciplinary Guidelines depending on the nature and circumstances of each particular case. The
539 second category consists of the **standard terms and conditions**, which must appear in all
540 Proposed Decisions and Stipulated Settlements.

541
542 To enhance the clarity of a Proposed Decision or ~~Stipulated Settlement~~ Stipulated Settlement, the Board requests
543 that all optional terms and conditions of probation (1-13) that are being imposed be listed first in
544 sequence followed immediately by all of the standard terms and conditions of probation, which
545 includes cost recovery (~~15-31-14-32~~).

546
547 **A. OPTIONAL TERMS AND CONDITIONS OF PROBATION**

548
549 Listed below are optional terms and conditions of probation that the Board would expect to be
550 included in any Proposed Decision or ~~Stipulated Settlement~~ Stipulated Settlement as appropriate.

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1. Actual Suspension

As part of probation, respondent is suspended from the practice of psychology for _____ days beginning with the effective date of this Decision. During the suspension, any probation period is tolled and will not commence again until the suspension is completed.

RATIONALE: A suspension longer than six (6) months is not effective, and a violation or violations warranting a longer suspension should result in revocation, not stayed.

2. Psychological Evaluation

~~Within ninety (90) days of the effective date of this Decision and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychological evaluation (and psychological testing, if deemed necessary) by a Board-appointed California-licensed psychologist. Respondent shall sign a release that authorizes the evaluator to furnish the Board a current DSM V diagnosis and a written report regarding the respondent's judgment and/or ability to function independently as a psychologist with safety to the public, and whatever other information the Board deems relevant to the case. The completed evaluation is the sole property of the Board. The evaluation should not be disclosed to anyone not authorized by the Board or by court order.~~

~~If the Board concludes from the results of the evaluation that respondent is unable to practice independently and safely, upon written notice from the Board, respondent shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within thirty (30) days and shall not resume practice until a Board-appointed evaluator determines that respondent is safe to practice. The term of probation shall be extended by this period of time that he or she was ordered to cease practice.~~

~~If not otherwise ordered herein, if ongoing psychotherapy is recommended in the psychological evaluation, the Board will notify respondent in writing to submit to such therapy and to select a psychotherapist for approval by the Board or its designee within thirty (30) days of such notification. The therapist shall (1) be a California-licensed psychologist with a clear and current license; (2) have no previous business, professional, personal or other relationship with respondent; (3) not be the same person as respondent's practice or billing monitor. Frequency of psychotherapy shall be determined upon recommendation of the treating psychotherapist with approval by the Board or its designee. Respondent shall continue psychotherapy until released by the approved psychologist and approved by the Board or its designee. The Board or its designee may order a re-evaluation upon receipt of the therapist's recommendation.~~

~~Respondent shall execute a release authorizing the therapist to provide to the Board any information the Board or its designee deems appropriate, including quarterly reports of respondent's therapeutic progress. Respondent shall furnish a copy of this Decision to the therapist. If the therapist determines that the respondent cannot continue to independently~~

597 render psychological services, with safety to the public, he/she shall notify the Board
598 immediately.

599
600 Respondent shall pay all costs associated with the psychological evaluation and ongoing
601 psychotherapy. Failure to pay costs will be considered a violation of the probation order.

602

603 **Option of Evaluation as a Condition Precedent:**

604

605 **In some cases, the psychological evaluation may be imposed as either a condition**
606 **precedent to the continued practice of psychology, or to the issuance or reinstatement**
607 **of a license, so that the respondent or petitioner is not entitled to begin or continue**
608 **practice until found to be safe to do so. In such cases, the following language shall be**
609 **used as the first sentence of the first paragraph of this term:**

610

611 As a condition precedent to the [continued practice of psychology][issuance of a license]
612 [reinstatement of a license], within ninety (90) days of the effective date of this Decision,
613 and on a periodic basis thereafter as may be required by the Board or its designee,
614 Respondent shall undergo a psychological evaluation (and psychological testing, if deemed
615 necessary) by a Board-appointed California licensed psychologist. The term of probation
616 shall be extended by the period of time during which respondent is not entitled to practice.

617

618 **In addition, the following language shall also be used as the first sentence of the second**
619 **paragraph of this term:**

620

621 If the Board concludes from the results of the evaluation that [respondent][petitioner] is
622 unable to practice independently and safely, upon written notice from the Board [respondent
623 shall, in accordance with professional standards, appropriately refer/terminate existing
624 patients within thirty (30) days and shall not resume practice until a Board-appointed
625 evaluator determines that respondent is safe to practice][respondent or petitioner shall not be
626 issued or have reinstated a license until a Board-appointed evaluator determines that
627 respondent or petitioner is safe to practice].

628

629 **RATIONALE: Psychological evaluations shall be utilized when an offense calls into**
630 **question the judgment and/or emotional and/or mental condition of the respondent or**
631 **where there has been a history of abuse or dependency of alcohol or controlled**
632 **substances. When appropriate, respondent shall be barred from rendering**
633 **psychological services under the terms of probation until he or she has undergone an**
634 **evaluation, the evaluator has recommended resumption of practice, and the Board has**
635 **accepted and approved the evaluation.**

636

637 **23. Physical Examination**

638

639 Within ~~ninety (90)~~ forty-five (45) days of the effective date of this Decision, respondent
640 shall undergo a physical examination by a ~~physician and surgeon (physician)~~ medical
641 evaluator licensed in California and approved by the Board.

642

643 For purposes of these guidelines, a “medical evaluator” means a physician and surgeon, a
644 physician’s assistant or a nurse practitioner holding a license in good standing, as issued by
645 the appropriate agency within the Department of Consumer Affairs. “Good standing” shall
646 mean a current, active and unrestricted license.

647
648 The medical evaluator shall have no current or former financial, personal, familial, or other
649 social or business relationship with respondent that could reasonably be expected to
650 compromise the ability of the medical evaluator to render impartial and unbiased reports to
651 the Board.

652
653 Respondent shall sign a release authorizing the ~~physician~~ medical evaluator to furnish the
654 Board with a report that shall provide an assessment of respondent’s physical condition and
655 ~~capability~~ ability to safely provide psychological services to the public. If the ~~evaluating~~
656 ~~physician~~ medical evaluator determines that respondent’s physical condition prevents safe
657 practice, or that ~~he or she~~ respondent can only practice with restrictions, the ~~physician~~
658 medical evaluator shall notify the Board, in writing, within five (5) working days.

659
660 The Board shall notify respondent in writing of the ~~physician’s~~ medical evaluator’s
661 determination of unfitness to practice, and shall order ~~the~~ respondent to cease practice or
662 place restrictions on respondent’s practice. Respondent shall comply with any order to cease
663 practice or restriction of ~~his or her~~ their practice, and shall immediately cease accepting new
664 ~~patients~~ clients and, in accordance with professional standards, shall appropriately
665 refer/terminate existing ~~patients~~ clients within thirty (30) days. Respondent shall not resume
666 practice until a Board-~~appointed~~ approved evaluator determines that respondent is safe to
667 practice, and the Board is satisfied of respondent’s fitness to practice safely and has so
668 notified respondent in writing. The term of probation shall be extended by the period of time
669 during which respondent is ordered to cease practice. If the ~~evaluating physician~~ medical
670 evaluator determines it to be necessary, a recommended treatment program will be instituted
671 and followed by ~~the~~ respondent with ~~the physician~~ an appropriately licensed healthcare
672 practitioner providing written progress reports to the Board on a quarterly basis, or as
673 otherwise determined by the Board or its designee.

674
675 It shall be ~~the~~ respondent’s responsibility to assure that the required quarterly progress
676 reports are filed by ~~the treating physician~~ an appropriately licensed healthcare practitioner in
677 a timely manner. Respondent shall pay all costs of such examination(s). Failure to pay these
678 costs shall be considered a violation of probation.

679
680 **RATIONALE: This condition permits the Board to require ~~the probationer~~ respondent**
681 **to obtain appropriate treatment for physical ~~problems/disabilities~~ conditions that could**
682 **affect the safe practice of psychology. The physical examination can also be conducted**
683 **to ensure that there is no physical evidence of alcohol/drug abuse.**

684
685 **34. Practice Monitor/Billing Monitor/Worksite Monitor**

686
687 Within ~~ninety (90)~~ thirty (30) days of the effective date of this Decision, respondent shall
688 submit to the Board or its designee for prior approval; the name and qualifications of a

689 psychologist who has agreed to serve as a [practice monitor][billing monitor][worksite
690 monitor]. The [practice monitor][billing monitor] shall (1) be a California-licensed
691 psychologist with an a clear active, unrestricted, and current license of at least five (5) years
692 duration; (2) have no ~~prior business, professional, personal, or other relationship with~~
693 ~~respondent~~ current or former financial, personal, familial, or other social or business
694 relationship with respondent that could reasonably be expected to compromise the ability of
695 the monitor to render fair and unbiased reports to the Board; and (3) ~~not be the same person~~
696 ~~as respondent's therapist~~ have completed six (6) hours of supervision coursework. The
697 monitor's education and experience shall be in the same field of practice as that of ~~the~~
698 respondent. The [practice monitor][billing monitor] may also serve as a worksite monitor, **if**
699 **ordered for a substance-abusing licensee**, as long as ~~he or she~~ the monitor also meets the
700 requirements for a worksite monitor.

701
702 Once approved, the monitor(s) shall submit to the Board or its designee a plan by which
703 respondent's [practice][billing] [worksite] shall be monitored. The Board may amend the
704 plan to increase or decrease the frequency of monitoring sessions with thirty (30) days
705 written notice to both the monitor and respondent. Monitoring frequency shall consist of at
706 least one hour per week of individual in person face-to-face meetings and shall continue
707 during the entire probationary period unless modified or terminated by the Board or its
708 designee. ~~The R~~respondent shall provide the [practice][billing] monitor with a copy of this
709 Decision and access to respondent's fiscal and/or ~~patient~~ client records. Respondent shall
710 obtain any necessary ~~patient~~ client releases to enable the [practice][billing] monitor to review
711 records and to make direct contact with ~~patients~~ clients. Respondent shall execute a release
712 authorizing the monitor to divulge any information that the Board may request. It shall be
713 respondent's responsibility to assure that the monitor submits written reports to the Board or
714 its designee on a quarterly basis verifying that monitoring has taken place and providing an
715 evaluation of respondent's performance.

716
717 Respondent shall secure written authorizations for releases of personal information from the
718 clients for review of the entirety of their client records by a [practice monitor][billing
719 monitor][worksite monitor], consistent with the releases obtained, including billing and
720 charge records. Records for review shall be presented in their original format and in the
721 order in which the files are maintained so the monitor may select and review records at
722 respondent's worksite. If respondent has more than one worksite, all worksites shall be made
723 available for review. The Board or its designee, upon fifteen (15) day written notice to
724 respondent, may require respondent to have more than one monitor, based on multiple
725 worksites, monitor availability, or other similar factors.

