



Board of Behavioral Sciences

Memo

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To: Committee Members **Date:** September 25, 2024
From: Christy Berger, Regulatory Manager
Subject: **Update on Board Rulemaking Proposals**

Below is the status of Board-approved regulation proposals. See **Attachment** for information on the required steps of the regulatory process.

Disciplinary Guidelines

Status: Submitted to DCA Office of Legal Affairs to Begin Initial Review Process (Production Phase); Additional Changes Approved by the Board at September 2024 Meeting

This proposal would result in updates to the Board's "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines, which are incorporated by reference into the Board's regulations. The proposed changes fall into three general categories:

- Amendments seeking to amend certain penalties that are available to the Board;
- Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the Business and Professions Code; and
- Amendments to clarify language that has been identified as unclear or needing further detail.

The proposal was initially approved by the Board at its meeting in August 2023.

Unprofessional Conduct

Status: Public Comment Period for Modified Text Ended June 25, 2024; Submitted to the Office of Administrative Law for Approval

This proposal would result in updates to the Board's Unprofessional Conduct regulations. The proposed changes would result in striking regulations that duplicate statutory law, and would provide for transparency by adding requirements related to the Confidentiality in Medical Information Act.

The proposal was approved by the Board at its meeting in August 2023.

Telehealth

Status: Submitted to DCA Office of Legal Affairs for Initial Review Process (Production Phase)

This proposal would require a license be “current and active” to engage in telehealth instead of “valid and current” to conform with the actual license status types in the Board’s online licensing system; require licensees providing services via telehealth to ensure that the technology, method and equipment used to provide services complies with all applicable federal and state privacy, confidentiality and security laws; and, strike a provision that states that violation of this section is unprofessional conduct, as this authority is already provided for in statute.

The proposal was approved by the Board at its meeting in March 2024.

Continuing Education

Status: Approved by the Board at its meeting in September 2024

This proposal would do the following:

- Credit up to 6 hours of CE per renewal cycle for licensees attending California Board of Behavioral Sciences meetings.
- Credit up to 18 hours of CE per renewal cycle for licensees providing direct supervision to an associate, or marriage and family therapist trainee.
- Allow other types of healthcare providers to verify a disability or medical condition for purposes of a temporary waiver of CE, and update the waiver request forms.
- Specify that the 6-hour law and ethics course required of licensees must be based on California law and ethics.

Advertising

Status: Approved by the Board at its meeting in September 2024

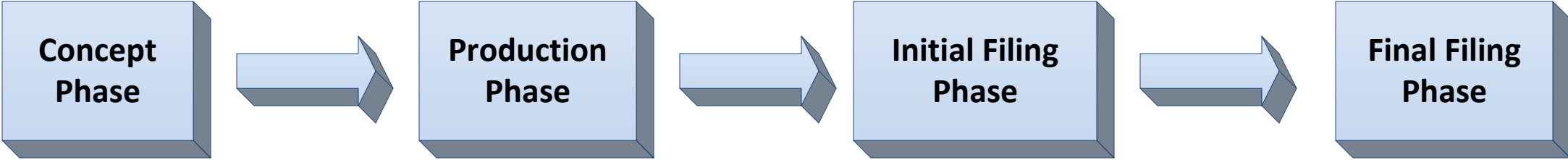
This proposal would do the following:

- Delete references to MFT Referral Services, as the Board no longer registers these services.
- Delete use of the title “Registered Associate CSW,” as it is not a title that is typically used by the profession.
- Permit the use of a nickname or former legal name in an advertisement.
- Add a requirement that registrants must include in an advertisement that they are supervised by a licensed person.

Attachment

Regulation Process

Regulation Package Approval Process



- Kick-Off Meeting with relevant Board and DCA staff to discuss potential regulation.
- Board staff drafts proposed regulation.
- Regulations Counsel and Second Level Reviewer reviews and approves proposed regulation.
- Board meeting is held, proposed regulation text is presented for vote and approval.

Phase Goal: Proposed Regulation is drafted and approved by the Board to move forward.

- After the Board approves the proposed text, Board staff develop remaining documents in the initial regulatory package.
- Regulation package is prepared with assistance from DCA Budget Analyst and Board Regulations Counsel.
- Following review and approval of the regulatory package by the Budget Analyst and Regulations Counsel, the package is reviewed and approved by the DCA Director and Agency.

