

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 372 **VERSION:** AMENDED JUNE 28, 2023

AUTHOR: MENJIVAR **SPONSOR:** • NUMEROUS – SEE BELOW

PREVIOUS POSITION: SUPPORT

SUBJECT: DEPARTMENT OF CONSUMER AFFAIRS: LICENSEE AND REGISTRANT
RECORDS: NAME AND GENDER CHANGES

Summary

This bill would require a licensing board under the Department of Consumer Affairs to update a license or registration, including any references contained in its online license verification system, to include a licensee or registrant's updated legal name or gender, and remove the former name and gender from being published online, when that licensee or registrant provides specified government-issued documentation that their legal name or gender has been changed either to match their gender identity, or due to a need for confidentiality because of certain domestic abuse situations.

Existing Law:

- 1) Requires specified boards and bureaus under the Department of Consumer Affairs (DCA), including the Board of Behavioral Sciences (Board) to post certain public information on the internet regarding the status of every licensee, including information on each licensee's status, disciplinary actions, and address of record, in accordance with the California Public Records Act and the Information Practices Act of 1977. (Business and Professions Code (BPC) §27(a))
- 2) Requires a licensee or registrant of the Board to provide the Board with written notice of a name change, giving both the old and new names, within 30 days of the issuance of a new government issued photo I.D. The licensee or registrant must certify the information under penalty of perjury and provide the Board with a copy of both the current government-issued photo I.D. and the legal document authorizing the name change (such as a court order or marriage certificate). (BPC §§4984.9, 4989.46, 4992.8, 4999.118)
- 3) Sets forth a legal process for the court to follow when a person is petitioning to change their name or birth certificate gender and sex identifier to conform to their gender identity. (Code of Civil Procedure (CCP) §1277.5, Health and Safety Code Article 7 (commencing with §103425) of Chapter 11 of Part 1 of Division 102)

- 4) Sets forth a legal process for the court to follow when a person is actively participating in an address confidentiality program and is petitioning to change their name to avoid domestic violence, stalking, sexual assault, or human trafficking. (CCP §1277(b))
- 5) Sets forth an address confidentiality program under the Secretary of State for persons attempting to escape domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse. (Government Code (GC) Chapter 3.1 (commencing with §6205) of Division 7 of Title 1)

This Bill:

- 1) Requires a DCA board to update an individual's license or registration, upon their request, by replacing references to their former name or gender with references to the current name or gender if they provide specified government-issued documentation that their legal name or gender has been changed. (BPC §27.5(a)(1))
- 2) Specifies that the required government-issued documentation to demonstrate a legal name change is as follows (BPC §27.5(b)(1):
 - a) A certified court order issued pursuant to a proceeding authorized by §1277(b) of the CCP and a copy the certificate issued under the Secretary of State's Safe at Home Program showing the updated name. (This is for individuals seeking to change their name and keep their address confidential to escape domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse.)
 - b) A certified court order issued pursuant to a proceeding authorized by CCP §1277.5 or Article 7 (commencing with §103425) of Chapter 11 of Part 1 of Division 102 of the Health and Safety Code, showing the updated name. (This is for individuals seeking to change their name or birth certificate gender and sex identifier to conform to their gender identity.)
- 3) Specifies that the required government-issued documentation to demonstrate a gender change may be a state-issued driver's license or I.D. card, a birth certificate, a passport, a social security card, or a court order indicating a gender change from a court of this state, another state, the District of Columbia, any U.S. territory, or any foreign court. (BPC §27.5(b)(2))
- 4) Provides that boards that operate an online license verification must, upon request by a licensee or registrant whose name or gender was updated under one of the methods specified in Item 2 above, replace references to the former name or gender with the current name or gender on the publicly viewable information about them displayed on the internet. The former name or gender shall not be published online. (BPC §27.5(a)(2))