726
727 Respondent shall notify all current and potential ~~patients~~ clients of any term or condition of
728 probation that will affect their ~~therapy~~ psychotherapy or the confidentiality of their records
729 (such as this condition, which requires a [practice monitor][billing monitor]). Such
730 notifications shall be signed by each ~~patient~~ client prior to continuing or commencing
731 treatment.

732
733 **The following paragraph regarding billing monitoring must be included in the Order,**
734 **if a billing monitor has been ordered:**

735
736 The Board may require an annual audit of respondent's billings. Within sixty (60) days of
737 the date of a written notice requiring an audit, respondent shall provide the Board with the
738 names and qualifications of three (3) auditors, who must be certified public accountants
739 authorized to practice in this State; the auditor will be selected by the Board. The auditor
740 shall not have a current or former financial, personal, familial, or other social or business
741 relationship with respondent that could reasonably be expected to compromise the ability of
742 the auditor to render an impartial audit. Respondent shall obtain any necessary client
743 releases, pursuant to the audit requirements, to enable the auditor to perform the audit. The
744 audit shall include randomly selected client billing records. Within one hundred-eighty
745 (180) days of the date of the Board's written notice of approval of the auditor, a final audit
746 report shall be completed and submitted to the billing monitor and the Board. The cost of
747 the audits shall be borne by respondent. Failure to cooperate timely complete, report, or pay
748 for an audit shall constitute a violation of probation.

749
750 **The following paragraphs Add the language of the next 3 paragraphs regarding**
751 **reporting by a worksite monitor, if one is ordered, for a substance-abusing licensee**
752 **must be included in the Order:**

753
754 The worksite monitor shall not have a ~~current or former financial, personal, or familial~~
755 ~~relationship with the licensee, or other relationship~~ current or former financial, personal,
756 familial, or other social or business relationship with respondent that could reasonably be
757 expected to compromise the ability of the monitor to render impartial and unbiased reports
758 to the Board. All other requirements for a worksite monitor shall meet the requirements of a
759 worksite monitor under Uniform Standards #7. Reporting by the worksite monitor to the
760 Board shall be as follows:

761
762 Any suspected substance abuse must be orally reported to the Board and ~~the~~
763 ~~licensee's~~ respondent's employer within one (1) business day of occurrence. If the
764 occurrence is not during the Board's normal business hours, the oral report must be
765 within one (1) hour of the next business day. A written report shall be submitted to the
766 Board within forty-eight (48) hours of occurrence.

767
768 The worksite monitor shall complete and submit a written report ~~every monthly~~ or as
769 directed by the Board. The report shall include: ~~the licensee's~~ respondent's name; license
770 number; worksite monitor's name and signature; worksite monitor's license number;
771 worksite location(s); dates ~~licensee~~ respondent had in-person face-to-face contact with
772 monitor; worksite staff interviewed as applicable; attendance report; any change in
773 behavior and/or personal habits; and any indicators that can lead to suspected substance
774 abuse.

775
776 ~~The licensee~~ Respondent shall complete the required consent forms and sign an
777 agreement with the worksite monitor and the Board to allow the Board to communicate
778 with the worksite monitor.

779

780 If the monitor(s) quit(s) or is otherwise no longer available, respondent shall notify the
781 Board within ten (10) days and get approval from the Board for a new monitor within
782 thirty (30) days. If no new monitor is approved within thirty (30) days, respondent shall
783 not practice until a new monitor has been approved by the Board or its designee. The
784 term of probation shall be extended by the period of time during which respondent is
785 ordered to cease practice. Respondent shall pay all costs associated with this monitoring
786 requirement. Failure to pay these costs shall be considered a violation of probation.
787

788 **RATIONALE and APPLICATION OF UNIFORM STANDARD #7: Monitoring shall**
789 **be utilized when respondent's ability to function independently is in doubt or when**
790 **fiscal improprieties have occurred, as a result of a deficiency in knowledge or skills, or**
791 **as a result of questionable judgment. A worksite monitor may be ordered where the**
792 **Uniform Standards Related to a Substance-Abusing Licensee apply, if necessary, for**
793 **the protection of the public.**
794

795 **45. Restriction of Patient Population Practice Restriction**

796

797 Respondent's practice shall be [~~limited to~~][restricted to exclude ~~patients~~clients who are
798 _____] for [months/years]. Within thirty (30) days from the effective date of the
799 ~~d~~Decision, respondent shall submit to the Board or its designee, for prior approval, a plan to
800 implement this restriction. Respondent shall submit ~~proof~~ satisfactory proof to the Board or
801 its designee of compliance with this term of probation. Respondent shall notify their
802 supervisor, if they have one, of the restrictions imposed on their practice.
803

804 **RATIONALE: In cases wherein some factor of the respondent's patient/client population at**
805 **large (e.g. age, gender, practice setting) may put a expose a patient/client to at risk if in**
806 **therapy with the respondent, language appropriate to the case may be developed to restrict**
807 **such a population, or setting, or psychological service. The language would be tailored to**
808 **each specific case. vary greatly by case.**
809

810 **56. Psychotherapy**

811

812 Within ~~ninety (90)~~ thirty (30) days of the effective date of this Decision, a psychotherapist
813 shall be selected by the respondent for approval by the Board. The psychotherapist shall (1)
814 be a California-licensed psychologist with a ~~clear~~ active, unrestricted and current license; (2)
815 have no ~~previous business, professional, personal, or other relationship with respondent~~
816 current or former financial, personal, familial, or other social or business relationship with
817 respondent; and (3) not be the same person as respondent's practice, billing, or worksite
818 monitor. Respondent shall furnish a copy of this Decision to the psychotherapist.
819 Psychotherapy shall, at a minimum, consist of one (1) hour which is equivalent to a
820 minimum forty-five (45) minutes per week over a period of fifty-two (52) consecutive
821 weeks after which it may continue or terminate upon the written recommendation of the
822 psychotherapist with written approval by the Board or its designee. The Board or its
823 designee may order a psychological evaluation upon receipt of the psychotherapist's
824 recommendation.
825

826 Respondent shall execute a release authorizing the psychotherapist to provide to the Board
827 or its designee any information the Board deems appropriate, including quarterly reports of
828 respondent's therapeutic progress. It shall be respondent's responsibility to assure that the
829 required quarterly reports are filed by the psychotherapist in a timely manner. If the
830 psychotherapist notifies the Board that ~~the therapist believes~~ the respondent cannot continue
831 to safely render psychological services, ~~upon notification from the Board,~~ the Board shall
832 order respondent ~~shall to~~ immediately cease accepting new patientsclients and, in
833 accordance with professional standards, ~~shall~~ appropriately refer/terminate existing
834 patientsclients within thirty (30) days and shall not resume practice until a Board-
835 ~~appointed~~approved evaluator determines that respondent is again safe to practice. The term
836 of probation shall be extended by the period of time during which respondent is ordered to
837 cease practice.
838

839 If, prior to the termination of probation, respondent is found not to be mentally fit to resume
840 the practice of psychology without restrictions, the Board shall retain continuing jurisdiction
841 over ~~the~~ respondent's license and the term of probation shall be extended until the Board or
842 its designee determines that ~~the~~ respondent is mentally fit to resume the practice of
843 psychology without restrictions.
844

845 Cost of psychotherapy is to be paid by ~~the~~ respondent.
846

847 **RATIONALE: The need for psychotherapy may be determined pursuant to a**
848 **psychological evaluation or as evident from the facts of the case. The frequency of**
849 **psychotherapy shall be related to the offense involved and the extent to which the**
850 **offense calls into question the judgment, motivation, and emotional and/or mental**
851 **condition of the respondent.**
852

853 67. Examination(s) 854

855 **Examination for Professional Practice in Psychology (EPPP) or California Psychology**
856 **Law and Ethics Examination (CPLÉE) Term ~~MUST INCLUDE~~ must include either**
857 **Option 1 or Option 2:**
858

859 Option 1 (Condition Subsequent)
860

861 Within ninety (90) days of the effective date of the ~~d~~Decision, respondent shall take and
862 pass the [EPPP][CPLÉE]. If respondent fails to take or fails such examination, the Board
863 shall order respondent to cease practice and upon such order respondent shall immediately
864 cease practice, refrain from accepting new patientsclients and, in accordance with
865 professional standards, shall appropriately refer/terminate existing patientsclients within
866 thirty (30) days and shall not resume practice until the re-examination has been successfully
867 passed, as evidenced by written notice to respondent from the Board or its designee. The
868 term of probation shall be extended by the period of time during which respondent's
869 practice was ordered ceased. It is respondent's responsibility to contact the Board in writing
870 to make arrangements for such examination. Respondent shall pay the established
871 examination fee(s). Re-examination after a failure shall be consistent with the examination

872 requirements for an applicant set forth in Title 16 of the California Code of Regulations
873 (CCR)C.C.R. section 1388(f), and any applicable sections of the Business & Professions
874 Code.

875
876 Option 2 (Condition Precedent to either continued practice; or to reinstatement of a license)

877
878 Respondent [is ordered to cease the practice of psychology][shall not be reinstated] until
879 respondent has taken and passed the [EPPP][CPLEE]. The term of probation shall be
880 extended by the period of time during which respondent is ordered to cease practice. The
881 term of probation shall be extended by the period of time during which respondent's
882 practice was ordered ceased. It is respondent's responsibility to contact the Board in writing
883 to make arrangements for such examination(s). Respondent shall pay the established
884 examination fee(s). Re-examination after a failure must be consistent with the examination
885 requirements for an applicant set forth in 16 C.C.R. section 1388(f), and any applicable
886 sections of the Business & Professions Code.

887
888 **RATIONALE: In cases involving evidence of serious deficiencies in the body of**
889 **knowledge required to be minimally competent to practice independently, it may be**
890 **appropriate to require the respondent to take and pass the EPPP, the national**
891 **examination for psychologists, because the Board no longer administers an**
892 **examination that tests knowledge of the field, during the course of the probation**
893 **period. In some instances, it may be appropriate to order that practice be ceased until**
894 **the examination has been taken and passed (condition precedent). In cases involving**
895 **deficiencies in knowledge of laws and ethics, the CPLEE may be ordered. Either one or**
896 **both examinations may be appropriate, depending on the nature of the violation(s). It**
897 **may be appropriate to order that practice be ceased until the examination(s) has been**
898 **taken and passed, such as when violations involve competency and/or knowledge**
899 **deficiencies (condition precedent).**

900
901 **78. Restitution**

902
903 Within ninety (90) days of the effective date of this Decision, respondent shall provide proof
904 to the Board or its designee of restitution in the amount of \$_____ paid to
905 _____. Failure to pay restitution shall be considered a
906 violation of probation. Restitution is to be paid regardless of the tolling of probation.