Phase Goal: Regulation Package is approved by Agency.

- Following Agency approval, the regulatory package is submitted to OAL for publication in the Notice Register for a 45-day comment period.
- If comments are received, Board Staff draft responses for review by the Regulations Counsel.
- Board meeting is held to approve the responses and modified text, if necessary.
- If substantial changes are made to the text, a 15-day comment period commences.

Phase Goal: Completion of the Public Comment Period with all comments appropriately addressed and any changes to the text approved by the Board.

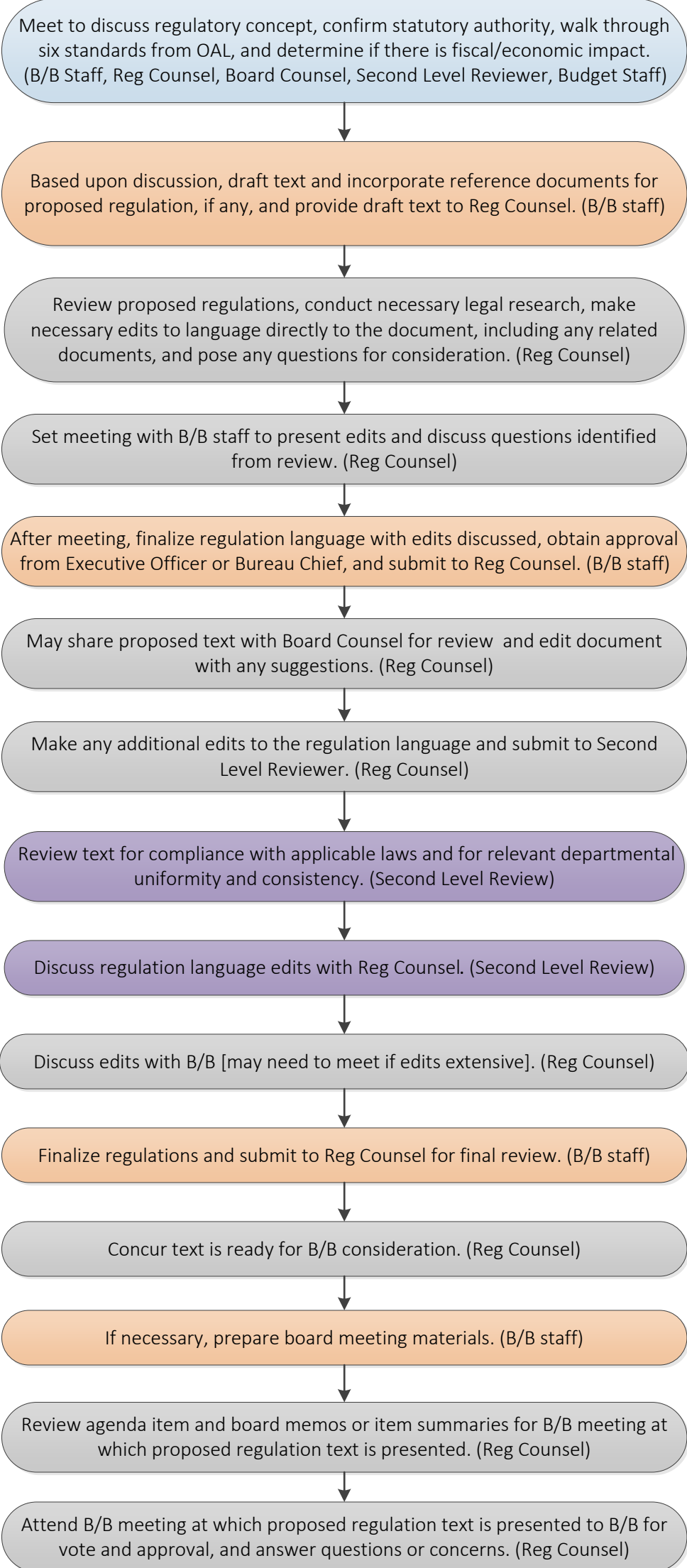
- Board Staff develops and submits a final regulatory package to the Regulations Coordinator for review.
- If there is a fiscal impact to the regulations, the Budget Analyst submits the package to the Department of Finance (DOF) for review and approval, as necessary.
- The package is reviewed by Regulations Counsel, DCA Director, and Agency.
- Final package is submitted to OAL.
- OAL approves package, Board Staff updates the Board website with the new regulation, and contacts interested parties with notification of the effective date.