- 5) Provides that if one of these licensees or registrants were previously subject to an enforcement action that references their former name or gender, that the records not be posted online. Instead, the board must post a statement that the individual was previously subject to enforcement action, and that directs the public to contact the board for more information about that licensee or registrant's prior enforcement action. The board must ensure compliance with the California Records Act in doing this, including responding to a request for records within 10 days from receipt of request. (BPC §27.5(a)(2))
- 6) Requires that if the public searches a board's online license verification system using a licensee's or registrant's former name that has been replaced based on the above requirements, the board must post an online statement directing the searcher to contact the board for more information about the licensee or registrant. (BPC §27(a)(2))
- 7) Requires a board to reissue the license created by the board if requested by the licensee or registrant. The board must not charge a higher fee for reissuing the document with an updated legal name or gender than the fee it regularly charges for reissuing a document with other updated information. (BPC §27.5(a)(3))
- 8) Provides that all records related to a request by a licensee or registrant for the board to update a license or registration pursuant to the above, including the required government-issued documentation to prove the name or gender change, are confidential and not subject to public inspection or disclosure. (BPC §27.5(c))

Comments:

- 1) **Author's Intent.** The author is seeking to protect the privacy and safety of transgender and non-binary Californians by eliminating the use of deadnames in the DCA licensing system for licensed professionals who have changed their legal names.

In the Assembly Judiciary Committee's analysis of the bill, the author's office stated the following:

The Department of Consumer Affairs (DCA) licenses professionals ranging from accountants to mental health professionals to nurses, who are all catalogued under the their BreEZe online license verification system. Currently, however, transgender and non-binary licensees who have gone through the process of legally changing their names still have their original or "dead" names listed on the DCA's online site. When trans 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 for trans people. DCA's current practice can both negatively impact the mental health as well as the physical safety of all DCA licensees who are identified by their deadname online. SB 372 takes a simple and much-needed step to protect the safety and privacy of transgender and non-

binary people licensed under DCA by requiring DCA to update its site to only identify its licensees by their current legal name upon request.”

2) Background. When applying for licensure or registration with the Board, applicants must provide their legal name. This is the name under which a license is issued, and under which the person may be searched for by a consumer on the Breeze on-line license verification system. The law (via BPC §27) requires the Board to post specified public information online via Breeze, including information on each licensee’s status, disciplinary actions, and address of record.

Typically when a name is changed, the Board will update the Breeze system to include both the old and new name:

- If the old name is searched by a consumer, the old name shows with a notation that it is a previous name, and if the “More Detail” option is selected, it leads to a page with the license number, new name, previous name, and publicly available information about the license.
- If the current name is searched, the current name will come up with the record. If the “More Detail” option is selected, it leads to a page with the license number, current name, previous name, and publicly available information about the license.

The law does not specifically require that a licensee’s previous name be disclosed publicly in the Breeze on-line license verification system – it is silent on that matter. Within the Breeze system, it is possible for an old name to be designated as private in the on-line license lookup. If designated as private (as this bill requires), the old name would not appear in a public Breeze search. However, the old name would likely need to be disclosed if requested due to the public nature of the information (i.e., subject to a Public Records Act request). There are consumer protection interests to balance against the interests of the licensee who may wish not to disclose their name, particularly in cases where a licensee has past disciplinary action on their record.

Given that there is no state-wide or DCA-wide approach to the use of or disclosure of deadnames, legislation could be helpful to create uniformity and clarity across DCA boards on how to address them.

3) Current Board Process for a Name Change. Currently, if a Board licensee or registrant legally changes their name, they must submit a name change form to the Board within 30 days of the issuance of their new government photo I.D. There is no fee to change a name. However, the licensee or registrant will then need to submit a request for a replacement license or registration certificate. This has a \$20 fee. This fee is standard for all replacement certificate requests; the amount does not change based on the reason for the request.

Currently, the Board is required by law to obtain two documents to verify a name change request: a current government issued photo I.D., and the legal document authorizing the name change (BPC §§4984.9, 4989.46, 4992.8, 4999.118). This bill places a separate requirement in statute (via BPC §27.5) which would only require one document. It is unclear which statute would take precedent.

It is possible to verify a name change with just the legal document authorizing the name change. The Board additionally requires a current government issued I.D. because if the applicant is currently in the examination process, they will be required to show their government issued photo I.D. at the test site in order to take the exam, and it must match their legal name as registered with the Board. Therefore, this ensures before the name is changed in the Board's system, that the person has also taken the step to change their I.D., lessening the chance that they won't be able to provide the correct documentation to take the exam. However, this issue could also be resolved with additional outreach to those in the exam cycle, if showing a changed government issued I.D. was no longer a requirement for a name change.