907
908 **RATIONALE: In ~~offenses~~cases involving economic ~~exploitation~~harm or injury,**
909 **restitution is a necessary term of probation may be ordered. For example, restitution**
910 **would be a ~~standard term~~ordered in any case involving Medi-Cal or other insurance**
911 **fraud. The amount of restitution shall be, at a minimum, the amount of money that**
912 **was ~~fraudulently~~wrongfully obtained by the licenseerespondent. Evidence**
913 **Documentation relating to the amount of restitution would ~~have to be introduced at~~**
914 **the Administrative hearing establish the amount of restitution owed by the respondent**
915 **and to whom the restitution should be paid.**

916
917 **89. Clinical Diagnostic Evaluation**

918
919 Within thirty (30) days of the effective date of the Decision and at any time upon order of
920 the Board, respondent shall undergo a clinical diagnostic evaluation by a Board-approved
921 evaluator. ~~Respondent shall provide the evaluator with a copy of the Board's Decision prior~~
922 ~~to the clinical diagnostic evaluation being performed.~~

923
924 The evaluator shall be a licensed practitioner who holds a valid, unrestricted license to
925 conduct clinical diagnostic evaluations, and has three (3) years' of experience in providing
926 evaluations of health-care professionals with substance abuse disorders. The evaluator shall
927 not have a current or former financial, personal, familial, or other social or business
928 relationship with respondent or ever had a financial, personal, business, or other relationship
929 with the licensee that could reasonably be expected to compromise the ability of the Board-
930 approved evaluator to render impartial and unbiased reports to the Board. Respondent shall
931 cause the evaluator to submit to the Board a written clinical diagnostic evaluation report
932 within ten (10) days from the date the evaluation was completed, unless an extension, not to
933 exceed thirty (30) days, is granted to the evaluator by the Board.

934
935 Respondent shall pay all costs associated with the clinical diagnostic evaluation. Failure to
936 pay costs will be considered a violation of the probation order.

937
938 **The following language is mandatory for a cease practice order where the evaluation is**
939 **ordered under the Uniform Standards Related to Substance-Abusing Licensees is**
940 **mandatory, and discretionary in other cases where it may be relevant:**

941
942 Respondent is ordered to cease any practice of psychology, beginning on the effective date
943 of the Decision, pending the results of the clinical diagnostic evaluation. During this time,
944 ~~Respondent~~ shall submit to random drug testing at least two (2) times per week. At any
945 other time that respondent is ordered to undergo a clinical diagnostic evaluation, ~~he or~~
946 ~~she~~ respondent shall be ordered to cease any practice of psychology for a minimum of thirty
947 (30) days pending the results of a clinical diagnostic evaluation and shall, during such time,
948 submit to drug testing at least two (2) times per week.

949
950 Upon any order to cease practice, respondent shall not practice psychology until the Board
951 determines that ~~he or she~~ respondent is able to safely practice either full-time or part-time
952 and has had at least thirty (30) days of negative drug test results. The term of probation shall
953 be extended by the period of time during which respondent is ordered to cease practice.
954 Respondent shall comply with any terms or conditions made by the Board as a result of the
955 clinical diagnostic evaluation.

956
957 **RATIONALE and APPLICATION OF UNIFORM STANDARD #s 1, 2, and 3: This**
958 **condition is to be considered in cases where the grounds for discipline involve drugs**
959 **and/or alcohol, or where the Uniform Standards Related to a Substance-Abusing**
960 **Licensee apply. The cease practice order pending the evaluation is mandatory where**
961 **the evaluation is ordered for a substance-abusing licensee, and discretionary in other**
962 **cases where ordered.**

963

964 **910. Alcohol and/or Drug Abuse Treatment Program**

965
966 Within thirty (30) days from the effective date of the Decision, respondent shall enter an
967 inpatient or outpatient alcohol or other drug abuse recovery program or an equivalent
968 program as approved by the Board or its designee. Components of the treatment program
969 shall be relevant to the violation and to ~~the~~ respondent's current status in recovery or
970 rehabilitation. Respondent shall provide the Board or its designee with proof that the
971 approved program was successfully completed. Terminating the program without
972 permission or being expelled for cause shall constitute a violation of probation by
973 respondent. If respondent so terminates or is expelled from the program, respondent shall be
974 ordered by the Board to immediately cease any practice of psychology, and may not practice
975 unless and until notified by the Board. The term of probation shall be extended by the period
976 of time during which respondent is ordered to cease practice.

977
978 Respondent shall pay all costs associated with the program. Failure to pay costs will be
979 considered a violation of the probation order.

980
981 ~~However, if~~ respondent has already ~~attended~~ completed such an inpatient or outpatient
982 alcohol or other drug abuse recovery program, as described above, commencing with or
983 during the current period of sobriety, respondent shall provide the Board or its designee with
984 proof that the program was successfully completed and this ~~shall~~ may, at the Board's
985 discretion such as, completion of a court-ordered drug or alcohol treatment program, suffice
986 to comply with this term of probation.

987
988 **RATIONALE and APPLICATION OF UNIFORM STANDARD # 6: This condition is**
989 **to be considered in cases where the grounds for discipline involve drugs and/or alcohol,**
990 **or where the Uniform Standards Related to a Substance-Abusing Licensee apply.**

991
992 **1011. Ongoing Support Group Program**

993
994 Within thirty (30) days of the effective date of the Decision, respondent shall begin and
995 continue attendance at a support/recovery group (e.g., Twelve Step meetings or the
996 equivalent, or a facilitated group support ~~meeting with a psychologist trained in alcohol and~~
997 ~~drug abuse treatment~~) as ordered by the Board or its designee.

998
999 When determining the type and frequency of required support group meeting attendance, the
1000 Board shall give consideration to the following:

- 1001
- 1002 • the licensee's history;
 - 1003 • the documented length of sobriety/time that has elapsed since substance use;
 - 1004 • the recommendation of the clinical evaluator;
 - 1005 • the scope and pattern of use;
 - 1006 • the licensee's treatment history; and,
 - 1007 • the nature, duration, and severity of substance abuse.
- 1008

1009 Verified documentation of attendance shall be submitted by respondent with each quarterly
1010 report. Respondent shall continue attendance in such a group for the duration of probation
1011 unless notified by the Board that attendance is no longer required.
1012

1013 **If a facilitated group support meeting is ordered for a substance-abusing licensee, add**
1014 **the following language regarding the facilitator:**
1015

1016 The group facilitator shall meet the following qualifications and requirements:
1017

- 1018 a. The meeting facilitator must have a minimum of three (3) years of experience in the
1019 treatment and rehabilitation of substance abuse, and shall be licensed or certified by
1020 the state or other nationally certified organizations.
- 1021 b. The meeting facilitator must not have had a financial relationship, personal
1022 relationship, or business relationship with the licensee in the last five (5) years.
- 1023 c. The meeting facilitator shall provide to the ~~h~~Board a signed document showing the
1024 licensee's name, facilitator's qualifications, the group name, the date and location of
1025 the meeting, the licensee's attendance, and the licensee's level of participation and
1026 progress.
- 1027 d. Respondent shall provide the facilitator with a copy of the Decision.
- 1028 ~~e.~~ The facilitator shall report any unexcused absence within twenty-four (24) hours.
1029

1030
1031 **RATIONALE and APPLICATION OF UNIFORM STANDARD # 5: Alcohol and/or**
1032 **other drug abuse treatment shall be required in addition to other terms of probation in**
1033 **cases where the use of alcohol or other drugs by respondent has impaired respondent's**
1034 **ability to safely provide psychological services. This condition must be accompanied by**
1035 **condition #~~12~~9. This term is to be considered in cases where the grounds for discipline**
1036 **involve drugs and/or alcohol, or where the Uniform Standards Related to a Substance-**
1037 **Abusing Licensee apply. ~~If the Uniform Standards do not apply, where relevant, non-~~**
1038 **~~facilitated support group attendance, such as Twelve Step meetings, may be ordered~~**
1039 **~~instead of a facilitated group support meeting, or in addition to it.~~**
1040

1041 **1112. Abstain from Drugs and Alcohol and Submit to Tests and Samples**
1042

1043 Respondent shall abstain completely from the personal use or possession of controlled
1044 substances as defined in the California Uniform Controlled Substances Act, and dangerous
1045 drugs as defined by Section 4022 of the ~~Business and Professions~~ Code, or any drugs
1046 requiring a prescription unless respondent provides the Board or its designee with
1047 documentation from the prescribing healthcare professional that the prescription was
1048 legitimately issued and is a necessary part of the treatment of respondent.
1049

1050 Respondent shall abstain completely from the intake of alcohol in any form.
1051

1052 Respondent shall undergo random and directed biological fluid or specimen testing as
1053 determined by the Board or its designee. ~~Respondent shall be subject to [a minimum of~~

1054 ~~fifty-two (52)] random tests [per year within the first year of probation, and a minimum of~~
1055 ~~thirty-six (36) random tests per year thereafter,] for the duration of the probationary term.~~

1056
1057
1058

Testing Frequency Schedule:

Level	Segments of Probation	Minimum Range of Number of Random Tests
I	Year 1	52-104 per year
II	Year 2+	36-104 per year

1059
1060 **After five (5) years, administration of biological fluid or specimen testing as**
1061 **determined by the Board, may be reduced to one (1) time per month if there have been**
1062 **no positive drug tests in the previous five (5) consecutive years of probation.**

1063
1064 Nothing precludes the Board from increasing the number of random tests for any reason.

1065
1066 Any confirmed positive finding will be considered a violation of probation. Respondent
1067 shall pay all costs associated with such testing. If respondent tests positive for a banned
1068 substance, respondent shall be ordered by the Board to immediately cease any practice of
1069 psychology and to suggest alternative service providers to their clients as appropriate, and
1070 may not practice unless and until notified by the Board. Respondent shall make daily
1071 contact as directed by the Board to determine if ~~he or she~~respondent must submit to alcohol
1072 and/or drug testing. Respondent shall submit to his or her alcohol and/or drug test on the
1073 same day that ~~he or she~~respondent is notified that a test is required. ~~All alternative testing~~
1074 ~~sites~~ Any alternative to the licensee's drug testing requirements (including frequency,
1075 alternative testing sites, or **cessation of practice**) due to ~~vacation or~~ travel outside of
1076 California must be approved by the Board prior to ~~the vacation or~~ travel. The term of
1077 probation shall be extended by the period of time during which respondent is ordered to
1078 cease practice.