Phase Goal: OAL approves Final Regulatory Package.

Note:
All references to timeframes throughout the Phases shall be calendar days, unless the Parties agree otherwise during the kick-off meeting or subsequently to alternative timeframes.

Light Blue: B/B Staff/Reg Counsel, Board Counsel, Second Level Reviewer, Budget Staff
Purple: Second Level Reviewer
Orange: B/B Staff
Gray: Reg Counsel

Concept Phase



Note:
30-day timeframe for reviewing of proposed regulations and legal research.

Note:
Regulation Counsel and Second Level Reviewer have a 30-day timeframe for reviewing and finalizing regulation language.

Note:
If suggestions are substantial from the Board Counsel, the Regulations Counsel may need to confer with Staff and Executive Officer or Bureau Chief.

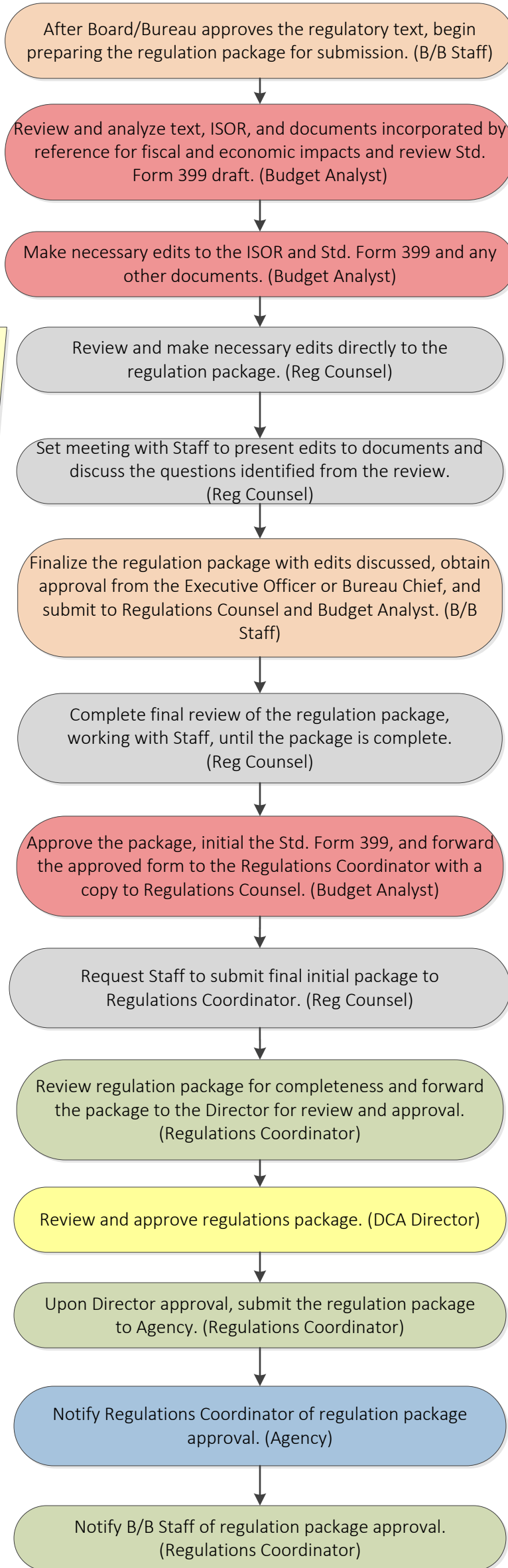
Note:
Additional revisions to the text may raise new legal issues not previously identified, which may also alter the review timeframe.