- 4) **Documentation of Gender.** The Board does not collect information on the gender of its licensees and registrants, and therefore that is not displayed in the Breeze on-line license lookup.
- 5) **Fiscal Impact.** Board staff believes the fiscal impact of this bill would be minor and absorbable because it would apply only to a small subset of its licensing and registrant population: those with deadnames, and those changing their name due to domestic violence or abuse situations.
- 6) **Previous Board Position.** At its May 5, 2023 meeting, the Board took a "support" position on this bill. The Board also recognized that the bill was still evolving, and directed staff to continue to work with the author as the bill changed. Since that time, DCA and its various boards have worked extensively with the author's office in order to provide amendments both address the author's concerns and maintain consumer protection. Significantly, while the previous version of the bill would have required all name changes to be confidential, this bill only permits confidentiality for those with a deadname, or for those in certain domestic abuse situations, which is more in-line with the author's intent of the bill to protect these specific groups who are more likely to suffer negative consequences of their previous name being made public.

7) **Support and Opposition.**

Support

California Association for Licensed Professional Clinical Counselors (Co-Sponsor)
California Association of Marriage and Family Therapists (Co-Sponsor)
California Association of Social Rehabilitation Agencies (Co-Sponsor)
California Council of Community Behavioral Health Agencies (Co-Sponsor)
California Psychological Association (Co-Sponsor)

California State Association of Psychiatrists (Co-Sponsor)
National Association of Social Workers, California Chapter (Co-Sponsor)
Psychiatric Physicians Alliance of California (Co-Sponsor)
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
The Kennedy Forum
Pathpoint
Steinberg Institute
Sycamores

Support if Amended

Medical Board of California

Opposition

California Board of Psychology
Physician Assistant Board

Oppose Unless Amended

Department of Consumer Affairs, Speech-language Pathology and Audiology and
Hearing Aid Dispensers Board

8) History

06/28/23 Read second time and amended. Re-referred to Com. on APPR.
06/27/23 From committee: Do pass as amended and re-refer to Com. on APPR.
(Ayes 8. Noes 1.) (June 27).
06/20/23 From committee: Do pass and re-refer to Com. on JUD. (Ayes 13.
Noes 0.) (June 20). Re-referred to Com. on JUD.
06/20/23 Coauthors revised.
06/12/23 From committee with author's amendments. Read second time and
amended. Re-referred to Com. on B. & P.
05/26/23 Referred to Coms. on B. & P. and JUD.
05/23/23 In Assembly. Read first time. Held at Desk.
05/22/23 Read third time. Passed. (Ayes 33. Noes 4. Page 1218.) Ordered to
the Assembly.
05/18/23 Read second time. Ordered to third reading.
05/18/23 From committee: Do pass. (Ayes 5. Noes 2. Page 1168.) (May 18).
05/12/23 Set for hearing May 18.
05/01/23 May 1 hearing: Placed on APPR suspense file.

04/25/23 Set for hearing May 1.
04/20/23 Read second time and amended. Re-referred to Com. on APPR.
04/19/23 From committee: Do pass as amended and re-refer to Com. on APPR.
(Ayes 9. Noes 0. Page 799.) (April 18).
03/29/23 Set for hearing April 18.
03/27/23 From committee: Do pass and re-refer to Com. on JUD. (Ayes 8. Noes
2. Page 535.) (March 27). Re-referred to Com. on JUD.
03/20/23 From committee with author's amendments. Read second time and
amended. Re-referred to Com. on B., P. & E. D.
03/06/23 Set for hearing March 27.
02/22/23 Referred to Coms. on B., P. & E. D. and JUD.
02/10/23 From printer. May be acted upon on or after March 12.
02/09/23 Introduced. Read first time. To Com. on RLS. for assignment. To print.

9) References

- Current [DCA Name Change Form](#)

AMENDED IN ASSEMBLY JUNE 28, 2023

AMENDED IN ASSEMBLY JUNE 12, 2023

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 Haney, 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 license by replacing references to the former name or gender on the license or registration, as specified, if the board receives documentation, as described, from the licensee or registrant demonstrating that the licensee or registrant's legal name or gender has been changed. If the