1079
1080 **Drugs - Exception for Personal Illness**

1081
1082 Orders forbidding respondent from personal use or possession of controlled substances or
1083 dangerous drugs do not apply to medications lawfully prescribed to respondent for a bona
1084 fide illness or condition by a licensed health-care professional and used for the purposes for
1085 which they were prescribed. Respondent shall provide the Board or its designee with written
1086 documentation from the treating licensed health-care professional who prescribed
1087 medication(s) within fourteen (14) days from the date of the written request by the Board or
1088 its designee. The documentation shall identify the medication, dosage, number of refills, if
1089 any; the date the medication was prescribed, ~~the~~ respondent's prognosis, the date the
1090 medication will no longer be required, and the effect on the recovery plan, if appropriate.

1091
1092 **RATIONALE and APPLICATION OF UNIFORM STANDARD #s 4 and 8: This**
1093 **condition provides documentation that the probationer/respondent is substance or**
1094 **chemical-free, not using drugs or alcohol. It also provides the Board with a mechanism**
1095 **through which to require additional laboratory analyses for the presence of narcotics,**

1096 alcohol and/or dangerous drugs when ~~the probationer~~respondent appears to be in
1097 violation of the terms of probation or appears to be under the influence of mood
1098 altering substances. The Board will consider the following factors in making an
1099 exception to the testing frequency:
1100

- 1101 ● **PREVIOUS TESTING/SOBRIETY:** In cases where the Board has evidence
1102 that a licensee has participated in a treatment or monitoring program
1103 requiring random testing prior to being subject to testing by the Board, the
1104 Board may give consideration to that testing in altering the testing
1105 frequency schedule so that it is equivalent to this standard.
1106
- 1107 ● **VIOLATION(S) OUTSIDE OF EMPLOYMENT:** An individual whose
1108 license is placed on probation for a single conviction or incident, or two (2)
1109 convictions or incidents, spanning greater than seven (7) years from each
1110 other, where those violations did not occur at work or while on the licensee's
1111 way to work, where alcohol or drugs were a contributing factor, may bypass
1112 level I and participate in level II of the testing frequency schedule.
1113
- 1114 ● **SUBSTANCE USE DISORDER NOT DIAGNOSED:** In cases where no
1115 current substance use disorder diagnosis is made, a lesser period of
1116 monitoring and toxicology screening may be adopted by the Board, but not
1117 to be ~~less~~fewer than twenty-four (24) times per year.
1118
- 1119 ● **LICENSED SUPERVISION DURING PRACTICE**

1120
1121 **The Board may reduce testing frequency to a minimum of 24 times per year**
1122 **for any person who is a practicing licensee if the licensee's supervisor is at**
1123 **the same location at least 50% of the day and is licensed by the Board.**
1124

1125 ~~The~~Term 11 is mandatory in cases where the Uniform Standards Related to a
1126 Substance-Abusing Licensee apply. Where the Uniform Standards do not apply, where
1127 relevant, ~~the~~ respondent should be ordered to submit to random and directed testing,
1128 but need not be ordered to submit to the minimum frequency of random tests.
1129

1130 **12. Request for Modification Pursuant to Uniform Standards**

1131 "Request" as used in this condition is a request under the Uniform Standards made to the
1132 probation monitor, and not under the Administrative Procedure Act.
1133

1134 Before the request is considered, respondent shall demonstrate that the following criteria
1135 have been met:
1136

- 1137 a. Sustained compliance with current recovery program.
- 1138 b. The ability to practice safely as evidenced by current worksite monitor reports,
1139 evaluations, and any other information relating to respondent's substance abuse.
1140
1141

1142 c. Negative alcohol and drug screening reports for at least six (6) months, two (2)
1143 positive worksite monitor reports, and complete compliance with other terms and
1144 conditions of the program.
1145

1146 **RATIONALE and APPLICATION OF UNIFORM STANDARD #11: This term is a**
1147 **standard term for all substance-abusing licensees, and applies to a request for a**
1148 **modification of terms and conditions that are within the purview of the Board’s**
1149 **probation monitor.**
1150

1151
1152 **13. Educational Review**
1153

1154 Respondent shall submit to an educational review concerning the circumstances that
1155 resulted in this administrative action. Within ninety (90) days from the effective date of the
1156 Decision, the educational review shall be conducted and submitted to the respondent and
1157 to the Board by a Board-appointed approved California licensed psychologist (“reviewer”).
1158 expert familiar with the case. Educational reviews are informational only and intended to
1159 benefit respondent’s practice. Respondent shall pay all costs associated with this educational
1160 review. If a reviewer makes recommendations for essential training, education, consultation,
1161 experiential opportunities, techniques, or technologies to enhance respondent’s professional
1162 competency in the discipline of psychology and its application in serving the public,
1163 respondent shall develop and submit a plan to the Board for approval within thirty (30) days
1164 after receiving the results of the educational review. The plan shall have measurable goals
1165 by which enhancement to areas of competency will be addressed within the probationary
1166 period. Respondent shall have met the requirements of the plan no later than six (6) months
1167 prior to the end of probation. Respondent shall pay all costs associated with this educational
1168 review and any costs associated with completing respondent’s Board-approved plan.
1169

1170 **RATIONALE: In cases involving evidence of deficiencies in the body of knowledge**
1171 **required to be minimally competent to practice independently, it may be appropriate**
1172 **to require the respondent to submit to an educational review during the course of the**
1173 **probation period.**
1174

1175
1176 **B. STANDARD TERMS AND CONDITIONS OF PROBATION**
1177 **(To be included in ALL Proposed Decisions and Stipulations)**
1178

1179 **14. Psychological Evaluation**
1180

1181 Within ninety (90) days of the effective date of this Decision and on a periodic basis
1182 thereafter as may be required by the Board, respondent shall undergo a psychological
1183 evaluation (and psychological testing, if deemed necessary) by a Board-approved California-
1184 licensed psychologist (“evaluator”), as provided by the Board to the respondent. Respondent
1185 shall sign a release that authorizes the evaluator to furnish the Board with a Diagnostic and
1186 Statistical Manual of Mental Disorders, 5th Edition, (DSM-5) diagnosis and a written
1187 evaluation regarding respondent’s judgment and/or ability to practice independently and

1188 safely, and any additional information the Board deems relevant to the case. The completed
1189 evaluation is the sole property of the Board.

1190
1191 If the Board concludes from the results of the evaluation that respondent is unable to
1192 practice independently and safely, upon written notice from the Board, respondent shall
1193 immediately cease accepting new clients and, in accordance with professional standards,
1194 shall appropriately refer/terminate existing clients within thirty (30) days of the date of the
1195 Board's written notice, and shall not resume practice until a Board-approved evaluator
1196 determines that respondent is safe to practice. The term of probation shall be extended for
1197 this additional period of time that respondent was ordered to cease practice.
1198 Recommendations for treatment made as a result of the evaluation will be instituted and
1199 followed by respondent.

1200
1201 If not otherwise ordered herein, if ongoing psychotherapy is recommended in the
1202 psychological evaluation, the Board will notify respondent in writing to submit to such
1203 psychotherapy and to select a psychologist for approval by the Board within thirty (30) days
1204 of the date of such written notification. The psychotherapist shall (1) be a California-
1205 licensed psychologist with a active, unrestricted and current license; (2) have no current or
1206 formal financial, personal, familial, professional, or other social or business relationship
1207 with respondent; and (3) not be the same person as respondent's practice, billing, or
1208 worksite monitor. Frequency of psychotherapy shall be determined upon recommendation of
1209 the treating psychologist with approval by the Board. Respondent shall continue
1210 psychotherapy until receiving written notice of release by the Board-approved psychologist
1211 and approval by the Board. The Board may order a re-evaluation upon receipt of the
1212 psychologist's recommendation.

1213
1214 If not otherwise ordered herein, if a client population or psychological service restriction is
1215 recommended in the psychological evaluation, the Board will notify respondent in writing as
1216 to the limitation and its duration.

1217
1218 Respondent shall pay all costs associated with the psychological evaluation and ongoing
1219 psychotherapy.

1220
1221

1222 **Option of Evaluation as a Condition Precedent:**

1223
1224 **In some cases, including but not limited to gross negligence or dishonest, corrupt, or**
1225 **fraudulent acts, the psychological evaluation may be imposed as either a condition**
1226 **precedent to the continued practice of psychology, or to the issuance or reinstatement**
1227 **of a license, so that respondent or petitioner is not allowed to begin or continue**
1228 **practice until found to be safe to do so. In such cases, the following language shall be**
1229 **substituted as the first sentence of the first paragraph of this condition:**

1230
1231 As a condition precedent to the [continued practice of psychology][issuance of a license]
1232 [reinstatement of a license], within ninety (90) days of the effective date of this Decision,
1233 and on a periodic basis thereafter as may be required by the Board or its designee,

1234 respondent shall undergo a psychological evaluation (and psychological testing, if deemed
1235 necessary) by a Board-approved California-licensed psychologist. The term of probation
1236 shall be extended for the additional period of time during which respondent is not allowed to
1237 practice.

1238
1239 **In addition, the following language shall also be used as a substitute for the first**
1240 **sentence of the second paragraph of this condition:**

1241
1242 If the Board concludes from the results of the evaluation that [respondent][petitioner] is
1243 unable to practice independently and safely, upon written notice from the Board [respondent
1244 shall, in accordance with professional standards, appropriately refer/terminate existing
1245 clients within thirty (30) days and shall not resume practice until a Board-approved
1246 evaluator determines that respondent is safe to practice][respondent or petitioner shall not be
1247 issued or have a reinstated license until a Board-approved evaluator determines that
1248 respondent or petitioner is safe to practice].

1249
1250

1251 **15 14. Notification to Employer**

1252
1253 When currently employed, applying for employment or negotiating a contract, or contracted
1254 to provide psychological services, respondent shall provide to each employers, supervisor,
1255 or contractor, or prospective employer or contractor where respondent is providing or would
1256 provide psychological services, a copy of ~~theis Decision and the Accusation or Statement of~~
1257 ~~Issues~~ before accepting or continuing employment. Notification to ~~the~~ respondent's current
1258 employer shall occur no later than the effective date of the Decision. Respondent shall
1259 submit, upon request by the Board or its designee, satisfactory evidence of compliance with
1260 this ~~term~~condition of probation.

1261
1262 ~~The R~~respondent shall provide to the Board the names, physical addresses, mailing
1263 addresses, email addresses, and telephone numbers of all employers and supervisors, or
1264 contractors, and shall inform the Board in writing of the facility or facilities at which the
1265 person is providing psychological services, and the name(s) of the person(s) to whom the
1266 Board's ~~d~~Decision was provided. Respondent shall not interfere with the Board's authority
1267 to communicate with respondent's employer, supervisor, or workplace contacts with whom
1268 they are contracted to provide psychological services.

1269
1270 If respondent offers psychological services through court appointment, respondent must
1271 provide a copy of the Decision to the division of the Court where services are offered prior
1272 to the appointment.