End Point

Production Phase

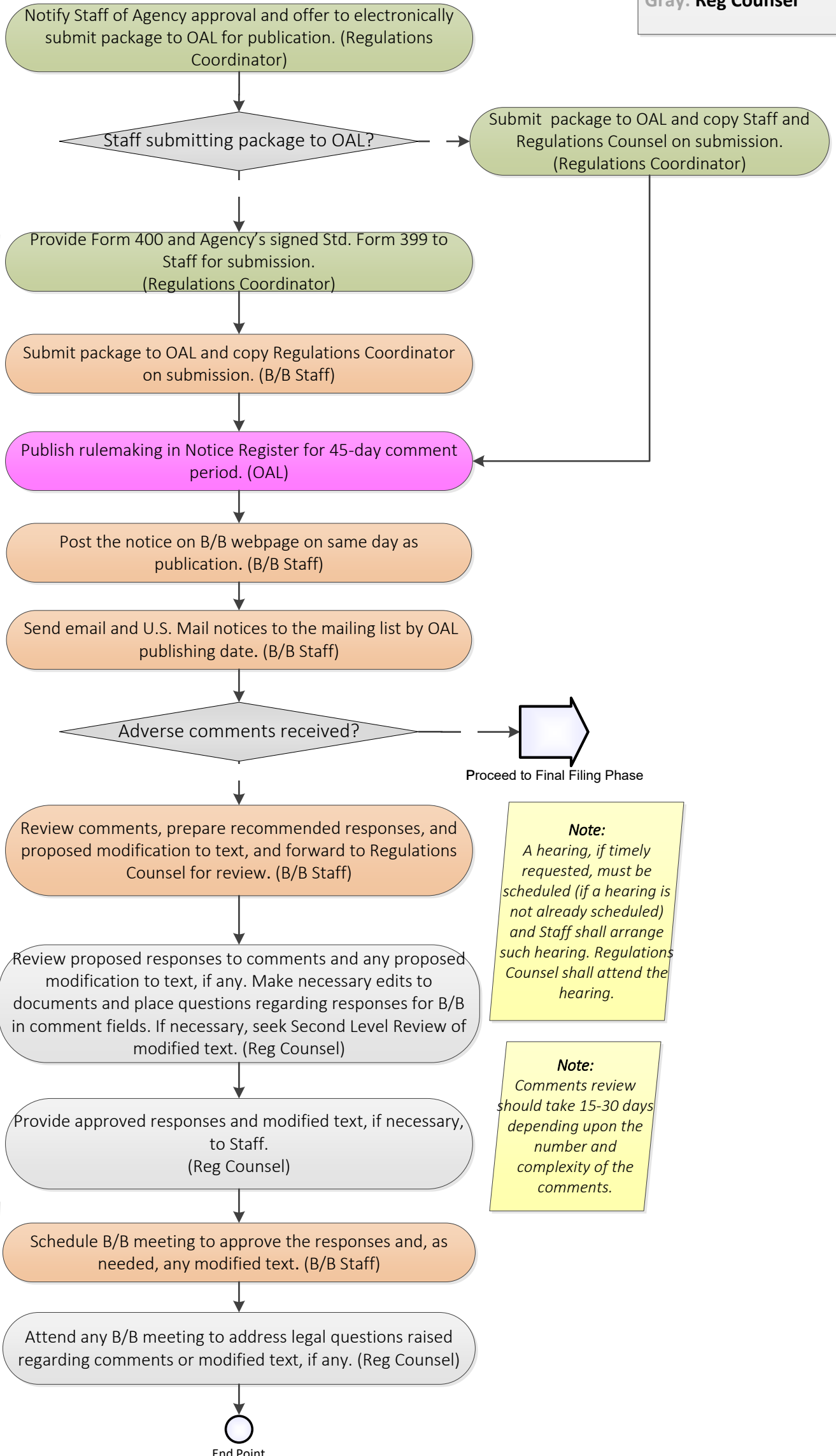
Blue: Agency
Yellow: DCA Director
Green: Regulations Coordinator
Red: Budget Analyst
Orange: B/B Staff
Gray: Reg Counsel



Note:
Regulations Counsel review will be completed within a 30-day timeframe.

Green: Regulations Coordinator
Orange: B/B Staff
Pink: OAL
Gray: Reg Counsel

Initial Filing Phase



Note:
 Regulations Counsel and the Second Level Reviewer are copied as appropriate throughout the process.

Note:
 A hearing, if timely requested, must be scheduled (if a hearing is not already scheduled) and Staff shall arrange such hearing. Regulations Counsel shall attend the hearing.