board operates an online license verification system, the bill would require the board to replace references to the licensee's or registrant's former name or with the individual's current name or gender, as applicable, on the publicly viewable information displayed on the internet. The bill would prohibit a board from publishing information relating to the licensee's or registrant's former name or gender online. *Instead, the bill would require the board to post an online statement directing the public to contact the board for more information.* For specified licensees or registrants, the board would be prohibited from posting enforcement records online, but would be required to ~~direct~~ *post an online statement stating that the individual was previously subject to an enforcement action and directing the public to contact the board, as prescribed.* *The bill would provide that all records related to a request to update an individual's license or registration under these provisions are confidential and not subject to public inspection or disclosure.* The bill would require the board, if requested by a licensee or registrant, to reissue any license created by the board and conferred upon the licensee or registrant. The bill would prohibit a board from charging a higher fee for reissuing a license with an updated legal name or gender than the fee it charges for reissuing a license with other 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 upon request by the licensee or registrant, shall update the
8 individual's license or registration by replacing references to the

1 former name or gender on the license or registration, as applicable,
2 with references to the current name or gender.

3 (2) (A) If the board operates an online license verification
4 system, upon request by a licensee or registrant whose name or
5 gender was updated pursuant to paragraph (1), the board shall
6 replace references to the licensee’s or registrant’s former name or
7 gender with the individual’s current name or gender, as applicable,
8 on the publicly viewable information displayed on the internet
9 about the licensee or registrant. The licensee’s or registrant’s
10 former name or gender, as applicable, shall not be published online.

11 (B) Notwithstanding any other law, for licensees or registrants
12 subject to subparagraph (A) who were previously subject to an
13 enforcement ~~action~~, *action referencing the individual’s former*
14 *name or gender, as applicable*, the board shall not post enforcement
15 records online, but shall instead post online a statement *stating*
16 *that the individual previously was subject to enforcement action*
17 *and directing the public to contact the board for more information*
18 *about the licensee’s or registrant’s prior enforcement action.* The
19 board shall ensure compliance with the California Public Records
20 Act (Division 10 (commencing with Section 7920.000) of Title 1
21 of the Government Code) in implementing this section, including,
22 but not limited to, responding to ~~the~~ *a request for records* within
23 10 days from receipt of the request, as specified in Section
24 ~~7522.535~~ 7922.535 of the Government Code.

25 (C) *If a public search of the online license verification system*
26 *is performed using a licensee’s or registrant’s former name that*
27 *was replaced pursuant to subparagraph (A), the board shall post*
28 *an online statement directing the public to contact the board for*
29 *more information about the licensee or registrant.*

30 (3) If requested by the licensee or registrant, the board shall
31 reissue *the* license created by the board and conferred upon the
32 licensee or registrant by the board. A board shall not charge a
33 higher fee for reissuing a document with an updated legal name
34 or gender than the fee it regularly charges for reissuing a document
35 with other updated information.

36 (b) (1) The documentation identified in either of the following
37 is required to demonstrate a legal name change of a licensee or
38 registrant:

39 (A) A certified court order issued pursuant to a proceeding
40 authorized by subdivision (b) of Section 1277 of the Code of Civil

1 Procedure and a copy of the certificate issued under the Secretary
 2 of State’s Safe at Home program authorized by Chapter 3.1
 3 (commencing with Section 6205) of Division 7 of Title 1 of the
 4 Government Code reflecting the licensee’s or registrant’s updated
 5 name.

6 (B) A certified court order issued pursuant to a proceeding
 7 authorized by Section 1277.5 of the Code of Civil Procedure or
 8 Article 7 (commencing with Section 103425) of Chapter 11 of
 9 Part 1 of Division 102 of the Health and Safety Code reflecting
 10 the licensee’s or registrant’s updated name.

11 (2) Any of the following documents is sufficient to demonstrate
 12 a gender change of a licensee or registrant:

- 13 (A) State-issued driver’s license or identification card.
- 14 (B) Birth certificate.
- 15 (C) Passport.
- 16 (D) Social security card.
- 17 (E) Court order indicating a ~~gender change~~. *change from a court*
 18 *of this state, another state, the District of Columbia, any territory*
 19 *of the United States, or any foreign court.*

20 *(c) Notwithstanding any other law, all records related to a*
 21 *request by a licensee or registrant for a board to update the*
 22 *individual’s license or registration pursuant to this section,*
 23 *including, but not limited to, all documentation described in*
 24 *subdivision (b), are confidential and not subject to public*
 25 *inspection or disclosure.*

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

35 In order to protect the privacy rights and safety of individuals,
 36 it is necessary that this act limit the public’s right of access to that
 37 information.

O