1273
1274 ~~Respondent shall complete the required consent forms and sign an agreement with the~~
1275 ~~employer and supervisor, or contractor, and the Board to allow the Board to communicate~~
1276 ~~with the employer and supervisor, or contractor.~~

1277
1278 **1615. Coursework**

1279

1280 Respondent shall take and successfully complete not less than _____ hours each
1281 year of probation in the following area(s) _____ and/or as approved by the Board or its
1282 designee. Coursework must shall be pre-approved by the Board or its designee and be taken
1283 from a continuing education provider approved by the American Psychological Association
1284 (APA), California Psychological Association (CPA), California Medical Association
1285 (CMA), Accreditation Council for Continuing Medical Education (ACCME), or Association
1286 of Black Psychologists (ABPsi) or its designee. Coursework shall be taken in real time, with
1287 live interaction with the course instructor. On-demand, recorded courses, or home study
1288 coursework will not count toward meeting this requirement. All coursework shall be taken
1289 at the graduate level at an accredited educational institution, or by an approved continuing
1290 education provider. Classroom attendance correspondence or home study coursework shall
1291 not count toward meeting this requirement. The coursework must be in addition to any
1292 continuing education courses that may be required for license renewal. Respondent shall
1293 provide proof, pursuant to section 1397.61.1 of completion of the required coursework to
1294 the Board.

1295
1296 ~~Within ninety (90) days of the effective date of this Decision, respondent shall submit to the~~
1297 ~~Board or its designee for its prior approval a plan for meeting the educational requirements.~~
1298 ~~All costs of the coursework shall be paid by the respondent.~~
1299

1300 **1716. Law and Ethics Course**

1301
1302 Respondent shall take and successfully complete a course in law and ethics of not less than
1303 six (6) hours, within the first year from the effective date of the Decision. Coursework shall
1304 be pre-approved by the Board and be taken from a continuing education provider approved
1305 by American Psychological Association (APA), California Psychological Association
1306 (CPA), California Medical Association (CMA), Accreditation Council for Continuing
1307 Medical Education (ACCME), or Association of Black Psychologists (ABPsi). Coursework
1308 shall be taken in real time, with live interaction with the course instructor. On-demand,
1309 recorded courses, or home study coursework will not count toward meeting this
1310 requirement. The coursework must be in addition to any continuing education courses that
1311 may be required for license renewal. Respondent shall provide proof of completion of the
1312 required coursework to the Board. The cost associated with the law and ethics course shall
1313 be paid by respondent.

1314
1315 ~~Within ninety (90) days of the effective date of this Decision, shall submit to the Board or~~
1316 ~~its designee for prior approval a course in laws and ethics as they relate to the practice of~~
1317 ~~psychology. Said course must be successfully completed at an accredited educational~~
1318 ~~institution or through a provider approved by the Board's accreditation agency for~~
1319 ~~continuing education credit. Said course must be taken and completed within one year from~~
1320 ~~the effective date of this Decision. This course must be in addition to any continuing~~
1321 ~~education courses that may be required for license renewal. The cost associated with the law~~
1322 ~~and ethics course shall be paid by the respondent.~~
1323

1324 **1817. Investigation/Enforcement Cost Recovery**

1325

1326 Respondent shall pay to the Board its costs of investigation and enforcement in the amount
1327 of \$_____ within the first year of probation from the effective date of the Decision
1328 unless an alternative payment plan is approved by the Board or its designee after written
1329 request from respondent as provided in this section. Such costs shall be payable to the Board
1330 of Psychology and are to be paid regardless of whether the probation is tolled. Failure to pay
1331 such costs shall be considered a violation of probation.

1332
1333 Any and all requests for a an alternative payment plan shall be submitted in writing by
1334 respondent to the Board. However, full payment of any and all costs required by this
1335 condition must be received by the Board no later than six (6) months prior to the scheduled
1336 termination of probation.

1337
1338 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
1339 repay investigation and enforcement costs.

1340 **1918. Probation Costs**

1341
1342
1343 Respondent shall pay the costs associated with probation monitoring each and every year of
1344 probation as designated by the Board or its designee, which may be adjusted on an annual
1345 basis. Such costs shall be payable to the Board of Psychology at the end of each fiscal year
1346 (June 30). Failure to pay such costs shall be considered a violation of probation.

1347
1348 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
1349 repay probation monitoring costs.

1350
1351 **2019. Obey All Laws**

1352
1353 Respondent shall obey all federal, state, and local laws and all regulations governing the
1354 practice of psychology in California including the eEthical Principles of Psychologists and
1355 Code of Conduct guidelines of the American Psychological Association. A full and detailed
1356 account of any and all violations of law shall be reported by the respondent to the Board or
1357 its designee in writing within seventy-two (72) hours of occurrence.

1358
1359 CRIMINAL COURT ORDERS: If respondent is under criminal court orders by any
1360 governmental agency, including probation or parole, and the orders are violated, this shall
1361 be deemed a violation of probation and may result in the filing of an aAccusation or
1362 pPetition to rRevoke pProbation or both.

1363
1364 OTHER BOARD OR REGULATORY AGENCY ORDERS: If respondent is subject to any
1365 other disciplinary order from any other health-care related board or any professional
1366 licensing or certification regulatory agency in California or elsewhere, and violates any of
1367 the orders or terms and conditions imposed by other agencies, this shall be deemed a
1368 violation of probation and may result in the filing of an aAccusation or pPetition to rRevoke
1369 pProbation or both.

1370
1371 **2120. Quarterly Reports**

1372
1373 Respondent shall submit quarterly declarations under penalty of perjury ~~on forms provided~~
1374 ~~by the Board or its designee~~, stating whether there has been compliance with all the
1375 conditions of probation. Quarterly reports attesting to non-practice status are to be submitted
1376 if probation is tolled.

1377
1378 Respondent shall submit a quarterly report that covers the entire quarter no later than seven
1379 (7) calendar days ~~from after the beginning of the assigned~~ quarter ends. The quarterly
1380 reporting periods and due dates are as follows:

- 1381 • Quarter 1 January 1 – March 31 - Report no earlier than April 1st. Due no later than
1382 April 7th.
- 1383 • Quarter 2 April 1 – June 30 - Report no earlier than July 1st. Due no later than July
1384 7th.
- 1385 • Quarter 3 July 1 – September 30 - Report no earlier than October 1st. Due no later
1386 October 7th.
- 1387 • Quarter 4 October 1 – December 31 - Report no earlier than January 1st. Due no
1388 later than January 7th

1389
1390 **2221. Probation Compliance**

1391
1392 Respondent shall comply with the Board’s probation program and shall, upon reasonable
1393 notice, report to the assigned Board of Psychology probation monitor. Respondent shall
1394 contact the assigned probation monitor regarding any questions specific to the ~~probation~~
1395 ~~order~~ Decision. As it relates to the Decision, Respondent shall not have any unsolicited or
1396 unapproved contact with (1) complainants associated with the case; (2) Board members ~~or~~
1397 ~~members of its staff~~; or (3) persons serving the Board as expert evaluators.

1398
1399 **2322. Interview with Board or Its Designee**

1400
1401 Respondent shall appear in person for interviews and/or meetings as directed by ~~with~~ the
1402 Board or its designee upon request at various intervals and with reasonable notice.

1403
1404 **2423. Changes of Employment/Address**

1405
1406 Respondent shall, at all times, keep the Board informed of respondent’s business and
1407 residence addresses. Respondent shall notify the Board in writing, through the assigned
1408 probation monitor, of any and all changes of employment, location, and address within
1409 ~~thirty (30)~~ ten (10) days of such change.

1410
1411 **2524. Tolling for Out-of-State Practice, Residence or Extension of Probation for In-State**
1412 **Non-Practice Tolling for Non-Practice and Out-of-State Practice**

1413
1414 Respondent shall notify the Board in writing within ten (10) days of any periods of non-
1415 practice lasting more than thirty (30) days and within ten (10) days of respondent’s return to
1416 practice.

1417

1418 Non-practice is any period that respondent is not rendering those psychological services
1419 identified in section 2903 of the Business and Professions Code for at least forty (40) hours
1420 in a calendar month in the State of California.

1421
1422 If respondent resides in California and is in non-practice, respondent shall comply with all
1423 of the terms and conditions of probation.

1424
1425 Periods of non-practice for a respondent residing outside of California will relieve
1426 respondent of the responsibility to comply with the probationary terms and conditions, with
1427 the exception of this condition and the following terms and conditions:

- 1428
- 1429 ● Restitution,
- 1430 ● Abstain from Drugs and Alcohol, and Submit to Tests and Samples,
- 1431 ● Cost Recovery,
- 1432 ● Probation Costs,
- 1433 ● Obey all Laws,
- 1434 ● Quarterly Reports,
- 1435 ● Probation Compliance,
- 1436 ● Interview with the Board or Its Designee
- 1437 ● Changes of Employment/Address,
- 1438 ● Violation of Probation,
- 1439 ● License Surrender
- 1440

1441 Periods of non-practice will not apply to reduction of the probationary term.

1442
1443 A Board-ordered suspension of practice shall not be considered a period of non-practice.

1444
1445 Respondent's cumulative, total time of non-practice while on probation shall not exceed two
1446 (2) years. Absent a showing of good cause to the Board, including but not limiting to health
1447 issues of respondent or immediate family member, for a cumulative period of non-practice
1448 exceeding two (2) years constitutes a violation of probation and subjects respondent's
1449 license to surrender or revocation.