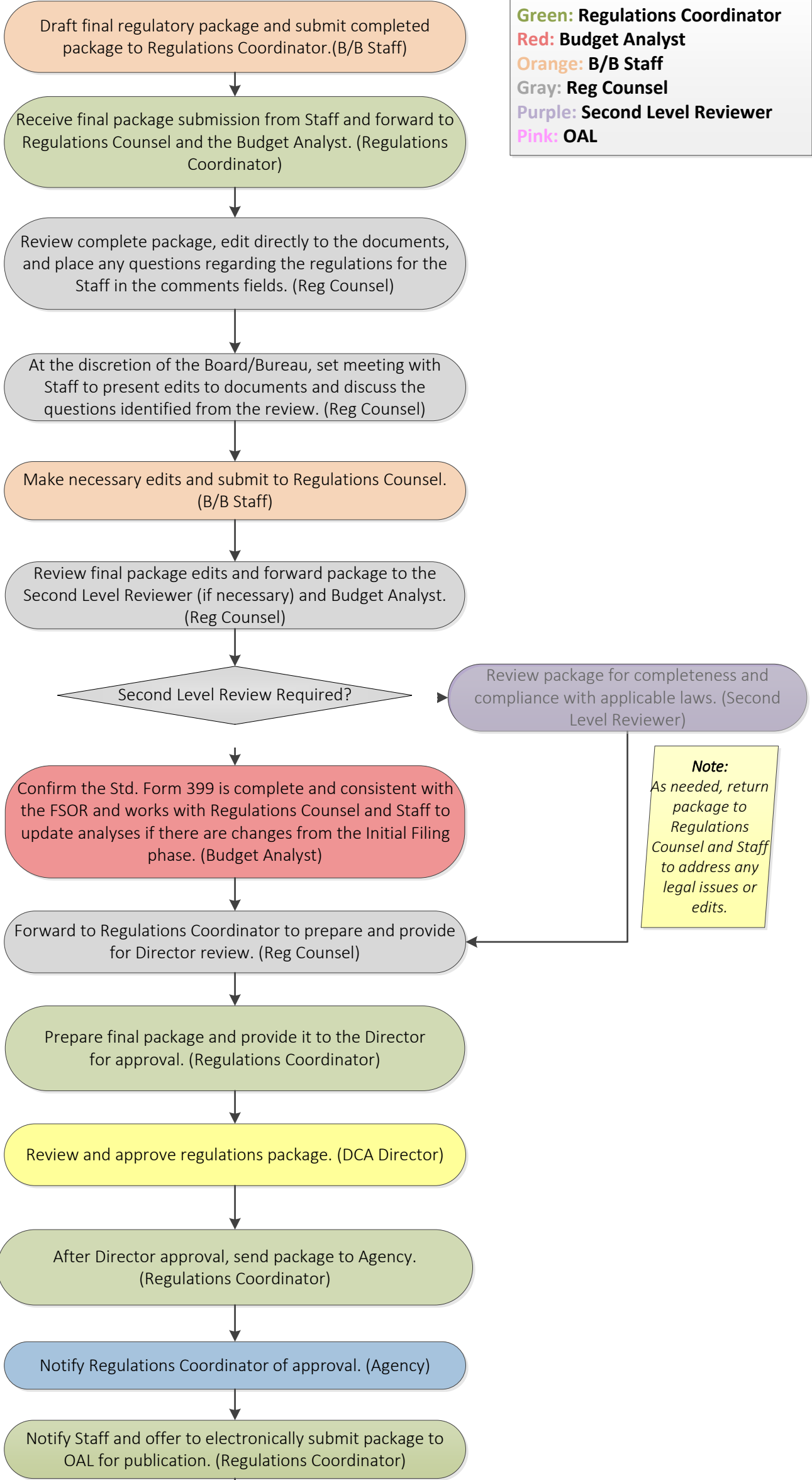
Note:
 Comments review should take 15-30 days depending upon the number and complexity of the comments.

Note:
 Board commences any 15-day comment period. Process would repeat if adverse comments were received, and edits or responses were needed.