1450
1451 ~~In the event respondent should leave California to reside or to practice outside the State for~~
1452 ~~any reason, respondent shall notify the Board or its designee in writing within ten (10) days~~
1453 ~~of the dates of departure and return to California. All provisions of probation other than the~~
1454 ~~quarterly report requirements, restitution, cost recovery, and coursework requirements, shall~~
1455 ~~be held in abeyance until respondent resumes practice in California. All provisions of~~
1456 ~~probation shall recommence on the effective date of resumption of practice in California,~~
1457 ~~and the term of probation shall be extended for the period of time respondent was out of~~
1458 ~~state.~~

1459
1460 ~~Unless by Board order, in the event respondent is not engaging in the practice of psychology~~
1461 ~~while residing in California, respondent shall notify the Board or its designee in writing~~
1462 ~~within ten (10) days of the dates of cessation of practice and expected return to practice.~~
1463 ~~Non-practice is defined as any period of time exceeding thirty (30) days in which~~

1464 respondent is not engaging in any activities defined in Sections 2902 and 2903 of the
1465 Business and Professions Code. All provisions of probation shall remain in effect, and the
1466 term of probation shall be extended for the period of time respondent was not engaged in the
1467 practice of psychology as required by other employment requirements of this order.
1468

1469 **26. Tolling for Ceased Practice**

1470
1471 The term of probation shall be extended for any period of time during which respondent is
1472 ordered to cease practice. Respondent's cumulative, total time of ceased practice while on
1473 probation shall not exceed two (2) years. A cumulative period of ceased practice exceeding
1474 two (2) years constitutes a violation of probation.
1475

1476 **2725. Employment and Supervision of Trainees**

1477
1478 If respondent is licensed as a psychologist, ~~he/she~~respondent shall not employ or supervise
1479 ~~or apply to employ or supervise psychological assistants~~ associates, interns, or trainees. Any
1480 such supervisory relationship in existence on the effective date of this Decision ~~and Order~~
1481 shall be terminated by respondent and/or the Board.
1482

1483 **2826. Instruction of Coursework Qualifying for Continuing Education**

1484
1485 Respondent shall not be an instructor of any coursework for continuing education credit
1486 required by any license issued by the Board.
1487

1488 **2927. Future Registration or Licensure**

1489
1490 ~~If respondent is registered as a psychological assistant or registered psychologist and~~
1491 ~~subsequently obtains other psychological assistant or registered psychologist registrations or~~
1492 ~~becomes licensed as a psychologist during the course of this probationary order, These~~
1493 ~~Decision shall remain in full force and effect through any registration or license issued by~~
1494 ~~the Board until the probationary period is successfully terminated/completed.~~ Future
1495 registrations or licensure shall not be approved, ~~however~~, unless respondent is currently in
1496 compliance with all of the terms and conditions of probation.
1497

1498 **28. Request for Modification**

1499
1500 ~~“Request” as used in this condition is a request made to the Board’s designee, and not under~~
1501 ~~the Administrative Procedure Act.~~
1502

1503 ~~The licensee shall demonstrate that he or she has met the following criteria before being~~
1504 ~~granted a request to modify a practice restriction ordered by the Board staff pursuant to the~~
1505 ~~Uniform Standards:~~

- 1506
1507 a. ~~Demonstrated sustained compliance with current recovery program.~~
1508 b. ~~Demonstrated the ability to practice safely as evidenced by current work site reports,~~
1509 ~~evaluations, and any other information relating to the licensee’s substance abuse.~~

1510 e. ~~Negative alcohol and drug screening reports for at least six (6) months, two (2)~~
1511 ~~positive worksite monitor reports, and complete compliance with other terms and~~
1512 ~~conditions of the program.~~
1513

1514 ~~**RATIONALE and APPLICATION OF UNIFORM STANDARD #11: This term is a**~~
1515 ~~**standard term for all substance abusing licensees. It applies to request for a**~~
1516 ~~**notification of terms and conditions that are within the purview of the Board's**~~
1517 ~~**Probation Monitor.**~~
1518

1519 **3029. Violation of Probation**
1520

1521 If respondent violates probation ~~in any respect~~, the Board may, after giving respondent
1522 notice and the opportunity to be heard, revoke probation and carry out the disciplinary order
1523 that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent
1524 during probation, the Board shall ~~have continuing~~ to have jurisdiction until the matter is
1525 final, and the term of probation shall be extended until the matter is final. No Petition for
1526 Modification or Termination of Probation shall be considered while there is an Accusation
1527 or Petition to Revoke Probation pending against respondent.
1528

1529 **3130. Completion of Probation**
1530

1531 Upon successful completion of probation, respondent's license shall be fully restored.
1532

1533 **3231. License Surrender**
1534

1535 Following the effective date of this Decision, if respondent ceases practicing due to retirement,
1536 health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent
1537 may request in writing the voluntary surrender of ~~his or her~~ their license ~~or registration~~.
1538 Respondent's written request to surrender their license shall include the following: their name,
1539 license number, case number, address of record, and an explanation of the reason(s) why
1540 respondent seeks to surrender their license. The Board of Psychology or its designee reserves the
1541 right to evaluate respondent's request and to exercise its discretion whether or not to grant the
1542 request, or to take any other action deemed appropriate and reasonable under the circumstances.
1543 Upon formal acceptance of the surrender, respondent shall, within fifteen (15) calendar days,
1544 deliver respondent's pocket and/or wall certificate to the Board or its designee and respondent
1545 shall no longer practice psychology. Respondent will no longer be subject to the terms and
1546 conditions of probation and the surrender of respondent's license shall be deemed disciplinary
1547 action. If respondent reapplies for a psychology license ~~or registration~~, the application shall be
1548 treated as a petition for reinstatement of a revoked license ~~or registration~~.
1549

1550
1551 **C. STANDARD TERMS AND CONDITIONS FOR REVOCATIONS OR**
1552 **STIPULATIONS FOR SURRENDER**
1553 **(To be included in ALL all Revocations or Stipulations for Surrender or Revocation)**
1554

1555 **3332. Reinstatement and Investigation/Enforcement Cost Recovery**

1556
1557 Respondent may not petition for reinstatement of a revoked or surrendered
1558 license/~~registration~~ for three (3) years from the effective date of this Decision. If the Board
1559 grants future reinstatement, respondent agrees to reimburse the Board for its costs of
1560 investigation and enforcement of this matter in the amount of \$ _____ payable to the
1561 Board upon the effective date of such reinstatement Decision.

1562
1563 **3433. Relinquish License**

1564
1565 Respondent shall ~~deliver respondent's pocket and/or wall certificate~~ relinquish his/her wall
1566 ~~and pocket certificate of licensure or registration~~ to the Board or its designee once this
1567 Decision becomes effective ~~and upon request~~.

1568
1569
1570 **IV. PROPOSED DECISIONS**

1571
1572 **A. ~~Contents: The Board requests that Proposed Decisions include the following:~~**
1573 **Proposed Decisions must include the following:**

- 1574 a. Specific code section(s) violated ~~with the definition of the code(s)~~ in the Determination
1575 of Issues.
1576 b. Clear description of the acts or omissions which caused the violation.
1577 c. Respondent's explanation of the violation(s) in the Findings of Fact if ~~he/she~~ respondent
1578 was present at the hearing.
1579 d. Description of all evidence of mitigation, rehabilitation, and aggravation presented at the
1580 hearing.
1581 e. Explanation of any deviation from the Board's Disciplinary Guidelines.

1582
1583 When a probation order is ordered imposed, the Board requests that the Decision order first must
1584 list any combination of the Optional Terms and Conditions (1-13) that are imposed, as they may
1585 pertain to the particular case followed by all of the Standard Terms and Conditions (14-342).

1586
1587 ~~If the respondent fails to appear for his/her scheduled hearing or does not submit a Notice of~~
1588 ~~Defense form, **such inaction shall result in a default decision to revoke licensure or deny**~~
1589 ~~**application.**~~

1590
1591 **~~B. Recommended Language for Issuance and Placement of a License on Probation, and~~**
1592 **Reinstatement of License Model Disciplinary Orders**

1593
1594 **1. Disciplining Placement of a License on Probation/Registration:**

1595
1596 "IT IS HEREBY ORDERED that the [~~registration~~][license] issued to respondent is
1597 REVOKED. However, the order of revocation is STAYED and the [~~registration~~][license] is
1598 placed on probation for [#] years subject to the following terms and conditions²²:"

1599
1600 **2. Applicant Placed on Probation Issuance and Placement of a License on Probation:**

1602 “IT IS HEREBY ORDERED that the application for {license}{registration} is GRANTED,
1603 and upon successful completion of all {licensing}{registration} requirements a
1604 {license}{registration} shall be issued, provided that all {licensing}{registration} requirements
1605 are completed within two (2) years of the effective date of this ~~d~~Decision. If a
1606 {license}{registration} is not issued within two (2) years of the effective date of this
1607 ~~d~~Decision, the application is ordered denied, and a new application will be required. Upon
1608 issuance, ~~however~~, said {license}{registration} shall immediately be REVOKED. However,
1609 the order of revocation shall be STAYED, and the {license}{registration} is placed on
1610 probation for [#] years subject to the following terms and conditions:”

1611

1612 3. Reinstatement of a License:

1613

1614 “The petition of [name], [Ph.D.][PsyD.][EdD], for reinstatement of licensure is hereby
1615 GRANTED. Psychologist license number [#] shall be reinstated provided that all licensing
1616 requirements are completed within two (2) years of the effective date of this ~~d~~Decision. If the
1617 license is not reinstated within two (2) years of the effective date of this ~~d~~Decision, the
1618 petition is ordered denied, and a new petition for reinstatement will be required. Upon
1619 reinstatement, ~~however~~, the license shall be immediately ~~revoked~~ REVOKED. However, the
1620 order of revocation shall be STAYED, and petitioner’s license shall be placed on probation
1621 for a period of [#] years subject to the following terms and ~~following~~ conditions:”

1622

1623 **V. REHABILITATION CRITERIA FOR REINSTATEMENT/PENALTYDISCIPLINE**
1624 **RELIEF HEARINGS**

1625

1626 The primary concerns of the Board at reinstatement or penaltydiscipline relief hearings are (1)
1627 the Rehabilitation Criteria for Denials and Reinstatements in ~~California Code of Regulations,~~
1628 ~~Title 16 CCR,~~ section 1395; and (2) the evidence presented by the petitioner of ~~his/her~~their
1629 rehabilitation. The Board will not retry the original ~~revocation or probation eased~~disciplinary
1630 action.

1631

1632 The Board will consider, pursuant to 16 CCR Ssection 1395, the ~~following~~ criteria of
1633 rehabilitation for Denials and Reinstatements as follows:

1634

- 1635 (1) ~~The nature and severity of the act(s) or crime(s) under consideration as grounds for~~
1636 ~~denial.~~
- 1637 (2) ~~Evidence of any act(s) committed subsequent to the act(s) or crime(s) under~~
1638 ~~consideration as grounds for denial which also could be considered as grounds for denial~~
1639 ~~under section 480 of the Code.~~
- 1640 (3) ~~The time that has elapsed since commission of the act(s) of crime(s) referred to in~~
1641 ~~subdivision (1) or (2).~~
- 1642 (4) ~~The extent to which the applicant has complied with any terms of parole, probation,~~
1643 ~~restitution, or any other sanctions lawfully imposed against the applicant.~~
- 1644 (5) ~~Evidence, if any, of rehabilitation submitted by the applicant.~~

1645

1646 When considering the denial of a license or registration under sections 141, 480, 2960, or 2960.6
1647 of the Code, or a petition for reinstatement or modification of penalty under section 2962 of the

1648 Code, the Board will evaluate whether the applicant or petitioner has made a showing of
1649 rehabilitation and has established present fitness for a license or registration.
1650 (a) Where the denial is, or the surrender or revocation was, in part on the ground(s) that the
1651 applicant or petitioner has been convicted of a crime, the Board shall consider whether the
1652 applicant or petitioner made a showing of rehabilitation if the person completed the criminal
1653 sentence without a violation of parole or probation. In making this determination, the Board
1654 shall use the following criteria in (1) through (5), as available. If there is a violation of parole or
1655 probation, or no showing of rehabilitation based on these criteria, the Board shall evaluate
1656 rehabilitation under subdivision (b).

- 1657 (1) The nature and gravity of the crime(s).
1658 (2) The reason for granting and the length(s) of the applicable parole or probation period(s).
1659 (3) The extent to which the applicable parole or probation period was shortened or lengthened,
1660 and the reason(s) the period was modified.
1661 (4) The terms or conditions of parole or probation and the extent to which they bear on the
1662 applicant's or petitioner's rehabilitation.
1663 (5) The extent to which the terms or conditions of parole or probation were modified, and the
1664 reason(s) for modification.

1665
1666 (b) Where the denial is not or the surrender or revocation was not based on a conviction, or was
1667 based upon professional misconduct, or unprofessional conduct under sections 2960 or 2960.6 of
1668 the Code, or the Board determines that the applicant or petitioner did not make a showing of
1669 rehabilitation based on subdivision (a), the Board shall apply the following criteria in evaluating
1670 an applicant's or petitioner's rehabilitation:

- 1671 (1) Evidence of any act(s) committed subsequent to the act(s) or crime(s) that are grounds for
1672 denial, or that were grounds for surrender or revocation, which also could be considered as
1673 grounds for denial under sections 141, 480, 2960, or 2960.6 of the Code, and the time that has
1674 elapsed between them.
1675 (2) The extent to which the applicant or petitioner has complied with any terms of parole,
1676 probation, restitution, or any other sanctions lawfully imposed against the applicant or petitioner.
1677 (3) The criteria in subdivision (a)(1)-(5), as applicable.
1678 (4) Evidence, if any, of rehabilitation submitted by the applicant or petitioner demonstrating that
1679 they have a mature, measured appreciation of the gravity of the misconduct, and remorse for the
1680 harm caused, and showing a course of conduct that convinces and assures the Board that the
1681 public will be safe if the person is permitted to be licensed or registered to practice psychology.
1682

1683 The Board requests that comprehensive information be elicited from the petitioner regarding
1684 ~~his or her~~ their rehabilitation. The petitioner should provide details that include:

- 1685 A. Why the ~~penalty~~ discipline should be modified or why the license should be reinstated.
1686 B. Specifics of rehabilitative efforts and results which should include programs,
1687 psychotherapy, medical treatment, etc., and the duration of such efforts.
1688 C. Continuing education pertaining to the offense and its effect on ~~his or her~~ their practice
1689 of psychology.
1690 D. If applicable, copies of court documents pertinent to conviction, including documents
1691 specifying conviction and sanctions, and proof of completion of sanctions.
1692 E. If applicable, copy of Certificate of Rehabilitation or evidence of expungement
1693 proceedings.

1694 F. If applicable, evidence of compliance with and completion of terms of probation, parole,
1695 restitution, or any other sanctions.
1696

1697 Rehabilitation is evaluated according to an internal subjective measure of attitude (state of mind)
1698 and an external objective measure of conduct (state of facts). The state of mind demonstrating
1699 rehabilitation is one that has a mature, measured appreciation of the gravity of the misconduct
1700 and remorse for the harm caused. Petitioner must take responsibility for the misconduct and
1701 show an appreciation for why it is wrong. Petitioner must also show a demonstrated course of
1702 conduct that convinces and assures the Board that the public would be safe if petitioner is
1703 permitted to be licensed to practice psychology. Petitioner must show a track record of reliable,
1704 responsible, and consistently appropriate conduct.
1705

1706 In the ~~Petition~~-Decision, the Board requests a summary of the offense and the specific codes
1707 violated that resulted in the Decision~~revocation, surrender or probation of the license.~~
1708

1709 **If the Board should deny a request for reinstatement of licensure or penalty relief, the Board**
1710 **requests that the Administrative Law Judge provide technical assistance in the formulation of**
1711 **language clearly setting forth the reasons for denial. Such language would include methodologies**
1712 **or approaches that demonstrate rehabilitation.**~~Petitioners for reinstatement must wait three (3)~~
1713 ~~years from the effective date of their revocation decisions or one (1) year from the last petition~~
1714 ~~for reinstatement decisions before filing for reinstatement.~~
1715

1716 If a petitioner fails to appear for ~~his/her~~their scheduled ~~reinstatement or penalty relief~~ hearing,
1717 such inaction shall result in a ~~Default~~ Decision to deny ~~the petition~~reinstatement of the license
1718 ~~or registration or reduction of penalty.~~
1719

1720 **VI. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSING LICENSEES**

1721

1722 The following Uniform Standards describe the conditions that apply to a substance-abusing
1723 applicant or licensee, and have been incorporated into the terms and conditions of probation. If
1724 the ground(s) for discipline involves drugs and/or alcohol, the applicant or licensee shall be
1725 presumed to be a substance-abusing applicant or licensee for purposes of section 315 of the
1726 Code. If the applicant or licensee does not rebut that presumption, there shall be a finding that ~~he~~
1727 ~~or she~~ they are is a substance-abusing applicant or licensee, and the Uniform Standards for a
1728 substance abusing applicant or licensee shall apply as written and be used in the order placing the
1729 license on probation.
1730

1731 **Clinical Diagnostic Evaluations [Uniform Standard #1]:**

1732 (Reflected in Optional Term # 98)
1733

1734 Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be
1735 a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic
1736 evaluations, and has three (3) years of experience in providing evaluations of health care
1737 professionals with substance abuse disorders. The evaluator shall be approved by the Board, and
1738 unless permitted by the Board or its designee, shall be a California-licensed psychologist or

1739 physician and surgeon. The evaluations shall be conducted in accordance with acceptable
1740 professional standards for conducting substance abuse clinical diagnostic evaluations.

1741

1742 **Whether the clinical diagnostic evaluation is ordered is discretionary.**

1743

1744 **Clinical Diagnostic Evaluation Report [Uniform Standard #1]:**

1745

1746

1747 **Clinical Diagnostic Evaluation/Cease Practice Order [Uniform Standard #2]:**

1748 (Reflected in Optional Term # 98)

1749

1750 Unless the presumption that the applicant or licensee is a substance-abusing applicant or licensee
1751 is rebutted, and the public can be adequately protected, the Board shall order the applicant or
1752 licensee to cease any practice of psychology pending the clinical diagnostic evaluation and a
1753 Board determination upon review of the diagnostic evaluation report that the applicant is safe to
1754 begin or the licensee is safe to return to practice.

1755

1756 **If the evaluation is ordered, a cease practice order is mandatory.**

1757

1758 **Clinical Diagnostic Evaluation Report [Uniform Standard #31,2,6]:**

1759 (Reflected in Optional Term # 98)

1760

1761 The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the
1762 licensee has a substance abuse problem, whether the licensee is a threat to ~~himself or herself~~
1763 themselves or others, and recommendations for substance abuse treatment, practice restrictions, or
1764 other recommendations related to the licensee's rehabilitation and safe practice.

1765

1766 The evaluator shall not have or have ever had a financial, personal, business or other social
1767 relationship with the licensee. The evaluator shall provide an objective, unbiased, and
1768 independent evaluation.

1769

1770 If the evaluator determines during the evaluation process that a licensee is a threat to ~~himself or~~
1771 ~~herself~~ themselves or others, the evaluator shall notify the Board within twenty-four (24) hours of
1772 such a determination.

1773

1774 For all evaluations, a final written report shall be provided to the Board no later than ten (10)
1775 days from the date the evaluator is assigned the matter unless the evaluator requests additional
1776 information to complete the evaluation, not to exceed thirty (30) days.

1777

1778 The Board shall review the clinical diagnostic evaluation to help determine whether or not the
1779 licensee is safe to return to either part-time or full-time practice and what restrictions or
1780 recommendations should be imposed on the licensee based on the application of the following
1781 criteria:

1782

1783 License type, licensee's history, documented length of sobriety, scope and pattern of
1784 substance abuse, treatment history, medical history, current medical condition, nature,

1785 duration and severity of substance abuse problem, and whether the licensee is a threat to
1786 ~~himself or herself~~ themselves or others.

1787
1788 When determining if the licensee should be required to participate in inpatient, outpatient or any
1789 other type of treatment, the Board shall take into consideration the recommendation of the
1790 clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and
1791 pattern of substance abuse, treatment history, medical history, current medical condition, nature,
1792 duration and severity of substance abuse and whether the licensee is a threat to ~~himself or herself~~
1793 themselves or others.

1794
1795 **If the evaluation is ordered, this standard is mandatory.**

1796
1797 **Communication with Employer [Uniform Standard #4]:**
1798 (Reflected in Standard Term # ~~44~~15)

1799
1800 If the licensee whose license is on probation has an employer, the licensee shall provide to the
1801 Board the names, physical addresses, mailing addresses, email, and telephone numbers of all
1802 employers and supervisors and shall give specific, written consent that the licensee authorizes the
1803 Board and the employers and supervisors to communicate regarding the licensee's work status,
1804 performance, and monitoring.

1805
1806 **Facilitated Group Support Meetings [Uniform Standard #5]:**
1807 (Reflected in Optional Term # 10~~4~~)

1808
1809 If the Board requires a licensee to participate in facilitated group support meetings, the following
1810 shall apply:

1811
1812 1. When determining the frequency of required group meeting attendance, the Board shall
1813 give consideration to the following:

- 1814
- 1815 • the licensee's history;
 - 1816 • the documented length of sobriety/time that has elapsed since substance use;
 - 1817 • the recommendation of the clinical evaluator;
 - 1818 • the scope and pattern of use;
 - 1819 • the licensee's treatment history; and,
 - 1820 • the nature, duration, and severity of substance abuse.

1821
1822 2. Group Meeting Facilitator Qualifications and Requirements:

- 1823
- 1824 a. The meeting facilitator must have a minimum of three (3) years² of experience in the
1825 treatment and rehabilitation of substance abuse, and shall be licensed or certified by
1826 the State or other nationally certified organizations.
 - 1827 b. The meeting facilitator must not have had a financial relationship, personal
1828 relationship, or business relationship with the licensee within the last five (5) years.
 - 1829 c. The meeting facilitator shall provide to the Board a signed document showing the
1830 licensee's name, the group name, the date and location of the meeting, the licensee's

1831 attendance, and the licensee’s level of participation and progress.
1832 d. The meeting facilitator shall report any unexcused absence within twenty-four (24)
1833 hours.
1834

1835 **Whether facilitated support group meetings are ordered is discretionary.** (Under the
1836 Disciplinary Guidelines, non-facilitated support group attendance, such as Twelve Step
1837 meetings, may also be ordered.)
1838

1839 **Treatment Program – Inpatient, Outpatient, or Other [Uniform Standard #6]**
1840 (Reflected in Optional Term #10)
1841

1842 In determining whether inpatient, outpatient, or other type of treatment is necessary, the Board
1843 shall consider the following criteria:

- 1844 • recommendation of the clinical diagnostic evaluation (if any) pursuant to Uniform
1845 Standard #1;
- 1846 • license type;
- 1847 • licensee’s history;
- 1848 • documented length of sobriety/time that has elapsed since substance abuse;
- 1849 • scope and pattern of substance use;
- 1850 • licensee’s treatment history;
- 1851 • licensee’s medical history and current medical condition;
- 1852 • nature, duration, and severity of substance abuse, and
- 1853 • threat to themselves ~~himself/herself~~ or the public.