Final Filing Phase

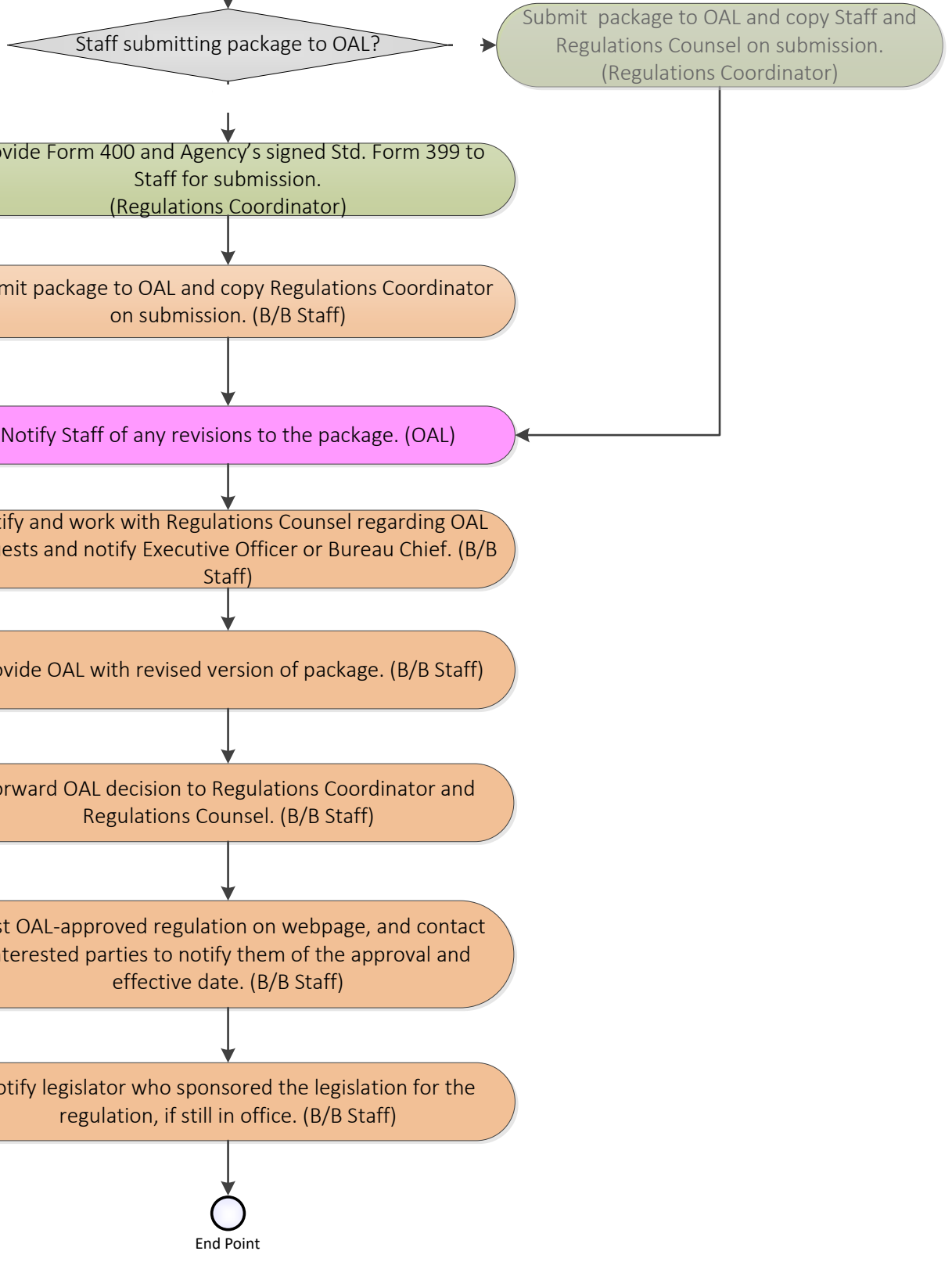
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Green: Regulations Coordinator
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Orange: B/B Staff
Gray: Reg Counsel
Purple: Second Level Reviewer
Pink: OAL

Note:
Regulations Counsel review will be completed within a 30-day timeframe.



Note:
As needed, return package to Regulations Counsel and Staff to address any legal issues or edits.

A From Pg. 1



Note:
Budget Analyst forwards Std. Form 399 package to DOF for approval, if needed.