1854
1855 **Whether a treatment program is ordered is discretionary.**
1856

1857 **Worksite Monitor Requirements [Uniform Standard # 7]:**
1858 (Reflected in Optional Term # 43)
1859

1860 If the Board determines that a worksite monitor is necessary for a particular licensee, the
1861 worksite monitor must meet the following requirements to be considered for approval by the
1862 Board:
1863

1864 The worksite monitor shall not have a current or former financial, personal, or familial
1865 relationship with the licensee, or other social or business relationship that could reasonably
1866 be expected to compromise the ability of the monitor to render impartial and unbiased reports
1867 to the Board. If it is impractical for anyone but the licensee’s employer to serve as the
1868 worksite monitor, this requirement may be waived by the Board; however, under no
1869 circumstances shall a licensee’s worksite monitor be an employee or supervisee of the
1870 licensee.
1871

1872 The ~~worksite monitor’s license~~ scope of practice of the worksite monitor shall include the
1873 scope of practice of the licensee who is being monitored or be another health care
1874 professional if no monitor with like scope of practice is available, or, as approved by the
1875 Board, be a person in a position of authority who is capable of monitoring the licensee at
1876 work.

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1922

If the worksite monitor is a licensed healthcare professional ~~they he or she~~ shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that ~~they have he or she has~~ reviewed the terms and conditions of the licensee’s disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

- (1) Have ~~face-to-face~~ **in person** contact with the licensee in the work environment on as frequent a basis as determined by the Board, but at least once per week.
- (2) Interview other staff in the office regarding the licensee’s behavior, if applicable.
- (3) Review the licensee’s work attendance and behavior.

Reporting by the worksite monitor to the Board shall be as follows:

Any suspected substance abuse must be orally reported to the Board and the licensee’s employer within one (1) business day of occurrence. If occurrence is not during the Board’s normal business hours the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within forty-eight (48) hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board. The report shall include: the licensee’s name; license number; worksite monitor’s name and signature; **in person** contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; and any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

Whether a worksite monitor is ordered is discretionary.

Major and Minor Violations [Uniform Standard # 8]:
(Reflected in Optional Term #s ~~108, 11, 13~~)

If a licensee commits a major violation, the Board may order the licensee to cease any practice of psychology, inform the licensee that ~~they he or she~~ have been so ordered and that ~~they he or she~~ may not practice unless notified by the Board, and refer the matter for disciplinary action or other action as determined by the Board.

Major Violations include, but are not limited to, the following:

- 1. Failure to complete a board-ordered program;
- 2. Failure to undergo a required clinical diagnostic evaluation;

- 1923 3. Committing multiple minor violations of probation conditions and terms;
- 1924 4. Treating a patient while under the influence of drugs or alcohol;
- 1925 5. Committing any drug or alcohol offense that is a violation of the Business and
- 1926 Professions Code, or other state or federal law;
- 1927 6. Failure to obtain biological testing for substance abuse when ordered;
- 1928 7. Testing positive for a banned substance;
- 1929 8. Knowingly using, making, altering or possessing any object or product in such a way as
- 1930 to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

1931
1932 If a licensee ~~or registrant~~ commits a major violation, the Board shall automatically suspend the
1933 license or registration and refer the matter for disciplinary action or other action as determined
1934 by the Board.

1935
1936 The consequences for a major violation include, but are not limited to, the following:

- 1937
- 1938 1. License ~~or registration~~ shall be suspended
- 1939 2. Licensee ~~or registrant~~ must undergo a new clinical diagnostic evaluation;
- 1940 3. Licensee ~~or registrant~~ must test negative for at least one month of continuous drug testing
- 1941 before being allowed to resume practice;
- 1942 4. Contract or agreement previously made with the Board shall be terminated; and
- 1943 5. Licensee ~~or registrant~~ shall be referred for disciplinary action, such as suspension,
- 1944 revocation, or other action determined appropriate by the Board.

1945
1946 If a licensee commits a minor violation, the Board shall determine what action is appropriate.

1947
1948 Minor Violations include, but are not limited to, the following:

- 1949
- 1950 1. Failure to submit required documentation in a timely manner;
- 1951 2. Unexcused absence from required meetings;
- 1952 3. Failure to contact a monitor as required;
- 1953 4. Any other violations that do not present an immediate threat to the licensee or to the
- 1954 public.

1955
1956 If a licensee ~~or registrant~~ commits a minor violation, the Board shall determine what action is
1957 appropriate.

1958
1959 The consequences for a minor violation include, but are not limited to, the following:

- 1960
- 1961 1. Removal from practice;
- 1962 2. Practice limitation(s);
- 1963 3. Required supervision;
- 1964 4. Increased documentation;
- 1965 5. Issuance of citation and fine or a warning notice;
- 1966 6. Required re-evaluation and/or testing.

1967
1968 **DRUG TESTING STANDARDS [Uniform Standard # 9]:**

1969 (Reflected in Optional Term #1211)

1970

1971 If a licensee tests positive for a banned substance, the Board shall order that the licensee cease
1972 any practice of psychology, and contact the licensee to inform ~~them~~ ~~him or her~~ that ~~they~~ ~~he or~~
1973 ~~she~~ ~~has~~ ~~have~~ been ordered to cease practice and that ~~they~~ ~~he or she~~ may not practice until the
1974 Board determines that ~~they~~ ~~he or she~~ are is able to safely practice. The Board shall also notify the
1975 licensee's employer and worksite monitor, if any, that the licensee has been ordered to cease
1976 practice, and that ~~they~~ ~~he or she~~ may not practice until the Board determines that ~~they~~ ~~are~~ ~~he or~~
1977 ~~she~~ ~~is~~ able to safely practice. The Board shall determine whether the positive alcohol or drug test
1978 is, in fact, evidence of prohibited use, a ~~m~~Major ~~v~~Violation. If not, the Board shall immediately
1979 lift the cease practice order.

1980

1981 Nothing precludes the Board from increasing the number of random tests for any reason. If the
1982 Board finds or has suspicion that a licensee has committed a violation of the Board's testing
1983 program or who has committed any Major Violation referenced in the Disciplinary Guidelines,
1984 the matter shall be referred for disciplinary action to revoke the probation.

1985

1986 The following minimum ~~drug~~ testing standards shall apply to each licensee subject to alcohol or
1987 drug testing:

1988

- 1989 1. Licensees shall ~~be~~ undergo randomly alcohol or drug ~~testing~~ testing at least fifty-two (52)
1990 times per year for the first year of probation, and at any time as directed by the Board or
1991 its designee. After the first year, licensees who are practicing, shall be randomly tested
1992 for alcohol or drugs ~~tested~~ at least thirty-six (36) times per year, and at any time as
1993 directed by the Board.
- 1994 2. Alcohol or drug testing may be required on any day, including weekends and holidays.
- 1995 3. Licensees shall be required to make daily contact as directed to determine if alcohol or
1996 drug testing is required.
- 1997 4. Licensees shall be tested for alcohol or drugs ~~tested~~ on the date of notification as directed
1998 by the Board.
- 1999 5. Collection of specimens shall be observed.
- 2000 6. Prior to vacation or absence, any alternative to the licensee's ~~alcohol or drug testing~~
2001 ~~location(s)~~ requirements (including frequency or drug testing location(s)) must be
2002 approved by the Board.

2003

2004 The Board may reduce testing frequency to a minimum of 12 times per year for any licensee who
2005 is not practicing OR working in any health care field. If a reduced testing frequency schedule is
2006 established for this reason, and if a licensee wants to return to practice or work in a health care
2007 field, the licensee shall notify and secure the approval of the ~~licensee's b~~Board. Prior to returning
2008 to any health care employment, the licensee shall be subject to level I testing frequency for at
2009 least 60 days. At such time the licensee returns to employment (in a health care field), if the
2010 licensee has not previously met the level I frequency standard, the licensee shall be subject to
2011 completing a full year at level I of the testing frequency schedule, otherwise level II testing shall
2012 be in effect. The Board may reduce testing frequency to a minimum of 24 times per year for any
2013 person who is a practicing licensee if the licensee receives a minimum of 50% supervision per
2014 day by a supervisor licensed by the Board.

2015
2016 **Drug testing standards are mandatory and shall apply to a substance-abusing licensee, and**
2017 **the required testing frequency shall be ordered.**
2018

2019 **Petitioning for Modification ~~to~~ of Terms and Conditions of Probation Return to Full Time**
2020 **Practice [Uniform Standard #110]:**
2021 (Reflected in Optional Term # 28)
2022

2023 “Petition” as used in this standard is an informal request for any term or condition that is within
2024 the discretion of the Executive Officer or probation monitor to modify as opposed to requiring a
2025 “Petition for Modification” under the Administrative Procedure Act.
2026

2027 The licensee shall meet the following criteria before submitting a request (petition) to the
2028 Executive Officer or probation monitor ~~return to full time practice~~:
2029

- 2030 1. Demonstrated sustained compliance with current recovery program.
2031 2. Demonstrated the ability to practice safely as evidenced by current work site reports,
2032 evaluations, and any other information relating to the licensee’s substance abuse.
2033 3. Negative drug screening reports for at least six (6) months, two (2) positive worksite
2034 monitor reports, and complete compliance with other terms and conditions of the
2035 program.
2036

2037 **Petitioning for Modification for Reinstatement of a Full and Unrestricted License [Uniform**
2038 **Standard #11]:**
2039 (Reflected in Rehabilitation Criteria for Reinstatement/~~Penalty~~ Discipline Relief)
2040

2041 “Petition for Reinstatement of a Full and Unrestricted License” as used in this standard can only
2042 be considered as a formal Petition for Early Termination of Probation under the Administrative
2043 Procedure Act.
2044

2045 In addition to the factors set out in section V, Rehabilitation Criteria for Reinstatement/ ~~Penalty~~
2046 Discipline Relief Hearings, the licensee must meet the following criteria to request (petition) for
2047 a full and unrestricted license:
2048

- 2049 1. Demonstrated sustained compliance with the terms of the disciplinary order, if
2050 applicable.
2051 2. Demonstrated successful completion of recovery program, if required.
2052 3. Demonstrated a consistent and sustained participation in activities that promote and
2053 support their recovery including, but not limited to, ongoing support meetings, therapy,
2054 counseling, relapse prevention plan, and community activities.
2055 4. Demonstrated that ~~they he or she~~ are is able to practice safely.
2056 5. Continuous sobriety for three (3) to five (5) years.
2057

2058 #####